

SYLLABUS

**MASTER OF LAWS
(NEW COURSE)
LL.M. Part I Examination, 2015**



**JAI NARAIN VYAS UNIVERSITY
JODHPUR**

IMPORTANT

With a view to bring about greater reliability, validity and objectivity in the examination system and also for closer integration of teaching, learning and evaluation.

- (i) The syllabus has been divided into units. Questions will be set from each unit with provision for internal choice.
- (ii) In order to ensure that students do not leave out important portion of the syllabus, examiners shall be free to repeat the questions set in the previous examinations.

[Ref. Resolution No. 21 (c) of Academic Council dated 9-2-84]

The examinees be permitted to use their personal transistorised pocket battery operated calculators in the examinations. The calculator to be used by the candidates in the examinations should not have more than 12 digits, 6 functions and 2 memories and should be noiseless and cordless. A calculator belonging to one candidate shall not be allowed to be used by another candidate. The Superintendent of the centre will have complete discretion to disallow the use of a calculator which does not conform to the above specification.

[Ref. Res. No. 6/90 of Academic Council dated 20th July, 1990]

In Engineering and any other examinations where the use of calculators is already permitted, it shall remain undisturbed.

NOTIFICATION

In compliance of decision of the Hon'ble High Court all students are required to fulfil 75% attendance rule in each subject and there must be 75% attendance of the student before he/she could be permitted to appear in the examination.

REGISTRAR
(Academic)

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LL.M. Part I Examination

1. Every candidate appearing for LL.M. Part I Examination shall be examined in the following subjects :

Paper I	Law and Social Transformation in India	100 Marks
Paper II	Indian Constitutional Law : The New Challenges	100 Marks
Paper III	Judicial Process	100 Marks
Paper IV	Legal Education and Research Methodology	100 Marks
Paper V	Law, Development and Decentralization	100 Marks
Paper VI	Viva-Voce	100 Marks

Every theory paper shall be of three hours duration

2. The candidate must obtain for a pass, at least 50 per cent of the aggregate, i.e. 300 marks provided that if a candidate fails to secure 40 per cent marks in any individual paper including viva-voce, he will be deemed to have failed in the examination notwithstanding his having obtained the minimum percentage of marks required in aggregate for the examination. No division will be assigned on the result of Part I examination. Viva-Voce will be taken by one internal and one external examiner on the date notified by the Head of the Department.
3. Division will be awarded on the combined result of Part I and Part II Examination.
4. If a candidate appears for Viva-Voce examination and failed at the LL.M. Part I examination but passes in the Viva-Voce and elects to appear as an ex-students, his marks for the Viva-Voce will be carried over and he will not be required to appear for Viva-Voce examination again.

**FACULTY OF LAW
LIST OF TEACHING STAFF**

S.No.	Name	Designation	Qualification
1.	Prof. Rajiv Kumar Sinha	Head & Dean	LL.M., Ph.D.
2.	Prof. Mahesh Mathur	Professor	LL.M., Ph.D.
3.	Prof. (Miss) Chandan Bala	Professor	LL.M., Ph.D.
4.	Prof. V.K. Sharma	Professor	LL.M., Ph.D.
5.	Dr. Sunil Asopa	Associate Professor	LL.M., Ph.D.
6.	Dr. M.Tariq	Associate Professor	LL.M., Ph.D.
7.	Dr. V.K. Bagoria	Assistant Professor	LL.M., Ph.D.
8.	Dr. S.P. Meena	Assistant Professor	LL.M., DCLL, Ph.D.
9.	Dr. Nidhi Sandal	Assistant Professor	LL.M., Ph.D.
10.	Dr. Dalpat Singh	Assistant Professor	LL.M., Ph.D.
11.	Sh. P.K. Musha	Assistant Professor	LL.M.
12.	Dr. Kuchata Ram	Assistant Professor	LL.M.
13.	Sh. Vinod Kumar Meena	Assistant Professor	LL.M.

Details of course contents

PAPER I

LAW AND SOCIAL TRANSFORMATION IN INDIA

Objectives of the Course

This course is designed to offer the teacher and the taught with (i) awareness of Indian approaches social and economic problems in the context of law as a means of social control and change; and (ii) a spirit of inquiry to explore and exploit law and legal institutions as a means to achieve development within the framework of law. The endeavour is to make the students aware of the role of the law has played and has to play in the contemporary Indian society.

- Unit 1: (A) Concept of Social Change and Social Transformation
 i) Relation between Law and Public Opinion
 ii) Law as an instrument of social change

- iii) Law tradition and culture. Impact of common law on Indian Tradition & Culture.
 - iv) Sociological school and its, applicability in India.
 - v) Principles of social legislation
- (B) Religion and the Law :
- i) Religion-its meaning and relationship with law
 - ii) Evaluation of Religion as an integrative and divisive factor
 - iii) Concept of Secularism in Indian Perspective
 - iv) Religious minorities and the law
- Unit 2 :
- (A) Language and the Law :
- i) Multi-linguistic culture and its impact on policy in governance
 - ii) Role of Language in society
 - iii) Formation of linguistic states-critical evaluation
 - iv) Constitutional guarantee to linguistic minorities
 - v) Language policy and the Constitution; Official language
- (B) Community and the Law :
- i) Caste as a socio-cultural reality and role of caste as a divisive and integrative factor
 - ii) Non-discrimination on the ground of caste
 - iii) Acceptance of caste as a factor to undo past injustices-An objective analysis
 - iv) Protective discrimination; Scheduled Castes, tribes and backward classes
 - v) Reservation Policy, Statutory Commissions and Problems of National Integration
- Unit 3 :
- (A) Regionalism and the Law :
- i) Role of Regionalism as a divisive and integrative factor
 - ii) Concept of India as one unit
 - iii) Right of Movement, residence and business, impermissibility of state or regional barriers
 - iv) Equality in matters of employment; the slogan "Sons of the soil" and its practice
 - v) Admission to educational institutions; preference to residents of a state
- (B) Women and the Law :
- i) Position and role of women in Indian society
 - ii) Crimes against women
 - iii) Gender injustice and its various forms, causes and remedies
 - iv) Women's Commission
 - vi) Empowerment of women; Constitutional and other legal provisions

- Unit 4 :
- (A) Children and the Law :
 - i) Child labour
 - ii) Sexual exploitation
 - iii) Adoption, maintenance and related problems
 - iv) Children and education-a constitutional mandate

 - (B) Modernisation and the Law
 - i) Modernisation as a value: Constitutional perspectives
 - ii) Modernisation of social institutions through law
 - iii) Reform of family law
 - iv) Agrarian reform-Industrialisation of agriculture
 - v) Criminal Law : Plea bargaining; compounding and payment of compensation to victims
 - vi) Civil Law (ADR) Confrontation v. Consensus; mediation and conciliation; Lok Adalat

SELECT BIBLIOGRAPHY

- Marc Galanter (ed.) : Law and Society in Modern India (1997), Oxford
- Robert Lingat : The Classical Law of India (1998), Oxford
- U. Baxi : The Crisis of the Indian Legal System (1982). Vikas, New Delhi
- U. Bax; (ed.): Law and Poverty Critical Essav (1988)
Tripathy, Bombay
- Manushi : A Journal About Women and Society
- Duncan Derret : The State, Religion and Law in India (1999) Oxford University Press, New Delhi
- H.M. Seervai : Constitutional Law in India (1999) Tripathi
- D.D. Basu: Shorter Constitution of India (1996), Prentice Hall of India (P) Ltd., New Delhi
- Sunil Deshta and Kiran Deshta : Law and Menace of Chied Labour; (2000) Anmol Publications, Delhi
- Savitri Gurasekirare : Children, Law and Justice (1997), Sage
- Indian Law Institute : Law and Social Change : Indo-American Reflection; (1988). Tripathi, Mumbai.
- J. B. Kriplani : Gandhi-His Life and Thought 1970, Ministry of Information and Broadcasting Government of India
- M.P. Jain : Outlines of Indian Legal History (1993), Tripathi, Bombay

Aguas, Flavia : Law and Gender Inequality : The Politics of Women's Rights in India (1999), Oxford

PAPER II
INDIAN CONSTITUTIONAL LAW :
THE NEW CHALLENGES

Objectives of the Course

The Constitution, a living document, is said to be always in the making. The judicial process of constitutional interpretation involves, a technique of adapting the law to meet changing social mores. Constitution being the fundamental law an insight into its new trends is essential for a meaningful understanding of the legal system and processes. The post-graduate students in law who had the basic knowledge of Indian Constitutional Law at LL.B level, should be exposed to the new challenges and perspectives of constitutional development while they are allowed to choose an area of law specialisation. Obviously, topics under this paper require modification and updating from time to time.

Unit 1 : Federalism :

- (A) i) Creation of new states
ii) Allocation and share of resources
iii) The inter-state disputes on resources
iv) Rehabilitation of internally displaced persons and Centre's responsibility
v) Freedom of Trade, Commerce and Intercourse
vi) Services under Union
vii) Emergency Provisions
viii) Federal Comity
ix) Special status of certain States, Tribal Areas, Scheduled Areas

Unit 2 : (A) "State" Meaning and Scope in Modern Perspective

(B) Right to equality : Privatization and its impact on affirmative action

(C) Freedom of Press and challenges of new scientific development

- i) Freedom of speech
ii) Right to strike, hartal and bandh
iii) Emerging regime of new right and remedies-Right to Education; Right to Information and Right to Privacy, Right to Health
iv) Reading Directive Principles and Fundamental Duties into Fundamental Rights
v) Compensation jurisprudence
vi) Right to life and liberty and Criminal Jurisprudence
vii) Commercialisation of education and its impact

Unit 3 : Stresses and Strains of Governance

- i) Right of minorities
- ii) Secularism and religious fanaticism
- iii) Separation of powers : stresses and strain
- iv) Judicial activism and judicial restraint
- v) PIL : Implementation
- vi) Judicial independence
- vii) Appointment, transfer and removal of judges
- viii) Accountability : Executive and judiciary
- ix) Tribunals : Need, Necessity and Constitutionality

Unit 4 : Democratic Process :

- i) Nexus of politics with criminals and the business
- ii) Election : Mechanism and Procedure
- iii) Election Commission : Status
- iv) Electoral Reforms : Accountability, Transparency, Free and Fair, Election and remedies
- v) Coalition Government, stability, durability, corrupt practice
- vi) Grassroot democracy, Democratic decentralization and local self-government

SELECT BIBLIOGRAPHY

No specific bibliography is suggested for this course since the course materials depends upon the latest developments. These developments in the areas specialized in course can be gathered from the recent material such as case law. changes and amendments of laws, critical comments, studies and reports, articles and research papers and lastly contemporary emerging ethos impacting on constitutional values.

PAPER III
JUDICIAL PROCESS

Objectives of the Course

A lawyer, whether academic or professional, is expected to be competent to analyse and evaluate the legal process from a broader juristic perspective. Hence a compulsory paper on Judicial Process is essential in the LL.M. curriculum. The objective of this paper is to study the nature of judicial process as an instrument of social ordering. It is intended to highlight the role of court as policy maker participant in the power process and as an instrument of social change. This paper further intends to expose the intricacies of judicial creativity and the judicial tools and techniques.

Since the ultimate aim of any legal process or system is pursuit of justice, a systematic study of the concept of justice and its various theoretical foundations is required. This paper, therefore, intends to familiarise the students with various theories different aspects and alternative ways of attaining justice.

Unit 1: Nature of Judicial Process :

- i) Judicial process as an instrument of social ordering
- ii) Judicial process and creativity in law-common law model, Legal Reasoning and growth of law change and stability
- iii) The tools and techniques of judicial creativity and precedent
- iv) Legal development and creativity through legal reasoning under statutory and codified systems
- v) Notions of judicial review
- vi) Role in constitutional adjudication-various theories of judicial role
- vii) Judicial Behaviour and constitutional adjudication
- viii) Judicial accountability-Problems and Perspectives

Unit 2 :Judicial Process in India :

- i) Indian debate on the role of judges and on the notion of judicial review
- ii) The "independence" of judiciary and the "political" nature of judicial process
- iii) Judicial activism and creativity of the Supreme Court-the tools and techniques of creativity
- iv) Judicial process in pursuit of constitutional goals and values-new dimensions of judicial activism and structural challenges
- v) Institutional liability of courts scope and limits
- vi) Principles of Constitutional Interpretation

Unit 3: The Concept of Justice :

- i) Concept of Rights and Justice
- ii) The concept of justice or Dharma in Indian thought
- iii) Dharma as the foundation of legal ordering in Indian thought
- iv) The concept and various theories of justice in the western thought
- v) Various theoretical bases of justice : The liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition

Unit 4 : Relation between Law and Justice :

- i) Equivalence Theories-Justice as nothing more than the positive law of the stronger class
- ii) Dependency theories
- ii) The independence of justice theories mean's to an end, relationship of law and justice - The relationship in the context of the Indian Constitutional ordering
- iii) Analysis of selected cases of Supreme Court where the judicial process can be seen as influenced by theories of justice

SELECT BIBLIOGRAPHY

Julius Stone : The Province and Function of Law, Part II, Chs. 1-8-16 (2000), Universal, New Delhi

Cardozo : The Nature of Judicial Process (1995), Universal, New Delhi

Henry J. Abraham : The Judicial Process (1998), Oxford

J. Stone : Precedent and the Law : Dynamics of Common Law Growth (1985), Butterworths

W. Friedmann : Legal Theory (1960), Stevens, London

Bodenheimer : Jurisprudence - The Philosophy and Method of the Law (1997), Universal, Delhi

J. Stone : Legal System and Lawyer's Reasoning (1999), Universal, Delhi

U. Baxi : The Indian Supreme Court and Politics (1980), Eastern, Lucknow

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

John Rawls : A Theory of Justice (2000), Universal, Delhi

Edward, H. Levi : An Introduction to Legal Reasoning (1970), University of Chicago

PAPER IV
LEGAL EDUCATION AND RESEARCH
METHODOLOGY

Objectives of the Course

A Post-graduate student of Law should get an insight into the objectives of legal education. He should have an exposure to programmes like organization of seminars, publication of Law Journals and holding of legal aid clinics

Law is taught in different ways in different countries. The LL.M. course, being intended also to produce lawyers with better competence and expertise, it is imperative that the student should familiarise himself along with the different systems of legal education. The lecture method both at LL.B. level and LL.M. level has many demerits. The existing lacunae can be eliminated by following other methods of learning such as case methods, problem method, discussion method, seminar method and a combination of all these methods.

The student has to be exposed to those methods so as to develop his skills.

Growth of legal science in India depends on the nature and career of legal research. The syllabus is also designed to develop skills in research and writing in a systematic manner.

Unit 1 : i) Objectives of Legal Education

- ii) Lecture Method of Teaching-Merits and demerits
- iii) The problem method
- iv) Discussion method and its suitability at postgraduate level teaching
- v) The seminar method of teaching
- vi) Examination system and problems in evaluation -external and internal assessment
- vi) Student participation in, law school programmes, Organization of seminars, publication of journal and assessment of teachers
- viii) Clinical legal education-legal aid, legal literacy, legal survey and law reform

Unit 2 : Research Method :

- i) Socio Legal Research
- ii) Doctrinal and non-doctrinal
- iii) Relevance of empirical research
- iv) Induction and deduction
- v) Identification of problem of research what is a research problem
- vi) Survey of available literature and preparation of bibliography
- vii) Legislative materials including subordinate legislation, notification and policy statements

Unit 3 : i) Decisional materials including foreign decisions; methods of discovering the "rule of the case"

- ii) Juristic writings-a survey of juristic literature its relevance in selection of problems in India and foreign periodicals
- iii) Compilation of list of reports or special studies conducted relevant to the problems
- iv) Formulation of the Research problem
- v) Devising tools and techniques for collection of data
- vi) Methods for the collection of statutory and case material and juristic literature
- vii) Use of historical and comparative research material
- viii) Use of observation studies
- ix) Use of questionnaires/interview
- x) Use of case studies
- xi) Sampling procedures. design of sample, types of sampling to be adopted
- xii) Use of scaling techniques

Unit 4 : i) Jurimetrics

- ii) Computerized Research-A study of legal research programmes such as Lexis and West law coding
- iii) Classification and Tabulation of data-use of cards for data collection. Rules for tabulation, Explanation of tabulated data
- iv) Analysis of data-Qualitative and Quantitative
- v) Report writing

SELECT BIBLIOGRAPHY

High Brayai, Negel Dunean and Richard Crimes : Clinical Legal Education : Active Learning in, your Law School (1998), Blackstone Press Ltd., London

S.K. Agarwal (ed.) : Legal Education in India (1993), Tripathi, Bombay

N.P. Madhava Menun (ed.) : A Handbook of Clinical Legal Education (1998). Eastern Book Company. Lucknow

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

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

William, J. Grade and Paul, K. Hatt : Methods in Social Research, McGraw Hill Book Company, London

H.M. Hymae : Interviewing in Social Research (1965)

Payne : The Art of Asking Questions (1965)

Erwin, C., Surrency, B. Field, J. Crea : A Guide to Legal Research

Morris, L. Cohan : Legal Research in Nutshell (1996), West Publishing Company

Harvard Law Review Association : Uniform System of Citations

1L1 Publication : Legal Research and Methodology

PAPER V

LAW, DEVELOPMENT AND DECENTRALIZATION

Objectives: The students of Law at post-graduate level should study and understand the inter-relationship of law, development and democratic decentralization of power upto grass root level. The instrumentality of law is a key driver for promoting socio-economic growth in orderly manner of the nation. Students need to be sensitized and their understanding of legal dynamics should be enriched. The benefits of development can best be percolated through the process of decentralization. The people of country must have effective role in the governance. Therefore, this paper will provide the students of LL.M. Part-I an opportunity to study and learn the legal skills, tools and techniques for the alround development of nation. This will help in fostering research also.

The subject is divided into four units:

- Unit 1: A. Constitutional mandate for Development and Democratic decentralization.
- B. International Trends of Legal processes ensuring development and distribution of power.
- C. Survey of major legislative efforts made towards promotion of developmental jurisprudence.

- D. Role of Education-Primary, Secondary & Higher Education in promoting developmental goals.
 - E. Policy decisions & legitimate expectations.
- Unit 2: A. Institutional Infrastructure and Development
- B. Revitalizing Growth and Competitiveness
 - C. Study of Human Development Issues
 - D. Public Private Partnership Model
 - E. Environment versus Development
- Unit 3 : A. Analytical & Critical study of Constitutional Provisions ensuring decentralization of power.
- B. Legal Framework at State Level- Panchayat Raj Institution-Law and Practice
 - C. Empirical study of Panchayat Raj Institution in Rajasthan
 - D. Role of Public Opinion, Public Participation and Civil Society in Promoting effective decentralization of Power
- Unit 4 : Study of Specific Areas such as
- A. Role of Intellectual Property in Development
 - B. Corporate Governance
 - C. The politics of power and constitutional contradictions
 - D. Need for Labour Reforms
 - E. Reforms in Taxation

Suggested Readings:

1. Re-emerging India, N.Jadhav, Rajiv Ranjan and Sujana Hajra The ICFAI Uni. Press. 2005
2. Agricultural and Economic Reform: Growth & welfare
3. Indian Urbanization and Economic Growth Becker Charles, M. Jeffery Baltimore, Jhon. Hop. Uni. Press.
4. Law and Social Transformation, P. Iswar Bhatt EBC 2009.

Journals :

1. Indian Journal of Legal Studies
2. GNLU Journal of Law, Development & Politics GNLU
3. Indian Journal of International Economic Law NLUSI
4. Socio Legal Review NLUSI
5. Journal of Indian Law Institute ILI

Act, Statute/Reports

- Constitution of Indian
 - Law Relating to Intellectual Property Rights
 - Corporate Laws Companies Act
- Labour Laws/Environment Laws/Forest Act, Planning Commission Report/UN MDG.

PAPER VI

VIVA-VOCE

100 Marks

Note : Viva-Voce will be taken by one internal examiner and one external examiner.