



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

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

**DETAILS OF COURSE OFFERED**

**ODD SEMESTER (VII) – 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>BL705.6 (CONSTITUTIONAL LAW, SPECIALIZATION GROUP PAPER-I)</b>	<b>INDIAN FEDERALISM–I</b>	<b>4 PER WEEK</b>	<b>1 PER WEEK</b>	<b>4</b>	

- A. CODE AND TITLE OF THE COURSE: BL705.6 (CONSTITUTIONAL LAW, SPECIALIZATION GROUP PAPER – I), INDIAN FEDERALISM–I**
- B. COURSE CREDIT: 04 (TOTAL MARKS 200)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: HIMANGSHU RANJAN NATH**
- E. COURSE INSTRUCTOR: HIMANGSHU RANJAN NATH**

## **1. COURSE OBJECTIVES**

The founding fathers of Indian freedom struggle and the creative architect of the Indian constitution, which gave expression to the aspirations of the people and shape to the machinery of governance of our nation, had two paramount purposes as inspirational vision- the living vitality of Bharat's unity and the pluralistic nature of its diversity, both being accommodated by adopting federal structure for its polity. The paramount task before the Constituent Assembly was the construction of a Constitution with clever jural gymnastics without fabricating the regulation of legislative, administrative and financial relations between the states and the union through which the material salvation of the hundreds of millions of little Indians can be achieved. To house the wishes and aspiration of people, the Assembly, therefore, constructed a Constitution based on a federal structure.

Since its inception, the Indian Federalism has been called upon to meet many challenges. To improve the material well-being of the people, the country has embarked on comprehensive socio-economic planning pervading all aspects of national life, such as industry, agriculture, land reforms, population control, exploitation of natural resources and provision of such social services as education, health, housing, etc., and this has necessitated a complete mobilisation of the country's resources. Then, India has faced complications in its working due to several political ups and downs because of the centralising attitude of some political power bearers and there have been strains within the federation itself resulting the emergence of several regional power brokers, mainly because of lack of sweet will of the central government for all-round development of different provinces forming the federation. These various forces and compulsions have shaped and moulded Indian Federalism.

This course is divided into two papers *viz.* Indian Federalism-I and Indian Federalism-II. This course (i.e. Indian Federalism-I) aims to make the students understand the federal principle and theory, since India has adopted a federal set-up. The object shall be achieved by dealing with the understanding the concepts of Constitutional law and Federalism as a basic limitation of Constitutionalism, together with Constitutional provisions regarding division of powers and the three lists in the Seventh Schedule of the Constitution, and related provisions. The way this division

has been handled by the Supreme Court and other instrumentalities dealing with federal aspects, together with the emerging challenges before the Indian federal set-up shall also be analysed in detail.

## **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 class tests in the classroom after completion of a topic included in the course content.

## **3. COURSE LEARNING OUTCOMES**

On completion of this course, students are expected to understand the basic concepts of federalism and underlying ideas behind forming Indian as a federation instead of a unitary state. Emphasis has been given in designing each module in a way that the students shall be in a position to understand the meaning of constitutionalism, limited government and federalism as an attribute to limit the functions of government. Several important topics such as impression of federalism in the constitutions of USA, Australia and Canada has also ben incorporated in the syllabus. Further, the most important aspect of federalism in India – the centre-state relation will also going to be taught in this course along with its grey areas. On the completion of the course, the students would be able to understand and acquainted themselves with the functioning, nature and dimensions of Centre-State relations in India. In order to have good governance as acclaimed by the government of the present day, the tussle between union and provincial governments has to come to an end. Though the judiciary playing a vital role in this regard, through its creative wisdom has took a *via media* making some balance but, still there are many things to redress. On the

completion of this paper, it is expected that the students will be able to develop a good conceptual knowledge over Indian federalism and its current issues and dimensions.

#### **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**

##### **Federalism: Some Basic Principles**

1. The concepts of Constitution and Constitutional Law – Definition, Kinds and Types of Constitution, Constitutionalism and the idea of Limited Government.
2. Federalism – An aspect of Constitutionalism, Confederation and Federation: Fundamental Distinctions, Basic Characteristics of a Federal Constitution, Federalism in UAS, Australia and Canada
3. Federalism in India – Federal Character of Indian Constitution, Unitary Features of the Constitution of India, Judicial Interpretation.

## **MODULE II**

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

1. Distribution of Legislative Powers – Constitutional Provisions, Subject-wise Distribution of Legislative Powers, Principles of Interpretation of the Lists, Rules of Judicial Interpretation, Exceptions
2. Territorial and Subject Matter Limitation – Doctrine of Territorial Nexus, Inter-relation of Entries, Residuary Powers, Repugnancy

## **MODULE III**

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

Distribution of Administrative and Executive Powers – Constitutional Provisions, Centre-State Administrative Co-ordination, Inter-governmental Delegation of Functions, Centre's Directives to the State, Common Civil Service

## **MODULE IV**

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

Distribution of Fiscal Power – Constitutional Scheme of allocation of taxing powers, Restriction of Fiscal Power, Grant in Aid, Difference between Tax, Fee and Surcharge, Finance Commission, Niti Ayog, GST and Constitution (101st Amendment) Act, 2016

## **6. PRESCRIBED READINGS**

1. Aiyar, S. P., and Mehta, U., (Eds.) Essays on Indian Federalism, Allied Publishers, Bombay, 1965
2. Austin, Granville, The Indian Constitution: Cornerstone of a Nation, Oxford University Press, New Delhi,
3. Basu, D. D., Comparative Constitutional Law, Lexis Nexis India, 2<sup>nd</sup> Edition, New Delhi, 2008
4. Basu, D. D., Comparative Federalism, Prentice-Hall of India, New Delhi, 1987
5. Basu, D. D., Constitution of India, Nagpur, 8<sup>th</sup> Edition, LexisNexis Buttersworth Wadhwa, New Delhi, 2011
6. Bhatnagar, Sudha, Union-State Financial Relations and Finance Commissions, Chugh Publications, Allahabad, 1979

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8. Chandra, Ashok, Federalism in India, George Allen and Unwin, London, 1965
9. Chandrapal, Centre-State Relation and Co-operative Federalism, Deep & Deep, New Delhi, 1983
10. Chaubey, R. K., Federalism Autonomy and Centre-State Relations, Satyam Books, New Delhi, 2007
11. Constituent Assembly Debates Vol.9 and Vol. 10. (Website of the Lok Sabha, India)
12. Daniel J. Elazar, American Federalism, University Alabama Press; 1<sup>st</sup> Edition, USA, 1984
13. Dicey, A. V., An Introduction to the Study of the Law of the Constitution, Liberty Fund Inc, 8<sup>th</sup> Edition, USA, 1982
14. Jain., M. P., Indian Constitutional Law, LexisNexis Buttersworth Wadhwa, Nagpur, 2012
15. Jain., M. P., Outlines of Indian Legal History, LexisNexis Buttersworth Wadhwa, Nagpur, 2009
16. Jennings - The Law & the Constitution
17. K.P. Krishna Shetty, The Law of Union-State Relations and Indian Federalism, (1981)
18. Khan, R., Rethinking Indian Federalism, Indian Institute of Advanced Studies, Shimla, 1997
19. Kousar, J.A., Federalism and Good Governance : Issues across Cultures, South Asian, New Delhi, 1998
20. Kumar, P., Studies in Indian Federalism, Deep and Deep, New Delhi, 1988.
21. M. M. Punchi Commission Report on Centre State Relations, 2010
22. Mishra, Santap Sanhari, (Ed.) Federalism: Concepts and Practices, The ICFAI University Press, Hyderabad, 2009
23. Peaslee, Amos J., Constitutions of Nations, Buffalo: William S. Hein & Co. Inc., New York, 2006
24. Report of National Commission to Review Working of the Constitution, 2000.
25. Reports of Administrative Reforms Commission on Centre-State Relations
26. Reports of the Finance Commission of India

27. Roseland, Michael, The Oxford Handbook of Comparative Constitutional Law, Oxford University Press, London, 2015
28. Sarkaria Commission Report on Centre-State Relations, 1988
29. Sebastian, V. D., Indian Federalism : The Legislative Conflicts, The Academy of Legal Publications, Trivandrum, 1980
30. Seervai, H. M., Constitutional Law of India, M N Tripathi, Bombay, 1991
31. Shukla, V. N., Constitution of India, 12<sup>th</sup> Edition, Eastern Book Company, Lucknow, 2013
32. Subbarao, G.C.V, Legislative Powers in Indian Constitutional Law, S.Gogia & Co., Hyderabad, 1982
33. Sujatha, D., (Ed.) Federalism and Governance: Contemporary Developments, The ICFAI University Press, Hyderabad, 2007
34. Tripathi, P. K., Indian Federalism: The Reality and the Myth, Journal of Bar Council of India, 1974
35. Wheare, K. C., Federal Government, Oxford University Press, London, 1963