JIWAJI UNIVERSITY, GWALIOR (M.P.)
LL.M. IIInd SEMESTER
SESSION 20

PAPER : 1st
JUDICIAL PROCESS AND LAW AND LEGAL THEORIES
(COMPELLARY SUBJECT)

1. Law - Definition and content
   Personhood concepts: Personality, Right and Duty and Ownership.

2. Nature of Judicial process:
   1. Judicial process as an instrument of social ordering.
   3. The tools and techniques of judicial creativity and precedent.
   4. Legal development and creativity through legal reasoning under statutory and codified systems.

3. Special Dimensions of Judicial Process in Constitutional Adjudications:
   1. Nature of judicial review
   2. Role in constitutional adjudication: various theories of judicial role.
   3. Tools and techniques in policy making and creativity in constitutional adjudication.
   4. Vancnties of judicial and juristic activism
   5. Problems of accountability and judicial law making.

4. 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 judicial 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.
2. The Concepts of Justice
   1. The concept of justice in Indian thought
   2. Dharma as the foundation of legal ordering in Indian thought
   3. The concept and various theories of justice in the western thought
   4. Various theoretical bases of justice: the liberal contractual tradition, the liberal utilitarian tradition, and the liberal moral tradition.

3. Relation between Law and Justice
   1. Equivalence theorem: Justice as nothing more than the positive law of the stronger class
   2. Dependency theorem: For its realization justice depends on law, but justice is not the same as law.
   4. Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

Select Bibliography

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

L. Buss, The Indian Supreme Court and Politics (1989), Permanent, Lucknow.
Rajeev Dhavan, The Supreme Court of India: A Socio-Legal Critique of its Jurisprudence (1975), Triloki, Bombay.

This is jurisprudence.
Plan: Concepts of jurisprudence.
Fundamentals: Legal theories of jurisprudence.
JIWALI UNIVERSITY, GWALIOR (M.P.)  
LL.M. IIIrd SEMESTER  
SESSION 20  
PAPER - IIIrd  
LEGAL EDUCATION AND RESEARCH METHODOLOGY  
(COMPULSARY 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) Decisions materials including foreign decisions, methods of discovering the "rule of the case" tracing the history of important cases and programs
(iii) Juristic writings: a survey of juristic literature relevant to select problems in India and foreign periodicals.

(iv) Compilation of list of reports or special studies conducted relevant to the problem.

4. Preparation of the Research Design

1. Formulation of the Research problem

2. Deriving 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

(viii) Jurimetrics

(ix) Computerized Research: A study of legal research programs such as Lexis and West Law coding

(x) Classification and tabulation of data: use of codes for data collection; Rules for tabulation: Explanation of tabulated data

(xi) Analysis of data
Bibliography


S.K. Agawat (Ed.), *Legal Education in India* (1973), Tripathi, Bombay.


M.O. Price, H. Binner and Bysiewicz, *Effective Legal Research* (1978)

Pauline V. Young, *Scientific Social Survey and Research*, (1962)


I.M. Hyman, *Interviewing in Social Research* (1945)


il! Publication, *Legal Research and Methodology*. 
COMPARATIVE CRIMINAL PROCEDURE

Note: The topics will be of the utmost, Candidates are advised to attempt this section out of two questions.

Sections

1. Organization of Courts and Prosecuting Agencies
   1. Diversity of criminal courts and their jurisdiction
   2. Specialized courts in India
   3. Judicial and special areas

2. Organization of prosecuting agencies for preventing crime
   1. Prosecutors and the police
   2. Administration of prosecution

3. Pre-trial Procedures in India, Britain and America
   1. Arrest and questioning of the accused
   2. Rights of the accused
   3. The evidentiary value of statements (articles) and the collection by the police
   4. Right to counsel
   5. Role of the prosecutor and the judicial officer in investigation

4. Trial Procedures in India, Britain and America
   1. The adversary system:  quiz and the impaneled system
   2. Role of the judge, the prosecutor and defense attorney in the trial
   3. Admissibility and inadmissibility of evidence
   4. Expert evidence
   5. Appeal of the court in awarding appropriate punishment
   6. Plea bargaining

Suggestion

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6. Pre-trial Measures in India, England and America
   - Problems in the Criminal Procedure Code
   - Special Assignments

8. Public Interest Litigation
   - Directions for criminal prosecution

Selected Bibliography

- "Pratap Singh, Criminal Procedure"
- "Vehicle and Crime, Colliding with the Law of Evidence"
- "Articles on Pleading, Evidence and Procedure in Criminal Cases"
- "Statute, Law of Evidence"
- K.N. Chandrasekharan Pillai and T.K.V. Radhakrishna, "Principles of Criminal Procedure"
- "Law of Evidence"

- "Indian Barist, The Criminal Procedure in England"
- "American Series of Foreign Penal Codes Criminal Procedure North of Finland"
- "John N. Feith, Criminal Procedure (1996), West"
- "Laudato & Young, Criminal Justice (1994)"
- "Christine Van Uyt Wyman, Criminal Procedure System in European Community, New Sessions, Criminal Procedure (1980), West"
JWAIJI UNIVERSITY, GWALIOR (M.P.)
LL.M. III SEMESTER
SESSION 2012-13
(Business Law Group)
PAPER-18

LAW OF INDUSTRIAL AND INTELLECTUAL PROPERTY

Max. 100
Pass M. 40
Aggregate-50%

Note: This paper shall be of 100 marks. Candidates are required to attempt five questions out of ten questions.

SYLLABUS

1. Intellectual Property Right and International Perspectives
   a. Patentable and Non-Patentable Inventions
   b. International protection of IPR
   c. Common problems

2. Legal Regime of IPR: Trade Marks and Commercial
   Property
   a. Functionality approach
   b. Trade Marks

3. United Nations Approach (UNCITRAL)
   a. EC approach
   b. Position in U.S.
   c. Indian situation

4. Special Problems of the Status of Computer Software in Copyright
   and Patent Law: A Comparative Study

5. Biotechnology Patents
   a. Nature and types of biotechnology patents
   b. Patents over new forms of life: TRIPS obligations
   c. Plant patenting
   d. Genetic protection for plant varieties
   e. Multinational ownership
   f. Regulation of environment and health hazards in biotechnology

6. Patent: Search, Examination and Records
   a. National and regional patent information systems
   b. European Patent Office
   c. World Intellectual Property Organization
   d. Established standards for patent examination between developed
      and developing countries
   e. The Indian Patent Act

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7. Special Problems of Proof of Entanglement

1. The need of intellectual property in modern TRIPS obligation problem.
2. The evidentiary problem in action of passing off
3. The speed of non-aided belief, remedy of inventions protected by patent law
4. Evidentiary problems in respect TRIPS obligation reversal or burden of proof in process of action

5. Need and Scope of Law Reforms

6. Intellectual Property and Human Right

1. Freedom of speech and expression as the basis of the regime of intellectual property right.
2. Legal status of hazardous research protected by the regime of industrial property law
3. Human right of the impoverished masses intellectual property protection of new products for healthcare and food security
4. Traditions knowledge protection: biodiversity convention right of indigenous people

7. Select Bibliography

Special attention should be given to the role of the I.T.U. System, WIPO and the U.N. General Assembly.


David Barndt, Software Copyright Law (1999), Butterworths.

Bookman, Computer Copyright (1990), Cambridge.


Robert Cooper, The WTO and the Internet (1996), Sweet and Maxwell.


Human Rights and International Order
(HUMAN RIGHTS LAW GROUP)

Syllabus

1. Development of the Concept of Human Rights Under International Law
   1. Role of International Organization and Human Rights
   2. Universal Declaration of Human Rights (1948)
   5. ILO and other Conventions and Protocols dealing with human rights

2. Role of Regional Organizations
   1. European Convention on Human Rights
   2. European Commission on Human Rights/Court of Human Rights
   3. American Convention on Human Rights
   5. Other regional Conventions

3. Protection agencies and mechanisms
   1. International Commission of Human Rights
   2. Amnesty International
   3. Non-Governmental Organizations (NGOs)
   4. UN Division of Human Rights
   5. International Labour Organization
   6. UNESCO
   7. UNICEF
   8. Voluntary organizations
   9. National and State Human Rights Commissions

4. International enforcement of Human Rights
   1. Role of ICJ and regional institutions
Select bibliography

Oxford.

JIWAJI UNIVERSITY, GWALIOR (M.P.)
LL.M. IInd SEMESTER
SESSION 2012-13

PAPER - IInd

ADMINISTRATIVE PROCESS AND JUDICIAL CONTROL
(ADMINISTRATIVE LAW GROUP)

Syllabus:

1. Concepts and Agencies
   1. Common law countries
   2. French system

2. Judicial Review in India
   1. Historical development
   2. Powers of the Supreme Court
   3. Powers of the High Court
   4. Role of subordinate judiciary

3. Jurisdiction
   1. Finality clauses
   2. Conclusive evidence clauses
   3. Law fact distinction
   4. Extraneous clause

4. Grounds of Review
   1. Doctrine of ultra vires
   2. Unreviewable discretionary powers: from Liversidge to Padfield
   3. Discretion and Justifiability
   4. Violation of fundamental rights
   5. Externus consideration and/or irrelevant grounds
   6. Delegation
   7. Acting under dictation
   8. Malafides and bias
   9. Lack of rationality and proportionality
   10. Oppressing decision
   11. Absence of proportionality

5. Procedural fairness
   1. Legitimate Expectation
   2. Natural justice and duty to act fairly
   3. Bias and personal interest
   4. Fair hearing

6. Remedies
1. Writs
2. Injunction and declaration
7. Limits of judicial review
   1. Local body and public interest litigation
   2. Interlocutory
   3. Res Judicata
   5. Alternative remedies

Select bibliography

S.P. Salve, Administrative Law (1998), Butterworths, India.
De Smith, Judicial Review of Administrative Action (1965), Sweet and Maxwell.