

COURSE CREDIT

LL.M. FIRST YEAR (ANNUAL SCHEME)

S.NO.	PAPER CODE	PAPER NAME	COURSE CODE 126				DURATION OF ANNUAL EXAM IN HOURS
			L	T	C	MAXIMUM MARKS IN EXAMINATION	
1.	1261	LAW AND SOCIAL TRANSFORMATION IN INDIA	3	1	4	100	3
2.	1262	CONSTITUTIONAL LAW OF INDIA AND NEW CHALLENGES	3	1	4	100	3
3.	1263	JUDICIAL PROCESS	3	1	4	100	3
4.	1264	LEGAL THEORY AND HUMAN RIGHTS PHILOSOPHY	3	1	4	100	3
5.	1265	LEGAL EDUCATION AND RESEARCH METHODOLOGY	3	1	4	100 [80 + 20]	3
TOTAL=			15	5	20		

TOTAL CONTACT HOURS PER WEEK = 15 + 5 = 20

TOTAL COURSE CREDIT = 20

* L = LECTURES

* T = TUTORIAL

* C = CREDITS

[DETAILED SYLLABUS]

FIRST YEAR

SESSION 2023–24

PAPER CODE 1261.:

LAW AND SOCIAL TRANSFORMATION IN INDIA

SCHEME OF PAPER:

MAX. MARKS: 100

MIN. PASS MARKS: 40

- (1) There shall be ten questions in the examination paper, two questions from each unit. The candidate is required to attempt five questions, one question from each unit is compulsory. All questions carry equal marks.
- (2) The syllabus includes latest amendments in the subject wherever applicable.

OBJECTIVES OF THE COURSE:

This course is designed to offer the teacher and the taught with (a) awareness of Indian approaches to social and economic problems in the context of law as a means of social control and change; and (b) 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 the law has played and has to play in the contemporary Indian Society.

UNIT - I

Law and Social Change: A Theoretical Perspective:

Relationship of Law with social change; Law as an instrument of social change; Law as the product of traditions & culture: Evaluation in the light of colonization & common law system; Impact of Social movements on social change.

Religion and the Law:

Religion: Meaning, relationship with law; Religion as an integrative or divisive factor; Secularism: meaning and its contribution in Indian society, Freedom of religion and non-discrimination on the basis of religion; Religious minorities and the law;

UNIT - II

Languages and the Law:

Formation of linguistic States and its impact on policy in governance; Constitutional guarantees to linguistic minorities; Language policy and the Constitution: Official languages, multi language system; Non-discrimination on the ground of language.

Community and the Law:

Caste System in Indian Society; Caste: Socio-Cultural reality as a divisive and integrative factor; Non-discrimination on the ground of caste; Acceptance of caste as a factor to undo past injustices: An Analysis; Protective discrimination: Scheduled Castes, Tribes and Backward Classes; Reservation Policy: Statutory Commission Statutory Provision;

UNIT - III

Regionalism and the Law:

Regionalism: A Divisive or an integrative factor; Concept of India as one Unit; Freedom of movement, residence and business, impermissibility of state or regional barriers; Equality in

matters of employment: the slogan 'son of the soil' and its practice; Admission to educational institutions: preference to residents of a State;

UNIT - IV

Modernization and the Law:

Modernization as a value: Constitutional perspective reflected in Fundamental Duties; Modernization of Social Institution through Law; Reform of Family Law; Agrarian Reform; Industrial Reforms: Free Enterprise v. State Regulation, industrialization v environmental protection; Reform of Court Processes: i. Criminal Law : Plea Bargaining, Compounding & Payment of Compensation to Victim ii. Civil Law:(ADR)Confrontation iii. Consensus, Mediation & Conciliation, Lok Adalats

Women, Children and the Law:

Status of Women in Indian Society; Crimes against Women; Gender injustice: forms, causes and remedies; Women's Commission; Empowerment of Women: Constitutional and other legal provisions; Child Labour; Sexual Exploitation; Adoption, maintenance and related problems; Child and Education;

UNIT - V

Alternative approaches to Law:

Jurisprudence of Sarvodaya, Gandhiji, Vinoba Bhave, Jai Prakash Narain; Socialist thought on Law & Justice: An enquiry through Constitutional debates on the right to property; Indian Marxist Critique of Law & Justice; Naxalite movement: Causes & Cure;

SUGGESTED READINGS:

- Agnes, Flavia, Law and Gender Inequality: The Politics of Women's Rights in India (1999), Oxford.
- D.D. Basu, Shorter Constitution of India (1996), Prentice – Hall of India(P) Ltd., New Delhi.
- H.M. Seervai, Constitutional Law of India (1996), Tripathi.
- India Law Institute, Law and Social Change: Indo-American Reflections, Tripathi (1988)
- J.B. Kripalani, Gandhi: His life and Thought, (1970) Ministry of Information and Broadcasting,
- M.P. Jain, Outlines of Indian Legal History, (1993), Tripathi, Bombay
- Manushi, A Journal about Women and Society.
- Marc Galanter (ed.), Law and Society in Modern India (1997) Oxford.
- Robert Lingat, The Classical Law of India (1988), Oxford.
- Sunil Deshta and Kiran Deshta, Law and Menace of Child Labour (1997),Sage.
- U. Baxi (ed.), Law and Poverty Critical Essays (1988), Tripathi, Bombay.
- U. Baxi, The Crisis of the Indian Legal System (1982), New Delhi.

PAPER CODE 1262.:

CONSTITUTIONAL LAW OF INDIA AND NEW CHALLENGES

SCHEME OF PAPER:

MAX. MARKS: 100

MIN. PASS MARKS: 40

- (1) There shall be ten questions in the examination paper, two questions from each unit. The candidate is required to attempt five questions, one question from each unit is compulsory. All questions carry equal marks.
- (2) The syllabus includes latest amendments in the subject wherever applicable.

OBJECTIVES OF THE COURSE:

The Constitution of India is the supreme law of the country. This course provides the description of the necessary fundamental concepts and doctrines of Constitutional Law. This Course is designed to acquaint students with the basic principles of Constitution and Constitutionalism. The Course also has the objective to familiarize the students with the Federal principles of Indian Constitution and the powers, functions and structures of various Constitutional bodies. The course is to be studied in the social, economic and political context in which the constitution operates together with the in-depth study of the latest reorganization of the Article 370 and 35-A and the Reorganization of the Jammu and Kashmir state.

UNIT - I

Making of the Constitution :Demand for a Constitution framed by a Constituent Assembly; The Cripps' offer of 1942; The Wavell Plan of 1945; The Cabinet Mission Plan, 1946; The Mountbatten Plan, 1947; The Indian Independence Act, 1947; Constituent Assembly in India and framing of the Constitution; Formation of the Constituent Assembly of India; The issues before the Constituent Assembly; Passing of the Constitution; Dr. B. R. Ambedkar's contribution in the making of the Constitution; Date of Commencement of the Indian Constitution; Concepts of Constitutional Law and Constitutionalism; Forms and characters of various models of Constitution; Salient features of the Constitution of India;

UNIT - II

Preamble - Meaning of the Preamble; Object, Purpose and Scope of the Preamble; Contents of the Preamble; Utility of Preamble in interpretation of the Constitution; Whether Preamble is part of the Constitution?

Citizenship (Articles 5-11) including relevant provisions of Citizenship Act, 1955(Sections 3 – 10); Union & State Executive (Articles 52-78 & 152-167); Union Judiciary, State Judiciary & Subordinate Judiciary (Articles 124-147 & 214-237); Writs (Article 32); Union and its Territory (Articles 1-4); Union & State Legislature (Article 79-123 & 168-213);

UNIT - III

Legislative Relations between Union and States (Articles 245-255); State: Creation and Demand of new states; Need for widening the definition of State in the wake of liberalization; Accountability of State: Joint Parliamentary Committee & Public Account Committee;

Emergency Provisions (Articles 352-360); Amendment of the Constitution (Article 368) with special reference to the Basic Structure Theory.

Temporary provision (Article 370): Reorganization of Articles 370 and 35-A and Re-Organization of Jammu and Kashmir through The Jammu And Kashmir Reorganization Act, 2019. (Basic Concepts and Future Effects);

UNIT - IV

Fundamental Rights; General (Articles 12 &13); Right to Equality (Articles 14-18); Right to Freedom (Article 19); Fundamental Duties (Article 51A); Right to Freedoms (Articles 20-22) Right against Exploitation (Articles 23 & 24); Freedom of Religion (Articles 25-28);

Democratic Process-Grass Root Democracy: Democratic Decentralization and Local Self Government; Election: Mechanism and Procedure; Election Commission: Constitution and Status; Electoral Reforms: Transparency, Free, fair and fearless election; Coalition Government, Stability, Durability; Corrupt Practice; Nexus of politics with criminals and the business;

UNIT - V

Cultural and Educational Rights (Articles 29 & 30); Right to property as constitutional right (Articles 31A-31D & 300A); Right to Constitutional Remedies (Articles 32- 35A); Directive Principles of State Policy (Articles 36-51); Trade, Commerce and Intercourse within the Territory of India (Articles 301-307); Safeguards to Civil Servants (Articles 309-311); Public Service Commission's (Article 315-323); Election Commission (Articles 324-329);

SUGGESTED READINGS :

- Bakshi, P.M. : Constitution of India- 8th Edition, Universal Law Pub., 2017.
- Basu, D.D. : Introduction to the Constitution of India (English & Hindi)
- Basu, Durga Das : Shorter Constitution of India, 13th Edition, Wadhwa, 2012.
- Constitution of India as amended up to-date
- Constitution (Application To Jammu And Kashmir) Order 2019
- Granville Austin, Working of a Democratic Constitution- The Indian Experience, Oxford University Press.
- H. M. Seervi, Constitutional Law of India, N.M. Tripathi.
- H.R. Khanna, Making of India's Constitution, Eastern Book Co., Lucknow Harper Collins Publication, India. 2019.
- Jain, M.P. : Indian Constitutional Law- 5th Edition, Wadhwa, 2015.
- Kashyap Subhash C., Constitutional Law of India, Universal Law Publishing Co. Pvt. Ltd., 2015
- M.P. Singh, V.N. Shukla's Constitution of India, Eastern Book Company, (2013).
- Seervai, H. M.: Constitutional Law of India- 4th Edition, Universal Law Publishing Co. Pvt. Ltd., 2012.
- The Jammu and Kashmir Reorganisation Act, 2019
- Various Amendments made to the Constitution of India

PAPER CODE 1263.:

JUDICIAL PROCESS

SCHEME OF PAPER:

MAX. MARKS: 100

MIN. PASS MARKS: 40

- (1) There shall be ten questions in the examination paper, two questions from each unit. The candidate is required to attempt five questions, one question from each unit is compulsory. All questions carry equal marks.
- (2) The syllabus includes latest amendments in the subject wherever applicable.

OBJECTIVES OF THE COURSE:

A Lawyer, whether academic or professional, is expected to be competent to analyze 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 familiarize the students with various theories different aspects and alternative ways of attaining justice.

UNIT - I

Nature of Judicial Process:

Judicial process as an instrument of social ordering; Judicial process and creativity in Law: Common law model, legal Reasoning and growth of law, change and stability; The tools and techniques of judicial creativity and precedent; Legal development and creativity through legal reasoning under statutory and codified system.

UNIT - II

Special dimensions of Judicial Process in Constitutional Adjudication:

Notion of Judicial Review; Role in constitutional adjudication: various theories of judicial role; Tools and techniques in policy making and creativity in constitutional adjudication; Varieties of judicial and juristic activism; Problems of accountability & Judicial Law making.

UNIT - III

Judicial Process in India:

Indian debate on the role of judges and on the notion of judicial review; The “independence” of judiciary and the “political” nature of judicial process; Judicial activism and creativity of the Supreme Court: the tools and techniques of creativity- Judicial process in pursuit of constitutional goals and values: New dimensions of judicial activism and structural challenges; Institutional liability of courts its scope and limits.

UNIT - IV

The Concept of Justice:

The concept of Justice and Dharma in Indian thought; Dharma as the foundation of legal ordering in Indian thought; The concept and various Theories of Justice in the western thought; Various theoretical bases of Justice: The Liberal Contractual Tradition, the Liberal Utilitarian Tradition and the Liberal Moral Tradition.

UNIT - V

Relation between Law and Justice:

Equivalence Theories: Justice as nothing more than the positive law of the stronger class; Dependence theories: for its realization, Justice depends on law, but justice is not the same as law; The independence theories of justice as a means to an end, the relationship in the context of the Indian Constitutional ordering; Analysis of selected cases of Supreme Court where the Judicial Process can be seen as influenced by theories of Justice.

SUGGESTED READINGS:

- A. S. Anand, Judicial Review – Judicial Activism–Need for Caution, Journal of Indian Law Institute P. 149 (2000).
- Amartya Sen, ‘Idea of Justice’, Allen Lane & Harvard University Press, 2009
- Cordozo ‘The Nature of Judicial Process (1995). Universal Law Publishing Co., New Delhi
- Henry J. Abraham, The Judicial Process (1998), Oxford University Press
- J. Stone. Legal System and Lawyer’s Reasoning (1999), Universal Law Publishing Co., New Delhi
- J. Stone, Precedent and the Law: Dynamics of Common Law Growth(1985), Butterworths.
- Julius Stone. The Province and Function of LawCh.1, PP 8-16, (2000) Universal Law Publishing Co., New Delhi
- Rajeev Dhavan. The Supreme Court of India – A Socio-Legal Critique of its Juristic Techniques (1977), Tripathi – Bombay.
- S. P. Sathe, Judicial Activism in India: Transgressing borders and Enforcing Limits, Oxford New Delhi. (2002
- Upendra Baxi, “On how not to Judge the Judges” 25 Journal of the Indian Law Institute, P. 211 (1983).
- Upendra Baxi, The Indian Supreme Court and Politics. (1980) , Eastern Book Co., Lucknow.
- Virendra Kumar, Basic Structure of the Indian Constitution: Doctrine of Constitutionally controlled Governance, Journal of the Indian Law Institute, PP 365-395, (2007).

PAPER CODE 1264.:

LEGAL THEORY AND HUMAN RIGHTS PHILOSOPHY

SCHEME OF PAPER:

MAX. MARKS: 100

MIN. PASS MARKS: 40

- (1) There shall be ten questions in the examination paper, two questions from each unit. The candidate is required to attempt five questions, one question from each unit is compulsory. All questions carry equal marks.
- (2) The syllabus includes latest amendments in the subject wherever applicable.

OBJECTIVES OF THE COURSE:

The course aims at developing an analytical approach to understand the nature of law and the development of legal system. Legal theory seeks to answer fundamental questions about law. The concerns of Legal theory are an inescapable feature of the law and legal system. Legal theory has generous frontiers. It accommodates copious subjects of intellectual enquiry. This course identifies and elucidates several of the major preoccupations of legal theory. The following syllabus prepared with this perspective will be spread over a period of one year.

UNIT - I

Positivism - Relation between Law and Morality, Analytical Positivism, Imperative Theory of Law, Pure theory of Law, the concept of Law.

UNIT - II

Historical and Sociological approach to Law: Theory of Volkgeist, Anthropological approach to law, purpose theory, living law theory, social engineering;

UNIT - III

Post sociological approach realism, Justice Cardozo: Judicial process, Justice Holmes, critical legal studies, Feminist Philosophy;

UNIT - IV

Justificatory theories in shaping the concept of Human Rights, Theology, Natural law and natural rights, Utilitarianism - Right based theory and collective rights;

UNIT - V

Modern theories of Human Rights, Rawls Theory of Justice: Nozick - Ronald Dworkin, Right to Solidarity, Global Justice: meaning and application;

SUGGESTED READINGS:

- Bodenheimer – Jurisprudence : The Philosophy and Method of Law
- Dennis Lloyd - Jurisprudence
- Dias – Jurisprudence

- Friedman – Legal Theory
- G.W. Paton – Jurisprudence
- Rawls: Theory of Justice
- Robert Nozick – Anarchy, State and Utopia
- Ronald Dworkin – Taking Rights Seriously
- S.C. Kashyap, Human Rights and Parliament (1978)
- Salmond – Jurisprudence
- U. Baxi, The Crisis of the Indian Legal System (1982), Vikas Publishing House, New Delhi.
- Upendra Baxi, "Law, Democracy and Human Rights": 5 Lokayan Bulletin 4 (1987)
- V.D. Mahajan – Jurisprudence

PAPER CODE 1265.:(A)

**LEGAL EDUCATION AND
RESEARCH METHODOLOGY**

SCHEME OF PAPER:

MAX. MARKS: 100

MIN. PASS MARKS: 40

This paper shall consist of following Two Parts:

(a) Written Paper	—	80 marks
(b) Non-Doctrinal Research and Viva-voce examination (Practical)	—	20 marks [10 + 10]

The candidate must pass in Part (A) and (B) separately. For passing, he shall be required to obtain 40 percent marks in each part, i.e. 32 marks out of 80 and 8 marks out of 20 marks.

- (1) There shall be ten questions in the examination paper, two questions from each unit. The candidate is required to attempt five questions, one question from each unit is compulsory. All questions carry equal marks.
- (2) The syllabus includes latest amendments in the subject wherever applicable.

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 organizations 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 familiarize 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, discussion method, problem seminar method and combination of all 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 - I

Legal Education: Methods & Objective:

Lecture Method of Teaching: Merits and Demerits; The problem method; Discussion Method and its suitability at postgraduate level teaching; The Seminar Method of teaching; Examination system and problems in evaluation external and internal assessment; Student participation in law school programmes, organizations of seminars, publication of journal and assessment of teachers; Clinical legal education – Legal Aid, Legal Literacy, Legal Survey and Law Reform;

Research:

What is Research? Meaning and Objectives; Research methods vis-a-vis Research Methodology; Legal Research: Meaning, scope and purpose. Relation between Law and Society; Types/kinds: Doctrinal and Non-Doctrinal (empirical); Applied, Fundamental; Library Research, Field Research, Analytical, Descriptive, Conceptual; Participatory and

Non-Participatory; Comparative, Historical, Statistical, Critical, Socio-Legal; Mono disciplinary and Trans Disciplinary; Quasi-Disciplinary, Inter-Disciplinary (multi-disciplinary) Research; Quantitative and Qualitative, One Time and Longitudinal, Clinical or Diagnostic Research; Research for Legal Reform;

UNIT - II

Research Methods and Research Methodology:

Definition, Meaning, Significance; Qualities of a Good Researcher; Criteria for a Good Research; Obstacles to Good Research in India; Research Design;

Various Steps in Research: Research Process; Research Problem: Identification and Formulation; Hypothesis Formulation in Project/Dissertation/Thesis etc., Use of Null Hypothesis in Legal Research; Use of Library; Use of Modern Technology/ Computer Assisted Research;

Ethical and Legal Issues: Plagiarism and Copyright Violation; Paraphrasing: Good or Bad for Legal Research? Basic Overview on “U.G.C. (Promotion of Academic Integrity and Prevention of Plagiarism in Higher Educational Institutions) Regulations, 2018.”

UNIT - III

Tools and Techniques for Collection of Data:

Primary and Secondary Sources, Literature Review, Observation Method, Questionnaire, Interview, Case Study, Sampling, Jurimetrics, Analysis and Interpretation of Data: Use of Deductive and Inductive Methods in Research; Preparation of Research Report and Writing of Research Report; Budgeting of Research;

Survey of available literature and preparation of bibliography; Legislative materials including subordinate legislation, notification and policy statements;

UNIT - IV

Data Collection:

Computerized Research: A study of legal research programmes such as Lexis Nexis, Hein Online and West Law coding; Classification and Tabulation of Data: Analysis of Data: Qualitative and Quantitative; Searching for a relevant case/ relevant other data etc. on Internet;

Legal Writing:

Framing of Write Up: Research Question, Title, Identifying Relevant Areas of Law, Identifying Literature and Case Laws, Analysis, Discussion, Recommendations and Conclusion; Sources of Authority; Issues and challenges faced by researchers in completing entire research?

UNIT - V

Exercises on kinds of Legal Writing:

Informative, Persuasive; Writing for Individual Purposes; Writing for Academic Purpose; Writing for Court Purposes: Briefs, Plaints etc.; Writing for Publication: reviews, articles, books etc.; Judicial Writing; Blue Book Citation, ILI Citation, Reference and Footnoting; Editing and Proof Reading; Writing of Research Proposal; Dissertation/ Thesis/ Project

Writing, Things to Consider; Case Analysis, Impact of Decisions of the Court; Exercises based on How to write a good article, Case comment etc., Drafting good Synopsis for Project, Dissertation/PhD Thesis etc.

PAPER CODE 1265.:(B):

VIVA—VOCE EXAMINATION

**20 Marks
(10 + 10)**

(10 – Project and 10 -- Viva Voce)

NON-DOCTRINAL RESEARCH AND VIVA-VOCE EXAMINATION (PRACTICAL)

Candidates shall prepare a project of 20-30 pages (Case Comment) on any Leading/Landmark Case Law allotted by the subject teacher following the I.L.I. footnoting available at: <https://ili.ac.in/footnoting12.pdf>

Viva-voce examination shall be conducted and evaluated on the basis of the project submitted by the candidate and his/her performance at the viva-voce examination by a Committee of three persons in which, there shall be Two Internal Examiners and One External Examiner. In case of discrepancy in the awards, the awards given by External Examiner shall be final and binding.

SUGGESTED READINGS:

- High Brayal, Nigel Dunnean and Richard Crimes, Clinical Legal Education: Active Learning in your Law School, (1998) Blackstone Press Limited, London.
- S. K. Agrawal (Ed.), Legal Education in India (1973), Tripathi, Bombay.
- M.O. Price, H.Bitner and Bysiewicz, Effective Legal Research (1978)
- William J. Grade and Paul K. Hatt, Methods in Social Research, Mc Graw-Hill Book Company, London
- H. M. Hyman, Interviewing in Social Research (1965)
- Payne, The Art of Asking Questions (1965)
- Erwin C. Surrency, B. Field and J. Crea, A Guide to Legal Research (1959)
- Morris L. Cohan, Legal Research in Nutshell, (1996), West Publishing Co.
- Harvard Law Review Association, Uniform System of Citations.
- I.L.I. Publication, Legal Research and Methodology.