



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

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

**DETAILS OF COURSE OFFERED**

**EVEN SEMESTER (II) – 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>BL205</b>       | <b>CONSTITUTIONAL LAW OF INDIA-I</b> | <b>4<br/>PER<br/>WEEK</b> | <b>1<br/>PER<br/>WEEK</b> |          | <b>4</b>  |           |

- A. CODE AND TITLE OF THE COURSE: BL205, CONSTITUTIONAL LAW OF INDIA,**
- B. COURSE CREDIT: 4 (TOTAL MARKS 200)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: HIMANGSHU RANJAN NATH**
- E. COURSE INSTRUCTOR: HIMANGSHU RANJAN NATH**

## 1. COURSE OBJECTIVES

A constitution is the supreme *lex*, which constitutes fundamental rules governing the conduct of a nation establishing its concept, character and structure. It is a document embodying the aspirations and values of its framers and subjects. The constitution can be defined as an essential *rulebook* to establish a smooth running of the government, to boost a society based on rule of law, to ensure dignity of the subjects and to have unity in diversity. Depending upon the formation history of a nation its constitution may be written or unwritten. Irrespective of its type, the prime function of a democratic constitution is to provide an extensive system of checks and balances, separation of powers and a charter of rights. Constitutionalism, (often miss-scripted and misunderstood by the students) is the driving force of a constitution that mainly leads to two other concepts *i.e.* limited government and *welfareism*. On the first occasion, the course intends to introduce the students *inter alia*, with the concepts of constitution, constitutional law, constitutionalism, separation of powers, rule of law etc.

A constitution without conferring express rights and duties on both its subjects and government is not a constitution in true sense. The Constitution of India, in its different parts expressly confers numerous rights to its subjects. As a right without a co-relative duty is of no use, the Constitution itself provides various duties onto the government for fruitful functioning of peoples' right and *vice-versa*. The course also intends to acquaint, train and equip the students about these constitutional and fundamental rights/duties.

The Constitution of India is regarded as 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. Another object of this course is to acquaint, train and equip 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.

The Constitution of India has come into force on 26 January 1950. There has been a phenomenal change in the working of the constitution through variety of processes. The most direct one is the constitutional amendments by the legislature. The judiciary has also contributed immensely to this constitutional development through judicial interpretations. The course also intends to equip the students with information regarding the same.

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

On completion of this 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 meaning of constitution, constitutionalism, rights and duties of a citizen etc. Further, by learning this course, it is expected that the students would be immensely benefited in their individual life by well acquitting with their Fundamental Rights, their Fundamental Duties and the Directive Principles towards the government put forth by the Constitution of India. Likewise, students can also avail the benefit of the course in their professional and social life through fighting for other fellow individual's right both outside and inside of the courtroom.

Further, after completing the course the students are expected to understand the 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**

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**

1. CONSTITUTION - Definition, Types and Scope, Constitutional Law, Constitutionalism
2. CONSTITUTION OF INDIA – Making, Source and Salient Features
3. THE PREAMBLE - Meaning and Importance, Objective Philosophy of the Constitution.
4. CITIZENSHIP (Article 5–11) - Mode of Acquisition of citizenship under the Constitution, The Citizenship Act, 1955, Citizenship of Corporations, Overseas Citizens
5. FUNDAMENTAL RIGHTS - Meaning, Importance and Justiciability, State (Article 12), Law (Article 13), Doctrine of Eclipse, Doctrine of Severability and Waiver of Fundamental Rights, Right To Equality (Article 14–18), Right To Freedom ( Article 19–22), Right to Education (Article 21A), Right against Exploitation (Article 23–24), Right to Religion (Article 25–28), Cultural And Educational Rights (Article 29–30), Right to Constitutional Remedies (Article 32), Right to Property

### **MODULE II**

1. DIRECTIVE PRINCIPLES OF STATE POLICY (Article 36–51) - Nature and Justiciability of Directive Principles, Inter-relationship Between Fundamental Rights and Directive Principles
2. FUNDAMENTAL DUTIES (Article 51A) – Need and Status of Fundamental Duties in Constitutional Set-Up
3. AMENDMENT OF THE CONSTITUTION (Article 368) - Types and Principles Relating to Amendment, Amendment of the Constitution of India – Power and Procedure, Doctrine of Basic Structure/Feature
4. EMERGENCY – National, State and Financial Emergency, Effect of Emergency on Federal Structure, Emergency and Fundamental Rights.
5. ELECTION – Constitution, Composition, Powers and Functions of Election Commission of India, Bar on the Courts to interfere with the election matters.

### **MODULE III**

1. INSTRUMENTALITIES OF UNION GOVERNMENT – Constitution, Composition and Functions of Parliament; Qualifications and Disqualifications of

MPs, Anti-defection, Parliamentary Privileges, Control of Public Finance and Parliamentary Committees, Powers and Positions of the President, Vice-President and the Prime Minister, Council of Ministers, Collective Responsibility, Composition, Qualification, Appointment and Removable of the Judges of the Supreme Court, Jurisdiction of the Supreme Court, Judicial Review, Judicial Activism, Public Interest Litigation, Independence of Judiciary and Accountability of Judges.

2. INSTRUMENTALITIES OF STATE GOVERNMENT - Constitution, Composition and Functions of the State Legislature, Dissolution of the House, Powers and Position of the Governor, Appointment of the Chief Minister, Dissolution of the Government, Composition, Qualification, Appointment and Removal of the High Court Judges, Writ jurisdiction of High Court.

#### **MODULE IV**

1. CENTRE-STATE RELATIONS: Distribution of legislative powers, VII Schedule, Residuary Powers, Doctrines of Interpretation of lists: Pith and Substance, Repugnancy, Colourable Legislation, Eminent Domain, Harmonious Construction etc., Distribution of Executive Powers, Co-operative Federalism, Inter-State Council, River-water Disputes, Full Faith and Credit, Distribution of revenue and tax proceeds between Centre and State, Finance Commission.
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.
4. SPECIAL STATUS – Special Status to certain States and to ST's and SC's, Need and Justification.

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

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. Does India Need a New Constitution? – B. L. Hansaria, 1<sup>st</sup> Edition, Eastern Law House, New Delhi, 1998
7. Indian Constitutional Law- M. P. Jain, 8<sup>th</sup> Edition, LexisNexis, Gurgaon, 2018 (Reprint)
8. Introduction to the Constitution of India – Dr D D Basu, 20<sup>th</sup> Edn., Lexis Nexis Butterworth, Wadhwa, 2010
9. Making of Constitution of India – Justice H R Khanna, Eastern Book Company, Lucknow, 1989.
10. Modern Constitutions – K C Wheare, 2<sup>nd</sup> Edition, Oxford University Press, London, 1966.
11. Report of National Commission to Review the Working of the Constitution
12. Report of the various committees constituted for Electoral Reforms in India
13. Reports of the Law Commission of India on Electoral Reforms
14. Sarkaria Commission Report on Centre-State Relation
15. Shorter Constitution of India – Dr D. D. Basu, 13<sup>th</sup> Edn, Wadhwa, Nagpur
16. Sixth Schedule to the Constitution – Justice B. L. Hansaria, 3<sup>rd</sup> Edition, Universal Law Publishing, New Delhi, 1983
17. The Administrative Tribunal Act, 1985
18. The Citizenship Act, 1955
19. The Constitutional Law of India – Prof. Kailash Rai, Central Law Publications, Allahabad, 2009
20. The Framing of India's Constitution - A study - Dr Subhas C Kashyap, Universal Law Publishing Co Pvt Ltd, New Delhi, 2008
21. The Indian Constitution, Cornerstone of a Nation – Granville Austin, Oxford University Press, London, 1974
22. The Law and the Constitution – Sir Ivor Jennings, 5<sup>th</sup> Edition, University of London Press Ltd, London, 1973.

23. 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.
24. The Representation of the People Act 1950 and 1951
25. Working a Democratic Constitution, Indian Experience – Granville Austin, Oxford University Press, New Delhi, 2003