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# **GLOCAL LAW SCHOOL**

## **GLOCAL UNIVERSITY, SAHARANPUR**

**SEMESTER I: B.A.LL.B. & B.B.A.LL.B.**

### ***LEGAL METHODS-COURSE OUTLINE***

*Welcome to the Glocal Law School and perhaps, to your first encounter with law, through this course modestly titled "Legal Methods".*

***Course Teachers***

***Amitra Sudan Chakraborty & Yogesh Pratap Singh***

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***Course designed by Dr. Yogesh Pratap Singh***

# **LEGAL METHODS: AN INTRODUCTION TO LAW**

## **Contextualization of the Course of Legal Methods**

Law curricula across the world encounters with the fundamental question as to how should students begin their legal education? Legal education should start with the orientation to the materials lawyers use and the institutions they deal with. Or putting it in a simple framework, legal education should begin by encouraging students to think like a lawyer. What does it mean to think like a lawyer”? It can best be illustrated by a brief, glimpse at the lawyer’s professional life. The lawyer’s life is problem-oriented. He must be prepared to analyze the complex grouping of facts in which the legal problem is clothed, separate material facts from immaterial facts and pierce the very heart of the question presented to him. In sum by the constant repetition of this process students of law will be trained in the inductive reasoning method and facility in the use of its component elements: Analysis and synthesis.

But how to start? Law curricula the world over feature in their initial year or semester an introductory course. They are known by many names - “Introduction to Law”, “Legal Method”, “Legal Methods”, “Elements of Law”, “Elements of Jurisprudence”, “Law 101”, “The Methods and the Processes of Law”, and so on. Most of these names are comprehensible easily, but why “legal method”? Or to be specific, why “method” as opposed to “methods”?

To appreciate this, think “scientific method”. Certainly this term does not imply all scientists follow one single method. There is very little in common between the physicist studying the effects of high-speed particle collisions in a particle accelerator; the



chemist passing complex mixtures through a chromatograph; or the biologist injecting enzymes into a rat's spinal cord. And yet these and other methods used by scientists share certain commonalities. All scientific endeavors to day involve at some level or the other description, observation and, above all, seeking mechanical explanations of natural phenomena.

The study of law is similar in this respect. Initially we may discern little in common across, say, tax law, family law and intellectual property. In practice, similarities are further eroded. What could be common to, for example, drafting a multimillion-dollar merger agreement, arguing a landlord and tenant case in a dingy civil court, conducting arbitration proceedings between a factory owner and labour unions, and appearing before the Supreme Court to question the constitutionality of a bilateral double-taxation agreement? On closer inspection, however, certain underlying commonalities do begin to emerge. Just as all scientists deal with observed phenomena, all lawyers have to handle what are called authorities. They may exist in many forms – constitutional provisions, propositions embedded in ordinary statues, judicial precedents, even principles of international law. Irrespective of their source, they share a common feature in that they purport to be *authoritative* in what they state. This means that in their specific field of operation, they are validated to the exclusion of all other pronouncements.

Big words, surely, but what does it mean? Let us take an example. Suppose a debate arises about the proper punishment for cheating. Someone may contend it is three years' imprisonment; others may claim it is seven years', ten years', fifteen years' or even life imprisonment. To settle the debate, we look up the statute-books. The (in) famous Section 420 of Indian Penal Code, 1860 prescribes for "cheating and dishonestly inducing delivery of property" a punishment of up to seven years' imprisonment (that



is, a maximum of seven years with no minimum prescribed) and also a fine.

This not only establishes one punishment as valid or correct, but also invalidates all the other conjectures. Now we can say with confidence, in fact with authority, that those who claim cheating attracts prison terms of ten years or fifteen years are plain wrong, purely because Section 420 says so. This is what we lawyers mean by authorities. Of course, the example we discussed was only one kind of authority, *viz.* statutory law or legislation. As I had mentioned earlier, there exist many other types. But regardless of their character or source, they all purport to work in the same way, which involves ruling out other competing possibilities.

This raises a further question: if the law is all about authoritative pronouncements, then what is left for us lawyers to do when everything is settled anyway? But that is just it – authorities may purport to be authoritative, but they are not always as authoritative as they seem. This may sound confusing, but don't worry, you'll get used to it as you go along. And I must remind you to be always thankful for this: the fact that authorities can be challenged is the main reason why lawyers earn so much money! For it takes skill to mount such a challenge, and that's where one's competence as a lawyer comes in. There exist many methods of questioning the validity of authorities. We may seek to have it invalidated by invoking a larger authority; for example, we may challenge the validity of a statute on grounds that it is inconsistent with the Constitution. Then we could say that the authority is fine as far as it goes, but it does not really apply to the case we are dealing with. Or else we could claim that it was intended to be interpreted in a particular manner only, which makes it inapplicable to us.



In short, that is what the legal profession is about. It is about challenging authorities when necessary and, equally, fending off such challenges when the authorities are in your favour. Even when you are engaged in back-room activities like drafting complaints or agreements, you can succeed only if you keep in mind the relevant authorities and how they apply to what you are doing. This course is also centered around such authorities. It is not intended to be exhaustive in nature; you'll need a full five years of law school, and then the rest of your professional life, to gather an exhaustive understanding of what law is and how it works. For now, we seek to only acquaint you with the fundamentals. Something in the nature of an orientation course, so that you are at least equipped with a basic familiarity with the structures and functions of law, on the basis of which you may commence your study of legal subjects.

## ***Object of the Course***

We are now clear on the basic object of legal education that is to encourage students to think like a lawyer. In the light of the foregoing, let us examine what exactly we seek to impart through this course. We may flag following objects of this elementary course:

**First;** to provide an insight of the introduction, nature and functions of the law;

**Second;** to familiarize students with the important legal systems by introducing to them a range of concepts, doctrines, values and forms of reasoning that constitute the legal methodologies underpinning or influencing that system;

**Third;** to develop clarity and consistency in your approach to law;

**Fourth;** to think and reason about difficult matters;



**Fifth;** to develop and improve the specific mental disciplines which the study and practice of law demands and requires; and  
**Lastly;** to nurture the research and writing skills which are equally imperative for a future lawyer.

## ***Teaching Methodology***

This basic course legal methods will be taught by a combination of lectures and tutorials. Being an introductory course of legal study, this course will be taught through various methods modified to suit the needs of beginners in legal study and will have four hours of lectures and one hour of tutorial per week. Special care will be taken to select writings in simple language to introduce you the concepts, before you graduate to read relatively more complex pieces. Participation in class discussion after prior reading of cases and teaching material is the primary mode of teaching/learning. This course will contain the essential reading material for the entire course. Supplementary reading materials, if any, will be handed out as the course unfolds.

## ***Preparation***

Every student must be prepared at every session of class to discuss the materials assigned for that day and to participate in class exercises based upon those materials. You will be called on in class to recite. If you are not reciting, please listen politely and attentively and *think* about what is being said and asked. However, if teacher find you to be unprepared for a class, he may give you an absence for the day. The study of law is an active, not passive, experience and requires you to participate and to be engaged in the learning process during class. Please feel free to volunteer and to ask questions.

## ***Outside Reading***



Students should not be too quick in the first semester to read materials other than the assigned course materials. The purpose of the first semester is to sharpen your legal analysis and application skills, so the emphasis is to rely on your own skills and analysis rather than reading additional information and relying on someone else's analysis of a case or an issue. You should however, carefully read the assigned material; then, if you have time, you may resort to hornbooks- but only after you have first read, reread, and digested the assigned material.

### ***Law Dictionaries***

To students untrained in Latin and technical legal terms and phrases employed by lawyers, many of the cases will not be comprehensible without reference to a law dictionary. Thus keep your legal dictionary by your side during your first semester and use it.

### ***Classroom Etiquette***

The classroom environment must be conducive to learning for all students. Distractions made possible by advances in technology undermine that goal. Accordingly, during class, in addition to usual courtesies, kindly

- ✓ Disable and refrain from using cell phones, and any other communication device and;
- ✓ Refrain from connecting your lap top to the Internet.



## **Overall Assessment Strategy**

The performance of the students on this course is assessed on the basis of 100 marks. The overall assessment of 100 marks is divided into sessional work (25 marks), mid-term examination (20 marks) and end semester examinations (50 marks). Five marks are given only attendance.

- **Sessional Work (25 Marks):** Sessional work is planned by the course teacher in his discretion. The tentative plan of the sessional work will be on the following basis:

<b>Assessment Mode</b>	<b>Marks</b>
<b>Case comment /Project</b>	<b>10 Marks</b>
<b>Project Presentation</b>	<b>5 Marks</b>
<b>Two Snap Tests</b>	<b>10 Marks</b>

**Note:** Any problems or confusions should be addressed to your tutors in *good time*.

### **Assignments**

**1.** In order to judge the students the class assignments in the form of “case comment” or “determination of *ratio decidendi* of the case” will be given. Assignments due "in class" must be turned in, before the given deadline unless you are instructed otherwise. You are responsible for making sure that you turn in all assignments. Course coordinator reserves the right to give additional assignments or change assignment deadlines or modify the syllabus.

**2.** The assigned subject for the project is an indication of the topic. Students may within that area either narrow-down or



broaden the topic depending on the study and the capability. Due credit will be given if the title is good and innovative.

**3.** Project may be typed on a computer or may be handwritten on A-4 size paper with 1.5" margin on the left side and 1" margin on the right, with suitable margin at the top and bottom. Page nos. should be indicated at the centre top of the page. The font size of the words should be 12 and there should be 1.5 spacing between the lines.

**4.** The project need not necessarily be spirally bound, but should be firmly stitched or pinned.

**5.** The project should not exceed 25 pages including the cover page, abbreviation page, table of contents, table of cases and bibliography.

**6.** Bibliography should only be of those books that are made use of in writing the project. Table of cases should contain only those cases actually read by the students (either wholly or partially) for the project.

***Timeliness:*** Due dates and times for both the research and the writing assignments are strict. Extensions will not be granted except in the case of a genuine emergency such as a significant, verifiable illness or a death in the family. You must make the request for an extension as soon as you know of the emergency.

***Project Consultation:*** Generally, course instructors will be in the office no later than 6 p.m. on class days, and they will be available for questions immediately after class. Teachers will be in the office during the day on many other days as fixed by them too, but in case of a request made by the students, teachers will



be available for scheduled appointments on the weekend or at other times that are mutually convenient. Please feel free to call or email your teacher to schedule an appointment. The email id of course teacher is:

***Dr. Yogesh Pratap Singh-email: [yogeshpratap@gmail.com](mailto:yogeshpratap@gmail.com)***

### ***Mid-Semester Examination (20 Marks)***

At around middle of the semester a written unseen examination of 20 Marks will be conducted.

### ***End Semester Examination (50 Marks)***

Written unseen examination of 50 Marks will be conducted at the end of the semester. The majority of the questions will be problem based. This is to check the in-depth knowledge and analytical & lawyering skills of the students in the subject.

## ***Lecture Plan***



<b>Modules</b>	<b>Title</b>	<b>Number of Lectures</b>
<b>Module One</b>	<b>Introduction to Law</b>	<b>Ten Lectures</b>
<b>Module Two</b>	<b>Introduction to Logic &amp; Legal Reasoning</b>	<b>Ten Lectures</b>
<b>Module Three</b>	<b>Major Legal Systems of the World</b>	<b>Ten Lectures</b>
<b>Module Four</b>	<b>Sources of Law- Legislation</b>	<b>Five Lectures</b>
<b>Module Five</b>	<b>Source of Law- Precedent</b>	<b>Ten Lectures</b>
<b>Module Six</b>	<b>Source of Law- Custom</b>	<b>Five Lectures</b>
<b>Module Seven</b>	<b>General and Internet Based Research</b>	<b>Five Lectures</b>
<b>Module Eight</b>	<b>Legal Writing</b>	<b>Ten Lectures</b>



## **Course Content**

### **Module One: Introduction to Law**

**Preface to Module:** This module provides a basic overview of the world of law. It begins by introducing terms such as “law”, “a law” and “the law”. This leads to the second issue, namely what exactly *is* law - whether laws mean only statutes, or statutes and judicial pronouncements, whether “the law” entails something more than just statutes and judicial pronouncements, and so on. Thirdly, it looks at the role of law in society - this includes not only social regulation and control, but also how law may be used as an agent for social change. Questions such as what is the need for law, can justice be delivered without law, the relationship between law and justice. It also necessitates a discussion on allied normative notions like justice, morality and policy. Subsequently, the module proceeds to the various types of law, their classification, and their respective places in the legal hierarchy. It also entails a brief overview of how questions of law and questions of fact differ. We will discuss in this module:

- ❖ **What is Law?, Law, A Law and The Law**
- ❖ **Classification of Laws**



- ❖ **Law, Policy, Justice and Morality**
- ❖ **Nature, Functions and Techniques of Law**
- ❖ **Question of Law and Question of Fact**

### ***Essential Readings:***

1. John H Farrar and Anthony M Dugdale, *Introduction to Legal Method*, 3<sup>rd</sup> ed. (London: Sweet & Maxwell, 1990) p. 3-30, 49-70.

### ***Suggested Reference Materials:***

1. Leslie E Gerwin, Paul M Shupack, 'Karl Llewellyn's Legal Method Course: Elements of Law and Its Teaching Materials', (1983) 33 *Journal of Legal Education* 64.
2. Wade Mansell, Belinda Meteyard & Alan Thompson, *A Critical Introduction to Law*, 3<sup>rd</sup> ed. (London: Cavendish, 2004), p. 1-8, 9.25.
3. Bronwen Morgan and Karen Yeung, *An Introduction to Law and Regulation: Text and Materials* (Cambridge: Cambridge University Press, 2007), p. 1-15.

## **Module Two: Introduction to Logic & Reasoning**

**Preface to Module:** Life of law is logic or experience or both. It is surely beyond dispute that competence in lawyering is critically dependent upon two specific skills, namely (a) reasoning, that is, the capacity to link ideas into a logically coherent narrative; and (b) Substantiation, or the ability to relate ideas with authoritative references. This module is envisaged as a practical exercise in both these essential skills. Students are to be introduced to applying the logic of the law to fact situations, and also develop arguments in a structured and coherent manner. An aspect of this involves structuring one's research, and framing research methodologies and research designs. These shall be imparted through a mix of lectures and practical exercises. Following aspects shall be discussed in this module:

- ❖ **Law, Logic and Reasoning**
- ❖ **Inductive Reasoning and its application in Law**



## ❖ **Deductive Reasoning and its application in Law**

### ***Essential Readings:***

1. Larry Alexander & Emily Sherwin, *Demystifying Legal Reasoning* (Cambridge: Cambridge University Press, 2008).
2. Leonard G Boonin, 'Concerning the Relation of Logic to Law' (1964-1965) 17 *Journal of Legal Education* 155.

### ***Suggested Reference Materials:***

1. Reed Dickerson, 'Teaching Legal Writing in the Law Schools (with a Special Nod to Legal Drafting)', (1979-80) 16 *Idaho Law Review* 85.
2. E.P. Ellinger, KJ Keith, 'Legal Research: Techniques and Ideas' (1982) 24 *Journal of the Indian Law Institute* 213.
3. S.N. Jain, 'Legal Research and Methodology', (1972) 14 *Journal of the Indian Law Institute* 487.
4. 'Doctrinal and Non-Doctrinal Research', (1975) 17 *Journal of the Indian Law Institute* 516.
5. Edward H Levi, 'An Introduction to Legal Reasoning', (1948) 15 *University of Chicago Law Review* 501.
6. S.L. Sharma, 'Identification and Formulation of Research Problem [*sic*]', (1982) 24 *Journal of the Indian Law Institute* 662.

## **Module Three: Major Legal Systems of the World**

**Preface to Module:** There have always been studies of foreign laws, and recourse to comparison in legal scholarship. The comparison of laws, at least in their geographical diversity, is as old as the science of law itself. Aristotle (384-322 B.C.), in considering what form of political community would be best, studied 153 constitutions of Greek and other cities in his



treatise, Politics, Montesquieu (1689-1755) attempted, through comparison, to penetrate the spirit of laws and thereby establish common principles of good government. The development of comparative law, as such, was logically inevitable aftermath of this nationalization of the idea of law which had ascendancy in the first part of nineteenth century. It was, moreover, rendered necessary, and even urgent, by the unprecedented expansion in more modern times of international relations and contacts of all kinds. Keeping this in mind the first part of this unit will briefly discuss, from a historical point of view, the different concepts which have been developed concerning the nature and usefulness of comparative law. The second section of this unit is devoted to the idea of the “legal family”. The idea is to familiarize the students that how, despite the diversity of laws encountered in the world today, it is possible to concentrate on the presentation of certain “model”, certain laws which can be considered typical and representative of a family which groups a number of laws. So on the basis of these considerations; you will be given a preliminary sketch of the following major legal families:

- ❖ **Common Law Legal System**
- ❖ **Civil Law Legal System**
- ❖ **Socialist Legal System**
- ❖ **Religious Legal System**
- ❖ **Hybrid Legal System**

***Essential Readings:***

1. Glanville Williams, *Learning the Law*, 11th ed. (London: Sweet & Maxwell, 1982), p. 1-23,24-29.
2. Rene David & John E.C. Brierley: *Major Legal Systems in the World Today (An Introduction to the Comparative Study of Law)*. Stevens & Sons, London.

***Suggested Reference Materials:***



1. Andrew Burrows, 'We Do this at Common Law But that in Equity', (2002) 1 Oxford Journal of Legal Studies 1.
2. Carl F. Stychin and Linda Mulcahy: Legal Methods and Systems (Text and Material). Sweet & Maxwell, London (Third Edition), pp.421-429.
3. Herbert M. Kritzer: Legal Systems of the World: A Political, Social and Cultural Encyclopedia. Pentagon Press. (4 Volumes).
4. Joseph Dainow, 'The Civil Law and the Common Law: Some Points of Comparison' (1966-67) 15 American Journal of Comparative Law 419.
5. John H Farrar and Anthony M Dugdale, *Introduction to Legal Method*, 3rd ed. (London: Sweet & Maxwell, 1990) p. 86-127.
6. P.J. Fitzgerald, *Salmond on Jurisprudence*, 12th ed., (London: Sweet & Maxwell, 1966), p. 88-104.
7. Alistair Hudson, *Understanding Equity and Trusts*, 3rd ed. (London: Rutledge, 2008), p. 1-12
8. Ewoud Hondius, 'Precedent and the Law', (2007) 11 (3) Electronic Journal of Comparative Law, available at: <http://www.ejcl.org/113/article113-3.pdf>.
9. Michael Zander, *Cases and Materials on the English Legal System*, 10th ed. Cambridge: Cambridge University Press, 2007), p. 379-402.

## **Module Four: Sources of Law-1 (Legislation)**

**Preface to Module:** This module pertains to the sources of law, but not those sources which are commonly called 'literary'. The term 'sources' is here used to connote those agencies by which rule of conduct acquire the character of law by becoming objectively definite, uniform, and, above all, compulsory. In this part of the course we will consider only two antithetic conceptions of the growth of law, and it is still necessary for every student of jurisprudence to define his attitude towards these two conflicting views. In the one, the essence of law is that it is imposed upon society by a sovereign will. In the other, the essence of law is that



it develops within society of its own vitality. We would include following three sources i.e. Legislation, Precedents and Customs. A proper understanding of statutes is essential for a good legal education. In this module, we examine how statutes originated, their significance in common-law and civil-law systems, and their relationship with judge-made law and the common-law system in general. In the next part, we examine the various components of a modern statute, the significance of each component, and how these components aid our comprehension of the statute and its objectives. We also examine the distinction between plenary and delegated legislation, and the various kinds of delegated legislation. A basic overview of the principles of statutory interpretation shall also be undertaken in the course of this module. We will discuss followings:

- ❖ **Concept of Source of Law**
- ❖ **Different Sources of Law**
- ❖ **Legislation as a source of law and its importance in any legal system**
- ❖ **Form of legislation. Subordinate, delegated and autonomic legislation**
- ❖ **Different parts of statute**
- ❖ **General Principles of statutory interpretation**

### ***Essential Readings:***

1. Glanville Williams, *Learning the Law*, 11th ed. (London: Sweet & Maxwell, 1982), p. 97-111.
2. Sir C.K. Allen: *Law in the Making*. Oxford at the Clarendon Press. pp.426-530.

### ***Suggested Reference Material:***

1. Frank B. Cross, *The Theory and Practice of Statutory Interpretation* (Stanford: Stanford Law Books, 2009) p. 24-57.
2. John H Farrar and Anthony M Dugdale, *Introduction to Legal Method*, 3rd ed. (London: Sweet & Maxwell, 1990) p. 167-85.



3. P.J Fitzgerald, *Salmond on Jurisprudence*, 12th ed., (London: Sweet & Maxwell, 1966), p.109-131.
4. Sharon Hanson, *Legal Method* (London: Cavendish, 1999), p. 39-58.
5. Roscoe Pound, 'Common Law and Legislation' (1908) 21 Harvard Law Review 383.

## Module Five: Sources of Law-2 (Precedents)

**Preface to Module:** The rule of precedent is a fundamentally important legal institution in common law countries: even the single judgment of a higher court speaks with a voice of authority and must be followed by lower courts. This doctrine is also known as *stare decisis*. It is one of the important contributions made by common lawyers to the theory and practice of jurisprudence and it has had some kind of impact in almost all legal systems. In England the principle that like cases should be treated alike can be traced back to the thirteenth century when Bracton wrote: 'If like matters arise let them be decided by like, since the occasion is a good one for proceeding a *similibus ad similia*'.

This module begins with an exegesis of the structure and hierarchy of courts in English and Indian law. From this, we move to the concept of *stare decisis*, and how it applies. This includes when a judgment is binding, on whom it is binding, and whether a court is bound by its own decision. In this light, we also examine the decision of the House of Lords in *Quinn v. Leatham*. Furthermore, we examine what aspects of a judgment are binding, that is, the distinction between *ratio decidendi* and *obiter dicta*. In this regard, we examine both conventional tests (e.g. Wambaugh and Goodhart) and later developments (the Montrose-Simpson debate). Students shall be required to not only understand these concepts, but also apply them to identify the *ratio* of judicial pronouncements. Considerable emphasis shall be placed on how these doctrines, especially the concept of



precedent, have been applied to Indian law. We will cover following important aspects of law of precedents:

- ❖ **Origin and nature of the precedent**
- ❖ **Various theories of precedent**
- ❖ **Precedent and court structure**
- ❖ **Law of precedent and Indian legal system**
- ❖ **Case law, judgment and opinion**
- ❖ **How to read a case and find its *ratio decidendi***

### ***Essential Readings:***

1. Rupert Cross & JW Harris, *Precedent in English Law*, 4th Ed. (Oxford: Oxford University Press, 1991).
2. Arthur L Goodhart, 'Determining the *Ratio Decidendi* of a Case ', (1930) 40 Yale Law Journal 161.
3. J L Montrose, '*Ratio Decidendi* and the House of Lords ', (1957) 20 Modern Law Review 124.
4. Virendra Kumar Sircar, "Law Declared" by the Supreme Court of India, 1962 All India Reporter (Journal Section) 113.

### ***Suggested Reference Materials:***

1. *Quinn v. Leathem* (1901) A.C. 495.
2. Neil Duxbury, *The Nature and Authority of Precedent* (Cambridge, Cambridge University Press, 2008).
3. A.W.B. Simpson, 'The *Ratio Decidendi* of a Case ', (1957) 20 Modern Law Review 413.
4. Glanville Williams, *Learning the Law*, 11th ed. (London: Sweet & Maxwell, 1982), p. 67-96.

## **Module Six: Sources of Law-3 (Customs)**

**Preface to Module:** In any scheme of teaching of jurisprudence custom has an important place as a source of law. In the evolution of human society, it appears to be beyond doubt that custom arose first, Law came later. Custom, as the raw material of law, is our natural starting -point, although, as



we shall see, there are those who hold that judicial interpretation is anterior even to custom and is, indeed, the true genesis of it. Whether this be so or not, it is certain that the influences of popular usage and of magisterial interpretation are never far separated in social history, and perhaps it is neither possible nor profitable to insist on any uniform chronology. Custom is regarded as a source of law, by various schools of thought, though they assign importance to it to a varying degree depending upon their approach and outlook. Having this motive this module would center its discussions on following aspects:

- ❖ **Nature and origin of custom**
- ❖ **Custom as a source of law in different legal systems including India**
- ❖ **Interpretation of Custom**
- ❖ **Application of Custom**

### ***Essential Readings:***

1. Dale Beck Furnish, 'Custom as a Source of Law', (1982) 30 American Journal of Comparative Law (Supplement) 31.
2. Sir C.K. Allen: Law in the Making. Oxford at the Clarendon Press. pp.426-530.

### ***Suggested Reference Materials:***

1. Richard A Epstein, '*International News Service v. Associated Press: Custom and Law as Sources of Property Rights in News* ', (1992) 78 Virginia Law Review 85.
2. P.J. Fitzgerald, *Salmond on Jurisprudence*, 12th ed., (London: Sweet & Maxwell, 1966), p. 189-212.
3. Dale Beck Furnish, 'Custom as a Source of Law', (1982) 30 American Journal of Comparative Law (Supplement) 31.
4. Gideon Lisbon, 'On the Development of Custom as a Source of Law in Islamic Law', (1997) 4 Islamic Law and Society 131.



5. Roscoe Pound, 'Hierarchy of Sources and Forms in Different Systems of Law', (1933) 4 Tulane Law Review 475.

## **Module Seven: General and Internet Based Legal Research**

**Preface to Module:** This module seeks to impart several skills to the student. The first among them is to source materials in the library. This includes searching for precedents and other references using tools like AIR Manual, Halsbury's Laws of England, Quinquennial Digests, law lexicons etc; identifying the right books, locating and extracting relevant information from them; locating journal articles from indices etc. The second aspect is research by using internet particularly of the use of popular search engines. Here, techniques like making searches more specific, using Boolean operators, and running file type-specific and site-specific searches are imparted. The second relates to the use of open-source databases like SSRN, CommonLII and JUDIS. The third pertains to subscribed access databases such as Manupatra, JSTOR and Heinonline. Then comes analyzing the information obtained, incorporating it into legal and academic arguments. We will discuss followings:

- ❖ **How to Use Law Library**
- ❖ **How to find out relevant authorities from print journals in the library**
- ❖ **How to use library online databases i.e. JSTOR, Manupatra, JUDIS, Heinonline etc.**

### ***Essential Readings:***

1. Glanville Williams, *Learning the Law*, 11<sup>th</sup> ed. (London: Sweet & Maxwell, 1982), p. 32-47, 173-78.
2. Robin K Mills, 'Legal Research Instruction in Law Schools: The State of the Art OR Why Law School Graduates do not Know How to Find the Law', (1982) 24 *Journal of the Indian Law Institute* 381.

### ***Suggested Reference Materials:***



1. Eileen B Cohen, 'Teaching Legal Research to a Diverse Student Body'. (1993) 85 Law Library Journal 583.
2. Stephen Elias and Susan Levinkind, *Legal Research*, 14<sup>th</sup> ed. (Berkeley: Nolo Press, 2007).
3. Sharon Hanson, *Legal Method and Reasoning*, 2<sup>nd</sup> ed. (London: Cavendish, 2003), p. 61-102.
4. H.C. Jain, 'Using a Law Library', (1982) 24 Journal of the Indian Law Institute 575.

## **Module Eight: Legal Writing**

**Preface to Module:** The study of law is closely connected with legal writing. This is time when students have to be trained in writing projects, research paper, reports etc. At the same time, students are also instructed on matters like how to cite various sources, net sources, which sources to rely upon and which to discard. Students are to be introduced to applying the logic of the law to fact situations, and also develop arguments in a structured and coherent manner. An aspect of this involves structuring one's research, and framing research methodologies and research designs. These shall be imparted through a mix of lectures and practical exercises. Subsequently, students shall be given a brief overview of the various sources of legal material, how they are classified as primary or secondary, and the relevance and uses of either. This shall be followed by intensive exercises in citation formats, and how they are to be used. Special emphasis shall be laid on how *not* to cite, that is, common errors committed in this regard. The correct forms of writing bibliographies are also to be taught here. We will learn in this module:

- ❖ **How to write a research paper/report/project etc.;**
- ❖ **Identification of research problem;**
- ❖ **Formulation of hypotheses;**
- ❖ **Research Design;**
- ❖ **Citing references and**



## ❖ Preparing a good bibliography

### ***Essential Readings:***

1. Reed Dickerson, 'Teaching Legal Writing in the Law Schools (with a Special Nod to Legal Drafting)', (1979-80) 16 Idaho Law Review 85.

### ***Suggested Reference Materials:***

1. E.P. Ellinger, KJ Keith, 'Legal Research: Techniques and Ideas' (1982) 24 Journal of the Indian Law Institute 213.
2. S. N Jain, 'Legal Research and Methodology', (1972) 14 Journal of the Indian Law Institute 487.
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*Wishing you a good luck!*

