



## **HIMACHAL PRADESH NATIONAL LAW UNIVERSITY, SHIMLA**

### **SEMESTER- IX**

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

**PAPER CODE: SPA3-904**

**COURSE TITLE: Comparative Constitution**

**CREDITS-04**

### **A- COURSE-CONTENT**

#### **Module-1: Concept, Methods, Relevance and Challenges**

- 1.1 Introduction to Comparative methods
- 1.2 Concept of Comparative Constitutional Studies
- 1.3 Historical Underpinnings of Comparative Constitutional Studies
- 1.4 Comparative Constitutional Studies: Universalization of Basic categories in Liberal Constitutions
- 1.5 Relevance and Challenges in Comparative Constitutional Studies

#### **Module-2: Perspectives on the Idea of Constitution**

- 2.1. General idea of (Liberal) Constitutions
- 2.2. Theories of Constitution
- 2.3. Constitution and the Problem of Social Order
- 2.4. Constitutional Moment and Constitutional Change
- 2.5. Constitution of India as a product of Comparative Studies

#### **Module-3: State: Comparative Constitutional Perspectives**

- 3.1. State and Sovereignty in Liberal Constitutions
- 3.2. Constitutional State and Legislative Formations
- 3.3. Constitutional State and Judicial Formations
- 3.4. State: Legal status of Social/Public goods
- 3.5. Hindu Philosophy: Paradigms of a (Social) State and Law

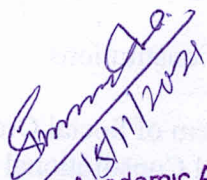
#### **Module-4: Constitutional Borrowing: Rights, Rule of Law and Judicial Interpretations**

- 4.1. Constitutional Borrowing and Judicial Interpretations
- 4.2. Impact of Borrowing on Rights' Interpretations: (Personal) Liberty and Freedom Speech
- 4.3. Impact of Borrowing on Rights' Interpretations: Equality and Socio-Economic Rights and Justice
- 4.4. The emerging Concept of Rule of Law and Constitutional Borrowing
- 4.5. Rule of Law and Liberal constitutional Rights

Note: Comparisons shall be confined to the jurisdictions of India, South Africa, Germany, USA and the UK.

**Prescribed/Suggested Readings:**

1. Ran Hirschl, *Comparative Matters: The Renaissance of Comparative Constitutional Law*, (Oxford University Press, 2014).
2. Aharon Barak, *Comparative Law, Originalism and the Role of a Judge in a Democracy: A Reply to Justice Scalia* (Text of the Speech delivered on the occasion of 'The Fulbright Convention', January 29, 2006).
3. Martin Loughlin, *Foundations of Public Law* (2010).
4. Sujit Choudhry (ed.), *The Migration of Constitutional Ideas* (2006).
5. M. Rosenfeld & A. Sajo, *The Oxford handbook of comparative constitutional law* (Oxford University Press, 2012).
6. Mark Tushnet & Vicki C. Jackson, *Comparative Constitutional Law* (Foundation Press, 1999).
7. Warner Menski, *Comparative law in a global context: The Legal Systems of Asia and Africa* (Cambridge University Press, 2006).
8. M. P. Singh, *Comparative Constitutional Law* (2nd edn., Eastern Book Co., 2011).
9. Randall Peerenboom (ed.), *Asian Discourses of Rule of Law: Theories and Implementation of Rule of Law in Twelve Asian Countries*, (Routledge, 2004), Pp. 1-13.
10. Frank I. Michelman, *The Constitution, Social Rights and Liberal Political Justification* (Oxford International Journal of Constitutional Law Vol. 1, 2003), Pp. 13-34.
11. M.P. Singh, 'Socio-Economic Rights in India: A Comparative Perspective', in *Jahrbuch Des Offentlichen Rechts*, Vol. 63, pp. 643- 78 (2015).

  
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