



C. U. SHAH UNIVERSITY Wadhwan City

FACULTY OF:- LAW (LL.M.)

SEMESTER: -I

CODE: - 5LW01LST1

NAME: – LAW AND SOCIAL TRANSFORMATION IN INDIA

Teaching and Evaluation Scheme:-

Subject Code	Name of the Subject	Teaching Scheme (Hours)				Credits	Evaluation Scheme							
		Th	Tu	Pr	Total		Theory				Practical (Marks)			Total
							Sessional Exam		University Exam		Internal		University	
							Marks	Hrs	Marks	Hrs	Pr/Viva	TW	Pr	
5LW01LST1	LAW AND SOCIAL TRANSFORMATION IN INDIA	6	0	0	6	6	30	1.5	70	3	---	---	---	100

Syllabus

LAW AND SOCIAL TRANSFORMATION IN INDIA

Objectives of the course

This course is to be designed to offer (a) awareness of India 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 India society.

Syllabus

1. Law and social change

- 1.1. Law as an instrument of social change.
- 1.2. Law as the product of traditions and culture. Criticism and evaluation in the light of colonization and the introduction of common law system and institutions in India and its impact on further development of law and legal institutions in India.

2. Religion and the law

- 2.1.1. Religion as a divisive factor.
 - 2.1.2. Secularism as a solution to the problem.
 - 2.1.3. Reform of the law on secular lines: Problems.
 - 2.1.4 Freedom of religion and non-discrimination on the basis of religion.
- Religious minorities and the law

3. 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 and the Constitution: Official language; multi-language system
- 3.4. Non-discrimination on the ground of language

4. Community and the law

- 4.1. Caste as a divisive factor
- 4.2. Non-discrimination on the grounds of caste.
- 4.3. Acceptance of caste as a factor to undo past injustices.
- 4.4. Protective discrimination: Scheduled castes, tribes and backward classes.
- 4.5. Reservation; Statutory Commissions, Statutory provisions.

5. Regionalism and the law

- 5.1. Regionalism as a divisive factor.
- 5.2. Concept of India as one unit.

11

- 5.3. Right of movement, residence and business; impermissibility of state or regional barriers.
- 5.4. Equality in matters of employment: the slogan “Sons of the soil” and its practice.
- 5.5. Admission to educational institutions: preference to residents of a state.

6. 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. Children and the law

- 7.1. Child labour
- 7.2. Sexual exploitation
- 7.3. Adoption and related problems.
- 7.4. Children and education

8. 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 reform – Industrialisation of agriculture
 - 8.2.3. Industrial reform: Free enterprise v. State regulation – Industrialisation
- 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: (ADR) Confrontation v. consensus; mediation and conciliation; Lok adalats
 - 8.3.3. Prison reforms
 - 8.3.4. Democratic decentralization and local self-government

9. Alternative approaches to law

- 9.1. The jurisprudence of Sarvodaya---Gandhiji, Vinoba Bhave; Jayaprakash Narayan--- Surrender of dacoits; concept of grama 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: cause and cure

Select Bibliography

- Marc Galanter (ed.), Law and Society in Modern India (1997) Oxford.
- Robert Lingat, The Classical Law of India (1988), Oxford.
- U.Baxi, The Crisis of the Indian Legal System (1982). Vikas, New Delhi.
- U.Baxi (ed.), Law and Poverty Critical Essays (1988), Tripathi, 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 of India (1996), 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 Child Labour (1997), Sage.
India 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.

M.P. Jain, Outlines of Indian Legal History, (1993), Tripathi, Bombay

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



C. U. SHAH UNIVERSITY Wadhwan City

FACULTY OF:- LAW (LL.M.)

SEMESTER: -I

CODE: - 5LW01ICL1

NAME: – INDIAN CONSTITUTIONAL LAW: THE NEW CHALLENGES

Teaching and Evaluation Scheme:-

Subject Code	Name of the Subject	Teaching Scheme (Hours)				Credits	Evaluation Scheme							
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							Sessional Exam		University Exam		Internal		University	
							Marks	Hrs	Marks	Hrs	Pr/Viva	TW	Pr	
5LW01ICL1	INDIAN CONSTITUTIONAL LAW: THE NEW CHALLENGES	6	0	0	6	6	30	1.5	70	3	---	---	---	100

02. 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 for specialization. Obviously, rubrics under this paper require modification and updating from time to time.

Syllabus

1. Federalism

- 1.1. Creation of new states
- 1.2. Allocation and share of resources – distribution of grants in aid
- 1.3. The inter-state disputes on resources
- 1.4. Rehabilitation of internally displaced persons.
- 1.5. Centre's responsibility and internal disturbance within States.
- 1.6. Directions of the Centre to the State under Article 356 and 365.
- 1.7. Federal Comity: Relationship of trust and faith between Centre and State.
- 1.8. Special status of certain States.
- 1.9. Tribal Areas, Scheduled Areas
2. "State": Need for widening the definition in the wake of liberalization.
3. Right to equality: privatization and its impact on affirmative action.
4. Empowerment of women.
5. Freedom of press and challenges of new scientific development

Freedom of speech and right to broadcast and telecast

Right to strike, Hartal and Bandh.

6. Emerging regime of new rights and remedies

6.1. Reading Directive Principles and Fundamental Duties into Fundamental Rights

6.2. Compensation jurisprudence

6.3. Right to education

6.4. Commercialization of education and its impact.

13

Brain drain by foreign education market.

7. Right of minorities to establish and administer educational institutions and state control.

8. Secularism and religious fanaticism.

9. Separation of powers: Stresses and strain

9.1. Judicial activism and judicial restraint.

9.2. PIL: implementation.

9.3. Judicial independence.

9.4. Appointment, transfer and removal of judges.

9.5. Accountability: executive and judiciary.

9.6. Tribunals

10. Democratic Process

10.1. Nexus of politics with criminals and the business.

10.2. Election

10.3. Election commission: status.

10.4. Electoral Reforms

10.5. Coalition government, 'stability, durability, corrupt practice'

10.6. Grass root democracy.

Select Bibliography:

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



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FACULTY OF:- LAW (LL.M.)

SEMESTER:- I

CODE:- 5LW01PNL1

NAME:- Penology: Treatment of Offenders

Teaching and Evaluation Scheme:-

Subject Code	Name of the Subject	Teaching Scheme (Hours)				Credits	Evaluation Scheme							
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5LW01PNL1	Penology: Treatment of Offenders	6	0	0	6	6	30	1.5	70	3	---	---	---	100

PENOLOGY : TREATMENT OF OFFENDERS

Course Objectives:

- This course offers a specialist understanding of criminal policies
- It includes theories of punishment, their supposed philosophical and sociological justifications and
- The problematic of discretion in the sentencing experience of the 'developing' societies, a focus normally absent in law curricula so far.

Course Contents:

Unit - 1. **Introductory.**

- 1.1. Definition of Penology

Unit - 2. **Theories of Punishment.**

- 2.1. Retribution
- 2.2. Utilitarian prevention : Deterrence
- 2.3. Utilitarian : Intimidation
- 2.4. Behavioural prevention : Incapacitation
- 2.5. Behavioural prevention : Rehabilitation – Expiation.

- 2.6. Classical Hindu and Islamic approaches to punishment.

Unit - 3. The Problematic of Capital Punishment.

- 3.1. Constitutionality of Capital Punishment
- 3.2. Judicial Attitudes Towards Capital Punishment in India – An inquiry through the statute law and case law.
- 3.3. Law Reform Proposals.

Unit - 4. Approaches to Sentencing.

- 4.1. Alternatives to Imprisonment
 - 4.1.1. Probation
 - 4.1.2. Corrective labour
 - 4.1.3. Fines
 - 4.1.4. Collective fines
 - 4.1.5. Reparation by the offender/by the court.

Unit - 5. Sentencing.

- 5.1. Principal types of sentences in the penal code and special laws.
- 5.2. Sentencing in white collar crime
- 5.3. Pre-sentence hearing
- 5.4. Sentencing for habitual offender
- 5.5. Summary punishment
- 5.6. Plea-bargaining

Unit - 6. Imprisonment.

- 6.1. The state of India's jails today
- 6.2. The disciplinary regime of Indian prisons.
- 6.3. Classification of prisoners .
- 6.4. Rights of prisoner and duties of custodial staff.

- 6.5. Deviance by custodial staff.
- 6.6. Open prisons
- 6.7. Judicial surveillance – basis – development reforms.

Text Books:

- 1. H.L.A. Hart, Punishment and Responsibility (1968)
- 2. Law Commission of India, Forty-Second Report Ch. 3(1971)

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FACULTY OF:- LAW (LL.M.)

SEMESTER: -I

CODE: - 5LW01JVD1

NAME: – JUVENILE DELINQUENCY

Teaching and Evaluation Scheme:-

Subject Code	Name of the Subject	Teaching Scheme (Hours)				Credits	Evaluation Scheme							
		Th	Tu	Pr	Total		Theory				Practical (Marks)			Total
							Sessional Exam		University Exam		Internal		University	
							Marks	Hrs	Marks	Hrs	Pr/Viva	TW	Pr	
5LW01JVD1	JUVENILE DELINQUENCY	6	0	0	6	6	30	1.5	70	3	---	---	---	100

JUVENILE DELINQUENCY

Course Objectives:

- Juvenile delinquency is considered an important branch of criminology. The impact of juvenile delinquency upon the formation of Indian criminology tradition does not seem to be noticeable.
- No understanding of crimes and treatment of offenders can be complete without a sure grasp of causes, carrots, and cures of juvenile delinquency.
- Increasingly, it is being also realized that young offenders require a wholly different centre of criminal justice system and should not be treated in the same way as the adult offenders.
- Juvenile Justice System, although a part of the criminal justice system has now its own autonomous characteristics.

Course Contents:

Unit - 1. The Basic Concepts.

- 1.1. The conception of 'child' in Indian Constitution and Penal Code.
- 1.1. Delinquent juvenile
- 1.2. "Neglected" juvenile

- 1.3. The overall situation of children/young persons in India, also with reference to crime statistics (of crimes by and against children)

Unit - 2. Determining Factors of Juvenile Delinquency.

- 2.1. Differential association
- 2.2. Anomie
- 2.3. Economic pressure
- 2.4. Peer group influence
- 2.5. Gang sub-culture
- 2.6. Class differentials

Unit - 3. Legislative Approaches.

- 3.1. Legislative approaches during the late colonial era.
- 3.2. Children's Act
- 3.3. Legislative position in various States
- 3.4. The Juvenile (Protection and Care) Act.
 - 3.4.1. Constitutional aspects.
 - 3.4.2. Distinction between "Neglected" and "Delinquent" juveniles.
 - 3.4.3. Competent authorities
 - 3.4.4. Processual safeguards for juveniles
 - 3.4.5. Powers given to government
 - 3.4.6. Community participation as envisaged under the Act.

Unit - 4. Indian Context of Juvenile Delinquency.

- 4.1. The child population percentage to total sex-ratio, urban/rural/rural-urban.
- 4.2. Neglected below poverty line, physically and mentally disabled, orphans, destitute, vagrants.
- 4.3. Labourers
 - 4.3.1. In organized industries like zari, carpet, bidi, glass.

4.3.2. In unorganized sector like domestic servant, shops and establishment, rag-pickers, family trade.

4.4. Delinquent number, sex-ratio, ratio to adult crime, types of offences committed, recidivism, rate of increase background.

4.5. Drug addicts.

4.6. Victims

4.6.1. Of violence sexual abuse, battered, killed by parents

4.6.2. Of criminal activities like bootlegging, drug pollution as a response of protective approach.

Unit - 5. Judicial Contribution

- 5.1. Social action litigation concerning juvenile justice.
- 5.2. Salient judicial decisions
- 5.3. Role of legal profession in juvenile justice system.

Unit - 6. Implementation

- 6.1. Institutions, bodies, personnel
- 6.2. Recruiting and funding agencies.
- 6.3. Recruitment qualifications and salaries or fund
- 6.4. Other responsibilities of each agency/person
- 6.5. Coordination among related agencies.
- 6.6. Accountability-annual reports and accessibility of public to juvenile justice institution.

Unit - 7. Preventive Strategies

- 7.1. State Welfare programmes health, nutrition, ICWS,
grants-in-aid
- 7.2 Compulsory education
- 7.3 Role of community, family, voluntary bodies,
individuals.

Text Books :

1. Myron Weiner, The Child and State in India (1990)
2. National institute of Social Defence, Model Rules under the Juvenile Justice Act, 1986,
(1986)

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