

Chanakya National Law University, Patna
LL.M. 2022-23; SEMESTER- I

Course Title: Indian Constitutional Law: The New Challenges
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Course Overview

The Constitution of India constitutes the ‘fundamental law’ of the land expression of which has several significant implications. It is under this fundamental law that all laws are made and executed, all governmental authorities act and the validity of their functioning adjudged. No legislature can make a law and no governmental agency can act contrary to the Constitution. No act, be it executive or legislative or judicial or quasi-judicial or any administrative agency, can stand if contrary to the Constitution. The Constitution thus conditions the whole governmental process in India. The Judiciary is obligated to see that the provisions of the Constitution are not violated by any governmental organ. This function of the Judiciary entitles it to be called as the ‘Guardian’ of the Constitution and it can declare an Act of the legislature or an administrative action contrary to the Constitution, *ultra vires*. Thus, the very study of the Indian Constitutional Law implies several challenges. One of the salient features of the Constitution of India is that it is not static or rigid, but flexible; and flexibility gives rise to change or amendments; change being the principle of development. In its development, it faces new challenges at every phase it passes; and it is more when it comes across the establishment of a ‘*modern information technology State*’. This course outlines some of the important contemporary challenges leading the scholars through a pool of questions seeking answers.

Module 1. Definition and development of the concept of ‘State’ and its contemporary role.

Module 2. Definition of ‘law’: A revisit of the philosophical schools of law

Module 3. Right to Equality and status of Affirmative Action

Module 4. Distribution of Powers in the Indian Federal Structure and its challenges

- Law making Powers
- Taxing Provisions and GST Act
- Sharing of resources among the Center and the States

Module 5. Freedom of Speech and Expression, Freedom of Press in the Scientific Era.

Module 6. Emerging Trends of Rights and Remedies

Module 7. Understanding of Secularism and its challenges

Module 8. Separation of Power: A Misnomer in India?

Module 9. The Doctrine of Invisible Rights under Indian Constitution

Learning Outcomes

The course aims to discuss and inculcate the scholars with the extensive knowledge of the provisions of the Constitution of India. The course chalks out various challenges that are faced by the Constitution of India particularly it takes into consideration the contemporary issues. On completion of the course, the scholars will be able to identify the New Challenges to the Constitution of India. They will also would have developed the skill of identification of challenges and proposing viable solutions to them.

List of Topics/ Modules

Topic/ Module	Contents/ Concepts	Sessions / Lectures
Module 1. Definition and development of the concept of 'State' and its contemporary role.	As in the Module I	1-7
Module 2. Definition of 'law': A revisit of the philosophical schools of law	As in the Module II	8-16
Module 3. Right to Equality and status of Affirmative Action	As in the Module III	17-24
Module 4. Distribution of Powers in the Indian Federal Structure and its challenges	As in the Module IV	25-32

Module 5. Freedom of Speech and Expression, Freedom of Press in the Scientific Era.	As in the Module V	33-39
Module 6. Emerging Trends of Rights and Remedies	As in the Module VI	40-45
Module 7. Understanding of Secularism and its challenges	As in the Module VII	46-50
Module 8. Separation of Power: A Misnomer in India?	As in the Module VIII	51-55
Module 9. The Doctrine of Invisible Rights under Indian Constitution	As in the Module IX	56-60

Evaluation Criteria

Components	Description	Weightage in %
Attendance	Minimum 75 % of attendance is compulsory for appearing in the End Semester Examinations.	5%
Project Report	The submission has to be done on time. 0.25 marks each will be deducted for the subsequent delay.	20%
Presentation	As per the schedule announced by the Examination Section	5%
End-Semester Examination	As per the schedule announced by the Examination Section	70%

Recommended/Reference Text Books and Resources:

1. V.N.Shukla, Constitution of India, Eastern Book Company.
2. H.M.Seervai, Constitutional Law of India, Universal Law Publishing Company
3. M.P. Jain, Indian Constitutional Law, Wadhwa and Company
4. G. P. Tripathi, Constitutional Law – New Challenges, Central Law Publications

Instructor Details

Name of the Instructor:	Dr. Fr. Peter Ladis F
Email:	frpeterladis@cnlu.ac.in