

LAW

SYLLABUS FOR M.PHIL/PH.D. ENTRANCE TEST FOR THE YEAR 2016-17

UNIT 1: JURISPRUDENCE

Legal Theories: Nature and value of Jurisprudence; Meaning of Legal Theory; Natural Law Theories; Jewish Period, Greek Period, Roman Period, Middle Ages, Renaissances and Reformation Period; Modern Theories: Neo- Thomism, Justice Theories, Rights Theories, Form and Contents Theories; Analytical Positivism; Jeremy Bentham, John Austin, H.L.A. Hart's Concept of Law, School: Hans Kelsen; Historical Approaches: Von Savigny, Hegel's Dialectic Interpretation, Biological Interpretations of Darwin and Spencer, Racial Theory; Anthropological Approaches: Sir Henry Maine and other Modern Thinkers; Economic Approaches: Marx and Engels; Sociological Approaches: Ihering, Ehrlich, Bentham, Pound, Duguit; Realist Movement: British Realist John Salmond; American Realists: Holmes, Frank, Llewellyn; Scandinavian Realists: Lundsted, Olivecrona, Ross; Legal Concepts: Relevance and Importance of the Study of Legal Concepts: Concepts of Rights, Person, Property, Possession, Ownership, Titles, Liability, Obligations.

UNIT 2: LEGISLATIVE & JUDICIAL PROCESS

Legislative Process: Origin of Legislative Proposal; Role of Public Opinion in the Formation of Legislation, Binding Force of Legislation, Limitations on the Binding Force of Legislation; Legislative Proposal, Lobbying and Pressure Group Lobbying; Law Making Process in Legislatures in India, U S and U K; Basic Rules of Interpretation and Construction of Statutes: Rule of *Litera Legis*, "*Mischief Rule*" and Golden Rule; Intrinsic and Extrinsic Sources of Interpretation, Reed Dickerson's Idea about Interpretation of 'Meaning'; Principles of Interpretation of '*Contemporanea Expositio*', Beneficial Construction and Liberal Construction, Strict Interpretation and Restrictive Interpretation, *Ejusdem Generis*; Principles of Legislation According to Bentham: Utilitarian Concepts as the Basis for Formation of Legislation; Purpose of Legislation and its Relation to Criminal Sanction – Pleasure and Pain Theory of Criminal Sanction; Judicial Process: Nature of Judicial Process in Pre-Industrial Society; Contemporary Nature of Judicial Process: 1. The Rule of Law, 2. Doctrine of Independence of Judiciary as an Aspect of Separation of Powers, 3. The Notion of the Independence of Judiciary and of Legal Profession, 4. Appointment of Judges, 5. Transfer of Judges; Indian Judicial Process: 1.The Socio-economic Background of Indian Judiciary, 2.The Politics of the Judiciary, 3.Impact of Public Opinion on Judicial Process, 4.Powers of Judicial Review, 5. The Role of Supreme Court of India in Law Making Process, 6. Judicial Activism, Judicial Restraint and Judicial Overreach in India ; Ratio-Decidendi and Obiter-dicta: 1. Ratio-Decidendi and Structure of the Judgements, 2. Description of the Ratio-Decidendi, 3. Obiter Dicta; Methods of Determination of Ratio-Decidendi: 1. Wambaugh's Method, 2. Lord Halsbury's Method, 3. Dr Good Hart's Method, 4. American Theory.

UNIT 3: LAW AND SOCIAL TRANSFORMATION IN INDIA

Law and social change - Law as an instrument of social change, 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; Religion and the law - Religion as a divisive factor; Secularism as a solution to the problem, Reform of the law on secular lines: Problems; Freedom of religion and non-discrimination on the

basis of religion; Religious minorities and the law; Community and the law - Caste as a divisive factor, Non-discrimination on the ground of caste, Acceptance of caste as a factor to undo past injustices, Protective discrimination: Scheduled castes, tribes and backward classes, Reservation; Statutory Commissions, Statutory provisions; Regionalism and the law - Regionalism as a divisive factor, Concept of India as one unit, Right of movement, residence and business; impermissibility of state or regional barriers; Equality in matters of employment: the slogan "Sons of the soil" and its practice; Admission to educational institutions: preference to residents of a state; Women and the law - Crimes against women, Gender injustice and its various forms, Women's Commission; Empowerment of women: Constitutional and other legal provisions; Children and the law - Child labour; Sexual exploitation; Adoption and related problems; Children and education; Modernization and the law - Modernization as a value: Constitutional perspectives reflected in the fundamental duties; Modernization of social institutions through law; Reform of family law; Agrarian reform - Industrialization of agriculture; the jurisprudence of Sarvodaya - Gandhiji, Vinoba Bhave; Jayaprakash Narayan; concept of grama nyayalayas; Socialist thought on law and justice: An enquiry through constitutional debates on the right to property; Indian Marxist critique of law and justice; Naxalite movement: causes and cure.

UNIT 4: LEGAL EDUCATION AND RESEARCH METHODOLOGY

Objectives of Legal Education; 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 - Organization of Seminars, publication of journal and assessment of teachers; Clinical legal education - legal aid, legal literacy, legal survey and law reform; 1) Meaning and Definition – Science, Theory and Fact, Concepts, Values and Reflective Thinking; 2) Meaning and Definition of Scientific Research Method and Social Science Research Method – Basic Assumptions, Motivating Factors, General Principles and Importance of Social Science Research 3) Classification of Research – Descriptive (Ex-Post Facto), Analytical (Action), Fundamental, Qualitative, Conceptual, Statistical, Critical, Empirical (Non-Doctrinal) and Non-empirical (Doctrinal) Researches; Research Problem; Hypothesis; Research Design; Methods of Data Collection: 1) Survey Method, 2) Sampling Method, 3) Case Study Method, 4) Sources of Data; Techniques of Data Collection: 1) Observation Method, 2) Interview Method, 3) Questionnaire Method, 4) Schedule Method; Testing of Hypothesis; Classification and tabulation of data; Analysis and Interpretation of Data; Generalization; Preparation of the Final Report.

UNIT 5: INDIAN CONSTITUTIONAL LAW: THE NEW CHALLENGES

Introduction; Concept of Constitution, Different types of Constitutions – their salient features; the Constitution of India – Brief History; Salient Features; Preamble; Fundamental Rights, Directive Principles of State Policy; Fundamental Duties; Federalism – Distinctive features of Indian federalism; creation of new States ; Allocation and Shares of resources; The inter-State disputes on resources; Rehabilitation of internally displaced persons; centers responsibility and internal disturbance within States; Direction of the centre to the State under Article 356 and 365; Special Status of certain states, Tribal Areas and Scheduled Areas; State: Need for widening the definition in the wake of liberalization; Right to equality: Privatization and its impact on affirmative action;

Empowerment of Women; Freedom of Press and Challenges of New Scientific development; Freedom of press and challenges of new scientific development; Freedom of speech and right to broadcast and telecast; Right to strikes, hartal and bandh; Reading Directive Principles and Fundamental Duties into Fundamental Rights; Compensation Jurisprudence; Right to education - Commercialisation of education and its impact; Brain drain by foreign education market; Rights to Religion - Right of minorities to establish and administer educational institutions and state control; Secularism and religious fanaticism Uniform Civil Code Problems and Perspective; Separation of powers; stress and strain, power of judicial Review; Judicial activism and judicial restraint, PIL: implementation, judicial independence appointment, Transfer and Removal of Judges, Accountability: Executive and Judiciary; Democratic Process; Nexus of politics with criminals and the business; Free and Fair elections, Election Commissions: Status; Electoral reforms; Coalition governments, stability, durability and corrupt practices; Grass root democracy.

UNIT 6: HUMAN RIGHTS

Concept of Right and Human Right; Theoretical Foundations of Human Rights; Movements for Human Rights; Historical development of the concept of human rights; Human rights in Western tradition - Concept of natural law, Concept of natural rights; Major International Covenants, Treaties and Agreements on Human Rights – the U N Charter, the Universal Declaration of Human Rights (UDHR), 1948; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; Declaration of the Rights of the Child; U N Declaration on the Elimination of All Forms of Racial Discrimination; U N Declaration on the Elimination of All Forms of Discrimination Against Women; The UN Declaration on Right to Development, 1987; Declaration on the Rights of Disabled Persons; Major Regional Covenants, Treaties and Agreements on Human Rights – European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950; European Social Charter, 1961; the American Convention on Human Rights; the Inter-American Convention on Human Rights, 1969; African Charter on Human Rights and Peoples' Rights and Indian aspects of Human Rights.

UNIT 7: CONSUMER LAW

Introduction: Origin, Evolution and Growth of Concept of Consumerism and Consumer Movement at International and in India leading to the Enactment of Consumer Protection Laws; Various Consumer Problems in India; Various Consumer Protection Laws in India; Consumer Protection Act: Aims, Objectives, Salient Features and Scheme of the Act; Definition of various Terms Used in the Act; Meaning of 'Consumer', Meaning of 'Defect', Meaning of 'Goods' and 'Defect in Goods; Meaning and Essentials of 'Service'; Meaning of 'Deficiency' and 'Deficiency in Service': Consideration of Deficiency in Various Kinds of Services such as Medical, Banking, Insurance, Education, Electricity, Telephone, Transport, Carrier, Postal, Housing Construction, etc. The Meaning and Scope of 'Unfair Trade Practices' and 'Restrictive Trade Practice' (the discussion of the above be made in the light of decided cases); the Rights of the Consumers; Relief and Remedies of Consumers when Rights are been Violated; the Welfare of the Consumers; Consumer Disputes Redressal Agencies: Establishment, Composition, Jurisdiction, Functions, Procedures for Hearing, Findings and Orders of the District Forum, State Commission and National Commission and Appeals therefrom; Consumer Dispute Redressal Council – their Constitution and Duties.

UNIT 8: CORPORATE JURISPRUDENCE

Company as a Juridical Person; Theories of Corporate Legal Personality; Corporate Sole and Corporate Aggregate; Organic Theory of Criminal Liability of a Company; The Consequences of Incorporation of a Company; Lifting of the Corporate Veil of a Company; Doctrine of Ultra Vires of a Company and its Consequences; Evasion and the Erosion of the Doctrine of Ultra Vires Rule by the Management of a Company and Judiciary; Doctrine of Constructive Notice and its Limitations; Doctrine of Indoor Management in a Company; Palmer's Analysis of the Indoor Management Principle; Gower's Analysis of the Indoor Management Principle; Legal Position of Directors in a Company; Fiduciary Duties of Directors in a Company; Duties of Care and Skill of Directors of a Company; Duties to Disclosure inter se; Rule in Foss v. Harbottle and Exceptions; Prevention of Mismanagement and Oppression; Private Companies and Advantages of a Private Company; Conversion of Private Company into a Public Company and Vice-Versa; Foreign Companies; Government Companies and Holding Company; Circumstances of Winding up of a Company by the Court; Voluntary Winding up of a Company.

UNIT 9: COMPETITION LAW

Concept of Competition, Legislative History of the Competition Law – Comparative Study of the Law with Reference to UK and USA; Aim, Object and Scheme of the Competition Act; Anti-Competitive Agreements, Abuse of Dominant Position, Combinations and Regulation of Combinations; Competition Commission of India; Powers, Functions and Duties of the Commission; Director General to investigate into Contravention of the Provisions; Penalties; International aspects of Competition Policy – WTO and Competition Policy; Competition Policy in US and UK.

UNIT 10: INTELLECTUAL PROPERTY LAW

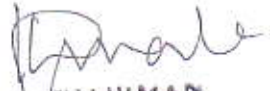
Intellectual Property Rights: Meaning, Nature, Development, Types, Global and National Dimensions, etc. International Instruments: Paris Convention, TRIPs, WIPO, UPOV; Patents: Salient Features, Patentable and Non-patentable inventions, Ownership, Term and Process of Patenting: Application, Examination, Opposition, Grant and Sealing, Patent Rights: Assignment, Licensing, Limitations, Government Use, Revocation, Infringement, Enforcement, Civil and Criminal Remedies; Trade Marks: Concepts, Nature, Meaning, Property in Trade Marks, Opposition, registrable and Non-registrable Marks; Certification of Trade Marks, Textile Marks, Collective Marks, Appellate Board, Assignment, Licensing, Registration, Effects of Registration, Infringement, Remedies, Passing Off; Copyright: Nature, Meaning, Subject Matter, Ownership, Term, Ownership Rights, Performers Rights, Assignment, License, Publications; Infringement, Remedies: Civil and Criminal, Copyright Societies, Copyright Office, International Copyright; Protection of Plant Varieties: Features, Types of Plant Varieties, Term of Protection, Machinery, Farmers and Community Rights, Contentious Issues, Position in Important Countries; Geographical Indication of Goods: Conception and Definition, Procedure of Registration, Bodies, Infringement and Assignment.

Select Bibliography

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5. Reed Dickerson, Interpretation of Statutes, (Little Brown and Company, Broston).
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25. Robert Lowe and Geofren Woodroff, Consumer Law and Practice, 6th Edn,(Sweet & Maxwell, London)
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