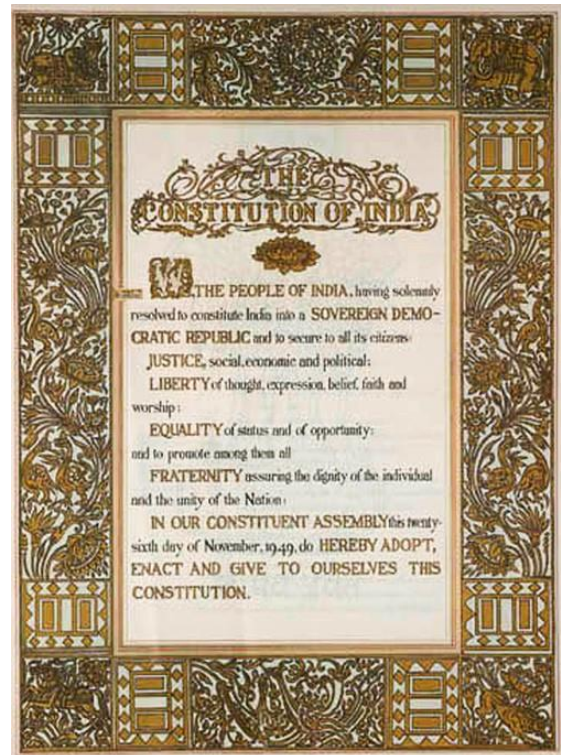


**Proposal to start interdisciplinary LL.M. programmes
with specializations in ‘environmental and natural
resources laws’ and ‘business and infrastructure laws’**



Proposal to start interdisciplinary LL.M. programmes with specializations in ‘environmental and natural resources laws’ and ‘business and infrastructure laws’

Background, context and need

Law plays an important role in the life of an individual and society and is a key tool to achieve policy goals. An appropriate legal framework can significantly contribute to economic growth and to ensuring sustainable development. But the efficacy of a legal system largely depends on the level of enforcement and it is here that the need for trained legal professionals becomes important. The importance of legal education assumes significance here.

Legal education in India both at the graduate (LL.B.) and post graduate (LL.M.) level has been neglected for a long period of time. With the introduction of the Five – Year integrated LL. B. programme and the setting up of National Law Universities in different parts of the country, the undergraduate legal education underwent major transformation in India. However, as the Working Group on Legal Education of the National Knowledge Commission has noted, there has been a steady decline in the quality of LL. M. programmes across the country. The ‘Round Table on Legal Education’ set up by the Ministry of Human Resources Development recommended the introduction of one year LL. M. programmes to attract talent. This suggestion made a lot of sense as LL. M. programmes in most of the developed countries are of one year duration. Acting upon the recommendations, the UGC in January 2013 issued *Guidelines for introduction of One Year LL.M. Degree Programme, 2012* allowing the universities to start one year LL.M. programme. Many law universities and some private universities have started one year LL. M. programme henceforth.

Infrastructure laws and Environmental laws are two emerging fields in legal practice. However, there is a dearth of qualified legal professionals in both these fields. None of the universities that started the one year LL.M. is offering programmes in either of these specialisations. It is in this context that TERI University proposes to start LL. M. programmes with specialisations in *environmental and natural resources laws* and *business and infrastructure laws*.

Capacity at TERI University

An LL. M. degree prepares a candidate to become a teacher, researcher, litigating lawyer and corporate lawyer. An inter-disciplinary perspective is demanded at this level and the course curriculum and pedagogy should correspond to the needs of interdisciplinary learning. TERI University with its unique strength in interdisciplinary learning in both the proposed fields of specialisations has an edge over other institutions. The programme could draw strength from the Departments of Policy Studies, Natural Resources, Business Sustainability and Regional Water Studies.

TERI University has been offering courses in law in various programmes for a long period. In addition, a number of short term programmes in law have been successfully organised in the recent past. The research projects at TERI and TERI University have focused on legal issues in an interdisciplinary setting. These reports can be good starting points for classroom discussions.

Summary of Consultations

A series of consultations were undertaken in the last one year as part of the needs assessment exercise. A number of professors, lawyers, partners of law firms and corporate legal counsel were consulted in the process. These consultations were aimed at eliciting different views on the relevance of the proposed specialisation streams, designing of the programme and its delivery, and career opportunities.

In addition, a National Consultation Workshop was held on 09 October 2015 at TU Campus (Full report of the Workshop is in Appendix 1). The unanimous view of the workshop was that the proposed specialisation streams reflected the strength of TERI University. It was also emphasized that the curriculum should balance theoretical rigour and practical orientation. The focus should be more on skill building rather than on mere teaching. For this purpose practicing professionals should be part of the course delivery. It was also pointed that a lot of emphasis should be given to dissertation. For this purpose, dissertation work should start from the beginning of the programme. The course on 'Research methods and legal writing' should be used for developing the research proposal. It was also suggested that writing skills, weekly

seminars, continuous internship and involvement in the research projects etc. needs to be integrated into the programme.

About the programme

TERI University proposes to offer LL. M. with specialisations in ‘business and infrastructure laws’ and ‘environmental and natural resources laws’.

Infrastructure is a major sector that propels overall development of the economy and society. India’s infrastructure development has been continuously developed over several years both in the urban and rural areas, even though many issues plague its implementation. India is rapidly urbanising and this is exerting pressure to create world-class and socially relevant infra projects. This will remain a priority of any government of the day. One major component of infrastructure development is a conducive and predictable legal regime. In India several business and financial models are being tested with the active involvement of private sector.

LL.M with specialization in “business and infrastructure laws” covers major infrastructure sectors like, transport (including railways); roads and ports; energy; telecommunications; urban infrastructure and water. The intent of this specialisation stream is to learn and critically analyse the fundamental legal concepts relating to business in general and various infrastructure sectors in particular; policies and programmes of government (both Centre and State) in these sectors; and business and financing models, its promotion and implementation both from the perspective of public and private enterprises.

Another neglected area of legal research and teaching in India is environmental and natural resources laws. But a developing country like India cannot ignore environmental concerns in its development process. The principle of integration ensures that these concerns are taken into account in all major economic decisions. A specialisation in environmental and natural resources law assumes great significance in India at this juncture.

The primary focus of LL. M. specializing in ‘environmental and natural resources laws’ stream is to understand how the legal framework, by clearly defining property rights, assigning liability for environmental harms, and prohibiting or setting conditions on environmentally damaging activities or placing adequate incentives can fundamentally realign economic activity

toward sustainability. This specialisation offers a broad range of introductory and specialised courses.

Eligibility

A candidate having an LL.B./B.L. Degree from any University / Institution recognised by UGC

or

A candidate having a Law Degree from a foreign University/Institute.

Programme structure

The programme is spread over two semesters and comprises of a set of core and elective courses and a dissertation. The UGC *Guidelines for introduction of One Year LL.M. Degree Programme, 2012* mandates a minimum of 24 credits with three mandatory courses (3 credits each), six optional courses (2 credits each) and a dissertation (3 credits). The proposed programme structure goes beyond what is mandated and draws on the interdisciplinary strength of TERI University.

Semester I

No:	Common Core Courses		Credits		
1	Research Methods and Legal Writing * (Leading to Dissertation)		3		
2	Comparative public law/systems of governance*		3		
3	Economic Foundations of environmental and infrastructure Law		1		
4	(Weekly) Seminar on contemporary issues in infrastructure and environmental laws		Audit		
7	Environmental and Social Laws relating to infrastructure		2		
Total			9		
Core Courses for specialisation					
Environmental and Natural Resources Laws			Business and Infrastructure Laws		
No	Course	Credit	No	Course	Credit
1	Environmental Law and Policy	2	1	Infrastructure Law and Policy	2
2	Mining and mineral laws	2	2	Contracts Law and Management (negotiation, management and conflict resolution)	2
3	International Environmental Law	3	3	Business and taxation laws in infrastructure projects	3
Total (Including Core Courses)		16	Total (Including Core Courses)		16

Semester II

No:	Common Core Courses			Credits		
1	Law and Justice in a globalizing world*			3		
2	Dissertation *			3		
3	(Weekly) Seminar on contemporary issues in infrastructure and environmental laws			Audit		
Total				6		
Core Courses for specialisation						
Environmental and Natural Resources Laws				Business and Infrastructure Laws		
No	Course	Credit	No	Course	Credit	
1	Environmental aspects of business transactions	2	1	Legal Aspects of Bidding and Public Private Partnership	2	
2	Forest Law and Policy	2	2	Infrastructure Project finance	2	
3	Electives	4	3	Electives	4	
Total (Including Core Courses)		14	Total (Including Core Courses)		14	

* Mandatory courses as per UGC Guidelines

Suggestive list of electives

Electives					
Environmental and Natural Resources Laws			Business and Infrastructure Laws		
No	Course	Credit	No	Course	Credit
1	Energy law (Oil, Petroleum, Renewables and Nuclear)	2	1	Energy law (Oil, Petroleum, Renewables and Nuclear)	2
2	Water Sector and Resources law	2	2	Urban infrastructure law	2
3	Climate Change and Law	2	3	Transport law (Railways, Roads, Airports, Inland and shipping)	2
4	Hazardous waste law	2	4	Water Sector and Resources law	2
5	Biotechnology law	2	5	Telecommunication law	2
6	International Trade Law and environment	2	6	Electricity Law, Reforms and Practise	2

Annexure I

Report of the National Consultation held on 09 Oct 2015

Participants

1. Prof N R Madhava Menon, Chancellor, NUEPA, New Delhi & Guru Ghasidas Central University, Chhattisgarh
2. Prof. Manoj Kumar Sinha, Director, Indian Law Institute
3. Ajay Gudavarthy, Centre for Political Studies, JNU
4. Shibani Ghosh, Lawyer & Fellow, Centre for Policy Research
5. Avijeet Lala, Associate Partner, HSA Partners
6. Mohit Abraham, Director Legal, UBER-India
7. Dhvani Mehta, Senior Resident Fellow, Vidhi Centre for Legal Policy
8. Prof S Sundar, Emeritus Professor, TERI University
9. Nandan Nawan, Department of Policy Studies, TERI University
10. Prateek Sharma, Dean Academics, TERI University
11. M V Shiju, Department of Policy Studies, TERI University
12. M P Ram Mohan, Department of Policy Studies, TERI University
13. Rishika Singh, Visiting Faculty, Amity Law School, and PhD Researcher, TERI University
14. Soumendu Sarkar, Department of Policy Studies, TERI University

Discussion Points

- 1. Prof. N R Madhava Menon**
 - Prof. N R Madhava Menon laid an emphasis on differentiating between the focus and the objective of the course. He said that the focus of the LLM courses should be interdisciplinary and not strictly doctrinal; skill and the application of the knowledge should be given priority over knowledge. Whereas, the objective of the course should be on scholarship, developing subject specific jurisprudence, national development, developing a think tank for national governance, problem solving and, research- based program.
 - Publication of the Dissertation should be the mandatory requirement for the grant of LLM Degree, and in furtherance to this, the Legal Research Methodology Course should lay one-third emphasis on methodology training and two-third focus on Research Proposal for dissertation (which includes hypothesis, research questions, data collection etc.).

- The suggested nomenclature of the program is “LL.M Natural Resources Law and Management” in place of “LL.M Environment and Natural Resources Law”, and “LL.M Infrastructure Law and Practice” in place of “LL.M. Business and Infrastructure Law”.
- Prof. Menon advised that the LL.M Courses must touch upon the Constitutional jurisprudence from the political, economic and international development perspective. Public Law must be taught in place of Legal Theory since it has a wider focus (Comparative Public Law, Sustainable Development and Public Trust Doctrine)
- Trimester system may be preferable,, but it might take lot of faculty and student time. However, TU may start with Semester system and then after few years switch to Trimester
- Weekly Seminars can be undertaken in consultation with the student body.
- Objectives and contents of each course must be clearly laid down.
- Evaluation should be given lot of thought, since the idea is to train the students and not teach. Criteria should be continuous and not just end-semester.
- Suggested Reading should not be limited to the text books but case study, reports, Parliamentary proceedings, World Bank Reports and UN Resources.
- The information with regard to the LL.M courses must be sent across the country to all the Law Universities and Colleges.
- Regulatory Law and Regulatory Jurisprudence (energy, economic development, infrastructure, NGT) should be focused on from two perspectives, that of, practitioners and academics.
- Economics is an important subject and should be taught to the students of LL.M.
- The course should be built in such a way that it produces legal, social and economic entrepreneurs.
- The course should have both entry and exit criteria. There should be good admission criteria, may be one can consider admitted students to make a short presentation. Similarly, exit, i.e., passing out should fulfil all the set conditions.
- Clinics should be established for skills development
- Citing TISS example of a full course on Criminology, TU should also tie-up with Govt: institutions to get sponsored participants. Ram Mohan mentioned his interaction with Dr KasibatlaJogaRao, Legal Adviser, Ministry of Law and Justice for a possible partnership.

2. Prof Manoj Sinha

Prof Manoj Sinha clarified that one year LL.M is fully recognized by UGC. There is no need for any apprehension. The student passing out is eligible to write NET and can do Ph.D. Indian Law Institute has written to UGC about this, and ILI received a response letter stating one year LL.M is fully recognised. Prof Sinha will share that letter to us.

In respect to faculty requirement, Prof Sinha made it clear that we could take adjunct faculty and other visiting faculty, all of this combined with TU’s law faculty will be sufficient.

3. Prof. Ajay Gudavarthy

- Dr Gudavarthy talked about the possible interlinkages between the legal courses and the current issues in society (crossover courses), for eg. Tension between environment and business laws. He is

of the opinion that courses designed should cater to all sections of society, and not positioning to business and pro-environment interests.

- He also mentioned that the application of knowledge and applied skills of the students should be developed through these courses.
- The idea of the course is to test principles to test. How have the principles fared in interpreting law.
- Possibility of a Student Exchange Program between JNU and TU during the weekly seminar will add a multidisciplinary approach to the subject.

4. Mohit Abraham gave his inputs on the importance of involving industry in the courses.

- He also mentioned that due importance and time must be given by students to Dissertation in order to produce work of publishable quality. Students should choose the dissertation topic when the course starts and continue the research and drafting for a year thereafter.
- Normally, LL.M is considered as an academic work. TU should have to have a good mix of academic and industry relevant courses.

5. Shibani Ghosh raised her concern about the nomenclature of the course and how “Management” includes policy, practice and dispute settlement process; therefore, the use of word ‘management’ for the course as suggested by Prof Menon, will be a tricky proposition.

- She also mentioned that the LL.M course should focus on imparting good writing skills.
- There should be an external board of supervisors for the Dissertation.
- Shibani mentioned the importance of teaching Administrative Law. Many of the new regulations, regulatory institutions are based on Administrative Law, and nobody is taking this subject seriously which is leading to many of the issues.

6. Dhvani Mehta gave her inputs on setting up clinics (regulatory clinics, infrastructure law clinics) and ensuring that the course equips the students with knowledge on contract/treaty negotiation and third world perspective.

- Have necessary international engagements such as an exchange program etc.

7. Rahul Bakshi spoke at length on application based learning and making the course more skill development oriented.

8. Avijeet Lala said that the course should be more industry responsive and the weekly seminars may include corporate/ industry part-time internship for students, so that they understand the regulatory framework better.

- Avijeet offered to make him available at his office on Saturday’s for students to come and learn practical things like contract negotiations, power purchase agreements etc.
- Avijeet has mentioned that importance of Business/Management skills as well in LL.M courses. Many times, lawyers are confronted with not just legal issues, but business issues, which clients seek as advice.

9. Rishika Singh raised a query with regard to the admission criteria- whether open only for the LLB graduates or graduates from other fields; minimum under graduation course duration (in years) for admission, to accommodate international students.

- Option could be given to students to choose wither from internship or dissertation and the allocation of credits could me made accordingly.