Jiwaji University, Gwalior (M.P.)
LL.M. 1Hnd Semester
Paper – 1st
Judicial Process and Law and Legal Theories
(Compulsory Subject)

Syllabus

1. Law – Definition and Content
   3. The tools and techniques of judicial creativity and precedent.
   4. Legal development and creativity through legal reasoning under statutory and codified systems.
   1. Notions of indicial review
   2. Role’ in constitutional adjudication various theories of indicial role.
   3. Tools and techniques in policy – making and creativity in constitutional adjudication.
   4. Varieties of judicial and juristic activism
   5. Problems of accountability and judicial law – making.
6. Judicial Process in India
   1. Indian debate on the role of judges and on the notion of judicial review.
   2. The “independence” of judiciary and the “political” nature of indicial process
   3. Judicial activism and creativity of the Supreme Court the tools and techniques of creativity/
   4. Judicial process in pursuit of constitutional goals and values new dimensions of judicial activism and structural challenges.
   5. Institutional liability of courts and judicial activism scope and limits.
7. The Concepts of Justice
   1. The concept of justice or Dharma in Indian thought
   2. Dharma as the foundation of legal ordering in Indian thought.
   3. The concept and various theories of justice in western thought.
4. Various theoretical bases of justice: the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

8. Relation between Law and Justice
   1. Equivalence Theories Justice as nothing more than the positive law of the stronger class
   2. Dependency theories For its realization justice depends on law, but justice in not the same as law.
   3. The independence of justice theories means to end relationship of law and justice The relationship in the context of the Indian constitutional ordering.
   4. Analysis of selected cades of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

Select Bibliography

W. Friedmann, Legal Theory (1960), Stevens, London
Bodenheimer, Jurisprudence the Philosophy and Method of the Law (1997), Universal, Delhi
J. Stone, Legal System and Lawyers’ Resonances (1999), Universal, Delhi

Rajeev Dhavan, The Supreme Court of India A Socio – Legal Critique of its Juristic Techniques (1977), Tripathi, Bombay.

John Rawis, A Theory of Justice (2000), Universal, Delhi


Dias – Jurisprudence
Petan – Concepts of Jurisprudence
Friedman – Legal Theories of Jurisprudence.
Jiwaji University, Gwalior (M.P.)
LL.M. IInd Semester
Paper – IInd
Legal Education And Research Methodology
(Compulsory Subject)

Syllabus:-

1. Objectives of Legal Education
2. Lecture Method of Teaching Merits and demerits
3. The Problem Method
4. Discussion method and its suitability at postgraduate level teaching
5. The Seminar Method of teaching
6. Examination system and problems in evaluation external and internal assessment.
7. Student Participation in law school programmes Organisation of Seminars, Publicaation of journal and assessment of teachers
8. Clinical legal education legal aid, legal literacy, legal survey and law reform
9. Research Methods
   1. Socio Legal Research
   2. Doctrinal and non – doctrinal
   3. Relevance of empirical research
   4. Induction and deduction

10. Identification of Problem of research
    1. What is a research problem?
    2. Survey of available literature and bibliographical research.
       (I) Legislative materials including subordinate legislation, notification and policy statements
       (II) Decisional materials including foreign decisions; methods of discovering the “rule of the case” tracing the history of important cases and ensuring that these have not been over – ruled; discovering judicial conflict in the area pertaining to the research problem and the reasons thereof.
       (III) Juristic Writings a survey of juristic literature relevant to select problems in India and foreign periodicals.
       (IV) Compilation of list of reports or special studies conducted relevant to the problem.

11. Preparation of the Research Design
    1. Formulation of the Research problem
    2. Devising tools and techniques for collection of data Methodology
       (i) Methods for the collection of statutory and case materials and juristic literature.
       (ii) Use of historical and comparative research materials.
       (iii) Use of observation studies.
       (iv) Use of questionnaires/interview
       (v) Use of case studies.
       (vi) Sampling procedures design of sample, types of sampling to be adopted.
       (vii) Use of scaling techniques.
(viii) Jurimetrics
(ix) Computerized Research A study of legal research programs such as Lexis and West law coding.
(x) Classification and tabulation of data use of cards for data collection Rules for tabulation Explanation of tabulated data.
(xi) Analysis of data

Bibliography:-


S.K. Aqrawal (Ed.) Legal Education in India (1973, Tripathim, Bombay.


M.O. Price, H. Bitner and Bysiewicz, Effective Legal Research (1978)

Pauline V. Young, Scientific Social Survey and Research (1962)


H.M. Hyman, Interviewing, in Social Research (1965)

Payne, The Art of Asking Questions (1965)


IL! Publication, Legal Research and Methodology.
Jiwaji University, Gwalior (M.P.)
LL.M. IIInd Semester

Paper – 1st
Principal of Criminal Law

Note:- The Paper shall be of 100 Marks Candidates are required to attempt five questions out of ten questions.

Criminal Law

A. Principal of Criminal Law
   1. Crime
   2. Elements of crime
   3. Stages of crime
   4. Factors Defining mens-rea under Indian penal code.
   5. Acts not Punishable under Indian Penal code (General Exceptions)

B. Producture in criminal law
   1. Classification of criminal courts in India
   2. Accusatorial and Inquisitorial system of trial
   3. Principles of fair-trial
   4. Role of Judge prosecutor of defining in fair-trial
   5. Concept of plea Bargaining in India.

Select bibliography

Principal of Crime R.K. Nigam
Wilkins and Cross, Outline of the Law of Evidence
Archbold, Pleading, Evidence and Practice in Criminal Cases
Sarkar, Law of Evidence
K.N.Chandrasekharan Pillai(ed.), R.V. Kelkar's Outlines of Criminal Procedure
(2000), Eastern, Law 225
Note: The Paper shall be of 100 Marks. Candidates are required to attempt five questions out of ten questions.

Syllabus

1. IPR and International Perspectives

2. Trademarks and Consumer Protection (Study of UNCTAD report on the subject)

3. The Legal Regime of Unfair Trade Practices and of Industrial Property
   3.1. United Nations approaches (UNCTAD, UNCTRAL)
   3.2. EEC approaches
   3.3. Position in U.S.
   3.4. The Indian situation.


5. Biotechnology Patents:
   5.1. Nature and types of biotechnology patents
   5.2. Patent over new forms of life: TRIPS obligations
   5.3. Plant patenting
   5.4. Sui generis protection for plant varieties
   5.5. Multinational ownership
   5.6. Regulation of environment and health hazards in biotechnology patents
   5.7. Indian policy and position.

6. Patent Search, Examination and Records:
   6.1. International and global patent information retrieval systems (European Patent Treaty).
6.3. Differences in resources for patent examination between developed and developing societies
6.4. The Indian situation

7. Special Problems of Proof of Infringement:
7.2. The evidentiary problems in action of passing off.
7.3. The proof of non-anticipation, novelty of inventions protected by patent law
7.4. Evidentiary problems in piracy : TRIPS obligation - reversal of burden of proof in process patent
7.5. Need and Scope of Law Reforms.

8. Intellectual Property and Human Right
8.1. Freedom of speech and expression as the basis of the regime of intellectual property right - copyright protection on internet - WCT (WIPO Copyright Treaty, 1996).
8.2. Legal status of hazardous research protected by the regime of intellectual property law.
8.3. Human right of the impoverished masses intellectual property protection of new products for healthcare and food security
8.4. Traditional knowledge - protection- biodiversity convention- right of indigenous people.

Select bibliography

Special attention should be given to literature of the U.N. System, WIPO and the UNESCO.
David Bainbridge, Software Copyright Law (1999), Butterworths
Sookman, Computer Law (1998), Carswell
Christopher Wadlow, The Law Of Passing-Off (1998), Sweet and Maxwell
W.R.Cornish, Intellectual Property Law (1999), Sweet and Maxwell
Jiwaji University, Gwalior (M.P.)
LLM. IInd Semester

Paper – IIIrd
(Human Rights law Group)
Human Rights and International Order

Syllabus

1. Development of the Concept of Human Rights Under International Law
   1.1. Role of International Organization and Human Rights
   1.2. Universal Declaration of Human Rights (1948)
   1.3. Covenant on Political and Civil Rights (1966)
   1.5. ILO and other Conventions and Protocols dealing with human rights

2. Role of Regional Organizations
   2.1. European Convention on Human Rights
   2.2. European Commission on Human Rights/Court of Human Rights
   2.3. American Convention on Human Rights
   2.4. African Convention on Human Rights
   2.5. Other regional Conventions

3. Protection agencies and mechanisms
   3.1. International Commission of Human Rights
   3.2. Amnesty International
   3.3. Non-Governmental Organizations (NGOs)
   3.4. U.N. Division of Human Rights
   3.5. International Labour Organization
   3.6. UNESCO
   3.7. UNICEF
   3.8. Voluntary organizations

4. International enforcement of Human Rights
   4.1. Role of ICJ and regional institutions
Select Bibliography


Jiwaji University, Gwalior (M.P.)
LL.M. IIrd Semester

Paper – IVth
(Administrative Law Group)
Administrative Process and Judicial Control

Syllabus

1. Concepts and Agencies
   1.1. Common law countries
   1.2. French system

2. Judicial Review in India
   2.1. Historical development
   2.2. Powers of the Supreme Court
   2.3. Powers of the High Court
   2.4. Role of subordinate judiciary

3. Jurisdiction
   3.1. Finality clauses
   3.2. Conclusive evidence clauses
   3.3. Law fact distinction
   3.4. Exclusionary clause

4. Grounds of Review
   4.1. Doctrine of ultra vires
   4.2. Unreviewable discretionary powers: from Liversidge to Padfield
   4.3. Discretion and Justifiability
   4.4. Violation of fundamental rights
   4.5. Extraneous consideration and/or irrelevant grounds
   4.6. Delegation
   4.7. Acting under dictation
   4.8. Malafides and bias
   4.9. Lack of rationality and proportionality
   4.10. Oppressing decision
   4.11. Absence of proportionality
5. Procedural fairness
   5.1. Legitimate Expectation
   5.2. Natural justice and duty to act fairly
   5.3. Bias and personal interest
   5.4. Fair hearing

6. Remedies
   6.1. Writs
   6.2. Injunction and declaration

7. Limits of judicial review
   7.1. Locus standi and public interest litigation
   7.2. laches
   7.3. Res judicata
   7.4. alternative remedies

8. Judicial Review Delegated Legislation

Select Bibliography

S.P. sathe, Administrative Law (1998), Butterworths, India.
M.P. Jain, The Evolving Indian Administrative Law (1983), Tripathi, Bombay
Jain & Jain, Principles of Administrative Law (1986), Tripathi