

**FACULTY OF LAW
UNIVERSITY OF DELHI, DELHI-110007**

**LL.B. III Term
Paper: LB – 301: Constitutional Law – I**

[Principles of Federalism, Distribution of Legislative Powers between the Centre and the States, Union and State Executive; Freedom of Trade, Commerce and Intercourse; Parliament and State Legislatures, Judiciary and Emergency provisions]

Prescribed Text: The Constitution of India, 1950

Prescribed Books:

1. H.M. Seervai, ***Constitutional Law of India*** (4th ed., Vol 1 (1991), Vol. 2 (1993), Vol. 3 (2019 Rep.))
2. M.P. Jain, ***Indian Constitutional Law*** (8th ed., 2018)
3. M. P. Singh, ***V. N. Shukla's Constitution of India*** (13th ed., 2019)
4. D.D. Basu, ***Shorter Constitution of India*** (15th ed., 2018) **Recommended Books:**

1. Granville Austin, ***The Indian Constitution: Cornerstone of a Nation*** (1966)
2. Granville Austin, ***Working a Democratic Constitution - A History of the Indian Experience*** (1999)
3. B. Shiva Rao, ***The Framing of India's Constitution– Select Documents*** (1967)
4. ***Report of the Commission on Centre – State Relations (Sarkaria Commission)*** (1987)
5. ***Report of the National Commission to Review the Working of the Constitution*** (2002)

Objectives

The Constitution contains the fundamental law of the land. It is the source of all powers of, and limitations on, the three organs of the State, viz. the executive, legislature and judiciary. No action of the State would be valid unless it is permissible under the Constitution. Therefore, it is imperative to have a clear understanding of the nature and working of the Constitution. This course is designed to orient the students towards said understanding and develop an analytical approach through case law.

Topic 1 – General (6 Classes)

Constitution – Fundamental Law of the Land: Making of the Indian Constitution; Aims and Objectives; Essential Features of Constitution; Theory of Basic Structure; Principles of Federalism; Nature of the Indian Constitution – Federal, Unitary, Quasi-federal; Cooperative and Competitive Federalism; Scheduled and Tribal Areas

1.	<i>Kesavananda Bharati v. State of Kerala</i>	1973 (4) SCC 225	01
2.	<i>S. R. Bommai v. Union of India</i>	1994 (3) SCC 1	08
3.	<i>State of West Bengal v. Union of India</i>	AIR 1963 SC 1241	25
4.	<i>Rai Sahib Ram Jawaya Kapur v. State of Punjab</i>	AIR 1955 SC 549	40
5.	<i>Kuldip Nayar v. Union of India</i>	2006 (7) SCC 1	
6.	<i>State of Haryana v. State of Punjab</i>	2002 (2) SCC 507	
7.	<i>I.R. Coelho v. State of Tamil Nadu</i>	2007(2) SCC 1	

Topic 2 – The Union and its Territory (4 Classes)

Power to cede Indian territory to a Foreign Nation; Power to create/extinguish a state; Alteration of name, area and boundary of existing states – Procedure (Articles 1 – 4)

8.	<i>In re Berubari Union & Exchg. of Enclaves</i>	AIR 1960 SC 845	48
9.	<i>Ram Kishore Sen v. Union of India</i>	AIR 1966 SC 644	
10.	<i>Union of India v. Sukumar Sengupta</i>	1990 Supp SCC 545	
11.	<i>N. M. Sahib v. Chief Comnr. Pondicherry</i>	AIR 1962 SC 797	

12.	<i>R. C. Poudyal v. Union of India</i>	1994 Supp (1) SCC 324	
13.	<i>Babulal Parate v. State of Bombay</i>	AIR 1960 SC 51	

Topic 3 – The Union and the State Executives (5 Classes)

- a) The President and Vice President – Qualifications, Election, Term of Office, Powers, Impeachment (Articles 52-72); Governor – Appointment - Term of Office – Removal and Powers (Articles 153 – 161)
- b) Nature, Scope and Extent of Executive Powers of the Union and States (Article 73, 162)
- c) Union Council of Ministers – Powers and Position of the President (Articles 74-75); State Council of Ministers (Articles 163-164); Relationship of the President/Governor with the Council of Ministers; Scope and Extent of Judicial Review of Executive Actions (Articles 74, 75, 77, 78, 111, 102, 103(2), 217(3), 163)

14.	<i>B.P. Singhal v. Union of India</i>	(2010) 6 SCC 331	
15.	<i>U. N. R. Rao v. Indira Gandhi</i>	(1971) 2 SCC 63	66
16.	<i>S.P. Anand v. H.D. Deve Gowda</i>	(1996) 6 SCC 734	69
17.	<i>Samsher Singh v. State of Punjab</i>	(1974) 2 SCC 831	75
18.	<i>M.P. Spl. Police Estab. v. State of M.P</i>	(2004) 8 SCC 788	89
19.	<i>State (NCT of Delhi) v. Union of India</i>	(2018) 8 SCC 501	99
20.	<i>Epuru Sudhakar v. Govt. of A.P</i>	(2006) 8 SCC 321	

Topic 4 – Parliament and State Legislatures (5 Classes)

Composition of Parliament and State legislatures; Qualification/Disqualification of Members; Legislative Procedure, Legislative Privilege (Articles 79 – 122, 168 – 212)

21.	<i>S.P. Anand v. H.D. Deve Gowda,</i>	(1996) 6 SCC 734	69
22.	<i>B. R. Kapur v. State of Tamil Nadu</i>	(2001) 7 SCC 231	106
23.	<i>Lily Thomas v. Union of India</i>	(2013) 7 SCC 653.	117
24.	<i>Lok Prahari (through General Secretary SN Shukla) v. Election Commission of India</i>	(2018)18 SCC 114	
25.	<i>Special Reference No. 1 of 2002 (Re Gujarat Assembly Election Matter)</i>	(2002) 8 SCC 237	127
26.	<i>Anil Kumar Jha v. Union of India</i>	(2005) 3 SCC 150	
27.	<i>Jaya Bachchan v. Union of India</i>	(2006) 5 SCC 266	
28.	<i>Consumer Education and Research Society v. Union of India & Ors.</i>	(2009) 9 SCC 648	
29.	<i>In re Keshav Singh</i>	AIR 1965 SC 745	
30.	<i>Raja Ram Pal v. Hon'ble Speaker, Lok Sabha</i>	(2007) 3 SCC 184	139

Topic 5 - Legislative Power of the Executive (Ordinances) (3 Classes)

Essential conditions for promulgation of an Ordinance: 'Ordinance' under Article 13;
Judicial Review; Validity of successive promulgation of the same Ordinance (Articles 123, 213)

31.	<i>D. C. Wadhwa v. State of Bihar</i>	(1987) 1 SCC 378	159
32.	<i>A. K. Roy v. Union of India</i>	(1982) 1 SCC 271	
33.	<i>Krishna Kumar Singh v. State of Bihar</i>	(2017) 3 SCC 1	165

Topic 6 – Union and State Judiciary (7 Classes) Part-I Composition, Appointment, Removal and Jurisdiction

- a) The Union Judiciary: the Supreme Court of India (Articles 124-147); Composition, Appointment and Removal of Judges (Articles 124-130); Procedure (Article 145); the High Courts in the States (Articles 214-231)

34.	<i>Union of India v. Sankalchand Himatlal Sheth</i>	(1997) 4 SCC 193	
35.	<i>S. P. Gupta v. President of India</i>	(1981) Supp SCC 87	176
36.	<i>SC Advocates on Record Association v. UOI</i>	(1993) 4 SCC 441	
37.	<i>In re Special Reference No. 1 of 1998</i>	(1998) 7 SCC 739	193
38.	<i>SC Adv. on Record Association v. Union of India</i>	2016 (5) SCC 1	213
39.	<i>Shanti Bhushan v. Supreme Court of India through its Registrar</i>	(2018) 8 SCC 396	
40.	National Judicial Appointment Commission		243

- b) Jurisdiction of Supreme Court: Original Exclusive (Articles 71, 131), Original Concurrent Jurisdiction of Supreme Court and High Courts (Articles 32, 226).
- c) Appellate Jurisdiction of Supreme Court: Civil, Criminal and in other matters (Articles 132-135); Enlargement of Jurisdiction (Article 138); Binding nature of the law declared by the Supreme Court, enforcement of decrees and orders, (Articles 141 and 142)
- d) Special Leave to Appeal (Article 136)
- e) Power of Review (Article 137)

41.	<i>L. Chandra Kumar v. Union of India</i>	(1997) 3 SCC 261	245
42.	<i>Madras Bar Association v. Union of India</i>	(2014) 10 SCC 1	
43.	<i>Mohd. Arif v. The Reg. Supreme Court of India</i>	(2014) 9 SCC 737	

- f) Advisory Jurisdiction (Article 143)
- g) Curative Petition

44	<i>Rupa Ashok Hurra v. Ashok Hurra</i>	(2002) 4 SCC 388	
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45	<i>Zakariyus Lakra v. Union of India</i>	(2005) 3 SCC 161	
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h) Writs – *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*

Part-II Procedural requirements and innovations

a) Judicial Activism and overreach/self-restraint, *Locus Standi*, Laches, Res Judicata, Exhaustion of Alternative Remedies and Public Interest Litigation – PIL (Concept of pro bono public)

46	<i>Daryao v. State of UP</i>	AIR 1961 SC 1457	
47	<i>Trilokchand Motichand v. H.B. Munshi</i>	(1969)1 SCC 110	
48	<i>Bandhua Mukti Morcha v. Union of India</i>	(1984) 3 SCC 161	

b) Power to issue appropriate orders and directions; Power to award Compensation

49	<i>Rudul Sah v. State of Bihar</i>	AIR 1983 SC 1086	
50	<i>M.C. Mehta v. Union of India</i>	AIR 1987 SC 1086	

Topic 7 – Distribution of Legislative Powers (14 Classes)

Articles 245 – 255, Schedule VII

a) Doctrine of Territorial Nexus (Article 245)

51.	<i>Tata Iron & Steel Co. Ltd. v. State of Bihar</i>	AIR 1958 SC 452	
52.	<i>State of Bombay v. R. M. D. C.</i>	AIR 1957 SC 699	
53.	<i>State of Bihar v. Charusila Dasi</i>	AIR1959 SC 1002	252
54.	<i>G.V.K. Industries v. Income Tax Officer</i>	(2011) 4 SCC 36	258

b) Subject-matter of laws made by Parliament/Legislatures of States; Position of Union

Territories (Article 246)

c) Interpretation of legislative lists:

- Plenary and Ancillary Power of Legislation
- Effect of *Non Obstante Clause*
- Doctrine of Harmonious Construction

55.	<i>In Re C P & Berar Sales of Motor Spirit & Lubricants Taxation Act, 1938</i>	AIR 1939 FC 1	271
56.	<i>Gujarat University v. Krishna Ranganath Mudholkar</i>	AIR 1963 SC 703	284

- Doctrine of Pith and Substance

57.	<i>Prafulla Kumar v. Bank of Commerce, Khulna</i>	AIR 1947 PC 60	293
58.	<i>State of Rajasthan v. G. Chawla</i>	AIR 1959 SC 544	300
59.	<i>State of Karnataka v. Drive-in Enterprises</i>	(2001) 4 SCC 60	304

- Colourable Exercise of Legislative Power

60.	<i>K.C. Gajapati Narayan Deo v. State of Orissa</i>	AIR 1953 SC 375	309
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d) Residuary Power of Legislation (Article 248)

61.	<i>Union of India v. H. S. Dhillon</i>	(1971) 2 SCC 779	324
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e) Parliament's Power to Legislate in List II (State List) – (Articles 246 (4), 247, 249-253, 352, 356)

f) Doctrine of Repugnancy (Article 254)

62.	<i>Zaverbhai v. State of Bombay</i>	AIR 1954 SC 752	336
63.	<i>Hoechst Pharmaceuticals Ltd. v. State of Bihar</i>	(1983) 4 SCC 45	342
64.	<i>Vijay Kr Sharma v. State of Karnataka</i>	(1990) 2 SCC 562	
65.	<i>State of Kerala v. Mar Appraem Kuri Company Ltd.</i>	(2012) 7 SCC 106	

Topic 8 – Freedom of Trade, Commerce and Intercourse (7 Classes)

Concept of trade and commerce; scope of freedom of trade, commerce and intercourse; fiscal measures; direct and immediate restrictions; regulatory measures; compensatory taxes; restrictions on trade, commerce and intercourse among states, power of Parliament and state legislatures; state monopoly (Articles 301-307)

66.	<i>G.K. Krishnan v. State of Tamil Nadu</i>	(1975) 1 SCC 375	
67.	<i>Shree Mahavir Oil Mills v. State of J. & K.</i>	(1996) 11 SCC 39	357
68.	<i>Jindal Stainless Ltd. v. State of Haryana</i>	(2017) 12 SCC 1	368

Topic 9 – Emergency Provisions (6 Classes)

- a) Proclamation of Emergency on grounds of war, external aggression and armed rebellion (Articles 352, 358, 359)
- b) Power of Union Executive to issue directions (e.g. Articles 256, 257) and the effect of non-compliance (Article 365); Duty of the Union to protect the States against external aggression and internal disturbance (Article 355)
- c) Imposition of President's Rule in States – Grounds, Limitations, Parliamentary Control, Judicial Review (Articles 356-357)
- d) Financial Emergency (Article 360)

69.	<i>State of Rajasthan v. Union of India,</i>	(1977) 3 SCC 592	
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70.	<i>S. R. Bommai v. Union of India,</i>	(1994) 3 SCC 1	
71.	<i>Rameshwar Prasad v. Union of India,</i>	(2006) 2 SCC 1	379