



**NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM**

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

**DETAILS OF COURSE OFFERED**

**ODD SEMESTER (III) – ACADEMIC YEAR .....**

<b>SL. NO</b>	<b>COURSE CODE</b>	<b>COURSE TITLE</b>	<b>L</b>	<b>T</b>	<b>P</b>	<b>CR</b>	<b>CH</b>
<b>1</b>	<b>BL304</b>	<b>CONSTITUTIONAL LAW OF INDIA II</b>	<b>4 PER WEEK</b>	<b>1 PER WEEK</b>		<b>4</b>	

- A. CODE AND TITLE OF THE COURSE: BL304, CONSTITUTIONAL LAW OF INDIA II,**
- B. COURSE CREDIT: 4 (TOTAL MARKS 200)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: DR. HIMANGSHU RANJAN NATH**
- E. COURSE INSTRUCTOR: DR. HIMANGSHU RANJAN NATH**

**1. COURSE OBJECTIVES:**

The Constitution of India is supreme *lex*, the paramount law of the land and all the instrumentalities of the government and administration come under the preview of the Constitution. Every organ of the government be it the executive, legislature or the judiciary and even the other constitutional authorities derive their power from the Constitution. However, the judiciary has been assigned the delicate task of determining the limit of powers between the organs. The Supreme Court has emphasised that judicial approach to the Constitution should be dynamic rather than static, pragmatic and not pedantic, elastic rather than rigid. Constitution is not to be interpreted as mere statute but as a system through which laws are made.

In the Constitutional Law I (paper 205) taught in the previous semester, the students have been taught about the importance of Salient features of the Constitution, Constitutionalism, Preamble, Rule of Law, Citizenship, Amendment, Fundamental Rights and DPSP.

The solemn object of this course is to acquaint, train and equipped the students about the structure, composition, powers and functions of the three apex organs of the government at the central and the state level as well as the other Constitutional authorities and the inter-relationship of these organs. The concept of good governance is based on the maxim *salus papule suprema lex* (welfare of the people is the supreme law) has not only to be kept in view but also has to be revered for which the function of the executive entirely rest on the constitutional trust repose in the PM/CM. However, the present constitutional scenario shows that the solemn constitutional duties and responsibilities have systematically been ignored by the successive governments resulting considerable corruption at all level of the government including making criminalisation of politics as a rule by all political parties.

The existing relationship between the Centre and the States and the peculiar features inherent in the Indian federalism which is not seen in other federal state is also covered so as to inform the students about the functioning of co-operative federalism. Special status guaranteed to some States under the Constitution of India has also been included in this discourse.

Since free and fair election has been held as the basic feature of the constitution the students shall be taught about the constitutional mechanism provided to carry out a democratic process of election in India as well as the functions of the Election

Commission. Further the course covers the discourse of the limitation on the amending power of the Parliament in light of the landmark judicial decisions. The constitutional scheme for governing services under the Union and the States, the provisions related to Administrative Tribunals are also covered under this course.

## **2. TEACHING METHODOLOGY:**

This course is designed to bring the best of analytical aptitude in the students and to provide them best opportunity to make their ability to link theory with practical context. The teaching methodology shall be participatory teaching with discussions on constitutional norms, principles, doctrines, precedents and statutory laws relating to the subject. The students will be informed in advance about the topic of discussion, project and assignment. They are suggested to prepare their assignments from the sources suggested and are encouraged to research independently from other authentic sources. The students are required to present their assigned topic in the class room and the teacher will summarize the same, welcome questions and present critical reflection if any. Further, for greater interest of the students, it has been proposed to take weekly tests and surprise tests in the classroom after completion of a topic included in the course content.

## **3. EXPECTED OUTCOMES OF THE COURSE:**

On completion of the Course students are expected to understand the basic concepts and underlying ideas of each module and thereby they shall be in a position to understand the basics of Constitutional Law as regards structure, composition, powers and functions of the three apex organs of the government at the central and the state level, and the other Constitutional authorities. The students would be immensely benefited in their individual life as well as for practising in the court by well acquitting with the powers, functions, duties and responsibilities of the organs of the government. Likewise being a conscience citizen, who may be interested, can be involved in politics; they would be considerably benefitted after fully understanding the nuances of the election laws of the country.

## **4. COURSE EVALUATION METHOD:**

The Course 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**

#### **Instrumentalities of Union Government**

1. Parliament – Constitution, Composition and Functions of Parliament, Legislation, Qualifications and Disqualifications, Anti-defection, Parliamentary Privileges, Control of Public Finance and Parliamentary Committees.
2. Executive – Powers and Positions of the President, Vice-President and the Prime Minister, Council of Ministers, Collective Responsibility, Interrelation between the Executive and the Parliament.
3. Judiciary – Composition, Qualification, Appointment and Removable of the Judges of the Supreme Court, Jurisdiction, Judicial Review, Judicial Activism, Public Interest Litigation, Independence of Judiciary and Accountability of Judges.

### **MODULE II**

#### **Instrumentalities of State Government and Law Relating to Election**

1. State Legislature – Constitution, Composition and Functions of the State Legislature, Dissolution of the House.

2. Executive – Powers and Position of the Governor, Appointment of the Chief Minister, Dissolution of the Government
3. Judiciary – Composition, Qualification, Appointment and Removal of the High Court Judges, Writ jurisdiction of High Court.
4. Election – Constitution, Composition, Powers and Functions of Election Commission of India, Bar on the Courts to interfere with the election matters.

### **MODULE III**

#### **Centre-State Relations**

1. Legislative Relation – Distribution of legislative powers, VII Schedule, Residuary Powers, Doctrines of Interpretation of lists: Pith and Substance, Repugnancy, Colourable Legislation, Eminent Domain, Harmonious Construction etc.
2. Administrative Relation – Distribution of Executive Powers, Co-operative Federalism, Inter-State Council, River-water Disputes, Full Faith and Credit,
3. Financial Relation – Distribution of revenue and tax proceeds between Centre and State, Finance Commission

### **MODULE IV**

#### **Emergency, Freedom of Trade and Commerce, Services under the Union and States & Special Status**

1. Emergency – National, State and Financial Emergency, Effect of Emergency on Federal Structure, Emergency and Fundamental Rights.
2. Freedom of Trade and Commerce – Meaning, Importance and Functioning in India.
3. Services under the Union and States – Conditions of service, Termination of Service, Doctrine of Pleasure, All-India Services, State Public Service Commissions, Service Tribunals under the Constitution.  
Special Status – Special Status to certain States and to ST's and SC's, Needs and Justifications.

### **6. PRESCRIBED READINGS:**

There are several books on Constitutional Law which may assist the students' in their study and research in the relevant areas. The preferred books, which are available in the NLUA Library are: Shorter Constitution of India–Dr D. D. Basu, Indian Constitutional Law–M. P. Jain, Constitutional Law of India–H. M. Seevai, Constitutional Law of India–V. N. Shukla, The Constitutional Law of India–Prof. Kailash Rai, Constitutional Law of India–Prof. Narender Kumar, Constitutional Law–Ranbir Singh & Lakshinath etc. The students are advised to go through the relevant law journals for recent judicial decisions as most of the text books so available don't have the updated case laws. Apart from these main stream books, the students are advised to go through various reference books on the subject available in the NLUA library and the epic autobiography of judges, constitutional lawyers and eminent jurists. However, there is a long list of suggested books being attached separately at the end of the course modules. Students are advised to use references from the said list for their in-depth knowledge, project research and independent research for publication.

#### **Case Law Reporter/Journals:**

Students are suggested to go through the exclusive case law reports on Constitutional Law as All India Reporter, Supreme Court Cases, Delhi Law Times, Delhi Law Review, Gauhati Law Reporter, Gauhati Law Times, Judgment Today etc. Apart from the two journal published by the NLUJAA, the relevant journals in this area which students can subscribe are: Journal of Indian Law Institute, National Law School of India Review, International Journal of Constitutional Law, Journal of Constitutional & Parliamentary Studies, Harvard Journal on Legislation etc. The students are also suggested to go through the periodicals like Economic and Political Weekly, Yojna, India Today, Civil Service Chronicle, Frontline and other online sources of information for understanding contemporary issues emerging in Indian polity and governance.

#### **List of Relevant Print and Online Resources:**

1. Commentary on the Constitution of India – Dr D D Basu, 8<sup>th</sup> Edition, Wadhwa & Company, Nagpur
2. Constitutional Law – Ranbir & Lakshinath Singh, 3<sup>rd</sup> Edition, Lexis Nexis Butterworths, Wadha, Nagpur, 2008
3. Constitutional Law of India – H. M. Seevai, 4<sup>th</sup> Edition, Universal Law Publishing Co Pvt Ltd, Delhi, 1983
4. Constitutional Law of India - V. N. Shukla, 12<sup>th</sup> Edition, Eastern Book Company, Lucknow, 2013
5. Dattar Commentary on the Constitution of India – Arvind P. Dattar, 2<sup>nd</sup> Edition, Wadhwa & Co. Nagpur, 2007
6. Indian Constitutional Law- M. P. Jain, 8<sup>th</sup> Edition, LexisNexis, Gurgaon, 2018 (Reprint)
7. Introduction to the Constitution of India – Dr D D Basu, 20<sup>th</sup> Edn., Lexis Nexis Butterworth, Wadhwa, 2010
8. Modern Constitutions – K C Wheare, 2<sup>nd</sup> Edition, Oxford University Press, London, 1966.
9. Report of National Commission to Review the Working of the Constitution
10. Shorter Constitution of India – Dr D. D. Basu, 13<sup>th</sup> Edn, Wadhwa, Nagpur
11. The Constitutional Law of India – Prof. Kailash Rai, Central Law Publications, Allahabad, 2009
12. The Indian Constitution, Cornerstone of a Nation – Granville Austin, Oxford University Press, London, 1974
13. The Law and the Constitution – Sir Ivor Jennings, 5<sup>th</sup> Edition, University of London Press Ltd, London, 1973.
14. The Making and Working of Indian Constitution – Dr Shibani K. Chaube, 1<sup>st</sup> Edition, National Book Trust, New Delhi, 3<sup>rd</sup> Reprint 2013.
15. Working a Democratic Constitution, Indian Experience – Granville Austin, Oxford University Press, New Delhi, 2003.
16. Does India Need a New Constitution? – B. L. Hansaria, 1<sup>st</sup> Edition, Eastern Law House, New Delhi, 1998
17. Sixth Schedule to the Constitution – Justice B. L. Hansaria, 3<sup>rd</sup> Edition, Universal Law Publishing, New Delhi, 1983
18. The Administrative Tribunal Act, 1985
19. The Representation of the People Act 1950 and 1951

20. Report of National Commission to Review the Working of the Constitution
21. Report of the various Committees constituted for electoral reforms in India
22. Reports of the Law Commission of India on Electoral Reforms
23. Sarkaria Commission's Report on Centre-State Relation