**Annexure XV**

**Faculty of Law**

Osmania University

**LL.M. Syllabus**

(Revised w.e.f. the Academic Year 2017-2018)

**Duration : 02 Years**

**Total No. of Semesters : 04**

**Duration of each semester : 15 weeks**

**BRANCH-VII**

**Alternative Dispute Resolution**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Year** | **Semester/**  **Paper No.** | **Paper** | **Marks in End**  **Semester Exam** | **Marks in Internal exams** | **Total Marks** |
| First Year- First Semester | I/I | Schools of Jurisprudence and Theories of Law | 80 | 20 | 100 |
| ʺ | I/II | Alternative Dispute Resolution: Concepts & Methods | 80 | 20 | 100 |
| First Year-Second Semester | II/III | Law of Arbitration and Conciliation in India | 80 | 20 | 100 |
| ʺ | II/IV | Online Dispute Resolution | 80 | 20 | 100 |
| Second Year-Third Semester | III/V | Legal Research Methodology | 80 | 20 | 100 |
| ʺ | III/VI | Family Dispute Resolution | 80 | 20 | 100 |
| Second Year-Fourth Semester | IV/VII | International; Commercial Arbitration | 80 | 20 | 100 |
| ʺ | IV/VIII | Indian Constitutional Law: The New Challenges  Thesis | 80 | 20 | 100 |
| ʺ | IV/IX | Dissertation | 160 for thesis | 40 for viva-voce | 200 |
|  |  |  | **Grand Total** | | **1000** |

##### *SEMESTER-I*

**PAPER-I**

**SCHOOLS OF JURISPRUDENCE AND THEORIES OF LAW**

**(Common Paper for All the Branches)**

##### UNIT-I

Nature and scope of Jurisprudence – Classification of Jurisprudence into Schools-Salient features of Analytical, Historical, Philosophical and Sociological Schools.

##### UNIT-II

Meaning of Positivism-Analytical positivism of Bentham and Austin­ Kelsen's Pure Theory of Law-Hart's Concept of Law-Dworkin's criticism-Hart-Fuller controversy-Hart-Devlin's debate-Modern trends in Analytical and Normative Jurisprudence-Rawls and Distributive Justice-Nozick and the Minimal State.

##### UNIT-III

Historical and Ancient Indian Jurisprudence-Savigny's concept of Volksgeist-Contribution of Henry Maine; Economic theory of law-Views of Karl Marx and Friedrich Engles; Sociological theories of law­ Contribution of Ihering-Contribution of Ehrlich-Duguit's theory of Social Solidarity-Roscoe Pound's Social Engineering and Classification of Interests-American and Scandinavian Realism-Critical Legal Studies Movement.

##### UNIT-IV

Theories of Natural Law-Meaning of Natural Law-History of Natural law –Greek origins-Medieval period-View of St.Thomas Acquinas-Period of Renaissance/Reformation-Grotius and International Law­ Transcendental Idealism-View of Immanuel Kant":Natural Law and Social Contract theories-Stammler and Natural Law with variable content-Fuller and the Morality of Law-Hart on Natural Law-Finnis and Restatement of Natural law-Positivists and Naturalists debate.

##### Suggested Readings:

1. G.W.Paton: A Text book of Jurisprudence, 4th Edition; Clarendon Press, Oxford, 1972.
2. *R.W.M. Dias,* Jurisprudence. 5th Edition; Aditya Books Private Ltd., New Delhi, 1994.

3. W.Friedmann: Legal Theory, 5th Edition; Columbia University Press, New York

4. Dennis Lloyd: Lloyd's Introduction to Jurisprudence, 6th Edition,

Sweet and Maxwell, London, 1994.

5. Julius Stone: The Province and Function of Law; Associated General Publications

Pvt. Ltd. Sydney.

6. Howard Davies and David Holdcraft: Jurisprudence: Texts and Commentary;

Butterworths, London, Dublin, Edinburgh, 1991.

7. S.N.Dhyani: Fundamentals of Jurisprudence: The lndian Approach,

2nd Edition, Central Law Agency, Allahabad, 1997.

8. Edgar Bodenheimer: Jurisprudence; The Philosophy and Method of the

Law, Universal Book Traders, Delhi, 1996.

9. Rama Jois, Seeds of Modern Public Law in Ancient Jurisprudence, Eastern

Book Company, Lucknow, 1990.

10. Rama Jois, Ancient Indian Law-Eternal Values in Manu Smriti, Universal

Law Publishing Co., New Delhi, 2002.

PAPER-II

**ALTERNATIVE DISPUTE RESOLUTION (ADR):**

**CONCEPTS AND METHODS**

**Unit-I**

Introduction to ADR-Definition, Meaning and Scope: dispute Resolution through third party settlement; Disputes and kinds of disputes; dispute resolution as a State monopoly Judiciary as the Third estate; Adjudication: Common Law System and Continental System; Adversarial System-Doctrine of Precedent and Judicial Hierarchy; Substantive Law and Procedural Law; Advantages and Disadvantages of Judicial Settlement: Law's Delays-Importance and Advantages of ADR; Emerging Global Trends in Favour of ADR.

#### UNIT-II

Procedural Law: Law of Civil Procedure ;Basic Principles: Audi Alteram Partem; Right to Fair Hearing; Nemo Judex in Causa Sua; Cause of Action; Plaint and Written Statement; Framing of Issues: Summons; Discovery, Interrogatories and admissions ;Trial-Summary Procedure; Law of Evidence: Kinds of Evidence: Relevancy and Admissibility of Evidence; Affidavits and Examination of Witnesses; Judgment: Appeals: Execution of Decrees. Need for judicial reforms: Access to Justice-Lord Wolffe's Report in England.

#### UNIT-III

ADR Kinds; Arbitration, Mediation, Conciliation, Negotiation and Good offices; Types and Skills of Negotiation ;Hybrid Forms-Med-arb and Arb-med; Binding and Non Binding Arbitration; Need for Professional Arbitrators and Conciliators; Fast-Track Arbitration : Court-Annexed Arbitration: Section 89 of Civil Procedure Code of India: Institutionalized Arbitration: Permanent Court of Arbitration at Hague.-Arbitration Councils and Associations in USA.UK, Singapore and India

#### UNIT-IV

ADR and its Application in India; ADR in ancient India-Nyaya Panchayats etc; ADR and Its modern applications: Application of ADR in Different Fields: Family, Industrial and Employment: Motor Vehicle Accidents, Medical Negligence, Commercial. Cyber space Disputes: Online Dispute Resolution (ODR): LokPal and Lok Ayukta: Legal Aid

###### **Suggested Readings:**

* + 1. Dr.Avatar Singh-Law of Arbitration and Conciliation including ADR System, Eastern Book Company, Lucknow.

1. Venu Gopal KK – Justice Bachawat's Law of Arbitration and Conciliation including commercial, international and ADR
2. P.C.Rao & William - Alternative Dispute Resolution, Universal Law Sheffield Publishing Ltd.
3. S. K. Chawla, Law of Arbitration and Conciliation Act 1996-A Commentary, Universal Law Publishing Ltd.
4. Anthony Walton Russell on Law of Arbitration 18thEd. 1970 Stevens & Sons Ltd., London.

6 G. K. Kwatra - The Arbitration and Conciliation La\\ of India (with case law on UNCITRAL model law on Arbitration).The Indian Council of Arbitration.

7 N. D. Basu- Arbitration & Conciliation Commentary-Orient Publishing House(l998).

1. John Sutton, Kendall & Judith Gill,- Russell on Arbitration; Sweet

& Maxwell, London( 1997).

1. H.C.Johri,CommentaryonArbitration&ConciliationAct,1996;Kamal

Law House, Calcutta(!997)

I0 G.KKwatra-TheNewArbitration&ConciIiationLawoflndia,ICA,1998.

11. Relevant Reports of the Law Commission of Lydia.

**SEMESTER-II**

**PAPER-III**

**Law of Arbitration and Conciliation in India**

**Unit-I**

Evolution of Arbitration Law in India; The Arbitration Act of 1940-Drawbacks of the Act;-Background of the Arbitration and Conciliation Act,1996;Liberalization and globalization of economies and industries; UNCITRAL Model Laws on International Commercial Arbitration and International Conciliation; Aims and objectives of the Arbitration and Conciliation Act,1996;Salient features

**Unit-II**

Arbitration and Arbitral agreement-definition and essential legal requisites; conformity with Indian Contract Act-Sec.23 of the Act; Arbitration Agreements and arbitration Clauses; Arbitrable and non-arbitrable disputes; constitution and arbitration tribunals-Appointment of Arbitrators-Qualifications; Independence and Impartiality; Validity of In-House Arbitrators; Number of Arbitrators; Procedure for appointment of arbitrators :Presiding Officer of the Arbitration Tribunal-Powers and Functions; Challenge to Arbitrators; Termination of the Mandate of Arbitrators

**Unit-III**

Jurisdiction of the arbitration tribunal; Arbitral Procedure and jurisdictional Issues; Interim Measures; Venue etc of the tribunal; Commencement of Proceedings; Claim and Defense; Hearings and Written proceedings; Restriction on Court's Intervention in arbitral proceedings; Court's Assistance; Applicable Law; Decision-making by the tribunal; settlement through conciliation; Termination of proceedings. Arbitral Award; Definition and Kinds; Decision ex aequo et bono; Form and Contents of award-aside of Award; Finality and Enforcement of Awards; Appealable Orders; Costs; Limitation; Recommendations of the Indian Law Commission Regarding Amendments to the 1996Act.

**Unit-IV**

Meaning and Scope of Conciliation; Distinction between Conciliation and mediation; Role of Negotiation in Conciliation; Advantages of Conciliation; Appointment of Conciliators; Conduct of Conciliation proceedings; Qualifications of Conciliators; Role of Conciliator; Communication between conciliator and parties inter se; Confidentiality; Resort of Arbitral and Judicial Proceedings during conciliation proceedings; Settlement Agreement-Status and Effect; Termination of Conciliation Proceedings; Costs etc.

**Suggested Readings:**

1. Dr.Avatar Singh-Law of Arbitration and Conciliation including ADRSystem-7thEd.2005, Eastern Book Company-Lucknow.
2. VenuGopal K.K-Justice Bachawat's Law of Arbitration and Conciliation Including commercial, international and ADR,3rd Ed. 1999.
3. P.C.Rao & William-Alternative Dispute Resolution 1st Ed.-1997 Universal Law Sheffield Publishing Ltd.
4. S.K.Chawla-Law of Arbitration and Conciliation Act 1996 A commentary-(1999)Universal Law Publishing Ltd.
5. Anthony Walton Russell-on Law of Arbitration 18th Ed. 1970. Stevens & Sons Ltd.,London.
6. G.K.Kwatra, The Arbitration and Conciliation Law of India (with case law on UNCITRAL model law on Arbitration).The Indian Council of Arbitration.
7. N.D.Basu-Arbitration & Conciliation Commentary- Orient Publishing House(1998).
8. Goyal.G.C-Arbitration & Conciliation Act, Khetrapal Public Ltd.(1998).
9. John Sutton, Kendall & Judith Gill: Russell on Arbitration; Sweet & Maxwell, London( 1997).
10. H.C.Johri: Commentary on Arbitration & ConciliationAct,1996;Kamal Law House, Calcutta(1997).
11. G.K.Kwatra :The New Arbitration &Conciliation Law of India,ICA.1998.
12. Relevant Reports of the Law Commission of India.

**Paper IV**

**Online Dispute Resolution**

**Unit-I**

History and Development of Online Dispute Resolution(OD; Law and Cyberspace; Meaning and scope of Cyberspace; Problems of absence of territoriality in cyberspace communications and transactions; Use of Internet; Ecommerce and the Problems of online conclusion of contracts; Validity of Online Contracts and Arbitration Agreements; Problems of Substitution of Paper-Based Documents by Electronic Documents;Clickwrap and Shrinkwrap contracts; Proof of electronic documents; Electronic Data Interchange.

**Unit-II**

ODR- kinds and uses; Legal Issues involved in ODR; Online Negotiation-Automated Negotiation; Assisted Negotiation; Online Mediation and Online Arbitration; Cybercourts;Types of Online Communications; E-Mediation and E-Negotiation; Problems of Security; Methods of Encryption

**Unit-III**

ODR Service Providers and Different Technologies; Legal Liability of Service Providers--Kinds of Online Disputes; Party Autonomy; Business to Business(828),Business to Consumer (B2C) and Consumer to Consumer,(C2C) disputes; Issues of Unequal Balance between the patties and unequal Access to Technology;

**Unit-IV**

ODR and Virtual Court; Use of ODR in Normal Litigation; Court Annexed ODR; Examination of Witnesses and Submission of Arguments; Problems and Prospects; Litigation Conferencing; Problems of Enforcement of ODR Arbitral Awards under Geneva and New York Conventions; Problems of ODR under the Arbitration and Conciliation Act of 1996-E-Courts in India & E-Justice System I India-Administration of Justice through technology.

**Suggested Readings:**

1. Dr.Avatar Singh-Law of Arbitration and Conciliation including ADR system-7th Ed. 2005 Eastern Book Company-Lucknow.
2. P.C.Rao &William Alternative Dispute Resolution 1st Ed.-1997 Universal Law Sheffield Publishing Ltd.
3. H.C.Johri-Commentary on Arbitration & Conciliation Act, 1996;KamalLawHouse,Calcutta( 1997).
4. G.K.Kwatra-The New Arbitration &Conciliation LawofIndia,ICA,1998.
5. GabrielleKaufmann-OnlineDisputeResolution:ChallengesforContemporaryJustice,Kohler&ThomasWoltersKluwer,UKSchultz.
6. Relevant Reports of the Law Commission of India.

**SEMESTER-III**

**Paper V**

**Legal Research Methodology**

**(Common Paper for All the Branches)**

**Unit-I:**

Meaning of Research-Types of Research-Scientific Method-Social Science Research- Scope and importance of Legal Research-Concepts-Variables­ Definitions-Relevance of empirical research in law-Induction and Deduction-Case study.

**Unit-II:**

Finding the Law-Sources of legal material including e-sources-Law reporting in India-Using a law library-Survey of available legal material-bibliographical search. Research Methods-Socio-legal research-doctrinal and non-doctrinal research.

Unit III:

Research tools and techniques for collection of data-Observation ­Questionnaire-Schedule-Interview-Sampling techniques-Types of sampling. Formulation of Research Problem-Hypothesis-Research Design.

## Unit-IV:

## Data processing and analysis-Use of Statistics in the analysis and interpretation of data-Use of computers in Legal Research-Report writing. Legal Research and Law Reforms-Types of Research needed for Law Reforms-Analytical Research, Historical Research.

#### Suggested Readings:

1. Goode & Hatt: Methods in Social Research:McGraw-Hill Book Company,Singapore 1981
2. C.R.Kothari: Research Methodology :Methods and Techniques,2"dEdition,WishwaPrakashan,NewDelhi,1995.
3. Wilkinson & Bhandarkar, Methodology and Techniques of Social Research,9th Edition, Himalaya Publishing Housing, Bombay-Delhi-Nagpur 1994.
4. Pauline V Young :Scientific Social Survey and research,3rd Edition,PrenticeHall,NewYork,1960.
5. B.N.Ghosh, Scientific Method and Social Research;4th Edition Sterling Publishers Private Limited,NewDelhi,1987.
6. S.K.Verma & Afzalwani, Legal Research and Methodology; ILI Publication, New Delhi,
7. Hans Raj, Theory and Practice in Social Research;4th Edition, Surjeet Publicatios,NewDelhi,1992.

Paper VI

**Family Dispute Resolution**

**Unit-I**

Nature and scope of family law in India-Subjects of family law­ Unification of Intra and inter-religious family laws-Hindu, Muslim, Christian theories of marriage-polyandry- polygamy and Monogamy- marriage a holy union and contractual obligation-dowry and dower.

**Unit-II**

Matrimonial remedies-Restitution of conjugal rights ,judicial separation ,nullity of marriage and divorce, maintenance , custody of children-rights of guardianship-different personal laws in India.

**Unit-III**

Family courts-jurisdiction, adjudication, trial and procedure statutory recognition of consideration under various personal laws, Hindu marriage and Divorce Act,1955, Special Marriage Act 1954,CPC, 1908, Indian Divorce Act,1869 and Family Courts Act 1984, the Protection of Women from Domestic Violence Act,2006.

**Unit-IV**

Family problems-Identification of contemporary issues –causative factors to family crises-Family counseling-family conciliation-the role of counselor and conciliator in family reconciliation

**Suggested Readings:**

1. Dr.Avatar Singh-Law of Arbitration and Conciliation including ADR system-7th Ed. 2005 Eastern Book Company-Lucknow.
2. P.C.Rao &William Alternative Dispute Resolution 1st Ed.-1997 Universal Law Sheffield Publishing Ltd.
3. H.C.Johri-Commentary on Arbitration & Conciliation Act, 1996;KamalLawHouse,Calcutta( 1997).
4. G.K.Kwatra-The New Arbitration &Conciliation LawofIndia,ICA,1998.
5. Relevant Reports of the Law Commission of India.
6. Paras Diwan,Modern Hindu Law, Allahabad Law Agency
7. Aquil Ahmed,Mohemmedan Law, Central Law Agency
8. G C V Subba Rao, Family Law in India,S.Gogia & Co.

**SEMESTER-IV**

**Paper-VII**

**International Commercial Arbitration**

**Unit-I**

Importance of International Commercial Arbitration (ICA);Impact of Globalization on the Growth of ICA;The rationale of UNCITRAL Model Law on ICA of 1985; Definition of ICA under the Indian Arbitration and Conciliation Act of 1996-Scope and meaning of the terms" international" and" commercial" in the context of judicial interpretation.

# UNIT-II

Role of Private International Law in settlement of commercial disputes; Application of Private International Law to contractual relations; The Doctrine of Proper Law of Contracts-meaning and scope; Problems arising out of the application of rules of Private International Law­ Lack of uniformity among countries; Defense of Sovereign Immunity in arbitration proceedings relating to disputes between States and Persons­ The United Nations Convention on Jurisdictional Immunities of States and their Properties of 2004;Scope and Extent Application of the provisions of the Indian Arbitration and Conciliation Act of 1996 to ICA.

# UNIT-III

Enforcement of Foreign Arbitral Awards in India; Geneva Protocol on Arbitration Clauses of 1923; Deficiencies of the Protocol; Geneva Convention on the Execution of Foreign Awards of 1927;Salient Features of the Geneva Convention; Indian Arbitration (Protocol and Convention) Act of 1937;New York Convention on Recognition and Enforcement of Foreign Arbitral Awards of I958;The Indian Foreign Awards (Recognition and Enforcement)Act of 1961.

# UNIT-IV

Provisions of Part II of the Indian Arbitration and Conciliation Act of 1996 relevant provisions of CPC and Indian Evidence Act, 1872 regarding the Enforcement of Geneva and New York Conventions Awards; "Convention" and "Non-Convention" awards; Enforcement of Non­ Convention Awards in India; Reservations to the Geneva and New York Conventions regarding conditions of reciprocity and commercial disputes; Conditions for Enforcement and Non-Enforcement of the Convention Awards under the 1996 Act.

**Suggested Readings:**

* + Dr.Avatar Singh-Law of Arbitration and Conciliation including ADR system-7th Ed. 2005 Eastern Book Company-Lucknow.
  + P.C.Rao &William Alternative Dispute Resolution 1st Ed.-1997 Universal Law Sheffield Publishing Ltd.
  + H.C.Johri-Commentary on Arbitration & Conciliation Act, 1996;KamalLawHouse,Calcutta( 1997).
  + G.K.Kwatra-The New Arbitration &Conciliation LawofIndia,ICA,1998.
  + Relevant Reports of the Law Commission of India.
  + Paras Diwan,Modern Hindu Law, Allahabad Law Agency
  + Aquil Ahmed,Mohemmedan Law, Central Law Agency
  + G C V Subba Rao, Family Law in India,S.Gogia & Co.

**Paper VIII**

**Indian Constitutional Law: The New Challenges**

**(Common Paper for All the Branches)**

**UNIT-I**

Concept of Federalism-Allocation of resources-Inter State Disputes ­Central-State Relations-Special status of certain States-Concept of Secularism and religious fanaticism-Definition of State-Need for widening the definition in the wake of recent developments.

# UNIT-II

Right to Equality-its new dimensions-Protective Discrimination in the wake of privatization –gender Justice-Rights of third gender-Uniform Civil Code-Freedom of Speech and Expression ­Right to broadcast and telecast-Right to Strike, *Hartal* and *Bandh.*

# UNIT-III

New regime of Constitutional Rights-Reading Directive Principles and Fundamental Duties in to Fundamental Rights-Theory of Emanation-Compensatory Jurisprudence-Right to Education-Right to Information-Right to wholesome environment- Doctrine of public trust

# UNIT-IV

Institutional Dynamics-An overview of functioning of three organs of State with special reference to the Indian experience of post independence era -Separation of Powers, and theory of checks and Balances-Privileges and Immunities of Legislatures and their members-Judicial Activism and Judicial Accountability-Contempt of Courts-Political Morality and effect of Anti-defection Law

## Suggested Readings:

1. H. M. Seervai, Constitutional Law of India (in 2-Volumes),Universal Book Traders, New Delhi.
2. Granville Austin, Indian Constitution-Cornerstone Nation, Clarendon Press, Oxford.
3. Constituent Assembly Debates (Official Report),(in 5 Books and 12 Volumes),Lok Sabha Secretariat, New Delhi.
4. B.Shiva Rao, Framing of the Indian Constitution (in 5-Volumes),Indian Institute of Public Administration, New Delhi.
5. M.P.Jain, Constitutional Law of India, Wadhwa and Co., Nagpur.

# Granville Austin, Working a Democratic Constitution: A History of the Indian Experience, OUP

1. Landmark and Recent Articles on relevant topics published in Standard Law Journals like Journal of Indian Law Institute, Indian Bar Review, All India Reporter and Supreme Court Cases & landmark judgments of Indian Higher Judiciary on the given topics.

**Paper IX:**

**DISSERTATION**

LL.M. IV Semester students shall have to submit Dissertation on the topic approved by the concerned Committee before the expiry of the date as per the almanac in accordance with guidelines given below. Further the topics for thesis should be got approved before the expiry of the III semester. The candidates who fail to submit the thesis before the stipulated date will have to submit the same along with the next batch.

1. *LL.M. IV Semester students shall prepare a synopsis on the topics allotted to them.*
2. *It must be approved by the Guide and be submitted to the concerned Principals in the first week, after commencement of LL.M. IV semester.*
3. *A Record shall be maintained by the students in which the summary of study and the progress made by them shall be entered once in every 15 days and it is to be signed by the guide in approval of the same.*
4. *Thorough discussion shall be had by the students with the Guide at the end of the study, and the thesis shall be prepared on the lines indicated by the Guide.*
5. *The thesis shall correspond with the notes/record maintained by the Guide.*

The thesis shall be equivalent to two theory papers, and there will be 200 marks out of which 160 shall be for evaluation and 40 shall be for *viva-voce examination.*

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