CONSTITUTIONAL LAW

# Federal System & Centre–State Relations

UNIT – I | Organization of State • Legislative, Financial & Administrative Relations
Co-operative Federalism • Trade & Commerce • Local Self-Government • Art. 370 & Special Provisions

LEARNING ROADMAP

# Topics Covered

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| 01 | Federal System & Organization of State |
| 02 | Centre–State Relations (Legislative) |
| 03 | Financial & Administrative Relations |
| 04 | Co-operative Federalism & Commissions |
| 05 | Freedom of Trade & Commerce |
| 06 | Official Language |
| 07 | Local Self-Government (73rd & 74th) |
| 08 | Article 370 & Special Provisions (371A–371J) |

01 • FEDERAL SYSTEM

# Nature of Indian Federalism

India is described as a ‘Union of States’ under Article 1. It has a federal structure with a strong unitary bias. The Constitution distributes powers between the Centre and the States while retaining significant central supremacy in certain situations.

### Article 1

India, that is Bharat, shall be a Union of States.

### Dual Polity

Separate governments at Centre and State levels with their own powers.

### Written Constitution

Supreme and detailed distribution of powers in the Seventh Schedule.

### Unitary Bias

Strong Centre – emergency provisions, residuary powers, appointment of Governors.

01 • LANDMARK CASES ON FEDERALISM

# Key Judicial Pronouncements

### State of West Bengal v. Union of India (1963)

Held that the Indian Constitution is not truly federal in the classical sense; the Centre has overriding powers.

### S.R. Bommai v. Union of India (1994)

Landmark on federalism and President’s Rule. Federalism is part of the basic structure. Floor test is the proper method to test majority.

### Kuldip Nayar v. Union of India (2006)

Reaffirmed that India is a federal Constitution with a unitary bias; Parliament can change the manner of election to Rajya Sabha.

### Government of NCT of Delhi v. Union of India (2018 & 2023)

Clarified the unique federal arrangement for Delhi and the distribution of powers between elected government and Lieutenant Governor.

02 • LEGISLATIVE RELATIONS

# Articles 245–255 & Seventh Schedule

Article 245 distributes legislative power territorially. Article 246 read with the Seventh Schedule distributes subjects into Union List, State List and Concurrent List. Residuary powers lie with the Centre (Art. 248).

### Union List (List I)

97 subjects (originally). Centre has exclusive power. Defence, Foreign Affairs, Banking, Currency, etc.

### State List (List II)

66 subjects. States have exclusive power in normal times. Police, Public Order, Public Health, Agriculture, etc.

### Concurrent List (List III)

47 subjects. Both Centre and States can legislate. Centre prevails in case of conflict (Art. 254).

# Pith & Substance • Colourable Legislation • Repugnancy

## Pith & Substance

If the true nature of a law falls within the legislative competence of the legislature, incidental encroachment on another list is permissible. (State of Bombay v. F.N. Balsara)

## Colourable Legislation

What cannot be done directly cannot be done indirectly. The court looks at the true nature and character of the legislation. (K.C. Gajapati Narayan Deo v. State of Orissa)

## Repugnancy (Art. 254)

In case of conflict between Central and State law on a Concurrent subject, Central law prevails. State law can prevail if it has received Presidential assent (for that State).

## Territorial Nexus

A State law can have extraterritorial operation if there is sufficient territorial nexus with the State. (State of Bombay v. R.M.D. Chamarbaugwala)

03 • FINANCIAL RELATIONS

# Articles 268–293

### Taxing Powers

Union and States have separate taxing powers as per the lists. Residuary taxing power with Centre.

### Grants-in-Aid (Art. 275)

Parliament may provide grants to States in need of assistance, especially for welfare schemes.

### Finance Commission (Art. 280)

Constitutional body that recommends distribution of net tax proceeds between Centre and States and among States.

### GST Regime

101st Amendment introduced GST. Article 246A and GST Council (Art. 279A) created a new model of fiscal federalism.

# Articles 256–263

### Art. 256 – Obligation of States

States must exercise executive power to ensure compliance with Parliamentary laws.

### Art. 257 – Centre's Directions

Centre can give directions to States regarding exercise of executive power in certain matters.

### Art. 258 & 258A

Centre can entrust its functions to States and vice versa (with consent).

### Art. 263 – Inter-State Council

President can establish Inter-State Council for coordination and discussion of common interest matters.

### All-India Services

Art. 312 allows creation of All-India Services common to Centre and States (IAS, IPS, IFS).

### Key Case

State of Rajasthan v. Union of India – discussed the nature of directions and federal balance.

04 • CO-OPERATIVE FEDERALISM

# Concept & Institutional Mechanisms

Co-operative federalism emphasises collaboration rather than confrontation between Centre and States. It is reflected through institutions such as the Inter-State Council, GST Council, NITI Aayog, and various Zonal Councils.

### Inter-State Council

Art. 263 – Constitutional forum for discussion and coordination between Centre and States.

### GST Council

Art. 279A – Joint forum of Centre and States for GST decisions; major example of co-operative federalism.

### NITI Aayog

Policy think-tank replacing Planning Commission; promotes co-operative and competitive federalism.

### Zonal Councils

Statutory bodies under States Reorganisation Act for regional co-operation.

05 • FREEDOM OF TRADE & COMMERCE

# Articles 301–307

Article 301: Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free. This freedom is not absolute and is subject to Articles 302–305.

### Art. 302

Parliament may impose restrictions in the public interest.

### Art. 303

Prohibits preference or discrimination between States by Parliament or State legislatures (with limited exceptions).

### Art. 304

States can impose reasonable restrictions and taxes on goods from other States under certain conditions.

### Landmark Case

Atiabari Tea Co. v. State of Assam – Freedom under Art. 301 is wider; tax can amount to restriction if it directly impedes trade.

06 • OFFICIAL LANGUAGE

# Articles 343–351

### Art. 343

Official language of the Union is Hindi in Devanagari script. English to continue for official purposes for an initial period (later extended).

### Art. 344

Commission and Committee of Parliament on Official Language to make recommendations.

### Art. 345–347

States may adopt one or more languages for official purposes. Special provisions for linguistic minorities.

### Art. 348

Language of the Supreme Court and High Courts continues to be English unless Parliament provides otherwise.

### Art. 351

Directive for development of Hindi language so that it may serve as a medium of expression for all composite culture of India.

### Practical Position

Both Hindi and English continue as official languages of the Union. States have flexibility to choose their official language(s).

# 73rd & 74th Constitutional Amendments

## 73rd Amendment (Panchayats)

• Added Part IX (Arts. 243–243O)
• Three-tier system: Village, Intermediate, District
• Regular elections every 5 years
• Reservation for SC/ST and women (at least 1/3rd)
• State Election Commission
• State Finance Commission
• 11th Schedule – 29 subjects

## 74th Amendment (Municipalities)

• Added Part IX-A (Arts. 243P–243ZG)
• Nagar Panchayat, Municipal Council, Municipal Corporation
• Regular elections & reservations
• Ward Committees in large cities
• State Election Commission & Finance Commission
• 12th Schedule – 18 subjects
• District Planning Committee & Metropolitan Planning Committee

# Special Status and Its Abrogation

Article 370 granted special autonomous status to Jammu & Kashmir. It limited the application of the Indian Constitution to the State and required the State government's concurrence for applying other provisions. On 5 August 2019, the special status was effectively abrogated through Presidential Order and the Jammu and Kashmir Reorganisation Act, 2019.

### Pre-2019 Position

Separate Constitution of J&K, dual citizenship concept, limited jurisdiction of Parliament, special permanent resident provisions.

### Abrogation (2019)

Presidential Order C.O. 272 and Reorganisation Act diluted Article 370 and bifurcated the State into two Union Territories.

### Supreme Court (2023)

In In Re: Article 370, the Supreme Court upheld the abrogation and the reorganisation, holding that Article 370 was a temporary provision.

### Current Status

J&K is a Union Territory with a Legislative Assembly; Ladakh is a Union Territory without a legislature. Full application of the Indian Constitution.

08 • SPECIAL PROVISIONS FOR STATES

# Articles 371A to 371J

### 371A • Nagaland

Special protection for Naga customary law, religious practices, land and resources.

### 371B • Assam

Special provision for equitable representation in the Assam Legislative Assembly.

### 371C • Manipur

Hill Areas Committee and special responsibility of the Governor.

### 371D & E • Andhra Pradesh / Telangana

Equitable opportunities in public employment and education; Central University.

### 371F • Sikkim

Special provisions after merger; protection of old laws and representation.

### 371G • Mizoram

Protection of Mizo customary law, land and religious practices.

### 371H • Arunachal Pradesh

Special responsibility of the Governor with respect to law and order.

### 371J • Karnataka

Special provisions for the Hyderabad-Karnataka (Kalyana Karnataka) region.

KEY TAKEAWAYS

# Unit-I – Consolidated Points

01 **Federal with Unitary Bias**

India is a Union of States with strong central features (Arts. 1, 248, 356, etc.).

02 **Three Lists**

Union, State and Concurrent Lists under Seventh Schedule + residuary with Centre.

03 **Co-operative Federalism**

GST Council, Inter-State Council and NITI Aayog are key institutional expressions.

04 **Local Self-Government**

73rd & 74th Amendments gave constitutional status to Panchayats and Municipalities.

05 **Article 370**

Special status of J&K has been abrogated and upheld by the Supreme Court in 2023.

06 **Special Provisions**

Articles 371A–371J protect regional, tribal and historical interests of specific States.

# Thank You

*“Federalism is not just a matter of structure;*
*it is a matter of spirit and culture of governance.”*

UNIT-I | Constitutional Law – Federal System & Centre-State Relations