



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

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

**DETAILS OF COURSE OFFERED**

**EVEN SEMESTER (VIII) – ACADEMIC YEAR .....**

<b>SL. NO</b>	<b>COURSE CODE</b>	<b>COURSE TITLE</b>	<b>L</b>	<b>T/P</b>	<b>CR</b>	<b>CH</b>
<b>1</b>	<b>BL805.6 (CONSTITUTIONAL LAW SPECIALIZATION GROUP PAPER- III)</b>	<b>LEGAL PHILOSOPHY INCLUDING THEORY OF JUSTICE-I</b>	<b>4 PER WEEK</b>	<b>1 PER WEEK</b>	<b>4</b>	

- A. CODE AND TITLE OF THE COURSE: BL805.6, (CONSTITUTIONAL LAW SPECIALIZATION GROUP PAPER-III) ,LEGAL PHILOSOPHY INCLUDING THEORY OF JUSTICE**
- B. COURSE CREDIT: 4 (TOTAL MARKS 200)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: SAHEB CHOWDHURY**
- E. COURSE INSTRUCTOR: SAHEB CHOWDHURY**

## **1. COURSE OBJECTIVES:**

Knowingly or unknowingly, our everyday lives are governed by various laws. The character of laws and the legal system we are part of is affected by various internal and external social, political and economic factors. Further, the quality of the law and the legal system is also determined by the principles of justice followed therein. Therefore, this course introduces interested students to different philosophical questions relating nature of law, legal obligation, relation between law and morality and other social, economic and political factors. Further, the course also introduces the students to various competing theories of justice. Moreover, it also deals with the question of extending justice beyond time and spatial boundaries. Lastly, the course looks into the different questions of justice in punishment. This course has been designed so as to inculcate in students in critical independent thinking and to train and encourage them in using various argumentative and reasoning tools in understanding contemporary legal and political issues.

## **2. TEACHING METHODOLOGY**

The National Law University, Assam encourages participative learning among students. Students are expected to study the assigned readings in addition to recommended books. Further they are also required to study various decided cases to understand how the law and legal theories as they are taught play out in practice. This is done to develop among students ability to critically analyse and understand what they study. Following method shall be adopted to facilitate learning of this paper:

- Lecture by Faculty
- Reading and writing assignments
- Presentation by the Students
- Group Discussion
- Case study

## **3. COURSE LEARNING OUTCOMES**

On completion of the course, the students would be able to understand and develop a critical insight into the various debates, positions and arguments in the field of legal philosophy and the various contemporary theories of justice. The subject is tailored in such a way students are not just introduced to philosophical questions about law and justice but also to apply them to various constitutional questions and case laws. This is hoped to equip an interested students with tools, techniques, argumentative capabilities and critical reading abilities in understanding the laws and legal system they are part of.

#### 4. COURSE EVALUATION METHOD

The Course shall be assessed out of 200 marks. The impetus is on Continuous Assessment. The Evaluation scheme is 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 Philosophy:

What is Philosophy of Law? What is law and its characters? Why obey the law? (Legal, Moral and Political Obligation)

##### MODULE II

Legal Positivism, Legal Realism, Dworkin's Interpretivism,

What is Natural Law? Natural Law and Legal Reasoning, What law ought to be? Relation between Law and Morality (Judicial Review)

Law and Economics: Economic Analysis of Law

Law and Politics: Critical Legal Studies Movement.

##### MODULE III

Introduction to Justice:

What is justice? Different types of justice (Economic, Social and Political)

Constitution of India, The Supreme Court of India and Principles of Justice

Different theories of Justice: Utilitarianism, Metaphysics, Justice as Fairness (Egalitarianism), Libertarianism, Communitarianism, Deliberative Democracy.

Social, Economic and Political Equality.

Liberties and Freedoms and their Limits.

## **MODULE IV**

Justice and Beyond: Justice between Generations (Climate change, Limited Resources and Population), and Global Justice.

Reparative Justice.

Justice, Crime and Punishment.

Restorative Justice.

### **6. PRESCRIBED READINGS (BOOKS AND ARTICLES):**

1. Scott Shapiro, Legality.
2. HLA Hart, The Concept of Law.
3. Plato, Crito.
4. Stanford Encyclopedia of Philosophy, Political Obligation.
5. John Rawls, "Legal Obligation and the Duty of Fair Play"
6. Robert Paul Wolff, The Conflict Between Authority and Autonomy
7. Ronald Dworkin, Hard Cases.
8. Ronald Dworkin, Taking Rights Seriously.
9. Brian Leiter, American Legal Realism.
10. Brian Leiter, Naturalising Jurisprudence: Three Approaches.
11. John Garner, Law and Morality.
12. Devlin, The Enforcement of Morals.
13. HLA Hart, Law, Liberty and Morality.
14. John Finnis, Natural Law and Natural Rights
15. Mark Greenberg, How Facts Make Law.
16. Richard Posner, Economic Approach to Law.
17. Jeremy Bentham, The Principles of Morals and Legislation.
18. John Stuart, Mill Utilitarianism.
19. John Locke, Second Treatise.
20. Robert Nozick, Anarchy, State and Utopia.
21. T.M. Scanlon, "Libertarianism & Liberty" Boston Review.
22. John Rawls, Justice as Fairness: A Restatement.
23. G.A. Cohen "Incentives, Inequality, and Community".
24. Elizabeth Anderson "What is the Point of Equality?".
25. Michael Ignatieff "Human Rights as Idolatry".
26. Joshua Cohen "Minimalism about human rights: the most we can hope for?".
27. Leif Wenar "Property Rights and the Resource Curse".
28. Stanford Encyclopedia of Philosophy, "Legal Punishment".
29. Stanford Encyclopedia of Philosophy, "Retributive Justice".
30. Taylor Mangan, Capital Punishment: A Philosophical Rejection of Punishment by Death.
31. Pojman, Louis, 'In Defence of the Death Penalty.
32. Cass Sunstein and Adrian Vermeule "Is Capital Punishment Morally Required?"

33. Joel Feinberg, "The Expressive Function of Punishment".
34. Claire Finkelstein, "Punishment as Contract".
35. Heather Strang and Lawrence Sherman, "Repairing the Harm: Victims and Restorative Justice"
36. FAMM, "Alternatives to Incarceration in a Nutshell"
37. Darren Bush, "Law and Economics of Restorative Justice"
38. Jean Hampton, "The Moral Education Theory of Punishment"
39. Michael S. Moore, "Justifying Retributivism".
40. Jean Hampton, "The Moral Education Theory of Punishment".
41. Christopher New, "Time and Punishment"
42. Internet Encyclopedia of Philosophy, "Punishment".
43. Harry Frankfurt, 'Equality as a Moral Ideal'.
44. G.A. Cohen, 'On the Currency of Egalitarian Justice?'
45. Derek Parfit 'Reasons and Persons'.
46. Jeremy Waldron, 'Superseding Historic Injustice'.
47. H.L.A. Hart, 'Prolegomenon to the Principles of Punishment'.
48. Joel Feinberg, 'The Expressive Function of Punishment'.