

SEMESTER- I

Name of the Programme : L.L.M.
Title of the Course : Comparative Public Law
Course Code : LLM-500
Number of Credits : 4
Effective from Academic Year: 2023-2024

Pre-requisites for the Course	Enrolment at the LL.M. (CBCS) Programme	
Objectives	<ul style="list-style-type: none"> To introduce the idea of comparative constitutions and constitutionalism to the students and will bring out the issues and concerns in this comparison. To enable the students to analyze and apply the importance of constitutional review and amendments 	
Content	Module 1: Concept of Study of Comparative Constitutional Law <ol style="list-style-type: none"> Public Law and Private Law Concept of Constitution, Relevance of Constitution Relevance, Problems and Concerns in Using Comparison Globalization of Constitution 	15 hours
	Module 2: Constitutional Foundation of Powers <ol style="list-style-type: none"> Constitutionalism: Concept, essential features, Distinction between Constitution and Constitutionalism Supremacy of Legislature in Law Making Rule of law Separation of powers 	15 hours
	Module 3: Concept of State and State Action <ol style="list-style-type: none"> State Action and Enforcement of Constitutional Rights Parliamentary and Presidential Forms of Government Federal and Unitary Forms -Features, Advantages and Disadvantages, Concept of Quasi-federalism Role of Courts in Preserving Federalism 	15 hours
	Module 4: Constitutional Review & Amendment of Constitution <ol style="list-style-type: none"> Methods of Constitutional Review Concept, Origin, Limitations on Judicial Review Methods & Limitations on Amending Power Theory of Basic Structure: Origin and Development 	15 hours
Pedagogy	Lectures, seminars, debates and group discussions.	
References/ Readings	<ol style="list-style-type: none"> Vicki c. Jackson, Comparative Constitutional Law, Foundation Press, 2006 Christopher Forsyth, Mark Elliott, Swati Jhaveri, Effective Judicial Review: A Cornerstone of Good Governance (Oxford University Press, 2010). D.D. Basu, Comparative Constitutional Law (2nd ed., Wadhwa Nagpur). David Strauss, The Living Constitution (Oxford University Press, 2010) Dr. Subhash C Kashyap, Framing of Indian Constitution (Universal Law, 2004) Elizabeth Giussani, Constitutional and Administrative Law (Sweet and Maxwell, 2008). 	




7. Tom Ginsburg and Rosalind Dixon, eds., *Comparative Constitutional Law*, Edward Elgar Publishing, 2011.
8. M.V. Pylee, *Constitution of the World* (Universal Publishers, 2006)
9. Mahendra P. Singh, *Comparative Constitutional Law* (Eastern Book Company, 1989).
10. Neal Devins and Louis Fisher, *The Democratic Constitution* (Oxford University Press, 2010)
11. Sudhir Krishna Swamy, *Democracy and constitutionalism in India—A Study of the Basic Structure Doctrine* (Oxford University Press, 2009)
12. Sunil Khilnani, Vikram Raghavan, Arun Thiruvengadam, *Comparative Constitutionalism in South Asia* (Oxford University Press, 2013).
13. Vikram David Amar, Mark Tushnet, *Global Perspectives on Constitutional Law* (Oxford University Press, 2009).
14. Zachery Elkins, Tom Ginsburg, James Melton, *The Endurance of National Constitutions* (Cambridge University Press, 2009).

Articles:

1. David Staruss, "Do we Have a Living Constitution" 59 (4) *Drake Law Review* 973-984 (2011 Summer)
2. Glen Staszewski, "Political Reasons, Deliberative Democracy and Administrative Law", 97(3) *Iowa Law Review* 849-912 (2012 March):
3. Mark Tushnet, "Returning with Interest: Observations on Some Putative Benefits of Studying Comparative Constitutional Law" 1 *U. Pa. J. Const. L.* 325
4. Ursula Bentele, Mining for Gold: The Constitutional Court of South Africa's Experience with Comparative Constitutional Law <http://ssrn.com/abstract=1169642>
5. Mark Tushnet, "The Possibilities of Comparative Constitutional Law", 108 *Yale.L.J.* 1225 (1999).
6. Axel Tschentscher, Comparing Constitutions and International Constitutional Law: A Primer <http://ssrn.com/abstract=1502125>
7. Anne Smith, "Internationalization and Constitutional Borrowing in Drafting Bills of Rights", 60(4) *International and Comparative Law Quarterly* 867-894 (2011 October).
8. Michael J. Klarman, What's So Great About Constitutionalism? 93 *Nw. U.L. Rev.* 145
9. Aman Ullah and Uzair Samee, "Basic Structure of Constitution: Impact of Kesavananda Bharati on Constitutional Status of Fundamental Rights", Vol. 26 (2) *South Asian Studies* 299-309 (July-December 2011).
10. Chhavi Agarwal, "Rule of Law: Reflection upon we the People and Beyond" 252 (1) *Madras Law Journal* 8-16 (2010)
11. Jeremy Waldron, The Concept and the Rule of Law Public Law & Legal Theory Research Paper Series New York University School of Law
12. Bruce Ackerman, "The New Separation of Powers" 113 (3) *Harv. L. Rev.* 634-729 (2000)
13. Bryan Clark and Amanda Leiter, "Regulatory hide and seek: What agencies can (and can't) do to limit judicial review" 52(5) *Boston College Law Review* 1687-1732 (2011 November)



	<ol style="list-style-type: none"> 14. Daniel B. Rodriguez, "Change that matters: Essay on State Constitutional Development", 115(4) Penn State Law Review 1073-1098 (Spring 2011). 15. Daryl Levinson and Richard H. Pildes "Separation of Parties, Not Powers" 119(8) Harvard Law Review 2311-2386 (2006). 16. David King, "Formalizing Local Constitutional Standards of Review and the Implications for Federalism" 97 (7) Virginia Law Review 1685-1726 (November 2011). 17. Devi Prasad Singh, "Sovereignty, Judicial Review and Separation of Power", 7(5) Supreme Court Cases 1-13 (2012 September) 18. Nathan Chapman, "Due Process as Separation of Powers", 121(7) Yale Law Journal 1672-1807 (2012 May). 19. K.K. Venugopal, "Separation of Power and the Supreme Court of India", Vol. 2 No. 2 Journal of Law and Social Policy 64-82 (July 2008). 20. Jonathan Siegel, "Institutional case for Judicial Review" 97(4) Iowa Law Review 1147-1200 (2012 May). 21. Ishwara Bhat, "Why and how Federalism matters in Elimination of Disparities and Promotion of Equal Opportunities for Positive Rights", 54(3) Journal of the Indian Law Institute 324-363 (July-Sept 2012). 22. Jessica Bulman, "Federalism as a safeguard of the Separation of Powers", 112(3) Columbia Law Review 459-506 (2012 April) 23. Linda Bosniak, "Persons and Citizens in Constitutional Thought" 8 (1) International Journal of Constitutional Law 9-29 (January 2010). 24. Quinn Rosenkranz, "Subjects of the Constitution" 62 (5) Stanford Law Review 1209-1292 (May 2010) 25. Tom Ginsburg, Eric Posner, "Sub Constitutionalism" 62 (6) Stanford Law Review 1583-1628 (June 2010).
Course outcomes	<ul style="list-style-type: none"> • Students will be able to understand the need and importance of comparative public law. • Students will analyze the various concepts of public law and the relevance of their comparison in India. • Students can deduct the importance of constitutionalism, the Rule of Law and the Separation of Powers. • Students will be able to develop the necessary skills in interpreting the constitutional provisions.

