

Comparative Constitutional Law

This course is designed to examine from a comparative perspective –legal structure and concepts that are found in Constitutions across the world, concepts such as basic rights, rule of law, systems of governance, judicial review, to name a few. Comparative Constitutional Law course is intended to make students familiar with the constitutional systems of a few countries. In this course the constitution of United States of America and Germany along with the Indian Constitution. Students will be benefitted from deeper understanding of the doctrines and values underlying the provisions and principles from various constitutional systems.

Unit –I

Federalism

- 1.1 Meaning and theories of Federalism,
- 1.2 Maintaining the federal balance, USA, India and Germany,
- 1.3 Constitutionalism – Supremacy of the Constitution,
- 1.4 Reorganization of territory –units’ right to secede,
- 1.5 Legal features of federal constitution.
- 1.6 Impact of globalization on CSR.

Unit – II

The Executive and the Cabinet powers and functions

- 2.1 The President
- 2.2 The Prime Minister
- 2.3 Cabinet, Permanent executive
- 2.4 Inconsistency and implied repeal
- 2.5 Supremacy or primacy of federal law and repugnancy
- 2.6 International Rule of law

Unit –III

Union –State Relations

- 3.1 Distribution of power between the federal and the provincial units
- 3.2 Provisions for control over States to ensure national unit
 - 3.2.1 Control over State Constitutions
 - 3.2.2 Control over agreements and treaties
 - 3.2.3 The Supremacy Clause
 - 3.2.4 Federal control over State legislation
 - 3.2.5 Federal control over State administrative functions
- 3.3 Legal personality of the Union and the States
- 3.4 Control through executive powers
- 3.5 Need for federal control over the States

Unit IV - Judiciary

- 4.1 System of independence
- 4.2 Powers and functions
- 4.3 Review power under the respective Constitutions
- 4.4 Guardian of the rights
- 4.5 Protector of Constitution and federal umpiring

Unit V – Emergency, War Powers and Federal Governance

- 5.1 Emergency powers
 - 5.1.1 Impact of External Emergency upon Federal powers
 - 5.1.2 Impact of Internal Emergency upon Federal Powers
 - 5.1.3 Impact of Emergency owing to Breakdown of Constitutional Machinery in a State
 - 5.1.3 Impact of Financial Emergency
- 5.2 War power – National Defence
- 5.3 Federal Governance
 - 5.3.1 USA
 - 5.3.2 India
 - 5.3.3 Germany

Reference:

1. Wade and Philips – Constitutional Law.
2. Bernard Schwartz – American Constitutional Law.
3. Hood Philips – Constitutional Law.
4. K. C. Wheare – Federal Government.
5. Freund and Materials on U. S. Constitutional Law.
6. Trenso and Shapiro – American Constitution
7. D.D. Basu – Comparative Federalism
8. J.C. Joshi – New Comparative Government
9. D.D. Basu – Human Rights in Constitutional Law
10. Vishnu Bhagwan and Vidya Bhusan – World Constitutions