

Constitutional Governance - II
Federalism

Objectives

The Indian Constitution establishes a dual polity with Union at the centre and States at the periphery, each endowed with sovereign power to be exercised by them within the assigned fields. It is a federal constitution with strong centralizing tendencies. The Apex Court in Kesavananda Bharti's case has held that 'Federalism is the "Basic Structure" of the Constitution. The students are expected to study the nature of the 'Indian Federalism' vis-à-vis the working of other federal constitutions of the world. A good understanding of the related Judicial Decisions, Constitutional Practice and Conventions is necessary for said purpose.

	Units
1) The Concept of Federalism	(04)
1.1 Definition and Meaning	
1.2 Characteristics of an Orthodox Federation	
1.3 Unitary, Federal, and Con Federal State	
1.4 Global experience	
2) An Overview of 'Indian Federalism'	(04)
2.1 Historical Perspective	
2.2 Whether the Indian Constitution is Federal	
2.3 Centralizing tendencies of the Constitution	
2.4 Federalism as "Basic Structure of Constitution"	
3) Legislative Relations	(06)
3.1 Territorial Jurisdiction to Legislate	
3.2 Division of Legislative Powers	
3.3 Principles of Interpretation of Lists	
3.4 Residuary Power	
3.5 Repugnancy between a Union and a State Law	
3.6 Parliament's Power to Legislate in the 'State List'	

4)	Financial Relations	(06)
	4.1 Distribution of Taxing Powers	
	4.2 Distinction between a Tax and a Fee	
	4.3 Inter-governmental Tax Immunities	
	4.4 Sharing of Taxes	
	4.5 Grants-in-aid	
	4.6 Specific Purpose Grants under Article 282	
	4.7 Finance Commission of India	
5)	Administrative Relations	(04)
	5.1 Division of Administrative Power	
	5.2 Administrative Co-ordination	
	5.3 States not to Impede Executive Power of the Union	
	5.4 Union Directives to States	
6)	Emergency Provisions	(06)
	6.1 Proclamation of National Emergency under Article 352	
	6.2 Justiciability of the proclamation: Bhutnath and After	
	6.3 1975 Emergency and the Habeas Corpus Case	
	6.4 Failure of Constitutional Machinery in a State	
	6.5 Reasons for and Consequences of invoking Article 356	
	6.6 Justiciability of the proclamation: Bommai and Later	
	6.7 Financial Emergency	
7)	Trade, Commerce and Intercourse	(03)
	7.1 Article 301 and its Scope	
	7.2 Regulatory and Compensatory Taxes	
	7.3 Exceptions to Freedom of Trade and Commerce	
8)	Official Language	(03)
	8.1 Constitutional Provisions: Problems and Prospects	
	8.2 Reorganization of States on Linguistic Basis	
9)	Inter-governmental Conflicts	(04)
	9.1 Federal Jurisdiction of the Supreme Court	
	9.2 River Water Disputes	
10)	Special Status to Jammu and Kashmir	(03)

10.1 Historical Background
10.2 Article 370 and its Implications

11) Sarkaria Commission Report and After	(02)
Tutorial	(05)
Total	(50)

Suggested Readings:

Jain, M.P., *Indian Constitutional Law*, (Fifth Edition), Wadhwa & Company, (2007)
Seervai, H.M., *Constitutional Law of India*, (Fourth Edition), Universal Law Publishing Co. Pvt. Ltd., (2007)
Basu, D.D., *Shorter Constitution of India*, Prentice Hall Of India, (1996)
Constituent Assembly Debates — Vol.1 to 12 (1989)
Austin, Glanville, *Working A Democratic Constitution: A History of Indian Experience*, Oxford (2002)

Note: *Students are expected to read latest law journals, periodicals, reports and articles to keep abreast with the recent trends and developments in this area of Law.*

