

**Syllabus**  
**Ph.D. Entrance Test**

**Human Rights and I. H. Laws**

**Section –I**

**RESEARCH METHODOLOGY**

**Unit - 1. Research Methods.**

- 1.1. Socio Legal Research.
- 1.2. Doctrinal and non-doctrinal.
- 1.3. Relevance of empirical research.
- 1.4. Induction and deduction.

**Unit - 2. Identification of Problem of research.**

- 2.1. What is a research problem?
- 2.2. Survey of available literature and bibliographical research.
  - 2.2.1. Legislative materials including subordinate legislation, notifications and policy statements.
  - 2.2.2. 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.
  - 2.2.3. Juristic writings – a survey of juristic literature relevant to select problems in India and foreign periodicals.
  - 2.2.4. Compilation of list of reports or special studies conducted relevant to the problem.

**Unit - 3. Preparation of the Research Design.**

- 3.1. Formulation of the Research problem.
- 3.2. Devising tools and techniques for collection of data: Methodology.
  - 3.2.1. Methods for the collection of statutory and case materials and juristic literature.
  - 3.2.2. Use of historical and comparative research materials.
  - 3.2.3. Use of observation studies.
  - 3.2.4. Use of questionnaires / interview.
  - 3.2.5. Use of case studies.
  - 3.2.6. Sampling procedures – design of sample, types of sampling to be adopted.
  - 3.2.7. Use of scaling techniques.
  - 3.2.8. Jurimetrics.
- 3.3. Computerized Research – A study of legal research programmes such as Lexis and West law coding.
- 3.4. Classification and tabulation of data – use of cards for data collection – Rules for tabulation. Explanation of tabulated data.
- 3.5. Analysis of data.

## **Section –II**

### **1.LAW AND SOCIAL TRANSFORMATION IN INDIA**

#### **Unit - 1. Law and Social change.**

- 1.1. Law as an instrument of social change.
- 1.2. Law as the product of traditions and culture.
- 1.3. Criticism and evaluation of the introduction of common law system and institutions in India and its impact on further development of law and legal institutions in India.

#### **Unit - 2. Modernization and the Law.**

- 2.1 Modernization as a value: Constitutional perspectives reflected in the fundamental duties.
- 2.2. Modernization of social institutions through law.
  - 2.2.1. Reform of family law.
  - 2.2.2. Agrarian reform – Industrialization of agriculture.
  - 2.2.3. Industrial reform: Free enterprise v. State regulation.
  - 2.2.4. Industrialization v. environmental protection.
- 2.3. Reform of court processes.
  - 2.3.1. Criminal law: Plea bargaining; compounding and payment of compensation to victims.
  - 2.3.2. Civil law :(ADR) Confrontation v. Consensus; mediation and conciliation; lok adalats.
  - 2.3.3. Prison reforms.
- 2.4. Democratic decentralization and local self-government.

#### **Unit - 3. Religion and the Law.**

- 3.1. Religion as a divisive factor.
- 3.2. Secularism as a solution to the problems.
- 3.3. Reform of the law on secular lines: Problems.
- 3.4. Freedom of religion and non-discrimination on the basis of religion.
- 3.5. Religious minorities and the law.

#### **Unit - 4. Language and the Law.**

- 4.1. Language as a divisive factor: formation of linguistic States.
- 4.2. Constitutional guarantees to linguistic minorities.
- 4.3. Language policy and the Constitution: Official language; Multi-language system.
- 4.4. Non-discrimination on the ground of language.

#### **Unit - 5. Caste and the Law.**

- 5.1 Caste as a divisive factor.
- 5.2. Non-discrimination on the ground of caste.
- 5.3. Acceptance of caste as a factor to undo past injustices.
- 5.4. Protective discrimination: Scheduled castes, tribes and backward classes.
- 5.5. Reservation; Statutory Commission, Statutory provisions.

#### **Unit - 6. Regionalism and the law.**

- 6.1. Regionalism as a divisive factor.
- 6.2. Concept of India as one unit,
- 6.3. Right of movement, residence and business; impermissibility of state or regional barriers.
- 6.4. Equality in matters of employment; the slogan “Sons of the soil” and its practice.
- 6.5. Admission to educational institutions: preference to residents of a State.

**Unit - 7. Women and the Law.**

- 7.1. Crimes against women.
- 7.2. Gender injustice and its various forms.
- 7.3. Women’s Commission. Empowerment of women: Legal Provision apart from Constitutional.

**Unit - 8. Children and the Law.**

- 8.1. Child labour.
- 8.2. Sexual exploitation.
- 8.3. Adoption and related problems.
- 8.4. Children and education

**2. JUDICIAL PROCESS**

**Unit-1. Nature of Judicial Process.**

- 1.1. Judicial process as an instrument of social ordering.
- 1.2. Judicial process and creativity in Law – Common law model – Legal reasoning and growth of law – Change and stability.
- 1.3. The tools and techniques of judicial creativity and precedent.
- 1.4. Legal development and creativity through legal reasoning under statutory and codified systems.

**Unit - 2. Special Dimensions of Judicial Process in Constitutional Adjudications.**

- 2.1. Notion of Judicial Review.
- 2.2. ‘Role’ in constitutional adjudication – various theories of judicial role.
- 2.3. Tools and techniques in policy-making and creativity in constitutional adjudication.
- 2.4. Varieties of judicial and juristic activism.
- 2.5. Problems of accountability and judicial law-making.

**Unit - 3. Judicial Process in India.**

- 3.1. Indian debate on the role of judges and on the notion of judicial review.
- 3.2. The “independence” of judiciary and the “political” nature of judicial process.
- 3.3. Judicial activism and creativity of the Supreme Court: the tools and techniques of creativity.
- 3.4. Judicial process in pursuit of constitutional goals and values – new dimensions of judicial activism and structural challenges.
- 3.5. Institutional liability of courts and judicial activism- scope and limits.

**Unit - 4. The Concepts of Justice.**

- 4.1. The concept of justice or Dharma in Indian thought.
- 4.2. Dharma as the foundation of legal ordering in Indian Thought.

- 4.3. The concept and various theories of justice in the western thought.
- 4.4. Various theoretical bases of justice: The liberal contractual tradition, the liberal utilitarian tradition and the liberal moral tradition.

**Unit - 5. Relation between Law and Justice.**

- 5.1. Equivalence Theories – Justice as nothing more than the positive law of the stronger class.
- 5.2. Dependency theories – For its realization justice depends on law, but justice is not the same as law.
- 5.3. The independence of justice theories – means to end relationship of law and justice – The relationship in the context of the Indian constitutional ordering.
- 5.4. Analysis of selected cases of the Supreme Court where the judicial process can be seen as influenced by theories of justice.

### **3.HUMAN RIGHTS & DUTIES**

**Unit - 1. Concept and Development of Human Rights.**

**Unit – 2. International Instruments on Human Rights.**

**Unit – 3. Indian Constitution and Human Rights.**

- 3.1. Constitutional Philosophy – Preamble.
- 3.2. Fundamental Rights.
- 3.3. Directive Principles of State Policy.
- 3.4. Fundamental Duties.

**Unit- 4. Emerging Human Rights.**

- 4.1. Rights of Women.
- 4.2. Children.
- 4.3. Dalits.
- 4.4. Tribals.
- 4.5. Minorities.
- 4.6. Disabled.
- 4.7. Prisoners.
- 4.8. Refugees.
- 4.9. Aids victim.
- 4.10. Unorganized Labour.

**Unit-5. Enforcement of Human Rights.**

- 5.1. Formal Mechanism.
  - 5.1.1. Protection of Human Rights Act.
  - 5.1.2. Commissions of Human Rights.
  - 5.1.3. Role of Courts in India.
  - 5.1.4. Role of International Course.

**Unit-6. Human Duties.**

## **4.INDIAN CONSTITUTIONAL LAW: THE NEW CHALLENGES**

### **Unit -1. Federalism.**

- 1.1. Creation of new States.
- 1.2. Allocation and sharing of resources – distribution of grants in aid.
  - 1.2.1. The interstate disputes on resources.
- 1.3. Rehabilitation of internally displaced persons.
- 1.4. Centre’s responsibility and internal disturbance within States.
- 1.5. Directions of the Union to the State under Article 356 and 365.
- 1.6. Federal Comity: Relationship of trust and faith between Union and State.
- 1.7. Special status of certain States.
  - 1.7.1. Tribal Areas, Scheduled Areas.

### **Unit - 2. “State”: Need for widening the definition in the wake of liberalization.**

### **Unit - 3. Right to equality: privatization and its impact on affirmative action.**

### **Unit - 4. Freedom of press and challenges of new scientific development.**

- 4.1 Freedom of speech and right to broadcast and telecast.
- 4.2 Right to strike, hartal and bandh.

### **Unit - 5. Emerging regime of new rights and remedies.**

- 5.1. Reading Directive Principles and Fundamental Duties into Fundamental Rights.
  - 5.1.1. Compensation jurisprudence.
  - 5.1.2. Right to education.
    - 5.1.2.1. Commercialization of education and its impact.
    - 5.1.2.2. Brain drains by foreign education market.

### **Unit - 6. Right of minorities to establish and administer educational institutions and State control.**

### **Unit - 7. Secularism and religious fanaticism.**

### **Unit - 8. Separation of powers: stresses and strain.**

- 8.1. Judicial restraint.
- 8.2. PIL: Implementation.
- 8.3. Judicial independence.
  - 8.3.1. Appointment, transfer and removal of judges.
- 8.4. Accountability of executive.

**Unit - 9. Democratic process.**

- 9.1. Nexus of politics with criminals and the business.
- 9.2. Election.
- 9.3. Election commission: status.
- 9.4. Electoral Reforms.
- 9.5. Coalition government, stability, durability, corrupt practices.

-----

Saurashtra University