



KLE SOCIETY'S LAW COLLEGE BENGALURU
(A Constituent college of KLE Technological University)

SYLLABUS: 2-YEAR LLM

2021

List of Subjects

Sl.No	Semester	Name of the Subject
I SEMESTER		
1	I Semester	Law and Social Transformation in India
2	I Semester	Indian Constitutional Law: New Challenges
3	I Semester	Legal Theory and Philosophy
4	I Semester	Specialisation Paper – 1 – Constitutional Law: Theory and Practice
II SEMESTER		
5	II Semester	Research Methodology and Pedagogy
6	II Semester	Judicial Process and Law-Making Processes
7	II Semester	Legal Concepts and Theory of Justice
8	II Semester	Specialisation Paper – 2 – Constitutionalism, Secularism, Multiculturalism and Constitutional Developments
III SEMESTER		
9	III Semester	Specialisation Paper – 3 - Centre – State Relations
10	III Semester	Specialisation Paper – 4 – Civil and Political Rights - Comparative Study of Select Constitutions
11	III Semester	Specialisation Paper – 5 Comparative Administrative Law
12	III Semester	Specialisation Paper – 6 – National Security, Emergency Powers and Law – Comparative Study
IV SEMESTER		
13	IV Semester	Specialisation Paper – 7 – Law of Writs and Services under the State
14	IV Semester	Specialisation Paper – 8 Law and Media
15	IV Semester	Specialisation Paper – 9 Public Policy and Local Self Government
16	IV Semester	Dissertation

SEMESTER - I

Paper – 1: Law and Social Transformation in India

UNIT – 1

Concept of law and legal system - Relationship between law; and society-law as an instrument of social change.

UNIT –II

Historical and evolutionary theories. Sociological jurisprudence- realistic jurisprudence – law and social change-Utilitarianism, Liberalism, in law - Marxian and post Marxian approaches to law.

UNIT –III

Gender based social conflict and law - social and economic status of women - role of law - gender based violence - law and its enforcement-empowerment of women - feminist critique of Indian jurisprudence.

UNIT – IV

Law and poverty-access to justice - legal aid to the poor and indigent-objectives and programmes - legal literacy and law reform - Agrarian reform - latest constitutional perspectives-untouchability.

UNIT – V

Judicial activism and public interest litigation – Recent trends in judicial dispute settlement.

Suggested Readings:

1. Roscoe Pound -Introduction to Philosophy of Law, Chs. 1,2 & 3
2. Roscoe Pound - Jurisprudence, Vol.I Parts I & II
3. Bodenheimer - Jurisprudence, Part I
4. W. Friedmann - Legal Theory
5. W.Friedmann - Law in a Changing Society
6. Julius Stone - Social Dimensions of Law/ and Justice Ch.1
7. B.Sivaramayya - Inequalities and the Law
8. Upendra Baxi - The Crisis of Indian Legal System, Chs.1,2,3,8,& 10
9. Upendra Baxi - Law and Poverty, Chs. 1,2,3,5,19,20 & 21
10. P.K.Gandhi (Ed.) - Social Action through Law. Department of Law-Special issue (1984) Cochin University Law Review, pp 43 3-5 46
11. Finnis J.M. - Natural Law & Natural Rights, Oxford
12. Lon. L. Fuller. - The Morality of Law
13. H.L.A Hart - The Concept of Law

14. M.D.A Freeman - Lloyd's Introduction to Jurisprudence
15. John Rawls - A Theory of justice
16. Robert F. Meagher - Law and Social Change- Indo-American Reflections.

Paper -2: Indian Constitutional Law: New Challenges

UNIT –I

Federalism related Challenges: Sharing of revenue, Border Disputes, Inter-state river water disputes, administration of scheduled areas, special status to states, creation of new states.

UNIT –II

Right to Education, Higher Education and Commercialization of education – Private University as a State, National Education Policies, Minority education institution, Judicial contribution in realizing the right to education

UNIT –III

Electoral Reforms and Challenges – Criminalization of politics, Corrupt practices in election, independence and functioning of Election Commission, Anti-defection law, Office of profit, Law Commission recommendations.

UNIT – IV

Protection of Minorities – Protection of Linguistic, religious and ethnic minorities, Administration of Scheduled areas, Social Inclusion and Exclusion policy of the state.

UNIT – V

Judicial Independence, Judicial Activism, Judicial Restraints

References:

1. Granville Austin, Working a Democratic Constitution, Oxford University Press
2. V.N.Shukla, 'Constitution of India, Eleventh Edition, Eastern Book
3. Company.
4. H.M.Seervai, Constitutional Law of India, Universal Law Publishing Co
5. M.P. Jain, Indian Constitutional Law, Lexis Nexis Butterworth

Paper -3: Legal Theory and Philosophy

UNIT – I

Natural law theory of Law - Ancient Greek Philosophy, Sophists, Medieval Thinkers, Modern Thinkers

UNIT – II

Positivist theory of Law – Bentham, Austin, H L A Hart, Kelsen

UNIT – III

Sociological – Roscoe Pound, Historical – Savigny and Puchta and Realist theory of Law – American realists

UNIT – IV

Law and Morality, Law and Equity, Legal Fictions

UNIT – V

Analysis from perspective of different schools of thought - Euthanasia, Death Penalty, Adultery, Same Sex Marriages, Sedition, Genocide, Etc.

Suggested Readings:

1. Julius Stone – The Province and Function of Law,
2. RWM Dias – Jurisprudence
3. Salmond – Jurisprudence
4. Julius Stone – Social Dimensions of Law,
5. Bodenheimer – Jurisprudence
6. Julius Stone – Lawyers Law & Lawyers Reasoning
7. Lloyd- Introduction to Jurisprudence (latest edition)
8. Roscoe Pound- Jurisprudence- Vol. 1 to 5
9. Roscoe Pound- Introduction to the Philosophy of Law
10. Kelson – The Pure Theory of Law,
11. D' Entreaves – Natural Law,
12. Summers- Essays on Law,
13. Maine – Ancient Law

Paper – 4: Specialisation Paper – 1 – Constitutional Law Theory and Principles of Constitutional Interpretation

Unit I:

Nature and importance of Constitution, Evolution of Constitutional values, Requisites of ideal Constitution; concept of Constitutionalism – its development and role in the legal system; Nature and limitations of constituent and amending power; Basic structure theory.

Unit II:

Saptanga Theory of State in ancient India; Obligation of ruler; Modern Indian Political thoughts of Raja Ram Mohan Roy, Gandhiji, Nehru and Ambedkar about functions of the state, Model of Indian Constitution, Separation and Division of powers.

Unit III:

Role of Internal and External Aids in the Interpretation of Constitution. Preamble; Headings, Marginal Notes. Non-Abrogation and Non-Derogation provisions, Inclusive and exclusive definitions use of Drafts, Constituent Assembly Debates, Legislative History, International Law, Original Intention Theory. Values and approaches that influence constitutional interpretation.

Unit IV:

Interpreting the Constitution as a value document; Purposive interpretation, Living Organism Approach, Reading Down and Reading Up and Reading in, Inter-relationship of Fundamental Rights. Interpreting the Constitution as legal document Presumption of constitutionality.

Unit V:

Literal Interpretation and its limitations. Interpretation of federal scheme: Doctrine of inconsistency, Doctrine of Pith and substance and colourable legislation, Doctrine of occupied field: Doctrine of Eclipse and severability, Harmonious construction, Avoiding the fallacies of Hyper- Integration and Disintegration. The study is with reference to constitutional ideologies and experience of India, U.S.A., U.K. and Canada.

Books for study:

1. Karl Lowenstein. Political Power and Governmental Process.
2. Gettel, Readings in Political Science
3. K.C.Wheare, Modern Constitutions
4. H.J. Laski, The State in Theory and Practice (Chapter-I)

5. B.A Masodkar, Society State and the Law.
6. R.M Mc Ivan, The Modern State
7. Nomos, Constitutionalism
8. P.V Kane, History of Dhamashastra Vol.III
9. M.Rama Jois, Constitutional and legal History, Vol. I & II
10. Carl J.Friedrich, Constitutional Government and Politics.
11. Appadorai, Modern Indian Political Thought
12. M.Hidayatullah- Fifth and sixth Schedule to the Constitution
13. H.M.Seervai- Constitutional Law of Indian Vol. I
14. Lawrence Tribe & Michael Douf- On Reading the Constitution
15. Ely.J.H.- Democracy and Distrust
16. Rotunda and Nowak- Treatise on American Constitution Vol. IV.
17. P.K.Tripathi- Spotlights on Constitutional Interpretation.
18. Peter W.Hogg- Constitutional Law of India.
19. Joseph E.Magnet- Constitutional Law of Canada; Cases and Materials, Vol. II
20. M.P.Jain,- Constitutional Law of Canada
21. Hidayatullah (ed.) – Constitutional Law of India Vol. I (relevant chapters)
22. G.P.Singh- Interpretation of Statutes.
23. Vepa P. Sarathi, Interpretation of Statutes
- 24.Laurence H. Tribe, American Constitutional Law

SEMESTER – II

PAPER 5: RESEARCH METHODOLOGY AND PEDGOGY

Unit I: Introduction to Legal Education

Objectives of Legal Education; present problems of legal education and future perspectives; Curriculum making and reform; designing teaching methods to suit the curricular requirements; diversity in teaching methods and their merits and demerits.

Unit II: Idea of Legal Research, Methodology and ensuring good quality research

Legal Research: Introduction; Legal Research Methodology, purposes and footsteps; thinking process in legal research: diverse models; objectivity, value neutrality, originality, and ethics in legal research; choosing, designing, and building the legal research theme; formulation and testing of hypothesis; rules against plagiarism; introduction to kinds of research.

Unit III: Doctrinal Legal Research Methods

Doctrinal legal research as a means of synthesizing facts, thoughts and legal principles; analytical legal for expanding the legal world; historical legal research: implications and applications; philosophical research in law: the possibilities; comparative method of legal research: nature, process, and potentiality.

Unit IV: Non-doctrinal Methods of Legal Research

Empirical legal research: nature, features and expanding horizons; tools of data collection in empirical legal research: observation, interview, case study, ethnography, questionnaire, survey; qualitative legal research; sampling method: varieties and uses; quantitative legal research.

Unit V: Integrated methods of legal research and Research Reporting

Multi-method legal research: nature, need, procedure and potentiality; policy research in law; action research in law; methodology, Legal writing based on research: report writing, writing articles, case comments and notes

Prescribed Book:

1. Bhat Ishwara P., Idea and Methods of Legal Research, (Oxford: Oxford University Press, 2019)

References:

1. Whitney F.L., The Elements of Research, (rev.edn. Prentice Hall, 1948)

2. Goode, William J. and Hatt Paul K., Methods in Social Research, 1st Ind. Re.pt. (Delhi: Surjeet Publications, 2006)
3. Mike McConville and Wing Hong Chi, Research Methods for Law (Edinburg University Press, 2007)
4. SK Verma and Afzal Wani, Legal Research methodology (Indian Law Institution, Second Edition, 2007)
5. Justice A.S.Anand, "Legal Education in India- Past, Present and Future," in Lokendra Malik and Manish Arora ed., Legal Education in India: Essays in honour of Professor Ranbir Singh, (New Delhi: Universal Law Publishing Co., 2014) Pp.11-20.
6. Justice A.R.Lakshmanan, "Legal Education – Role of the Bar," in Lokendra Malik and Manish Arora ed., Legal Education in India: Essays in honour of Professor Ranbir Singh, (New Delhi: Universal Law Publishing Co., 2014) Pp.35-48.

PAPER 6: JUDICIAL PROCESSES AND LAW-MAKING PROCESSES

Course content:

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; stare decisis; the tools and techniques of judicial creativity and precedent; identifying ratio decidendi and obiter dicta Legal development and creativity through legal reasoning under statutory and codified systems;

Unit II

Special Dimensions of Judicial Process in Constitutional Adjudications: Notions of judicial review; Role in constitutional adjudication - various theories of judicial role; Tools and techniques in policy-making and creativity in constitutional adjudication; Variants of judicial and juristic activism;

Unit III

Problems of accountability and judicial law-making. 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; Institutional liability of courts and judicial activism - scope and limits. Structural challenges

Unit IV

Legislation as a source of law: its relationship with other sources of law; Supreme legislation: law making by Indian Parliament; Interaction between law and public opinion; Drafting of Bills; presentation and discussion in Legislature Houses; Subordinate legislation; types of subordinate legislation. Major rules of interpretation of statutes; Literal or Plain Meaning Rule; Golden Rule; Purposive approach: Mischief Rule; Compromise approach

Unit V:

Nature of legislative drafting; diseases of language to be dealt and taken care of; its history in India and England; components or parts of legislation and their purposes; role of legislation in social welfare, and transformation; role of draftsman; the skills, traits and abilities he should possess; legislative draftsman's position, duties and responsibilities: relation with government, legislative division, public and the society at large; impact of constitutional values and provisions on legislative drafting; impact of the General Clauses Act upon legislative drafting; impact of principles of statutory interpretation upon legislative drafting; steps in legislative drafting; pre-draft preparation; drafting; deliberation with others; post-draft refinement; drafting of delegated legislation – limits and cautions; drafting exercise.

Select Bibliography:

1. W. Friedman, Law in a Changing Society
2. Julius Stone, The Province and Function of Law, Part II, Chs. 1, 8-16 (2000), Universal, New Delhi.
3. Enjamin Cardozo, The Nature of Judicial Process (1995) Universal, New Delhi
4. Henry J. Abraham, The Judicial Process (1998), Oxford.
5. J. Stone, Precedent and the Law: Dynamics of Common Law Growth (1985) Butterworths
6. W. Friedmann, Legal Theory (1960), Stevens, London
7. Bodenheimer, Jurisprudence - the Philosophy and Method of the Law (1997), Universal, Delhi
8. C. K. Allen, Law in the Making
9. C. K. Allen, Law and Orders (2nd edn.)
10. Sir Henry Maine, Ancient Law
11. J. Stone, Legal System and Lawyers' Reasonings (1999), Universal, Delhi
12. U. Baxi, The Indian Supreme Court and Politics (1980), Eastern, Lucknow.
13. Rajeev Dhavan, The Supreme Court of India - A Socio -Legal Critique of its Juristic Techniques (1977), Tripathi, Bombay.
14. John Rawls, A Theory of Justice (2000), Universal, Delhi
15. Edward H. Levi, An Introduction to Legal Reasoning (1970), University of Chicago.
16. F. C. Cohen, 'Modern Ethics and the Law' (1934) 4 Brooklyn Law Review 33
17. P. Devlin, 'Judges, Government and Politics' (1978) 41 Modern Law Review 501
18. J. Dickinson, 'The Law Behind Law' (1929) 29 Columbia Law Review 285
19. T. K. Vishwanathan, (Ed) G. Rajagopal's Legislative Drafting: Shaping the Law for the Millennium (Indian Law Institute, 2007)
20. B R Atre, Legislative Drafting: Principles and Techniques (Universal, 2014)
21. Helen Xanthaki, Thornton's legislative Drafting (5th ed); G C Thornton, Legislative Drafting (Butterworths, 1996)
22. Constantin Stefanou and Helen Xanthaki (ed) Drafting Legislation (Ashgate, 2008)
23. Reed Dickerson, Legislative Drafting
24. Reed Dickerson, Interpretation of Statutes
25. G P Singh, Statutory Interpretation (14th ed, 2018)

PAPER 7: LEGAL CONCEPTS AND THEORY OF JUSTICE

Unit I:

Rights: Conception; Definition; characteristics; types; Rights in the wider sense of the term; Jural relationship of Right-Duty, Liberty-No-right, Power-Liability and Immunity-Disability; critique on jural relations; temporal dimensions.

Unit II:

Persons: Concept of personality, status of unborn persons, dead and lower animals; natural and legal persons; corporations: sole, aggregate, limited etc; registered friendly associations. Multinational Corporations and Juristic Personality; Transnational Juristic Personality; Theories of personality.

Property: Meaning; Types; Movable and Immovable property; Corporeal and Incorporeal Property; Emergence and expanding regime of Incorporeal property: Patents; Copyrights; Designs; Trademarks, Geographical Indications; Integrated Circuits; Protection of Plant Varieties; Confidential Information.

Unit III

Possession: Idea of Possession; Possession in Roman Law; Possession in English Law; Possession in Indian Law; Theories of Possession; Judicial Interpretation of Possession in Indian and British Courts. Adverse possession

Ownership: The Idea of Ownership; Analysis of Ownership; Function of Ownership in Social Engineering; Ownership and Allocation of burdens and Benefits; Ownership and Liberty; Ownership and Power; Ownership in India: Tiller of the Land as Owner: Sons of the Soil Theory.

Unit IV:

J S Mill's and Bentham's Utilitarianism, Rawls' Theory of Justice, Amartya Sen's idea of justice. Dworkin's Rights Based Theory of Justice, Dharma - A duty based approach to justice

Unit V:

Alternative Approaches to Justice: Economic Analysis of Law and Justice, Critical Legal Studies, Socialist Approach to Justice - Socialism, Marxism, Feminist Theories of Justice

Select Bibliography:

1. R W M Dias, Jurisprudence
2. Salmond on Jurisprudence (ed P J Fitzgerald)
3. G W Paton, A Text-book of Jurisprudence
4. W Friedmann, Law in a Changing Society

5. W N Hohfeld, Fundamental Legal Conceptions As Applied in Judicial Reasoning (ed W W Cook)
6. A Kocourek, Jural Relations
7. J Stone, Legal System and Lawyers' Reasoning
8. M Radin, 'A Restatement of Hohfeld' (1938) 51 Harvard Law Review 1141
9. A L Goodhart, Essays in Jurisprudence and the Common Law
10. F Hallis, Corporate Personality
11. J W Bingham, 'The Nature and Importance of Legal Possession' (1915) 13 Michigan Law Review 534
12. H Bond, 'Possession in Roman Law' (1890) 6 LQR 259
13. D R Harris, 'The Concept of Possession in English Law' in Oxford Essays in Jurisprudence (ed A G Guest) ch 4
14. L C Becker, Property Rights: Philosophical Foundations
15. A A Berle & G C Means, The Modern Corporation and Private Property
16. A M Honore, 'Ownership' in Oxford Essays in Jurisprudence (ed A G Guest)
17. J M Lightwood, A Treatise on Possession of Land
18. J W C Turner, 'Some Reflections on Ownership in English Law' (1941) 19 Canadian Bar Review 342
19. Mill, JS. Utilitarianism, Chapters 1 & 2
20. Sen, Amartya. The idea of justice. Harvard University Press, 2011, Chapters 2 & 10.
21. Dworkin, Ronald. Taking rights seriously. Harvard University Press, 1978, Chapter 6.
22. Posner, Richard A. The Economics of Justice, Harvard University Press, 1981, Chapter 3.
23. Cohen, G.A. If You're An Egalitarian How Come You're So Rich?, Harvard University Press, 2001 (Revised edition). (Excerpts)
24. Okin, Susan Moller. 'Justice and Gender', Philosophy and Public Affairs, 16(1), 1987.

Paper – 8 Specialisation Paper – 2 – Constitutionalism, Secularism, Multiculturalism and Constitutional Developments

Unit I

Constitutionalism; Authoritarianism – Dictatorship; Democracy – Communism; Limited Government - concept - Limitations on government power; Development of a democratic government in England - Historical evolution of constitutional government; Law and conventions; Written Constitutions: U.S.A. Canada Australia and India; Marxist concept of constitutionalism; Dictatorship of the proletariat.; Communist State from Stalin to Gorbachov.

Unit- II

Transformative Constitutionalism in India and South Africa, Constitutional Morality.

Unit – III

Multiculturalism and Pluralism: What is a pluralistic society? Ethnic, linguistic, cultural, political pluralism; Individual rights - right to dissent; Uniform Civil Code- Problem of a Uniform Code v/s personal laws: Abolition of untouchability, Tribal Groups and Equality

Unit – IV

Secularism – Dimensions of secularism, Secular State, Secularisation- Religious Fanaticism – Communalism.

Unit – V

Judicial development – scope and horizon of secularism in UK, France, USA and India.

Select Bibliography:

1. G.O. Koppell "The Emergency, The Courts and Indian Democracy" 8 J.I.L.I. 287 (1966)
2. H.M. Seervai, The Emergency, Future Safeguards and the habeas Corpus: A Criticism (1978)
3. International Commission of Jurists, Status of Emergency and Human Rights (1984)
4. N.C. Chatterji and Parameshwar Rao, Emergency and the Law (1966).