



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

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

DETAILS OF COURSE OFFERED

ODD SEMESTER(VII) — ACADEMIC YEAR

| SL. NO | COURSE CODE | COURSE TITLE | L | T | P | CR | CH |
|-----------|--|---------------------------------|---------------------------|---------------------------|---|----------|----|
| 1 | BL706.6, CONSTITUTIONAL LAW, SPECIALIZATION GROUP PAPER- II | INDIAN FEDERALISM-II | 4 PER WEEK | 1 PER WEEK | | 4 | |

- A. CODE AND TITLE OF THE COURSE: **BL706.6, CONSTITUTIONAL LAW, SPECIALIZATION GROUP PAPER- II , INDIAN FEDERALISM-II**
- 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

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. In Indian Federalism-I paper, the students were taught the federal principle and theory and the centre-state relation in India. in this course, (i.e. Indian Federalism-II) some other vital aspects of Indian federalism such as the emergency, amendment, centre-state trade, co-operative federalism, local self-government etc. will be taught. The object of this course is to provide the students an in-depth analysis of working of federalism in India. It is very important to understand the impact of emergency on the federal structure of India and also the role played by constitutional amendments on the federal structure of India. The objective of this course is to simplify all nuances of

this short to the students. In this course, stress has also been put on to disseminate the students with adequate knowledge about the working of co-operative federalism in India.

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 relating to Indian federalism and its centre-state relations. The underlying idea behind the incorporation of this course is to provide students an understanding about the impact of various constitutional provisions on the fruitful exercise of federal principles. Emphasis has been given in designing each module in a way that the students shall be in a position to understand the nuances of impact of emergency, constitutional amendment and local self-government etc. on Indian federalism. The free flow of inter-state trade and commerce also has a big role to play in strengthening the federal vibes in a country therefore, the same has also been incorporated in the syllabus. Further, the most important aspect of federalism in India – the co-operative federalism 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 shall be assessed for 200 marks. The Evaluation scheme would be as follows:

| Sl. No. | Marks Distribution | |
|---------|----------------------------|-----------|
| 1 | Seminar Paper | 60 marks |
| 2 | Seminar Paper presentation | 30 marks |
| 3 | Moot Memorial | 50 marks |
| 4 | Moot Oral | 50 marks |
| 5 | Attendance in class | 10 marks |
| | Total | 200 marks |

5. DETAILED STRUCTURE OF THE COURSE (SPECIFYING COURSE MODULES AND SUB-MODULES)

MODULE – I

Emergency, Amendment and Federalism

1. Emergency – Meaning, Kinds and Purpose, Centre's Duty to Protect the States, Justiciability of Proclamation made under Article 356, Effect of Emergency on Federalism
2. Constitutional Amendment – Need and Purpose, Procedure for Amendment, Amendability of the Constitution of India, Limitation upon Amending Power of the Parliament, Doctrine of Basic Structure, Constitutional Amendment and Federalism

MODULE – II

Inter-State Trade & Commerce and Borrowings

1. Inter-State trade and Commerce – Constitutional Provisions, Restrictions on the Union and the States with regard to Freedom of Trade and Commerce, Doctrine of *Res-Extra Commercium*, Inter-State Commerce Commission
2. Borrowings – Borrowing by the Government of India, Borrowing by the States

MODULE III

Local Self-Government and Federalism

1. Local Self-government – Evolution of Local Self-government in India, the Gandhian Concept, Constitutional Provisions regarding Panchayats and Municipality, The Co-Operative Societies, 11th and 12th Schedule of the Constitution of India
2. Local Dispute Resolution System – Gram Nyayalayas Act, 2008

MODULE IV

Cooperative Federalism in India

1. Cooperative Federalism in India – Inter-State Water Disputes, Inter-Governmental Cooperation in Solving Administrative Issues, Doctrine of *Full Faith and Credit*, the Inter- State Council, Zonal Councils, the North-East Council, GST Council
2. Centre-State Relations in India: Issues and Dimensions - Centre-State Relations in Disaster Mitigation and Preparedness, Institution of Governor, Equal Representation in the Upper House, Asymmetric Federalism, Special Status, Citizenship and Federalism

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, 2nd 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, 8th Edition, LexisNexis Butterworth Wadhwa, New Delhi, 2011

6. Bhatnagar, Sudha, *Union-State Financial Relations and Finance Commissions*, Chugh Publications, Allahabad, 1979
7. Bombwall, K.R., *The Foundations of Indian Federalism*, Asia Publishing House, Bombay, 1967
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; 1st Edition, USA, 1984
13. Dicey, A. V., *An Introduction to the Study of the Law of the Constitution*, Liberty Fund Inc, 8th 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. Jenning - *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, 12th 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