

## **LL.M. 1<sup>ST</sup> SEMESTER**

(Core Paper)

### **LEGAL THEORY AND CRITICAL LEGAL STUDY**

Paper: 101

Max. Marks: 100

Credits: 5

Time: 3 Hours

Note:

1. There shall be total five units in the question paper.
2. Unit-I shall contain one compulsory question having four parts of five marks each. This question shall be spread over the entire syllabus.
3. There shall be two questions in each Unit i.e. Unit-II to Unit-V.
4. The student is required to attempt four questions by selecting one question from each unit i.e. Unit-II to Unit-V. Each question shall carry twenty marks.

### **COURSE OBJECTIVES**

- The course is designed with the aim to provide exposure to the Legal theories that prevailed from time to time.
- The students are expected to learn the legal theory and concepts so that understand their applicability in modern times.
- The students will not only learn some of the important aspects of legal concepts, but also be familiar with important theories of justice that prevailed from time to time.

### **UNIT-I**

#### *Sources of Ancient Indian Jurisprudence and Modern Jurisprudence*

- Nature, Meaning and Sources of Dharma in Ancient Indian Jurisprudence.
- Dharma and Positive Law
- Contribution of Narada, Brihaspati, Katyayana, Koutilya in development of Ancient Indian Jurisprudence.
- Importance of Mitakshara, Dayabhaga, Vyavahara in Ancient Indian Jurisprudence.
- Nature, Value and Province of Modern Jurisprudence
- Sources of Law: Legislation, Precedent, Custom

### **UNIT-II**

#### *Historical Jurisprudence and Natural Law School*

- Historical Jurisprudence:
  - Savigny and the Historical School
  - Henry Maine and the Anthropological School
- Natural Law School

- Ancient Theories of Natural Law
- Dark Ages
- Revival of Natural Law
- Lon L. Fuller- Morality of Law
- Stammler- ‘Natural Law with a variable content’

### **UNIT-III**

#### *Positivist Approach of Jurisprudence*

- Positivism:
  - Bentham and Positivism
  - John Austin and Analytical Jurisprudence
- Post Modern Positivism
  - Kelsen’s Pure Theory of Law
  - Hart’s Concept of Law
  - Dworkin’s Criticism of Positivism and his theory of Law

### **UNIT-IV**

#### *Realist School, Sociological School and Theory of Social Justice*

- Modern Realism.
- Sociological Jurisprudence:
  - Ihering, Ehrlich and Duguit
  - Roscoe Pounds’ Social Engineering
- Theory of Social Justice:
  - John Rawls
  - Indian Approach to socio-economic justice

### **COURSE OUTCOME:**

- The students will understand the meaning of the jurisprudence and legal theory.
- The students will be equipped to analyse the application of the Ancient Indian and modern jurisprudential rules to the contemporary society.
- The students will be equipped to understand the emergence of modern trends in jurisprudence.

### **SUGGESTED READINGS:**

1. P.V. Kane : History of Dharma Sastra.
2. P.N. Sen : General principles of Hindu Jurisprudence
3. M.S. Pandit : Outlines of Ancient Hindu Jurisprudence
4. S.K. Purohit : Ancient Indian Legal Philosophy
5. Paton : A Textbook of Jurisprudence
6. Dias : Jurisprudence
7. Friedmann : Legal Theory

8. Hart : Concept of Law
9. Llyoyd : Introduction to Jurisprudence
10. Fuller : The Morality of Law
11. Basu : Modern Theories of Law(TLL)
12. Austin : The Province of Jurisprudence Determined
13. Bodenheimer : Jurisprudence
14. Ludri, Amit : Law of Personal Autonomy (2012 ed)
15. Stone : Social Dimensions of Law and Justice
16. Jennings : Modern Theories of Law
17. Allen : Law in the Making
18. Pound : Jurisprudence Vol.. I-IV
19. Justice Jois, Dr. M. Rama : Raja Dharma with Lesson on Raja Neeti