

## DEPARTMENTAL OF POST GRADUATE STUDIES AND RESEARCH

### Rules for Admission

These rules shall be applicable to MATS LAW SCHOOL only.

#### Admissions:

Medium of instruction and examination shall be English alone. The minimum eligibility condition is pass in LL. B. whether in three years or five years pattern. Preference being given to those having higher marks. The marks scored in CLAT and L-SAT shall be given due weight in preparation of merit for admission. In case of marks being equal the weightage shall be given to girls in admission.

Admission shall be given according to the admission rules of the University wherein these rules shall be read as exception to the general rules of admission of the University for MATS Law School. Delayed admissions after last date fixed by the university may be permitted in special cases by the Vice Chancellor on the recommendation of the Director, MATS Law School, subject to availability of seats.

Admission shall not be a matter of right for any and shall be at the discretion of University which reserves the right to refuse admission to anyone without assigning any reason even if otherwise eligible.

#### **The rules for admission for post-graduate programs in law are as under:**

- i) Admission is at the pleasure of the University. Admission can be refused to any without assigning any reason.
- ii) It shall be open to the Director MATS Law School to permit admission at any level, any semester to students applying for admission on grounds of transfer of parents, guardians or transfer on any other ground or even otherwise if the student wants to migrate from some other university to MATS university, provided that it is so approved by the board of studies of MATS Law School which shall act as equivalence committee subject of course to compliance papers being passed. Such student can be exempted from the subjects he has already read in the earlier university and has passed in those papers. Such students have to clear the subjects which are in syllabus of MATS Law School and those in which he has not passed. The marks obtained in the subjects in the previous examinations shall be adopted at MATS University.
- iii) Notwithstanding anything to the contrary anywhere else in general rules of the University, be it graduate or post graduate, it shall be open to the Director MATS Law School to permit any student to change from annual pattern or semester pattern or vice versa at any stage. This will apply to admissions of those students also who have done semester or annual pattern from any other University recognized by UGC.
- iv) These courses shall be of 2 years duration to be known as LLM previous and LLM final.

V). In LLM the following groups for specialization are to be offered with prior permission of the Director MATS Law School. The Director shall be at liberty to refuse permission to offer any particular group depending on the availability of any experts in the faculty. The application for choosing area of specialization shall be given in the office of the Director within 10 days after the date of declaration of the results of LLM previous. However, the vice chancellor may on the recommendation of the director extend the date aforesaid by one month on payment of late fee which shall not be less than 5000. No power beyond that exists any University body or authority for giving permission to choose the group thereafter as stated above. If any student fails to give his choice of the group of specialization within the period aforesaid, he shall not be eligible to take admission in LLM final in that year.

vi). The student shall have to offer minimum 6 papers from any one group. In addition he will have to offer dissertation on any subject from the group offered for written paper for dissertation but the topic for dissertation shall not be on the subjects or from the subjects offered for written examination. The dissertation shall carry marks equal to two written papers. In LLM final students may offer any one of the following groups. Each group shall carry number of papers as specified in the brochure issued by the University each year

**LL.M. 2018-20 (Annual Pattern) Course Matrix****Constitutional Law Group**

<b>Course Code</b>	<b>Annual - I year</b>	<b>36 Credit Points</b>
LLM/ ANN/ CON/ 101	Jurisprudence	4+1+1 credits
LLM/ ANN/ CON/ 102	Law and Social Transformation	4+1+1 credits
LLM/ ANN/ CON/ 103	Constitutional Law: New Challenges	4+1+1 credits
LLM/ ANN/ CON/ 104	Legal Research and Research methodology	4+1+1 credits
LLM/ ANN/ CON/ 105	Indian Federalism	4+1+1 credits
LLM/ ANN/ CON/ 106	Interpretation of Statute	4+1+1 credits
	<b>Annual - II year</b>	<b>34 Credit Points</b>
LLM/ ANN/ CON/ 107	Mass Media Law	4+1+1 credits
LLM/ ANN/ CON/ 108	Comparative Constitutional Law	4+1+1 credits
LLM/ ANN/ CON/ 109	Administrative Law	4+1+1 credits
LLM/ ANN/ CON/ 110	National Security, Public Order and Rule of Law	4+1+1 credits
LLM/ ANN/ CON/ 111	Dissertation and Viva Voice <b>OR</b> (Any two papers of specialization)	10 credits

## Syllabus

**The syllabus that is given below in all subjects is illustrative only. The professor in-charge shall be at liberty to add or delete any matter indicated as part of syllabus here. This shall be deemed to be approved by the academic council. It is made clear that the University does not prescribe any text book for LLM Examinations. Students are expected to read the entire material spread in form of books, articles, research papers, reports, cases decided by Supreme Court preferably in last 6 months prior to the examination available anywhere in any journal of repute in the country and English knowing world. It shall not be open to allege that any question is out of syllabus.**

### **LAW AND SOCIAL TRANSFORMATION**

#### **Course Objectives:**

This course is to be designed to offer (a) awareness of India approaches to social and economic problems in the context of law a means of social control and change; and (b) a spirit of inquiry to explore and exploit law and legal institutions as a means to achieve development within the framework of law. The endeavor is to make the students aware of the role the law has played and has to play in the contemporary India society.

#### Unit I

- Whether law follows social change or leaves it
- Ways how law effects changes in society
- Human Law and its Social Contexts
- The Organisation of Law

#### Unit II

- Social Movement and Law
- Social Welfare Law and the Government
- Law, Justice and Freedom with special reference to justice in numbers by Pythagoras, natural law and natural rights by Finnish and concept of justification and fit by Dworkin, theory of minimal state and redistributive justice by Nozick.

- Law making and Society

#### Unit III

- Legal System, Law and Social Change, Interpretative process by Theory of adjudication by Dwarkin, justice as fairness by Rawls
- Law and Language
- Law and Religion
- Caste and Law

#### Unit IV

- Communities and Law
- Regionalism and the Law
- Women and Law
- Gender Injustices and its various forms

#### Unit V

- Morality as content of Law in Changing society
- Naxalite Movement: Causes and Cure
- Sarvodaya, socialist thought on law and justice
- Law and morale
- Enforcement of law

**Course Outcome: It draws a clear distinction how law effects society and its various ambit.**

Recommended readings

Textbook

‘Law and social transformation’ by Dr. G P Tripathi published by Central Law Publications, Allahabad

Reference book

Fridman ‘Law in Changing Society’

## Constitutional Law: New Challenges

**Course Objectives:** The Constitution, a living document, is said to be always in the making. The judicial process of constitutional interpretation involves a technique of adapting the law to meet changing social mores.

### Unit I

- Federalism, secularism, minority appeasement, communalism and fundamentalism
- Cooperative Federalism
- Unitary and Federal Constitution
- Creation of new States.
- Autonomy of States
- Division of power
- Part XI of Indian Constitution
- Allocation and sharing of resources – distribution of grants in aid.
- The settlement of interstate disputes
- Rehabilitation of internally displaced persons.
- Centre's responsibility and internal disturbance within States.
- Directions of the Union to the State under Article 355 and 365.
- Federal Comity: Relationship of trust and faith between Union and State.
- Special status of certain States: Tribal Areas, Scheduled Areas.

### Unit II

- Concept of state and nation, separation of power, human rights of naxals, terrorists and also of Law enforcement machineries.
- State: Need for widening the definition in the wake of liberalization, globalization and privatization.
- Amendment of the Constitution
- Emergency Provision with special emphasis on article 356 & 359
- Right to Equality: Privatization and its impact on affirmative action, critical analysis of Moves of Government of Maharashtra.

- Law and Religion - Freedom of Religion and Freedom from Religion

### Unit III

- Feminism, law and women empowerment, reservations, communism, challenge to constitution,
- Right of privacy
- Media and law
- Convergent Media: Prasar Bharti
- Sting operations
- Freedom of Press and challenges of new scientific development
- Freedom of speech and expression
- Right to broadcast and telecast.
- Impact of Information Technology Act, 2000
- Right to strikes, sit-in and bandh
- Emerging regime of new rights and remedies.
- Reading Directive Principles and Fundamental Duties into Fundamental rights.
- Public law remedy for constitutional torts and growth of Compensatory jurisprudence.
- Liability of the Government for torts
- Government Contracts with special reference to spectrum allotments
- Right to education (RTE Act)
- Commercialization of Education and its impact.

### Unit IV

- Social values, independence of judiciary, equality and socialism, personal liberty, euthanasia and death sentence.
- Law and Caste;
- Law and Community,
- Law and Language
- Regionalism

- Right of minorities to establish and administer educational institutions and state control: Critical Analysis of Pai Foundation, P A Inamdar to Medical Council Of India case 2013 & its aftermath.
- Judicial activism and judicial restraint.
- PIL: implementation.
- Appointment, transfer and removal of judges.
- Accountability: Executive and judiciary.
- Tribunals: Pre - Chandrakumar and Post - Chandrakumar Scenario.
- Election: Jurisprudence of Representation; Role of Election Commission.
- Electoral Reforms: Contribution of Judiciary.
- Coalition government, 'stability, durability, corrupt practice'

#### Unit V

- Corruption and ombudsman, constitutional judicial review and legislative supremacy.
- Bribery, Corruption & Black Money and Law
- Democratic process.
- Nexus of politics with criminals and the business.
- Prevention of corruption Act
- Overview of corruptions from Nehru to Manmohan Singh
- Central vigilance commission
- Central Bureau of investigation
- Lokpal and Lokayukt
- Lokpal Act 2013

Course outcome: Constitution being the fundamental law, an insight into its new trends is essential for a meaningful understanding of the legal system and processes

#### Recommended readings

‘constitutional Law and New challenge’ by Dr. G P Tripathi, published by Central Law Publications, Allahabad

#### Reference books

H M Seervai, Constitution of India

Kashyap ‘India’s constitution’.

Dr. G P Tripathi, 'indian constitution' published by ALA, Faridabad.

## **Jurisprudence**

**Course Objectives:** Jurisprudence is the study of the phenomenon of law. While it is primarily law's self-understanding, it involves interdisciplinary study of law as well. The course analyses and considers the implications of the different understandings and approaches.

### Unit I

- What is Law?, Nature & Definition
- What is Legal Theory and Difference with Jurisprudence
- General Jurisprudence, Specific Jurisprudence
- Priori and Postiori Methods
- Law, science and Technology
- Scientists and Social Scientists
- Natural Law and Law of Nature
- Philosophy of Law
- Cosmic law, basic law of creation
- Religion of Law and Law of Religion
- Transcendental Jurisprudence and Vedic Jurisprudence
- Sociology of law and Legal Sociology
- Natural Law Jurisprudence and Human Rights Jurisprudence- Aquinas, Socrates, Plato, Aristotle and Pre Socrates thinkers, Augustine

### Unit II

- Human law in social contexts.
- Different approaches to law
- Law and social order
- Law, power and legal system

- Positive Law Jurisprudence, Formal Theories of “a law” and “the law” – Machiavelli, Locke, Hobbes, Bentham, Austin, Hart and Fuller
- Historical Jurisprudence – Savigny, Maine
- Economic Jurisprudence – Marx

#### Unit III

- Law, moral and society
- Law, justice and freedom
- Pure Theory of Law – Kelsen
- Sociological theories of legal theory – Comte, Duguit, Ihering, Pound
- Realist Jurisprudence – American Realists(Holmes, Llewellyn, Frank) and Scandinavian Realists (Hagestrom, Lundstedt , Olivecrona and Ross)

#### Unit IV

- Law and social change
- Law making and society
- Concept of “Dharm”
- Concept of Religion
- Hindu Jurisprudence – Sources
- Theories of Ownership
- Theories of Possession
- Concept of Duties
- Social Institutions like Marriage, Live-in-relationships, Gay Marriages, Monogamy, Polygamy, Polyandry and Marital relationships among Adivasis of Chhattisgarh and Khap Dictates and Law
- Domestic Relationship – From undivided -Joint Hindu Family – Joint Family – Single Family – Single Parent Family , Position, Status and Property Rights of Married Women, Un-wed Mothers, Unmarried Girls and widows
- Vedism and transcendentalism
- God- a juristic concept
- \Oaths prescribed in third Schedule of the Indian Constitution

#### Unit 5

- Social movement and social welfare
- Law and the government
- Tribal Law in Chhattisgarh

- Muslim Jurisprudence- Sources
- Concept of Ownership in Muslim Law
- Concept of Possession in Muslim Law
- Social Institutions like Nikah, Live-in-relationships, Gay Marriages, Monogamy, Polygamy, Polyandry
- Domestic Relationship – Contribution of Islam in Establishing the feeling of World Family through concept of Fraternity - Position, Status and Property Rights of Married Women, Unmarried Girls and widows

**Course outcome:** The course will introduce you to the great thinkers and ideas about law. It provides a survey of their ideas and approaches and critical analysis of those ideas and approaches

### **Recommended reading**

Textbook

‘Indian Jurisprudence’ by Dr. G P Tripathi, published by ALA, Faridabad, Haryana.

Salmond on jurisprudence

Dias on Jurisprudence

### **Reference books**

Freedman ‘legal theory’

Stone jurisprudence

Original works by Austin, Savigny, Ihering, Kelson and Pound

## **Legal Research and Research Methodology**

**Course Objectives:** Growth of legal science in India depends on the nature and career of legal research. The syllabus is designed to develop also skills in research and writing in a systematic manner

### Unit-1

- Research Methods
- Socio Legal Research
- Doctrinal and non-doctrinal
- Relevance of empirical research

- A priori and posteriori
- Science and philosophy
- Human science methods and social science methods
- Induction and deduction

#### Unit-2

- Identification of Problem of research
- What is a research problem?
- Survey of available literature and bibliographical research.
- Legislative materials including subordinate legislation, notification and policy statements
- Decisional materials including foreign decisions; methods of discovering the "rule 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.
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#### Unit-3

- Juristic writings - a survey of juristic literature relevant to select problems in India and foreign periodicals.
- Compilation of list of reports or special studies conducted relevant to the problem.
- Preparation of the Research Design.
- Formulation of the Research problem.
- Devising tools and techniques for collection of data : Methodology

#### Unit-4

- Methods for the collection of statutory and case materials and juristic literature.
- Use of historical and comparative research materials.
- Use of observation studies.
- Use of questionnaires/interview.
- Use of case studies

## Unit-5

- Sampling procedures - design of sample, types of sampling to be adopted.
- Use of scaling techniques
- Jurimetrics
- Computerized Research - A study of legal research programmes such as Lexis and West law coding
- Classification and tabulation of data - use of cards for data collection - Rules for tabulation. Explanation of tabulated data
- Analysis of data

**Course outcome:** It enables students and scholars to understand the principles of research methods and explore different modes of analyzing for socio-legal problem.

### Recommended readings

#### Textbook

‘Legal Method, chapter 21’, by Dr. G Tripathi, published by CLP, Allahabad, 2013

#### Reference books

N R Nandi ‘Legal Researches’

## **Indian Federalism**

### **Course Objective:**

To understand the concept of federalism.

To undertake a study of legislative and executive working of centre-state relationship in smooth functioning of federal constitution.

### **UNIT 1: CONSTITUTIONALISM:**

- What is Constitutionalism? What is Constitution? Written Constitution and unwritten Constitution?
- Historical evolution of Constitutional Governance
- Separation of Power- Montesquieu

### **UNIT- 2FEDERALISM IN INDIA**

- Models of Federal Government - U.S.A., Australia, Canada and U.K.
- Difference, Between Federation and confederation
- Evolution of federal government in India

### **UNIT-3 (A)Distribution of Legislative Power**

- Territorial Jurisdictions,
- Distribution of Legislature powers
- Principles of Interpretations
- Repugnancy; Residuary Power
- Parliamentary Legislation in the State field
- Distributions of powering other Federations, Canada, USA, Australia

### **B) Administrative and Financial relation**

- Distribution of Executive Power
- Central- State Administrative Co-ordination
- Power to carry on Trade
- States not to impede the Centre
- Center's Directives to the States

### **(C) Union – State Financial Relations**

- Distribution of Fiscal Power;
- Scheme of Allocation of taxing;
- Extent of Union Power of Taxation; Residuary Power- inclusion of fiscal power ;
- Restriction of fiscal power - Fundamental Rights - Inter-Government tax immunities - Difference between tax and Fee;
- Distribution of Tax Revenue;
- Borrowing power of the State;
- Planning and Financial Relations

### **Unit-4: Co-operative Federalism and Commerce Clause**

- Full faith and credit
- Inter-State Council
- Zonal Councils
- Inter-State disputes
- Commerce clause

- Freedom of Trade and Commerce
- Exceptions to Freedom of Trade and Commerce

**Course outcome:** To analyse emerging trends in financial relationship between Centre and states.

To understand the importance of third tier government in governance.

### **References:**

1. Austin, Granville, The Indian Constitution: Cornerstone of a Nation,
2. Blackshield, T and Williams, G, Australian Constitutional Law and Theory.
3. Jain, M.P., Indian Constitutional Law
4. Lakadvala, D.T., Union - State Financial Relations
5. Report of the National Commission to Review the Working of the Constitution, Vol.1

## **INTERPRETATION OF STATUTE:**

**Objective:** Enacted laws, i.e. Acts and Rules are drafted by legal experts. Language used will leave little or no room for interpretation or construction. But the experience of all those who have to bear and share the task of application of the law has been different. Courts and lawyers are busying unfolding the meaning of ambiguous words and phrases and resolving inconsistencies. The statute is to be construed according 'to the intent of them that make it.'

### **UNIT – I**

- Legislation and its types
- Principles of Legislation
- Methods of Legislation
- Statute and its types

### **UNIT – II**

- Parts of Statute
- Commencement, extent and duration of Statutes

- Repeal and revival of Statutes
- Amending, consolidating and codifying Statutes

### **UNIT - III**

- General principles of statutory interpretation:
- Primary or literal rule of interpretation
- Mischief rule
- Golden rule
- Treatment of general words
- Beneficial construction
- Strict or liberal construction

### **UNIT –IV**

- Classification of Statutes and Subject wise Interpretation
  - Harmonious construction
  - Doctrine of pith and substance.
  - Doctrine of Implied, incidental and ancillary powers.
  - Approaches to interpretation of repugnancy.
  - Approaches to interpretation of amending power

### **Unit - V**

- International Law incorporated in municipal Law, Penal statutes and Tax Laws
- Leading cases relating to Interpretation of Statute.
- Internal Aids to interpretation of Statutes
- External Aids to interpretation of Statutes

**Course outcome:** To ascertain the true meaning, intent of the maker, numerous rules of interpretation were formulated by courts and jurists. The objective of this course is to make the student familiar with various rules of interpretation.

## **Mass Media Law**

**Objective:** This paper deals with the interaction between law and mass media. This paper examines the major laws, regulations and court decisions affecting the media. It aims to familiarize the theoretical debates on media, law and ethics in the Indian context.

### **UNIT I: Freedom of speech and expression**

- Freedom of speech as a human right – Philosophical justification for the protection of Free speech right – Constitutional guarantee for Free Press – reasonable restrictions on Free speech
- Media Freedom – boundaries of a free press - Mass media –press, films, radio, television – ownership patterns – legal issues; Freedom of Information v Free Speech
- Origins of broadcasting – regulation of press and broadcasting – censorship of broadcasting media and press – leading cases – Evolution of television as a visual media
- Impact of films as visual media – censorship of films – judicial view on film censorship – standards of censorship, Role of media in law making process.

### **UNIT- II : protection of reputation**

- Defamation – overview – general framework for defamation law- role of malice – IPC provisions – remedies and damages
- Decent speech – indecent speech – hate speech – racial speech – obscenity on mass media – regulation and control
- Libel in press –regulation and control – Slander through Broadcasting audio-video defamation
- Internet as a platform of free speech – regulation of content on Internet self-regulation v Government regulation,
- Libel and slander in cyberspace – cross border libel/slander – jurisdictional problems – Gutnick v John Doe

### **UNIT– III: Media and privacy**

- Obscenity and pornography – historical background - Hicklin Test – contemporary standards in Miller v California - Child pornography
- Blasphemy – historical overview- censorship of stage productions – violence - legal regulation of blasphemy
- Privacy – historical development of private and confidential information – media practices and human rights – photo journalism in public places – child right to privacy
- Information privacy and reputation - personal data protection – abuse of personal information – marketing of personal information- internet privacy
- Press and Public access to the judicial processes, records, places and meetings – Right to information Act

### **UNIT– IV: Media, ethics and adjudication**

#### 1. Copyright issues in mass media

- Protection for copyrighted work
- Plagiarism
- Pirated music
- Remedies for infringement

#### 2. Media and Courts

- Report of legal proceedings
- trail by media
- sensitive court reporting and human rights contempt of court
- procedure and punishment

### **UNIT-V Corporate and commercial speech**

- Development of commercial speech doctrine
- Commercial speech for professionals and corporations
- Art.19 (1)(a) protection for unsolicited mail advertising Regulation of commercial speech
- Ethical dilemmas, issues and concerns in mass communication
- Foundation of ethics different aspects of journalism's ethical issues- Reporters privileges and protection of media sources

- Extra- judicial regulation of media content
- Press complaints and editors' code of practice
- Broadcasting standards commission
- Codes for advertisement standards
- Film censorship board – ICANN
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**Course outcome:** It also attempts to evolve an understanding of the complexities of ethical and legal media practice

### **Recommend Books**

1. MadhaviGoradia, Facet of Media Law
2. DR. A. Verma, Cyber Crimes & Law
3. M.P. Jain, Constitutional Law of India (1994) Wadawa, Nagpur
4. H.M. Seervai, Constitutional Law of India 2002 Vol. 1 Universal
5. John B. Howard, "The Social Accountability of Public Enterprises" in Law and Community Controls in New Development Strategies (International Center for law in Development 1980)
6. Bruce Michael Boys, "Film Censorship in India: A Reasonable Restriction on Freedom of Speech and Expression" (1972).
7. Rajeev Dhavan, "On the Law of the Press in India" (1984).
8. Rajeev Dhavan, "Legitimizing Government Rhetoric: Reflections on Some Aspects of the Second Press Commission" (1984).
9. Soli Sorabjee, Law of Press Censorship in India (1976).
10. Justice E.S. Venkaramiah, Freedom of Press: Some Recent Trends (1984).  
D.D. Basu, The Law of Press of India (1980)

## **Comparative Constitutional Law**

(U.K. U.S.A, FRANCE and INDIA)

**Objective:** This course is designed to examine from a comparative perspective –legal structure and concepts that are found in Constitutions across the world, concepts such as basic rights, rule of law, systems of governance, judicial review, to name a few. Comparative Constitutional Law course is intended to make students familiar with the constitutional systems of a few countries, in particular the constitution of United States of America and few other emerging constitutions along with the Indian Constitution.

### **UNIT I**

- Meaning and nature of Indian Constitution
  - a) Written Document
  - b) Rigid as well flexible
  - c) Basic document
- Features and structure of Indian constitution
- Concept of representative and responsible government
- Distinction between constitution and constitutionalism
- Concept of Constitutionalism
- Kinds of Constitutions-Federal and Unitary-Written and Unwritten, Flexible and Rigid
- Basic Principles of organization of Government and Forms of Government
- Presidential and Parliamentary forms of Government
- Federal and Unitary Governments
- Government under the U.S. Constitution
- Basic principles underlying Government in France
- Nature of Government in U.K.

### **UNIT II**

- US Constitution History and structure
- Federalism – Evolution, forms and nature
- Broad Characteristics of a Federal Constitution-United States, Australia and Canada
- Division of Powers in India and US
- Executive Powers

- Three tier system of Government in India and development
- Nature and Role of Fundamental Rights in Public Law
- Evolution of Fundamental Rights in U.K., U.S.A., France and India
- Scope of Fundamental Rights in U.S.A.

### **UNIT III**

- Preamble - Relevance - Comparison and amendments
- Fundamental Rights - Rights exclusive to Indian scenario-
  - a) Right to Education in India and US
  - b) Rights of Minorities in India and US
  - c) Freedom of the press in India and US
  - d) Right to liberty in India and US
- Right to equality –Principles adopted in US and Canada – Old and new doctrine of equality in India
- Political Speech –India and US
- Religious Freedom – India.
- Emergency provisions in US and Australia and in India.

### **UNIT IV**

- Judiciary - Structure of the Judiciary - Appointment of judges in India and US and UK
- Judicial Activism - Evolution in India - Judicial Activism in US and Pakistan
- Judicial Reviews–
  - a) SP Gupta v. President of India and others–
  - b) Marbury v. Madison –
    - S R Bommai on Judicial Review - political Question
    - Role of Fundamental Rights in U.K.
    - Nature and scope of Rights in France
    - Limits to Fundamental Rights
    - Organization of the Legislature and the Executive
    - Organization of Legislature and distribution of legislative powers
    - Nature of Legislative Process
    - Extent of Executive Powers

- Emergency powers
- Relation between Legislative and Executive powers

## **UNIT V**

- Power of the Parliament to amend the Constitution
- Parliamentary Privileges - conflict with Fundamental Rights
- Constitutional Bodies - Their Privileges -Conflict with Fundamental Rights
- Ombudsman
  - a) Role of Ombudsman and its connection with the control of corruption
  - b) Reasons of failure
  - c) Study of various Bills
  - d) Issues & Challenges
    - Judiciary and Judicial Process
    - Organization of the judiciary
    - Judicial Review and its implementation
    - Basic principles of Judicial Process, Precedents, Stare decisis
    - Evolution of Tribunals
    - Theory of Basic Structure

### **Recommend Books**

1. A.H.Birch – Representative and Responsible Government
2. Colin Howard- Australian Federal Constitutional Law
3. Wade and Phillips – Constitutional Law and Administrative Law.
4. Tressolini- American Constitutional Law.
5. Mason & Beaney – American Constitutional Law.

**Course Outcome:** Students will be benefitted from deeper understanding of the doctrines and values underlying the provisions and principles from various constitutional systems

## **Administrative Law**

**Objective:** The very objective of studying of Administrative law I is to understand nature of the administration available in the country. This will definitely ensures the better administration not only for those who study but also for others.

### **UNIT I**

- Nature and Scope of Administrative Law
- Rule of Law
- Separation of Powers
- Difference between Public Law and Private Law
- Evolution and Significance of Administrative Law in various forms of Government
- From Laissez Faire to a Social Welfare State
- Classification of Administrative Action
- Administrative Direction and Discretion
- Administrative Authorities – Government and Departmental Authorities – Statutory
- Authorities – Other Authorities under Article 12

### **UNIT II**

- Delegated legislation, nature and importance in the present day administration
- Legislative Power of Administration and its Necessity
- Extent of Delegation and Control over Delegated Legislation
- Ultra Vires
- Sub-Delegation
- Judicial and Parliamentary Control over Delegated Legislation

### **UNIT III**

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- Principles of Natural Justice
- Judicial Power of Administration
- Nature of Procedure

- Due Process in the US – Principles
- Effect of non-compliance with principles of Natural Justice
- Exceptions to the Principles of Natural Justice
- Doctrine of Bias

#### **UNIT IV**

- Judicial Control of Administrative Action
- Writs, Principles and Procedures
- Public Interest Litigation
- Administrative Finality and Exclusion of Jurisdiction of the Court
- Public Law Review and Private Law Review of Administrative Action
- Liability of State – Torts, Contracts, Promissory Estoppel
- Governmental Privileges
- Right to Information
- Doctrine of Legitimate Expectation
- Doctrine of Accountability
- Waiver
- Doctrine of Proportionality
- Doctrine of Pleasure

#### **UNIT V**

- Corporations and Public Undertaking
- Commission of Enquiry
- Ombudsman – Concept – In India
- Central Vigilance Commission
- Parliamentary Committees
- Civil Service in India - Accountability and Responsibility - Problems and Perspectives
- Administrative Deviance – Corruption – Maladministration
- Control Mechanism of Accountability

Course Outcome: The goal of ideal state is not depending upon the how best the state ensures the good administration but it is depending upon how best the people will take part in the administrative process

### **Recommended reading**

#### ***Textbook –***

Prof. I P Massey ‘Indian Administrative Law’

#### ***Reference books –***

Jain and Jain ‘Administrative Law’

A T Marcos ‘Administrative Law’

### **National Security, Public Order and Rule of Law**

**Objective:** In every written constitution, provision is required to be made to equip the state to face grave threats to its existence arising from extra- ordinary circumstances created by war or external aggression or armed rebellion. Although “amidst the clash of arms, the laws are not silent” they do not speak the same language in war as in peace. Extra- ordinary circumstances warrant the invocation of extraordinary laws and such laws are known as emergency laws. They put grater fetters on individual liberty and also eclipse certain aspects of the due process. But in such circumstances, the democratic forces must assert that for survival of the State, the least possible liberty should be available. The students should be familiarized with different aspects of such emergency powers and scrutinizing intellectual attitude towards such powers

#### **Unit I:**

- National Security,
- Public Order and Rule of Law
- Emergency Detention in England
- Civil Liberties Subjective satisfaction or objective assessment?
- Pre- Independence law; marital Law: Provisions in English Law, Indian Law

#### **Unit II :**

- Preventive Detention and Indian Constitution and Article 22 of the Constitution Preventive Detention and safeguards Declaration of Emergencies 1962, 1965 and 1970 Emergencies. 1975 Emergency

### **UNIT III:**

- Exceptional Legislation COFEPOSA and other legislations to curb economic offenders.
- TADA: “the draconian law” comments of NHRC Special courts and tribunals. Due Process and special legislation.
- Meaning of “Security of State”.
- Meaning of “Public Order”.
- Suspension of Article 19, rights on declaration of emergency.
- President’s right to suspend right to move any court.
- Article 21 – special importance.

### **UNIT IV:**

- Access to Courts and Emergency Article 359: ups and downs of judicial review.
- Constitution (Forty-fourth) Amendment Act, 1978.
- Constitution (Fifty-ninth) Amendment Act, 1988.

### **UNIT V**

- Rule of Law and rule for law
- Principles involved in rule of law
- Relation of rule of law and natural justice
- Dicey’s rule of law
- Prof. Raz’s seven lamps of rule of law

## **Dissertation and Viva Voice OR (Any two papers of specialization)**

### **Dissertation**

Dissertation shall be compulsory in LLM final. It shall be on any topic relating to the group wherein the candidate has chosen to specialize. But the topic must be from a subject other than which has been chosen for written examination. The topic shall be chosen well in advance at the time of admission in LLM final with the approval of Head of the Department who shall also assign a supervisor for each student.

The dissertation shall not be of less than 150 pages typed and shall be forwarded by the Supervisor to the HOD and shall be deposited in the MATS Law school office to be forwarded to the examination section. The dissertation must be submitted 10 days before the commencement of the written examination.

The dissertation shall be of maximum 200 marks, 150 maximum for dissertation, out of which 75 maximum by internal evaluator, and 75 maximum for external evaluator, the pass marks shall be 40 from each examiner out of 75.

The viva-voce board shall be constituted by the University on the recommendation of the Director, MATS Law School for conducting viva of each student which shall include the HOD or his nominee and the teacher who supervised the dissertation.

In viva the maximum marks shall be 50 and pass marks shall be minimum 30. Students shall have to pass separately in evaluation done by the internal examiner and also done by external examiner and the evaluation done by the viva-voce board. Failure in any of the written paper or internal evaluation of dissertation, or external evaluation of the dissertation or viva voce shall mean failing in the whole semester and the student shall have to appear in LLM final, all papers, in which he appeared in written examination and shall have to submit revised dissertation for fresh valuation and shall have to appear in viva accordingly along with new batch of the students coming in for evaluation next year. He will be treated as ex-student and shall not be required to pay tuition fee. However examination fee including fee for evaluating dissertation and for conducting viva shall be charged by the University.