

LL. B. I Term

Paper – LB - 101 : Elements of Indian Legal System

Prescribed Legislations:

1. The Legal Services Authorities Act, 1987
2. The Gram Nyayalayas Act, 2008 (No. 4 of 2009)
3. The Advocates Act, 1961

General Readings:

1. R.W.M. Dias, *Jurisprudence* (5th ed., 1985)
2. Lon. L. Fuller, *Anatomy of the Law* (1976)
3. H.L.A. Hart, *The Concept of Law* (1961)
4. W. Friedman, *Law in a Changing Society* (2nd ed., 1972)
5. Glanville Williams, *Learning the Law* (13th ed., 2006)
6. M.P. Jain, *Outlines of Indian Legal & Constitutional History* (6th ed., 2006)
7. A. Lakshminath, *Judicial Process : Precedent in Indian Law* (3rd ed., 2009)

PART A : UNDERSTANDING THE BASIC ELEMENTS OF THE INDIAN LEGAL SYSTEM

I Concept of Law and Legal System

- (a) Introduction to the Legal Process: Nature and Functions of the Legal System 1
- (b) Major Legal Systems of the world: Civil Law System, Common Law System
- (c) Concept of Law: Schools of Law

Readings:

1. H.L.A. Hart, *The Concept of Law*, Chapters VI & IX (1961)
2. Lon. L. Fuller, *Anatomy of Law*, Part Two (1976)
3. R.W.M. Dias, *Jurisprudence* (5th ed. 1994)
4. Joseph Minattur, "Introduction" in Joseph Minattur (ed.), *Indian Legal System*, vii – xiv (2nd ed., 2006) 1
5. V.S. Deshpande, "Nature of the Indian Legal System" in Joseph Minattur, *op cit.* 1-21 12

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|---|----|
| 6. N.R.M. Menon, "Our Legal System", <i>Legal Aid Newsletter</i> ,
November 1982. | 17 |
| 7. R. David & J.E.C Brierley, <i>Major Legal Systems of the World Today</i>
17-31, 484-515 (3 rd ed. 1985). | 24 |

II Sources of Law

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|------------|-----------------|---------------|
| (a) Custom | (b) Legislation | (c) Precedent |
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Readings:

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|---|----|
| 1. Dias, <i>op cit</i> . | |
| 2. M.P Jain., "Custom as a Source of Law in India",
<i>3 Jaipur Law Journal</i> 96 (1963) | 30 |
| 3. I. C. Saxena, "The Doctrine of Precedent in India",
<i>3 Jaipur Law Journal</i> 188 (1963) | |
| 4. Rupert Cross and J.W. Harris, <i>Precedent in English Law</i> (4 th ed., 1991) | |
| 5. Glanville Williams, <i>Learning the Law</i> 67-96 (11 th ed., 2003) | 53 |
| 6. G.W. Paton and David P. Derham, <i>A Textbook of Jurisprudence</i> ,
Chapter VI (4 th ed., 2004) | |
| 7. A. Lakshminath, <i>Judicial Process : Precedent in Indian Law</i>
(3 rd ed., 2009) | |

III Rule of Law

Readings:

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| 1. W. Friedman, <i>op. cit</i> , pp. 500-512 | 61 |
| 2. J. S. Verma, "50 years of Freedom under Rule of Law : Indian
Experience", 4-7 <i>Law and Justice</i> 83 (2000) | 70 |
| 3. Upendra Baxi, "The Rule of Law in India", 4 <i>International Journal of
Human Rights</i> 6-25 (2007) [available at www.surjournal.org] | |
| 4. M.N. Venkatachaliah, "Rule of Law : Contemporary Challenges",
<i>45 Indian Journal of Public Administration</i> 321 (1999) | 77 |
| 5. H.M. Seervai, "Rule of Law" in <i>The Position of the Indian Judiciary
under the Constitution of India</i> 83-96 (1970) | 86 |

IV Modern Judicial System

Readings:

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|--|--|
| 1. M.P.Jain, <i>op cit</i> . | |
| 2. Supreme Court Practice and Procedure, Hand book of Information,
Supreme Court of India, New Delhi (2007) | |

V. Nyaya Panchayats, Lok Adalats and Legal Aid

- (a) The Constitution of India, 1950 (relevant provisions)
- (b) The Legal Services Authorities Act, 1987
- (c) The Gram Nyayalayas Act, 2008 (No. 4 of 2009)

Readings:

1. M.P. Jain, *op. cit.*, pp. 221-225, 238-242 (6th ed., 2006)
2. U. Baxi, "From Takrar to Karar; The Lok Adalat at Rangpur,- A Preliminary Study", X *Journal of Constitutional & Parliamentary Studies* (1976)
3. R Swaroop, *Legal Aid & Lok Adalat* 5-43 (2003) 93
4. U. Baxi, *The Crisis of Indian Legal System* 295-327 (1982)
5. N.R.M. Menon, "Settlement in the Open",
www.telegraphindia.com/archive/1001212/editoria.htm 110
6. A. K. Agarwal, "Strengthening 'Lok Adalat' Movement in India",
AIR 2006 Journal 33
7. The Legal Services Authorities Act, 1987, Chapters VI and VIA 113
8. R.C. Chopra, "Legal Aid Movement in India : Its Development and Present Status", *http://causelists.nic.in/nalsa* 119
9. Reports of Law Commission of India on Panchayats and Gram Nyayalaya [14th Report (1958) and 114th Report (1986)]
http://lawcommissionofindia.nic.in
10. J. S. Bisht, "Lok Adalat : A Mechanism of Alternate Dispute Resolution", XXXI *Indian Bar Review* 165 (2004) 126
11. *State of Punjab v. Jalour Singh*, AIR 2008 SC 1209

PART B – LEGAL HISTORY OF INDIA

I. Administration of Justice during the British Period

- (a) Early Administration of Justice at Madras, Bombay and Calcutta
- (b) The Mayor's Courts (1726)
- (c) The Adalat System: Reforms of Warren Hastings
- (d) The Supreme Courts at Calcutta, Madras and Bombay
- (e) The Regulating Act, 1773
 - (i) Working of the Court - *Raja Nand Kumar, Patna, Cossijurah*, cases
 - (ii) The Act of Settlement, 1781
- (f) Reforms of Cornwallis

Readings:

1. M. P. Jain, *op. cit.*
2. C. Fawcett, *The First Century of British Justice in India* (1934)
3. B.N. Pandey, *The Introduction of English Law into India* (1967)
4. Raj Kumari Agrawala, "History of Courts and Legislatures" in Joseph Minattur, *op. cit.*, pp. 112-25

II. High Courts

- (a) Establishment of High Courts (b) History of writ Jurisdiction

Readin:

M.P.Jain, *op.cit.* pp. 252-278

III. Growth of the Indian Legal Profession

- (a) History of the Indian Legal Profession (b) The Advocates Act, 1961

Readings:

1. M. P. Jain, *op.cit.*, pp. 669-690.
2. A.N. Veera Raghavan, "Legal Profession and the Advocates Act, 1961",
14 *Journal of the Indian Law Institute* 228-262 (1972) 140
3. Samuel Schmitheener, "A Sketch of the Development of Legal
Profession in India" 13 *Indian Bar Review* 308 (1986)

NOTE :

1. The topics, legislations and cases given above are not exhaustive. The teachers teaching the course are at liberty to add new topics/legislations/cases.

2. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.

3. The question paper shall contain one compulsory question. The question papers set for examinations held during the years 2007-08 and 2008-09 are given below for guidance of the students.