



## HIMACHAL PRADESH NATIONAL LAW UNIVERSITY, SHIMLA

**Semester: III**

**B.A./B.B.A. LL.B. (Hons)**

**Paper Code: LB-301**

**Constitutional Law-I**

**Credit - 04**

### **Introduction:**

The Constitution of India contains both the governance texts and right-justice texts. The former includes the state system of machinery at the Union and State level. This course is designed, primarily, to focus and cover, comprehensively, the governance provisions in it. The Right or justice texts of the Constitution would form substance of studies in the next subject, titled Constitutional Law-II, offered in fourth Semester. Constitution is fundamental law of the land. It is source of all powers for, as well as limitations on the organs of state, *viz.* the executive, legislature, and judiciary. No action of the state would be valid unless it is sanctioned or permissible by some provision(s) of the Constitution. Therefore, it is essential to have a clear understanding of the nature and working of the Constitution. This course is intended to initiate students to the study of the Constitutional law and help them acquire appropriate critical abilities. To orient students towards these proposes and develop an analytical approach, this Course is primarily based on case laws, selected other readings and handouts supplied by the teacher(s) teaching the subject.

### **Course Objectives:**

1. To discuss how to read Constitution; Constitutional history and making; Constitution as Fundamental Law of the Land; Why constitutions are binding for generations.
2. To discuss the difference between Constitution, Constitutional Law and Constitutionalism.
3. To discuss the aims and objectives, Theory of Basic Structure; Principles of Federalism (Federal, Unitary, Quasi-federal); Cooperative and Competitive Federalism etc.
4. To critically analyze the so far working of the Constitution in light of above-mentioned discussions.

**Learning Outcomes:**

On the successful completion of course, students will be able to:

1. Understand the significance of the Constitution for any nation.
2. Learn about the basic premises of the Indian Constitution.
3. Understand the different type of government and the Indian module of federalism.
4. Understand the working of governments in India and role of all the three organs under the Constitution.

**Module - I****The Union and its Territory & The Union and the State Executives**

- 1.1. Nature and Essential Features of the Indian Constitution; Constitution, Constitutional Law, Constitutionalism;
- 1.2. The Union and its Territory, Territorial Identity/Sovereignty (Articles - 1-5);
- 1.3. Forms of Government/Executive: (Articles 52-72; 153-161; 74-75; 163-164); Nature, Scope and Extent of Executive Powers; (Article 73, 162);
- 1.4. Relationship of the President/Governor with the Council of Ministers (Articles 74-75; 163-164); Legislative Power of the Executive (Ordinances); Article 13, 123, 213;
- 1.5. Powers and Position of President and Governor.

**Module - II****Parliament and State Legislature**

- 2.1. Composition of the Parliament; Qualification; Legislative Procedure;
- 2.2. State legislatures; Qualification; Legislative Procedure;
- 2.3. Conduct of Business; Procedure in Financial Matters;
- 2.4. Disqualification of Members; Tenth Schedule;
- 2.5. Legislative Privilege, (Articles 79-122, 168-212, Tenth Schedule).

**Module - III****Union Judiciary & High Courts**

- 3.1. Judiciary; Composition, Appointment, Removal, and;
- 3.2. Jurisdiction; Original, Appellate and Advisory;
- 3.3. Writ Jurisdiction;
- 3.4. Contempt of Court;
- 3.5. Judicial Activism and overreach/self-restraint/Public Interest Litigation.

## Module - IV

### Legislative Relations, Freedom of Trade, Commerce and Intercourse & Emergency Provisions

- 4.1. Doctrine of Territorial Nexus (Article 245);
- 4.2. Interpretative Doctrines; Doctrine of Pith and Substance; Colourable Exercise of Legislative Power;
- 4.3. Residuary Powers;
- 4.4. Freedom of Trade, Commerce and Intercourse;
- 4.5. Proclamation of Emergency on grounds of war, external aggression and armed rebellion (Articles 352, 358, 359); Power of Union Executive to issue directions (e.g. Articles 256, 257) and Judicial Review, Financial Emergency (Article 360).

#### Prescribed Books:

1. M. P. Jain, INDIAN CONSTITUTIONAL LAW, (2018).
2. Mahendra Pal Singh, V.N. SHUKLA'S CONSTITUTION OF INDIA, (2023).

#### Reference Readings:

1. Granville Austin; THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION, (1966).
2. D. D. Basu, SHORTER CONSTITUTION OF INDIA, (2009).
3. H. M. Seervai, CONSTITUTIONAL LAW OF INDIA, (Universal, 2017).
4. Zoya Hasan *et. al.*, INDIA'S LIVING CONSTITUTION: IDEAS, PRACTICES, CONTROVERSIES, (2002).
5. B. N. Kirpal, *et.al.*, SUPREME BUT NOT INFALLIBLE: ESSAYS IN THE HONOUR OF THE SUPREME COURT OF INDIA, (OUP, 2000).
6. Shiva B. Rao, THE FRAMING OF INDIA'S CONSTITUTION- SELECT DOCUMENTS, (Universal, 2015).
7. Sarkaria Commission, REPORT OF THE COMMISSION ON CENTRE-STATE RELATIONS, (1987).
8. M. M. Punchhi Commission, REPORT OF THE COMMISSION ON CENTRE-STATE RELATIONS, (2010).
9. Ministry of Law, Justice and Company Affairs, Department of Legal Affairs, REPORT OF THE NATIONAL COMMISSION TO REVIEW THE WORKING OF THE CONSTITUTION, (2002).

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