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For college only

LL.M. (SECOND) SEM.

M.A. M.Sc. Exam May/June-2016 (2016)

Second/Fourth Semester

Pages (01) to (12)

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Jiwaji University, Gwalior (M.P.)

LL.M. IInd Semester

Paper – Ist

**Judicial Process and Law and Legal Theories  
(Compulsory Subject)**

**Syllabus**

1. Law – Definition and Content
2. Legal Theories – Natural Law Theories, Historical Theory of Law, Austinian Theory of Law, Sociological Theory of Law, Neoclassical Theory of Law.
3. Jurisprudential Concepts – Personality, Right and Duty and Ownership.
4. Nature of Judicial Process –
  1. Judicial Process as an Instrument of Social Ordering.
  2. Judicial Process and creativity in Law common law model Legal Reasoning and growth of law change and stability.
  3. The tools and techniques of judicial creativity and precedent.
  4. Legal development and creativity through legal reasoning under statutory and codified systems.
5. Special Dimensions of Judicial Process in Constitutional Adjudications.
  1. Notions of indicial review
  2. Role' in constitutional adjudication various theories of indicial role.
  3. Tools and techniques in policy – making and creativity in constitutional adjudication.
  4. Varieties of judicial and juristic activism
  5. Problems of accountability and judicial law – making.
6. Judicial Process in India
  1. Indian debate on the role of judges and on the notion of judicial review.
  2. The “independence” of judiciary and the “political” nature of indicial process
  3. Judicial activism and creativity of the Supreme Court the tools and techniques of creativity/
  4. Judicial process in pursuit of constitutional goals and values new dimensions of judicial activism and structural challenges.
  5. Institutional liability of courts and judicial activism scope and limits.
7. The Concepts of Justice
  1. The concept of justice or Dharma in Indian thought
  2. Dharma as the foundation of legal ordering in Indian thought.
  3. The concept and various theories of justice in western thought.



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4. Various theoretical bases of justice : the liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

#### 8. Relation between Law and Justice

1. Equivalence Theories Justice as nothing more than the positive law of the stronger class
2. Dependency theories For its realization justice depends on law, but justice is not the same as law.
3. The independence of justice theories means to end relationship of law and justice The relationship in the context of the Indian constitutional ordering.
4. Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

#### Select Bibliography'

Juflus Store, - The Province and Function of Law, Part II, Chs. 1.816(2000), Universal, New Delhi.

Cardozo, The Nature of Judicial Process (1995) Universal, New Delhi

Henry J. Abraham The Judicial Process (1998), Oxford.

J.Stone, Precedent and the Law : Dynamics of Common Law Growth (1985) Butterworths

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

Bodenheimer, Jurisprudence the Philosophy and Method of the Law (1997), Universal, Delhi

J. Stone, Legal System and Lawyers' Resonances (1999), Universal, Delhi

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

Rajeev Dhavan, The Supreme Court of India A Socio – Legal Critique of its Juristic Techniques (1977), Tripathi, Bombay.


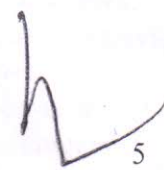
John Rawls, A Theory of Justice (2000), Universal, Delhi

Edward H. Levi, An Introduction to Legal Reasoning (1970), University of Chicago.

Dias – Jurisprudence

Petan – Concepts of Jurisprudence

Friedman – Legal Theories of Jurisprudence.

   
5



3

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**Jiwaji University, Gwalior (M.P.)**  
**LL.M. IInd Semester**  
**Paper – IInd**  
**Legal Education And Research Methodology**  
**(Compulsory Subject)**

**Syllabus:-**

1. Objectives of Legal Education
2. Lecture Method of Teaching Merits and demerits
3. The Problem Method
4. Discussion method and its suitability at postgraduate level teaching
5. The Seminar Method of teaching
6. Examination system and problems in evaluation external and internal assessment.
7. Student Participation in law school programmes Organisation of Seminars, Publication of journal and assessment of teachers
8. Clinical legal education legal aid, legal literacy, legal survey and law reform
9. Research Methods
  1. Socio Legal Research
  2. Doctrinal and non – doctrinal
  3. Relevance of empirical research
  4. Induction and deduction
10. Identification of Problem of research
  1. What is a research problem?
  2. Survey of available literature and bibliographical research.
    - (I) Legislative materials including subordinate legislation, notification and policy statements
    - (II) Decisional materials including foreign decisions; methods of discovering the “ru of the case” tracing the history of important cases and ensuring that these have not been over – ruled; discovering judicial conflict in the area pertaining to the research problem and the reasons thereof .
    - (III) Juristic Writings a survey of juristic literature relevant to select problems in Indian and foreign periodicals.
    - (IV) Compilation of list of reports or special studies conducted relevant to the problem
11. Preparation of the Research Design
  1. Formulation of the Research problem
  2. Devising tools and techniques for collection of data Methodology
    - (i) Methods for the collection of statutory and case materials and juristic literature.
    - (ii) Use of historical and comparative research materials.
    - (iii) Use of observation studies.
    - (iv) Use of questionnaires/interview
    - (v) Use of case studies.
    - (vi) Sampling procedures design of sample, types of sampling to be adopted.
    - (vii) Use of scaling techniques.

6

