



The Indian Law Institute

LL.M. Programme- 2009-10

Teaching Scheme

Name of the Course and Year	:	LL.M - 3 Year (Evening) Regular-First Year
Duration	:	Three Years
Total Number of Classes in 2009-10 Session	:	340 Hrs.
Course Coordinators	:	Dr. Furquan Ahmed, Associate Research Professor Email: furqan49ahmad@yahoo.com Mr. Vishnu Konoorayar. K, Assistant Research Professor Email: vishnu@ilidelhi.org
Session Duration	:	120 Minutes

Objective and Scope

The Indian Law Institute, the premier legal research institute in India, has been imparting training to legal researchers at various levels since its founding in the year 1956. To achieve this goal various training and educational programmes have been successfully implemented in all these years. The latest of this is a Three-Year LL.M Evening (Regular) Programme from the academic year 2009-10 onwards with the objective of providing an opportunity for the professionals to further their interest in legal research along with specialization in specific areas of law. The programme is intended at enhancing the analytical and interpretative skills of lawyers and legal professionals with the ultimate aim of development of law. This programme also aims at (a) keeping

members of the Bar and other professionals abreast of the newer developments in Law. (b) Creating awareness among persons belonging to commerce, industry and government of their legal rights and duties and also of persons dealing with them; (c) sharing the fruits of research done by the Institute with others; and (d) creating awareness that legal rules are not merely technical rules designed to solve disputes between the two immediate parties but are the instruments of social engineering.

Paper I

Jurisprudence (Paper Code: 001):

Panel of Resource Persons

- Prof. Upendra Baxi, Emeritus Professor, Warwick University, U.K
- Prof. V.K. Gupta, Former Dean, Faculty of Law, Jamia Milia Islamia, New Delhi
- Prof. J.L. Kaul, Faculty of Law, University of Delhi.
- Dr. M. P. Raju, Advocate, The Supreme Court of India.
- Mr. Krishna Mahajan, Advocate, Supreme Court of India
- Mr. Nimesh Das Guru, Lecturer, Amity Law School, NOIDA

Syllabus :

- Comparative Approaches
 - Ancient India
 - Ancient Greek
 - Islamic
 - Continental
 - British
 - American
- Search for Rational Objectivity
 - Natural Law School
 - Revived Natural Law
 - Positivist School
 - Historical School
 - Sociological School
 - Legal Realism
 - Critical Legal Theories
- Concepts and Issues
 - Justice, law and morality

- Individual and the Community/state
- Property
- Affirmative Action/Reverse Discrimination
- Gender
- Poverty and Development
- Globalisation and Free trade
- Modern technology and Law

Required Reading :

1. Bodenheimer, *Jurisprudence* (Delhi, Universal Law Publishing, 2006.)
2. Dias, R.W.M. *Jurisprudence* (London: Butterworths, 1985).
3. Jois, M. Rama, *Seeds of Modern Public Law in Ancient Indian Jurisprudence* (Lucknow: Eastern Book Company, 1990).
4. Khadhuri, Majid (tr.), *Islamic Jurisprudence* (London: John Hopkins Press, 1961).
5. Salmond, *Jurisprudence* (New Delhi: Universal Law Publishing Co. Pvt. Ltd., 2004).
6. Lon L. Fuller, *The Morality of Law* (1995)
7. H.L.A. Hart, *The Concept of Law* (1993)
8. Roscoe Pound, *Introduction to Philosophy of Law* (1954) Chs, 1,2&3.
9. Roscoe Pound, *Jurisprudence* (1959) Vol. I, Part I&II

Additional Reading :

1. Baade, Hans W. (ed.) *Jurimetrics* (New York: Basic Books, 1963).
2. Baxi, Upendra, *Towards a sociology of Indian law* (New Delhi: Satvahan, 1986).
Bhagvat, Durga N, *Early Buddhist jurisprudence* (Therevade Vinaya-Laws, Poona: Oriental Book Agency, 1939.)
3. Cotterrell, Roger, *Sociology of law* (London: Butterworths, 1992.)
4. Douzinas, Costas and Gearey, Adam, *Critical jurisprudence*, (Portland: Hart Publishing, 2005.)
5. Dworkin Ronald, *Justice in robes*. (Delhi: Universal Law Publishing)
6. Dworkin, Ronald, *Law's empire*, (Delhi: Universal, 2002.)
7. Faruki, Kemal A., *Islamic jurisprudence* (New Delhi: Deep & Deep, 1988.)
8. Fouillee, A. [et al...], *Modern French legal philosophy* (New York: Kelley, 1968.)
9. Fuller, Lon L, *Problems of jurisprudence* (Brooklyn: Foundation Press)
10. Freeman, Lloyd's *Introduction to Jurisprudence* (London: Sweet & Maxwell, 2008).
11. Friedman, Lawrence M., *Law and Society* (New Jersey: Prentice-Hall, 1977).
12. Gupta, V.K, *Kautilyan jurisprudence* (Delhi, 1987.)

13. Gupta, V.K. *Ancient Indian jurisprudence* (Delhi, 1985)
14. Iyer, V.R. Krishna, *Social dimensions of law and justice in contemporary India: the dynamics of new jurisprudence-problems, perspectives and prospects* (Nagpur: Wadhwa, 1979.)

Suggested References :

1. The Constitution of India

Evaluation Components :

Examination will be held at the end of the year. Maximum marks of the examination will be 100 out of which 60% will be evaluated by the annual written examination and 40% by continuous student evaluation by the concerned teachers.

Paper II

Judicial Process (Paper Code 002)

Panel of Resource Persons

- Hon'ble Mr. Justice A.K. Sikri, Judge, Delhi High Court
- Dr. Gitanjali Nain, Reader, Campus Law Centre, Delhi University
- Mr. Shiju M Varghese, Senior Lecturer, TERI University, New Delhi.
- Ms. Jaya. V. S, Assistant Research Professor, The Indian Law Institute, New Delhi.

Syllabus :

- Doctrine of Precedent
- *Ratio Decidendi* and *Obiter Dicta*
- Hierarchy of Courts
- Independence of Judiciary
- Nature of judicial process
- Methods of judicial interpretation
- Operation of precedent in India
- Constitutional interpretation
- Interpretation of statutes
- Prospective overruling
- Basic structure theory

- Judicial activism and Judicial restraint

Required Reading :

1. Cardozo, B.N, *Nature of the judicial process* (New Haven: Yale University Press. 2004.)
2. Cross, Rupert and Harris, James William, *Precedent in English law* (Oxford: Clarendon Press, 1991)
3. Gupta, V. K, *Decision making in the Supreme Court of India: a jurimetrics study* (Delhi: Koveri Books, 1995.)
4. Stone, Julius, *Province and function of law: law as logic justice and social control*
5. Stone, Julius, *Social dimensions of law and justice*
6. Stone, Julius, *Legal System and Lawyers Reasoning*
7. Edward H Levi, *Introduction to Legal Reasoning*
8. Laxminath – *Precedent in the Indian Legal System*

Additional Reading :

1. Abraham, Henry J, *Judicial process: an introductory analysis of the courts of the United States, England and France* (New York: Oxford Publishing House, 1980.)
2. Aldisert, Ruggero J, *Judicial process* (St. Paul Minn.: West Publishing, 1996)
3. Arora, Trilok Nath, *Judicial strictures* (Delhi: University Library, 2001)
4. Bell, John, *Policy arguments in judicial decisions* (Oxford: Clarendon Press, 1983.)
5. Cardozo, B.N. and Hall, Margaret E. (ed.) *Selected writings of Benjamin Nathan Cardozo...including also the complete texts of nature of the Judicial process growth of the law, paradoxes of legal science, law and literature* (New York: Fallon Publication, 1947.)
6. Discussion meet on judicial process in India held at Nainital, May 8-13, 1967, New Delhi: Indian Law Institute, 1967.
7. Dworkin Ronald , *Justice in robes* (Delhi: Universal Law Publishing , 2007)
8. Fried, Charles, *Saying what the law is* (New Delhi: Universal Law Publishing Company, 2004.)
9. Hidayatullah, M., *Democracy in India and the judicial process* (Bombay:Asia Publishing House, 1966.)

Suggested References :

1. The Constitution of India

Evaluation Components :

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Paper III

Legal Research and Methodology (Paper Code 003)

Panel of Resource Persons

- Prof. Balraj Chauhan, Director, National Law School, Lucknow, New Delhi
- Prof. Ranbir Singh, Director, National Law School, New Delhi
- Prof. T.H. Khan, Dean, Faculty of Law, Jamia Milia Islamia, New Delhi
- Prof. D.S. Sengar, Director, The Indian Law Institute, New Delhi
- Dr. Thomas Paul, Associate Research Professor, The Indian Law Institute, New Delhi
- Dr. Furqan Ahmad, Associate Research Professor, The Indian Law Institute, New Delhi
- Mr. Vishnu Konoorayar, Assistant Research Professor, The Indian Law Institute, New Delhi

Syllabus :

- Legal Research in India
 - Objectives
 - Evolution
 - Contemporary Trends in Legal Research
- Legal Research and Law Reform
 - Role of Judges and Jurists
 - Recommendations of Different Commission and Committees
- Law and Logic
 - Use of Induction and Deduction Methods in Research
- Different Kinds of Legal research
 - Doctrinal
 - Non-Doctrinal
 - Inter/Multidisciplinary etc.
- Techniques of Legal Research
 - Steps involved

- Identification of a Research Problem
- Formulation of a Research Proposal
- Budgeting and Research Supervision
- Tools of Legal Research
 - Library
 - Books
 - Case law Reports
 - Legislative Reports
 - Computers, Internet etc.
- Sources of Information in Legal research
 - Primary and the secondary sources of Information
 - Plagiarism as an offence in research
- Role of Academic Writings in Judicial Education

Required Reading :

1. Verma S.K and Wani, Afsal, Legal Research and Methodology, (Indian Law Institute, 2006)

Additional Reading :

1. Myneni, S.R., Legal research methodology.-- Faridabad: Allied Law Agency, 1997
2. Kothari, C R , Research methodology.-- New Delhi: New Age International (P) ltd., 2004.

Evaluation Components :

Examination will be held at the end of the year. Maximum marks of the examination will be 100 out of which 60% will be evaluated by the annual written examination and 40% by continuous student evaluation by the concerned teachers.

Paper IV

Constitution of India (Paper Code 04)

Panel of Resource Persons

- Hon'ble Mr. Justice R.C. Lahoti, Former Chief Justice of India
- Prof. Manjula Batra, Faculty of Law, Jamia Milia Islamia, New Delhi.
- Dr. T.N. Arora, Reader, Faculty of Law, GGSIP University, New Delhi.
- Mr. P. Puneeth, Assistant Research Professor, The Indian Law Institute, New Delhi.

Syllabus

- Constitutionalism
 - Meaning and Key Elements.
 - Origin and Growth – USA, Canada, Australia
 - Impact on Indian Constitution
- Classification of Constitutionalism
 - Aggressive Constitutionalism
 - Inspirational and Aversive Constitutionalism
 - Commonwealth Constitutionalism.
 - Popular Constitutionalism.
 - Progressive and Conservative Constitutionalism
 - Written and Unwritten Constitution
- Elements of Indian Constitutionalism.
 - Historical Background
 - Power Structure and Power Confirmation, Discretion and Indian Constitution
 - Right Protection and Enforcement Mechanism
 - Epistolary Justice
 - Adieu Anglo Saxon Jurisprudence
- Indian Courts on Constitutionalism
 - Judicial Response
 - Power Limitation Concept
 - Institutional Power
 - Individual Power
 - High Power Theory
 - Sovereignty and Fundamental Rights

- Federalism
 - Origin and Growth
 - Features of Indian Federalism
 - Supreme Court on Federalism
- Emergency and Constitutionalism
 - Constitutional Contemplation
 - Pre and Post Constitutional 44th amendment position
 - Judicial Response to Emergency
 - Civil liberties in times of emergency and terror
- Amendment of the Constitution
 - Constitutional Provisions
 - Judicial Response – Basic Structure Theory
- Constitution and Social Justice
 - Historical Background
 - Constitutional Provision
 - Compensatory Mode
- Interpretation of the Constitution

Required Reading :

1. Seervai, H.M, *Constitutional Law of India* (Universal Law Publishing Co. Ltd, 2005)
2. Hillaire, Banned, *Constitution and Administrative Law*
3. Fahayek, *The Constitution of Liberty*
4. Louis, Henkin, *Constitutionalism, Democracy and Foreign Affairs*
5. Louis, Henkin & Albert J. Rosendhal (ed.), *Constitution and Rights*

Additional Reading :

1. Austin, Granville, *Working a democratic constitution* (New Delhi: Oxford, 1999.)
2. Bailey, Martin J., *Constitution for a future country* (New York: Palgrave, 2001)
3. Devins, Neal, *Democratic constitution* (New York: Oxford University Press, 2004). Wicks, Elizabeth, *The evolution of a constitution* (Portland: Hart Publishing, 2006.) Baines, Beverley (ed.) and Rubio-Marin, Ruth (ed.) *Gender of constitutional jurisprudence* (Cambridge: Cambridge University Press, 2005).
4. Dicey, A.V., *Introduction to the study of the law of the constitution* (Delhi: Universal, 2003.)
5. Goldsworthy, Jeffrey (ed.) *Interpreting constitutions* (New Delhi: Oxford University Press, 2008.)
6. Hatchard, John, *Comparative constitutionalism and good governance in the commonwealth*. (United Kingdom: Cambridge University Press, 2004)
7. Indian Law Institute, *Nehru and the constitution* (Bombay: Tripathi, 1992.)

8. Jowell, Jeffrey (ed.) and Oliver, D. (ed.), *Changing constitution* (New York: Oxford University Press, 2000)

Suggested References :

1. Constitution Finder of the University Richmond: <http://confinder.richmond.edu/>

Evaluation Components :

Examination will be held at the end of the year. Maximum marks of the examination will be 50 out of which 60% will be evaluated by the annual written examination and 40% by continuous student evaluation by the concerned teachers. The students are also required to write a Research Paper for 50 marks on a topic approved by the Course Coordinator and in consultation with the Subject Teacher.

Paper V

GENERAL PRINCIPLES OF PUBLIC AND PRIVATE INTERNATIONAL LAW (PAPER CODE 005)

Panel of Resource Persons

- Prof. Lakshmi Jambolkar, Member, Law Commission of India and Former Professor, University of Delhi
- Prof. V.C. Govind Raj, Former Professor, University of Delhi
- Dr. V.G. Hegde, Associate Professor, Jawaharlal Nehru University, New Delhi.
- Dr. Manimuthu Gandhi, Director, Legal & Treaties Division (L&T), Ministry of External Affairs, New Delhi.
- Dr. Luther Rangreji, Legal Officer, Legal & Treaties Division, Ministry of External Affairs & EC Member, ISIL
- Mr. Vinay Kumar Singh, Assistant Research Professor, Indian Society of International Law.

Syllabus :

Public International Law

- Asian-African Approaches to International Law, Sovereign Equality of States in International Law, Sources of International Law and Law of Treaties, Prohibition

of Force in International Law, Permanent Sovereignty over Natural Resources, New International Economic Order, State Jurisdiction and Immunity

- **Peaceful Settlement of International Disputes**
 - Negotiation
 - Mediation
 - Conciliation
 - International Arbitration
 - International Court of Justice
- **Laws of War**
 - Counter- Measure and Sanctions in International Law
 - Collective Security
 - Humanitarian Assistance and Humanitarian Intervention
 - International Law of Disarmament
 - International Humanitarian Law and International Criminal Court
- **International Organizations**
 - Why do we need International Institutions?
 - Relationship between General Assembly and Security Council
 - Relationship between General Assembly and ECOSOC
 - Relationship between ECOSOC AND NGO's
 - Relationship between Security Council and ICJ

Private International Law

- Introduction
 - Nature and Scope
 - Avoiding Conflicts/Unification
 - Exclusion of Foreign Laws
 - Proof of Foreign Laws
- Domicile
 - General Rules
 - Domicile of Choice and Domicile of Origin
 - Domicile of Dependents
 - Domicile, Nationality and Residence
 - Domicile of Corporations
- Jurisdiction
 - Base of Jurisdiction
 - Anti-suit Injunctions
- Law of Obligations
 - International Contracts
 - Torts
- Family Law
 - Marriage

- Matrimonial Cases
- Recognition of Divorce Decrees
- Enforcement of Foreign Judgments and Foreign Awards
- Procedure

Required Reading :

1. Brownlie, Ian, *Principles of Public International Law* (Clarendon Press, Oxford, Latest Edition).
2. Shaw, Malcom N., *International Law* (Cambridge University Press, Cambridge, Latest Edition)
3. G.C. Chesire, *Private International Law* (11th Ed. 1987).

Additional Reading :

1. Diey Morris, *Conflict of Laws* (13th Ed. 1999)
2. Anand, R.P., *Studies in International Adjudication* (Vikas Publishing House, New Delhi, 1969).
3. Simma, Bruno, ed., *The Charter of the United Nations* (Oxford University Press, Oxford, 1994).
4. Stone, Julius, *Legal Control of International Conflicts* (Graland, New York, 1979).

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