



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

PROGRAMME: B.A., LL.B. (HONS.) FYIC

DETAILS OF COURSE OFFERED

ODD SEMESTER (VII) – ACADEMIC YEAR :.....

SL NO	COURSE CODE	COURSE TITLE	L	T/P	CR	CH
1	BL703.6 (CONSTITUTIONAL LAW OPTIONAL PAPER- I)	HUMAN RIGHTS LAW AND PRACTICE I	4 PER WEEK	1 PER WEEK	4	

**A. CODE AND TITLE OF THE COURSE: BL703.6 (CONSTITUTIONAL LAW
OPTIONAL PAPER- I) ,HUMAN RIGHTS LAW AND PRACTICE I**

B. COURSE CREDIT: 4 (TOTAL MARKS 200)

C. MEDIUM OF INSTRUCTION: ENGLISH

D. COURSE COMPILED BY: DR. DIPTIMONI BORUAH

E. COURSE INSTRUCTOR: DR. DIPTIMONI BORUAH

1. COURSE OBJECTIVES

The Indian human rights perspective is different and unique when compared to the western perspective. India has been one of the oldest civilizations in the world having a chequered history of the existence of some sort of human right principles and values to secure a dignified and contented life for the people. Though at a certain point of time in her history a rupture occurred in this rich tradition resulting in the snatching away of the human rights of some segments of people in the society, the sense of appreciation for the ideals and values of human rights as the primary foundation stone remained intact since the beginning of India's civilization to till date. Though the ancient scriptures and the religious philosophies have made significant contributions in this field, the liberal ideals of human rights started with various social movements. The freedom movement during British colonial era and various other nationalist movements of independence era influenced the perception of human rights in a big manner.

In the post-independence times, the Constitution of India became the chief instrument for the national leaders to redeem their pledge of securing for the people the basic human rights through the provisions like the fundamental rights and the directive principles of state policy, along with the others. Provisions were also made with the futuristic vision to enable the government to enact law to set up certain bodies and institutions for the purpose of protecting and promoting the human right in the country. The course is so designed as to acquaint, train and equip the students with the comprehensive knowledge of Human Rights Law along with the ancient human rights precepts operating in Indian society. Students are motivated to study the human rights laws with historical, social and political perspective to understand the reasons for emergence and need of these legal instruments. The objective of the course is so designed as to acquaint, train and equip the students about the nature, scope and functioning of the Human Rights Law of India and its expanding horizons as has been judicially decided.

This course shall seek to achieve the following objectives, in particular:

- To inculcate the habit of reading and understanding of Human Rights Law
- To examine the historical development of Human Rights Law jurisprudence.
- To compare the Indian human rights instruments with the standards set by international and regional human rights instruments
- To identify emerging issues in the Human Rights Law development

- To get acquainted with the problems and lacunas of the Indian Human Rights Law
- To articulate opinions on significant, vital, controversial and current human rights issues

2. TEACHING METHODOLOGY

The teaching methodology shall aim at the generation of critical thinking among the students. The topic for a particular class shall be informed to the students beforehand and readings shall be assigned to them for the said topic. They are expected to have a basic idea about the topic prior to the class. Subsequent to a brief lecture on the topic, there shall be class discussion on the same as well as on the readings assigned. Pursuant to the class discussion, the teacher shall substantiate the issues raised and answer any questions posed or left unanswered. Debates shall also be organized at regular intervals.

3. COURSE LEARNING OUTCOMES

On completion of the course, it is humbly expected that the students shall:

- Comprehend the subject matter of the course
- Be able to analyze contemporary problems in the light of the concepts learnt
- Be able to articulate their ideas on the subject matter of the course
- Produce at least one research paper of publishable quality

4. COURSE EVALUATION METHOD

The course shall be evaluated for 200 marks. The evaluation scheme would be:

Internal Assessment: 70% (140 marks)

Semester End Examination: 30% (60 marks)

Sl. No.	Marks Distribution	
1	Project Work	40 marks
2	Seminar/Group Discussion	20 marks
3	Assignment/Assessment	30 marks
4	Mid-Semester Test	40 marks
5	Attendance in class	10 marks
6	Semester End Examination	60 marks

5. DETAILED STRUCTURE OF THE COURSE (SPECIFYING COURSE MODULES AND SUB-MODULES)

Module I

- 1. History of Human Rights in India:** a) Evolution and Analysis of natural Rights and Fundamental Rights; b) Human Rights in Ancient India- Vedic Period; c) Human Rights under Buddhism and Jainism; d) Human Rights during Hindu Rulers; e) Human Rights during Islamic Era
- 2. Human Rights in British India:** a) Rights of Indian People under British Rule; b) Indian National Congress Initiative; c) Motilal Nehru Committee Report, 1928; d) Constituent Assembly Debates on the Incorporation of Human Rights in the Proposed Constitution of India
- 3. Human Rights Law under Indian Constitution and Its Classification:** a) Preamble to the Indian Constitution and the Concept of Rights; b) The Enumerated Fundamental Rights; c) Non-Enumerated Human Rights; d) Directive Principles of State Policy; e) Fundamental Duties
- 4. Effect of Inclusion of Human Rights in the Indian Constitution:** a) Natural Rights Transformed into Fundamental Right; b) Fundamental Rights Operating as a Constitutional Limitation against State machinery - the Legislature, the Executive and the Judiciary

Module II

- 1. International Human Rights Treaty Mechanism and the Indian Constitution:** a) Effectuation of International Human Rights in India; b) Universal Declaration of Human Rights and the Indian Constitution; c) the Indian Constitutional Framework and the International Covenant
- 2. International Covenant on Civil and Political Rights and the Indian Constitution:** a) Influence of ICCPR on the Indian Constitution and Its Rights Mechanism – Fundamental Rights; b) Fundamental Rights for All and Fundamental Rights for Citizen Only
- 3. International Covenant on Economic, Social and Cultural Rights and the Indian Constitution:** a) ICESCR and Directive Principles of the State Policy; b) Justifiability of the Directive Principles of State Policy in the Light of ICESCR
- 4. India's Declaration and Reservation to the International Covenants on Human Rights:** a) Right to Self-Determination; b) Enforceable Rights to Compensation to the

Victim of Unlawful Arrest and Detention; c) Law Relating to Foreigners; d) Right to Form Trade Unions; e) Equal Opportunity for Promotion in Employment; f) Right to Work; g) Torture and India's Reservation

Module III

- 1. Restrictions Upon the Fundamental Rights in the Constitution:** a) Problems of Defining Restrictions on Fundamental Rights; b) need for Restrictions on Fundamental Rights;
- 2. State Emergency and Human Rights:** a) War-Emergency and other Emergency; b) State Emergency and its Impact on Fundamental Rights; c) Human Rights during State Emergency; c) Limitation and Derogation; d) Non-Derogable Human Rights *Versus* Derogable Rights
- 3. Preventive detention Laws and Human Rights:** a) National Security and Preventive Detention Laws in a State of Emergency; b) Preventive Detention Laws in the Time of Peace; c) Rights of a Person under Preventive Detention Laws; d) Order of Preventive Detention and Procedural Safeguards; e) Judicial Review and Preventive Detention Laws
- 4. Arbitrary Detention and Procedural Safeguard:** a) Habeas Corpus - Application of Habeas Corpus before Pre- Detention Stage; Application of Habeas Corpus During Emergency; b) Suit for damages for Illegal Imprisonment and detention; c) Human Rights and Extra-Judicial Killing; d) Human Rights and Disappearance

Module IV

- 1. Special Issues and Laws for Women Rights:** a) Human Rights of Women in India; b) Women under the Constitution of India; c) The Indian Criminal Legal System and Human Rights – Dowry Death (section 304-B), Abetment to Commit Suicide (Section 306); d) Protection of women from Domestic Violence Act, 2005; e) The Maternity Benefit Act, 1961; f) The Women Property Rights
- 2. Protection of Child Rights:** a) International Convention on the Rights of the Child and Special Protection for Children in Indian Law; b) Rights of Child under the Constitution of India; c) Right to Education; d) Regulation and Prohibition of Child Labour; e) Prohibition of Child Marriage; f) Protection of Children Against Sexual Abuse
- 3. Right to Equality and Special Provisions for the Weaker Sections:** a) Reservation Policy Under the Indian Constitution and Right to Equality; b) Protection of

Minorities; c) The UN Declaration on the Rights of Indigenous People and the Indian Constitutional Safeguards; d) Rights of Contract and Unorganized Worker and Bonded Labour

4. **State and Civil Society in India and human Rights Violation:** a) human Rights Violations in Private Domain – Family, Caste, Religious Groups; b) Human Rights in Public Domain – State, Dominant landlords, Employers and inter-Community Tensions; c) Unequal Access to natural Resources; d) Impact of Development Policies on Human Rights

6.PRESCRIBED READINGS

Basu, D.D., **Shorter Constitution of India**, Lexisnexus, New Delhi, India, 2017

Baxi, Upendra, **Globalization and the Future of Human Rights**, NALSAR Law Review, 2003

Clapham, Andrew, **Human Rights Obligations of Non-State Actors**, oxford University Press, Oxford, 2006

Choudhury, Shazia, et.,al, **European Human Rights and Family Law**, Hurt Publishing, Oxford and Portland, Oregon, 2010

Deol, Satnam Singh, **Human Rights in India: Theory and Practice**, Serials Publishing, New Delhi, 2011

Deva Surya, **Human Rights Realization in an Era of Globalization: The Indian Experience**, Buffalo Human Rights Law Review, Vol. 12, 2006

Freeman, Michael, **Human Rights – An Interdisciplinary Approach**, Atlantic Publications, 2003

Fenwick, Helen, **Civil Liberties and human Rights**, Routledge, Cavendish, Taylor and Francis Group, New York, 2007

Harding, Christopher, et. Al, **Human Rights in the Market Place: Exploitation of Rights Protection by Economic Actors**, Ashgate Publishing Company, London, 2008

Hannum, Hurst, Anaya, S. James and Shelton, Dinah L., **International Human rights: Problems of Law, Policy and Practice**, Walters Kluwer, Law and Business, Boston, Chicago, New York, the Netherlands, 2011

Hoffmann, Stefan-Ludwing (ed.), **Human Rights in the Twentieth Century**, Cambridge University Press, New York, 2011

Iyer, Venkata (ed.), **Democracy Human Rights and the Rule of Law: Essays in Honour of Nani Palkhivala**, Butterworths, New Delhi, India, 2000

Jain, M.P., **The Constitution of India**, 1950

Julius, Stone, **Human Law and Human Justice**, Universal Law Publishing Co., New Delhi, India, 2011

Moeckli, Daniel, Sangeeta, Shah, and Sivakumaran (eds.), **International Human Rights Law**, Oxford University Press, New York, 2007

Peerenboom, Randall, Peterson Carole I., and Chen, Albert H.Y. (eds.), **Human Rights in Asia**, Routledge, Taylore and Francis Group, London and New York, 2006

Raj Kumar C., and Others, **Human Rights, Justice, and Constitutional Empowerment**, Oxford University Press, 2007

Saxena, Priti, **Preventive Detention and Human Rights**, Deep and Deep Publications (p) Ltd., 2007

Sharma, B.R., **Freedom of Press Under the Indian Constitution**, Deep and Deep, New Delhi

Sreenivasulu, N.S., **Human Rights: Many Sides to a Coin**, Regal Publications, New Delhi, 2008

Symonides, Janusz, **New Dimensions and Challenges for Human Rights**, UNESCO and Rawat Publications, 2003

Sanajaoba, Naorem, **Rights of Oppressed Nations**, Deep and Deep Publications, New Delhi, 1996

Singh, Mahendra P., etc.,et., al (eds.), **Human Rights and Basic Needs**, Universal Publishing Co., New Delhi, 2008

United Nations Publications **UN Guiding Principles on Business and Human Rights**, Published by the Office of the High Commissioner of Human Rights, 2011

Yadav, Dr. Surya Narain, Banga, Indu, **Democracy, Development and Human Rights**, Inanada Prakashan, New Delhi, 2009

HUMAN RIGHTS LAW JOURNALS

- African Human Rights Law Journal
- Asia-Pacific Journal on Human Rights and the Law
- Australian Journal of Human Rights
- Buffalo Human Rights Law Review
- Canadian Human Rights Yearbook
- Canadian Journal of Human Rights
- Columbia Human Rights Law Review
- Dignitas: The Slovenian Journal of Human Rights
- East African Journal of Peace & Human Rights
- East European Human Rights Review
- European Human Rights Law Review
- European Yearbook of Minority Issues
- Harvard Human Rights Journal
- Health and Human Rights: An International Journal
- Human Rights
- Human Rights & Globalization Law Review
- Human Rights & International Legal Discourse
- Human Rights Brief
- Human Rights Law Journal
- Human Rights Law Review
- Human Rights Quarterly
- Human Rights Review
- Indian Journal of Human Rights and the Law
- Inter-American and European Human Rights Journal
- Intercultural Human Rights Law Review
- Interdisciplinary Journal of Human Rights Law

- International Journal of Transitional Justice
- International Review of the Red Cross
- Israel Yearbook on Human Rights
- Journal of Human Rights
- Journal of International Humanitarian Legal Studies
- Law & Ethics of Human Rights
- Muslim World Journal of Human Rights
- Netherlands Quarterly of Human Rights
- New York Law School Journal of Human Rights
- Northwestern University Journal of International Human Rights
- Religion and Human Rights
- South African Human Rights Yearbook
- South African Journal on Human Rights
- SUR - International Journal on Human Rights
- The International Journal of Human Rights
- The Mediterranean Journal of Human Rights
- Yale Human Rights & Development Law Journal
- Yearbook of International Humanitarian Law