



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

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

DETAILS OF COURSE OFFERED

EVEN SEMESTER (IV) – ACADEMIC YEAR.....

| SL. NO | COURSE CODE | COURSE TITLE | L | T | P | CR | CH |
|---------------|---|--|---------------------------|---------------------------|----------|-----------|-----------|
| 1 | BL401.4 (HISTORY, MAJOR- IV) | INDIAN LEGAL AND CONSTITUTIONAL HISTORY I | 4 PER WEEK | 1 PER WEEK | | 4 | |

- A. CODE AND TITLE OF THE COURSE: BL401.4 (HISTORY, MAJOR- IV),
INDIAN LEGAL AND CONSTITUTIONAL HISTORY I**
- B. COURSE CREDIT: 4 (TOTAL MARKS 200)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: NAMRATA GOGOI**
- E. COURSE INSTRUCTOR: NAMRATA GOGOI**

1. COURSE OBJECTIVES:

There is an inherent relationship between History and Law. the study of a legal system of a country in its entirety is possible only by studying the historical development of the legal institutions and the historical context in which they originated. Therefore, the study of Legal History of India is of paramount importance to students of Law. An adequate knowledge of the origins and development of legal institutions in India starting from the early times to the present is a necessary tool for those seeking comprehensive knowledge of the Indian Legal System.

Since the history of India is one marked with constant changes, the judicial system is also emblematic of those changes. It is important to look at the gradual process through which contemporary India came into being and how it affected the institution of the courts and the law. Our present legal system is as much a product of the legal institutions of the ancient and medieval period, as a legacy of our colonial past. It is important to look at the gradual process through which contemporary India came into being. A historical perspective on the study of these institutions throw light upon the process of evolution of these institutions throughout the different periods of time. Traditionally the study of Legal History focuses on the legal institutions like the courts and their origins, the judiciary, concepts of crime and punishment, Law books and codification, legal reforms etc.

2. The teaching methodology shall be participatory teaching with discussions on the topics included. The students are informed in advance of the topic for discussion and the topic of project / assignment they have to prepare. The students prepare their topics from the sources suggested to them. The students are also encouraged to do independent research on their respective assignments. In the classroom every student is required to present his/her topic and to have his/her doubts cleared through discussion. The teacher will be helping and guiding the students in their pursuits of legal learning. The teacher summarizes after the students have completed their discussion, and he clarifies the doubts, if any, and answers their queries.

3. EXPECTED OUTCOMES OF THE COURSE: On completion of the Course the students are expected to have acquired the basic understanding of the Indian Legal system and the process of its evolution through the ages. Since the field of study of Legal History lacks adequate research in recent times, it is expected that students who develop an interest in the subject may take it up as a field of further research at master's level.

4. COURSE EVALUATION METHOD

All theory Courses (with the exception of Clinical Papers and CBCC) will be evaluated on 200 marks. The Evaluation Scheme would be as follows:

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

Introduction to Legal History:

Contents of Legal History; Importance of Legal History for students of Law

Judicial System in India: Ancient and Medieval Period

Ancient Hindu social order, institutions and religious philosophy; Concept of Dharma; Sources of Law; Legal literature; Constitution of Courts and judicial procedure; Crimes and punishment

Islamic social order; Political theory and religion; Constitution of courts in different administrative units; Appointment of judges; Institution of lawyers; Crimes and punishment

Early administration of Justice in the Colonial Period

European settlements in India; Early Charters of the English East India Company; Factory at Surat; Administration of justice in the early settlements in Madras, Bombay and Calcutta

MODULE II

The Mayor's Court:

Charter of 1687; Charter of 1726; Establishment of Corporations, Mayor's Court – Composition, Procedure, Justices of Peace; Distinctions between the Madras Charter of 1687 and the Charter of 1726; Reforms under the Charter of 1753; Abolition of Mayor's Courts; the Courts of Requests (Small Cause Courts)

The Adalat System:

Dual government of Bengal; Evolution of the Adalat System; Warren Hastings' Plan of 1772; Plan of 1774; Reorganisation of Adalats in 1780; Reforms of 1781; Important provisions of Pitt's India Act 1784; Judicial Reforms under Lord Cornwallis- Judicial Plan of 1787, Judicial Plan of 1790 and the Judicial Plan of 1793

The Regulating Act of 1773:

Features of the Regulating Act, 1773; Legislative powers under the Act of 1773; Establishment of the Supreme Court of Judicature at Calcutta; Defects of the Regulating Act, 1773; Trial of Raja Nand Kumar; the "Patna" case; the "Cossijurah" case

MODULE III

Establishment of the High Court:

The Indian High Courts Act, 1861; Establishment of High Courts at Calcutta, Bombay, Madras and Allahabad; the Indian High Courts Act of 1865 and 1911; Government of India Act, 1915- establishment of High Courts at Patna and Lahore; Government of India Act, 1935- provisions regulating the establishment, constitution, jurisdiction and powers of the High Courts; High Courts after the Constitution of India was adopted

The Privy Council:

Origins – the Curia Regis, Judicial Committee of the Privy Council; Rules guiding appeals to the Privy Council; Appeals from India to the Privy Council under the early

Charters, from the High Courts and the Federal Court; Abolition of the Privy Council Jurisdiction Act, 1949

6. PRESCRIBED READINGS

- Keith, A.B (2010). A Constitutional History Of India. New Delhi: Pacific Publication
- Kulshrestha, V.D. (ed.) (2019). Landmarks in Indian Legal and Constitutional history. Delhi: Eastern Book Company
- Gupta, S (2006). History of Legal Education, Delhi: Deep & Deep Publication
- Jain, M.P. (2014). Outlines of Indian Legal and Constitutional History. Bombay: LexisNexis
- M. Rama Jois (2014). Legal and Constitutional history: Ancient, Judicial and Constitutional System. New Delhi: Universal Law Publishing Co.
- Mittal, J.K.(2017). Indian Legal and Constitutional History. Allahabad: Allahabad Law Agency
- Singh, M.P. (2015). Outlines of Indian Legal and Constitutional History. New Delhi: Universal Law Publishing
- Tripathi, S.C. (2015). Indian Legal and Constitutional History. 3rd ed. Delhi: Central Law Publication
- Tripathi, G.P.(2015). History of Courts and Legislation .Delhi: Central Law Publication
- Rao, R.S.(2018). Lectures on History of Courts and Legal Profession in India. Delhi: Asia Law House
- Rai, K. (2016). Indian Legal and Constitutional History. Allahabad: Allahabad Law Agency
- Kapoor, A.C.(1985). Constitutional History of India 1765-1984. Delhi: S. Chand & Company Pvt. Ltd.
- Mukherjee, M. (2011). India in the Shadows of Empire: A Legal and Political History. New York: Oxford University Press

- Cassels, N. G. (2010). *Social Legislation of the East India Company: Public Justice versus Public Instruction*. New Delhi: Sage Publication