

SHIVAJI UNIVEISITY, KOLHAPUR

**SYLLABUS FOR THE
PRE- Ph.D. (LAW)**

DEPARTMENT OF LAW

Pre- Ph.d.(Law) Syllabus

Paper —I

LEGAL RESEARCH METHODOLOGY:

100 Marks

Syllabus

01. Nature of Research — An Introduction:

- 1.1. What is Research — Status of Research on.
- 1.2. Why Legal Research — Significance of Legal Research on Legal Profession in India
- 1.3. Some Current Trends in Legal Research.
- 1.4. Legal Research its Scope and Nature.
- 1.5. Objectives of Legal Research.
- 1.6. Socio-Legal Research.
- 1.7. Modes of Legal Research.
 - 1.7.1. Doctrinal or Traditional Research
 - 1.7.2. Non-doctrinal or Empirical Research.
 - 1.7.3. Descriptive and Analytical Research.
 - 1.7.4. Applied and Fundamental Research.
 - 1.7.5. Historical Research.
 - 1.7.6. Sociological Research.

02. Planning of Legal Research:

- 2.1. Identification of Research Problems.
- 2.2. Selection of a Research Problem.
- 2.3. Formulation of a Research Problem.
- 2.4. Research Design.

03. Methods of Investigation:

- 3.1. Scientific Method of Investigation.
- 3.2. Case Study Method of Investigation.
- 3.3. Survey Method of Investigation.
- 3.4. Experimental Method of Investigation.
- 3.5. Discussion Method of Investigation.

04. Method and Tools for Collecting of Data:

- 4.1. Primary Data Method,
 - 4.1.1. Observation.
 - 4.1.2. Interview
 - 4.1.3. Telephone Interview
 - 4.1.4. Mail Survey.
- 4.2. Secondary Data Method:
 - 4.2.1. Significance of Secondary Data
 - 4.2.2. Evaluating Secondary Data
 - 4.2.3. Sources of Secondary Data
- 4.3. Schedule.
- 4.4. Questionnaire
- 4.5. Pre-testing in Questionnaire
- 4.6. Pilot Study.

4.7. Tests.

4.8. Cumulative Record Cards.

5. Hypothesis:

5.1. Introduction.

5.2. Sources of Hypothesis.

5.3. Characteristics of hypothesis.

5.4. Estimation and Testing of hypothesis.

5.5. Hypothesis Testing Procedure.

5.6. Relation between theory and hypothesis.

06. Sampling:

6.1. Importance of Sampling.

6.2. Advantages and Limitations of Sampling.

6.3. Theoretical basis of Sampling

6.4. Types of Sampling.

6.5. Probability and Non-probability Sampling

6.6. Sampling and Non-sampling Error.

07. Data Processing

7.1. Introduction

7.2. Editing

7.3. Coding

7.4. Tabulation.

08. Analysis and Interpretation of Data:

8.1. Application of Content Analysis in Legal Research.

8.2. Analysis of Aggregate Data.

8.3. Data Interpretation and Report writing.

8.4. Collection and Analysis Data

8.5. Legal input Analysis, the ideal and the practicable.

09. Research Report:

9.1. Introduction.

9.2. Types of Report.

9.3. Contents of a Report.

9.4. Steps in Drafting Report.

10. Computer Application and Legal Research.

10.1. Introduction.

10.2. Jurimetrics.

10.3. Role of Computers in the field of Legal Research.

10.4. Role of Law Journals.

Select Bibliography:-

01. Legal Research and Methodology— Indian Law Institute, New Delhi

02. Mi. Tanulingam — Research Methodology Himalaya Publishing

03. Dr. H.N.Tawari Legal Research Methodology — Aligarh Law Agency.

04. High Brayal, Nigel Duncan and Richard Crimes, Clinical Legal Education: Active Learning in your School (1998)Blackstone P. Press Limited,London.

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

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

07. William I Grade and Paul K Hatt, *Methods in Social Research*, Mc Graw-Hill Book Company, London.
08. Payne, *The Art of Asking Questions (1965)*
09. H.M.Hyman, *Interviewing in Social Research (1965)*
10. Monis L. Cohan, *Legal Research in Nutshell*, (1996) West Publishing Co.
11. Harvard Law Review Association, *Uniform System of Citations*.
12. Erwin C. Surrency B. Field and J. Cn, *4 Guide to Legal Research (1959)*
13. P.Saravanavel — *Research Methodology* — Kitab Mahal
14. C.R.Kothari — *Research Methodology (Methods and Techniques)*- Vishwa Prakashan.

Paper - 11

JUDICIAL PROCESS -

100 Marks

Syllabus

01. Nature of Judicial process

- 1.1 Judicial process as an instrument of social ordering.
- 1.2 Judicial process and creativity in law common law model — Legal Reasoning and growth of law change and stability.
- 1.3 The tools and techniques of judicial creativity and precedents.
- 1.4 Legal development and creativity through legal reasoning under statutory And codified systems.

02. Special Dimensions of Judicial Process in Constitutional Adjudications.

2. 1. Notions of judicial review.
- 2.2. 'Role in constitutional adjudication — various theories of judicial role.
- 2.3. Tools and techniques in policy-making and creativity in constitutional Adjudication.
- 2.4 Varieties of judicial and juristic activism.
- 2.5 Problems of accountability and judicial law-making.

03. Judicial Process in India.

- 3.1. Indian debate on the role of judges & on the notion of judicial review.
- 3.2. The “independence” of judiciary & the “political” nature of judicial Process.
- 3.3. Judicial activism and creativity of the Supreme Court — the tools and Techniques of creativity.
- 3.4. Judicial process in pursuit of constitutional goals and values — new • Dimensions of judicial activism and structural challenges.
- 3.5. Institutional liability of courts and judicial activism scope and limits.

04. The Concepts of Justice

- 4.1. .The concept of justice or Dharma in Indian thought.
- 4.2 Dharma as the foundation of legal ordering in Indian thought.
- 4.3.The concept and various theories of justice in the western thought.
- 4.4.Various theoretical bases of justice the liberal contractual tradition, The liberal utilitarian tradition and the liberal moral tradition.

05. Relation between Law and Justice.

5.1. Equivalence Theories —Justice as nothing more than the positive law of the stronger class.

5.2 Dependency Theories --For its realization justice depends on law, But justice is not the same law.

5.3 The independence of justice theories means to and relationship of Law and justice — The relationship in the context of the indian Constitutional ordering.

5.4. Analysis of selected cases of the Supreme Courts where the judicial Process can be seen as influenced by theories of justice.

Select Bibliography:

01. Julius Stone, the province and function of Law, pan 2, CHS 1.8-16 (2000), Unix ei'sal, New Dcliii.

02. Cardoo, The nature of Judicial process (1995) Universal, New Dcliii.

03. Henry J. Abraham, The Judicial process (1998) Oxford.

04. J. Stone, Precedent and the Law: Dynamics of common Law' growth (1985) Butter worths

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

06. Bodenbeiiuer, Jurisprudence — The philosophy and method of the Law. (1997) Universal, New Delhi.

07. J. Stone, The legal system and lawyer's reasonings (1999), Universal. New Delhi.

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

09. Rajeev Dhavan, The Supreme Court of India — A Socio — Legal critic Of its Juristic techniques (1977) Tripath.i. Bombay.

10. John Rawis, A theor of justice (2000) Universal, Delhi.

11. Edward H. Levy, An introduc lion to Legal reasoning (1970) University of Chicago

Paper —III

LAW AND SOCIAL TRANSFORMATION IN INDIA -

100 Marks

Syllabus

01. Law and Social Change

1 1. Law as an instrument of social change

I 2. Law as the product of traditions and culture. Criticism and evaluation in the light of the colonization and the introduction of Common law system and institutions in india and its impact on Further development of Law and the legal institutions in india.

02. Religion and the Law

2. 1. Religion as the devisive factor.

2.2. Secularism as solution to problem.

2.3. Refoim of the Law on secular lines - problems.

2.4. Freedom of Religion and non-discrimination on the basis of Religion.

2.5. Religious minorities and the Law.

03. Language and the Law

- 3.1. Language as a divisive factor — formation of linguistic states.
- 3.2. Constitutional guarantees to linguistic minorities.
- 3.3. Language policy & the Constitution — Official language, Multi-Language System.
- 3.4. Non-discrimination on the ground of language.

04. Community and the Law

- 4.1. Caste as the divisive factor.
- 4.2. Non-discrimination on the ground of caste.
- 4.3. Acceptance of the castes as factor to undo past injustices.
- 4.4. Protective discriminations — SCs, STs & Backward classes.
- 4.5. Reservations — Statutory commissions, Statutory provisions.

05. Regionalism and the Law

- 5.1. Regionalism as the divisive factor.
- 5.2. Concept of India as one unit.
- 5.3. Right of movement, residence & business, impermissibility of state or Regional barriers.
- 5.4. Equality in matters of employment — the slogan "Sons of the Soil" & its Practice.
- 5.5. Admission to Educational Institutions — Preference to residents of a State.

6.0. Women and the Law

- 6.1. Crimes against Women.
- 6.2. Gender injustice and its various forms.
- 6.3. Women's Commission.
- 6.4. Empowerment of Women — Constitutional and other legal provisions.

7.0. Children and the Law

- 7.1. Child Labour.
- 7.2. Sexual Exploitation.
- 7.3. Adoption and related problems.
- 7.4. Children and Education.

8.0. Modernisation and the Law.

- 8.1. Modernisation as a Value — Constitutional perspectives reflected in the Fundamental duties.
- 8.2. Modernisation of social institutions through law.
 - 8.2.1. Reform of family law.
 - 8.2.2. Agrarian Reforms -- Industrialisation of Agriculture.
 - 8.2.3. Industrial Reforms Free Enterprise vs. State Regulation — Industrialisation vs. Environmental protection.
- 8.3. Reform of Court processes.
 - 8.3.1. Criminal Law — Plea bargaining, compounding and payment of compensation to victims.
 - 8.3.2. Civil law (A.D.R.) Confrontation vs. consensus, mediation and conciliation, Lok Adalats.
 - 8.3.3. Prison Reforms.
- 8.4. Democratic decentralization and local self government.

9.0. Alternative approaches to law.

9.1.

The jurisprudence of Sarvodaya — Gatidhiji, Vinoba Bhave, Jayaprakash Narayan — Surrender of dacoits, concept of Grana Nyayalayas.

9.2. Socialist thought on law and justice. An **enquiry** through Constitutional Debates on the right to property.

9.3. Indian Marxist critique of law and justice.

9.4.

Naxalite movement causes and cure.

Select Bibliography: 01

Marc Galanter (ed) Law and Society in **Modern** India (1997) Oxford.

02. Robert Liugat, The Classical Law of India (1998), Oxford.

03. IJ. Baxi, The crisis of the India Legal System (1982) Vikas, New Delhi.

04. U. Baxi. (ed.). Law and Poverty Critical Essays (1968) Tripathi, Bombay.

05 Manushi, A Journal about Women and Society.

06. Duncan Derret, The State Religion and Law in India (1999) Oxford University Press. New Delhi.

07. RM. Servai. Constitutional law of India (1996) Tripathi.

08. D.D. Basu, Shorter Constitution of India (1996), Premice — Hall of India (P) Ltd, New Delhi.

09. Sunil Deshia and Kiran Deshta, Law and Menace of Child Labour (2000) Ainol Publications, Delhi.

10. Savitri Gunasekhare, Children, Law and Justice (1997) Sage.

ii. Indian Law Institute, Law and Social Change — Indo-American Reflections, Tripathi (1988).

12. J.B. Kripalani, Gandhi, His Life and Thought (1970) Ministry of Information and Broadcasting, Government of India.

13. M.P. Jain, Outlines of Indian Legal History, (1984) Tripathi, Bombay.

14. Agnes, Flavia, Law and Gender inequality: The Politics of Women's Rights in India (1999) Oxford