

Constitutional Law-II

KSLU LL.B. — Complete Exam-Ready Study Bundle (All Five Units)

KSLU LL.B. Study Bundle

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Notes Version: **v1.1**

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Read this first page, then go to your unit. This single file holds the whole subject: how to use the notes, the rules that win marks, and all five units of content. Everything is in plain English, every Latin maxim is translated in [brackets], and every topic is built backwards from the real exam questions.

How to Use These Notes

What this is. A complete, exam-focused bundle covering all five units of KSLU Constitutional Law-II (the organs of the State and the federal scheme). Every topic is built from one question: *what will the examiner ask, and how do I score full marks?* High-frequency questions get the most space; the stars under each question tell you where to spend revision time.

Who it is for. The first-time learner (understand before memorising), the revision student (fast high-yield recall), and the last-week crammer (which questions repeat and how to answer them).

What is inside every topic — the same blocks, in the same order:

Block	Its job	The mark it earns
Previous Year Questions	Real questions + frequency	What to prepare and how often it repeats
The Hook	A true story / landmark-case opener	Memorable; a strong opening line
Article / Jurist Quotes	Exact text of the Article	Examiners reward precise authority
In Simple Terms	Plain-English translation	Ensures you <i>understand</i>
The Visual (chart)	Maps the topic structure	Recall and structure at a glance
Case Laws	Landmark judgments + ratio	Case names with years are pure marks
☰ Tracker + ⚠ Risk Alert	Answer plan + applied IRAC	Converts knowledge into a scoring answer

Each unit closes with a **Quick Revision & Case Law Table** for the final hour.

The 4-step study plan. (1) Read the PYQ box first. (2) Understand, then memorise. (3) Trace the chart from memory. (4) Rehearse the Tracker and one Risk Alert.

The 10 Rules That Win Marks

1. **Lead with the Article + a definition + roadmap.**
2. **Follow the Blueprint Tracker** stage by stage.
3. **Name the case AND the year** every time.
4. **Quote the exact Article** where it scores.
5. **Translate every Latin maxim in [brackets].**
6. **Use the four IRAC headings** for problems; spot the decoy fact.
7. **Always give a definite verdict.**
8. **Use the chart's structure** to organise the body.
9. **Close with a short, confident conclusion.**
10. **Manage time** so no high-mark question is left unwritten.

Disclaimer. *A study aid, not a substitute for the bare Constitution and prescribed texts (V.N. Shukla; M.P. Jain). Cross-check Article numbers against the official text. © Medha-Academy.in · KSLU LL.B. · For personal academic use.*

Constitutional Law-II – Unit I Study Notes

Federal System · Centre-State Relations · Trade & Commerce · Official Language · Local Self-Government · J&K and Special Provisions

Table of Contents

1. The Federal System & Organisation of the State
 2. Centre-State Relations — Legislative, Administrative & Financial
 3. Freedom of Trade & Commerce; Official Language
 4. Local Self-Government (73rd & 74th Amendments); J&K & Special Provisions
 5. Quick Revision & Case Law Table
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1. The Federal System & Organisation of the State

Previous Year Questions

- **[16M]** “The Indian Constitution is federal in form but unitary in spirit.” Discuss the federal system. (★★★)
- **[Short Note]** Co-operative federalism.

The Hook

When the Constituent Assembly chose the word “**Union**” rather than “Federation” for India, Dr. Ambedkar explained why: India is a Union because it is **indestructible** — the States cannot secede, and the Centre can reshape the map. India is a federation, but one designed to hold a vast, diverse and freshly-independent nation **together**.

Federalism in India

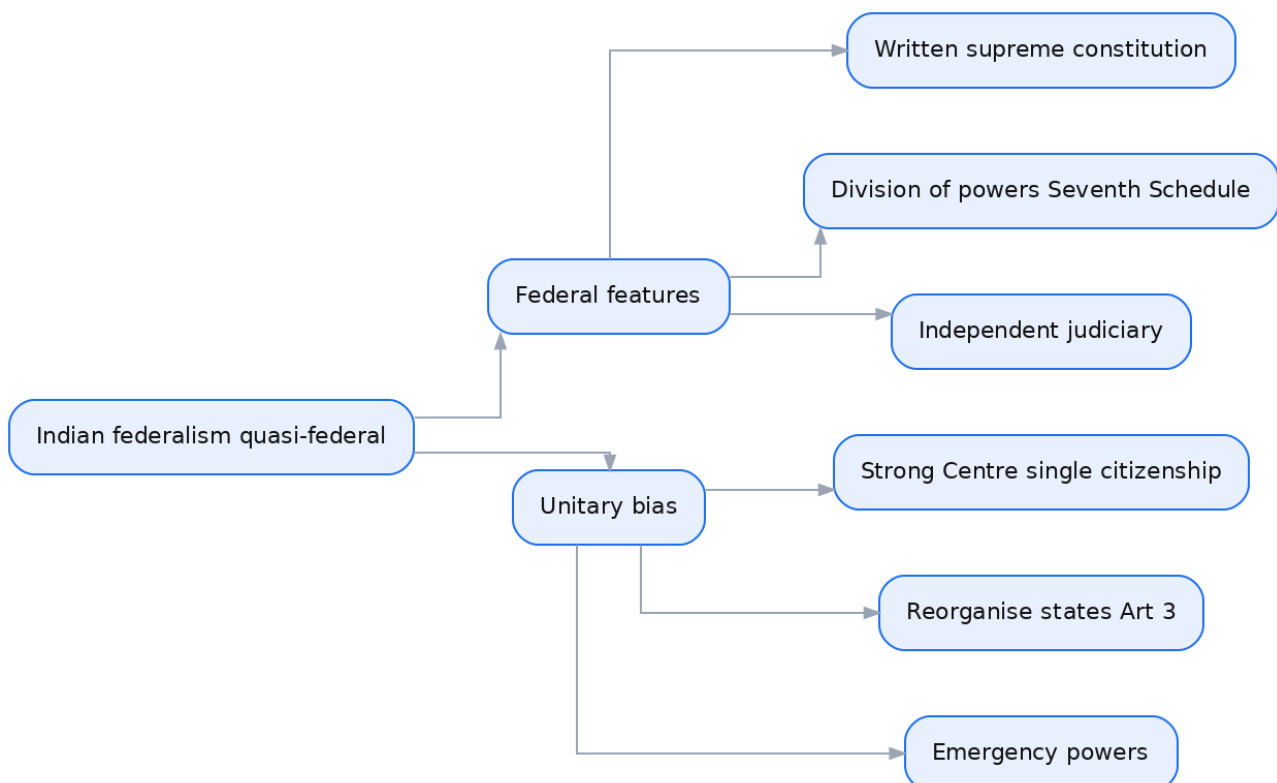
A **federation** divides governmental power between a **Centre** and the **units (States)** by a written, supreme constitution, with an independent judiciary to umpire disputes. India has these federal features but also a strong **unitary bias**, so it is called “**quasi-federal**” (K.C. Wheare).

- **Federal features:** a written, supreme Constitution; division of powers (Seventh Schedule — Union, State and Concurrent Lists); bicameralism; an independent judiciary.
- **Unitary features:** a **strong Centre**, single citizenship, a single integrated judiciary, an all-India services cadre, the Centre’s power to **reorganise States** (Art. 3), a single Election Commission, and overriding **emergency powers**.

Dr. B.R. Ambedkar: *the Constitution is “both unitary as well as federal according to the requirements of time and circumstances.”*

In Simple Terms: India is a federation for normal times that can turn strongly unitary in a crisis — power is shared with the States, but the Centre holds the trump card and the Union is indestructible.

The Visual



Case Laws

- **State of West Bengal v. Union of India (1963):** India is not a “true” federation; the Centre is supreme in important respects.

- **S.R. Bommai v. Union of India (1994):** federalism is part of the **basic structure**; the Centre's power (President's Rule) is subject to judicial review.
- **State of Rajasthan v. Union of India (1977):** discussed the federal balance and the Centre's emergency powers.

☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Define federalism:** division of power by a supreme constitution; "Union" = indestructible (Ambedkar).
- **STAGE 2** → **Federal features:** written constitution, Seventh-Schedule division, bicameralism, independent judiciary.
- **STAGE 3** → **Unitary bias:** strong Centre, single citizenship/judiciary, Art. 3 reorganisation, emergency powers.
- **STAGE 4** → **"Quasi-federal":** Wheare; Ambedkar's flexible model; S.R. Bommai (federalism = basic structure).
- **STAGE 5** → **Verdict:** federal in form, unitary in spirit — a flexible federation that turns unitary in a crisis.

⚠️ FACT-PATTERN RISK ALERT

Scenario: A State argues that, as a federation, it has an absolute right to exist with its present boundaries and the Centre cannot alter them.

- **I — ISSUE:** Can the Centre alter State boundaries against a State's wishes?
- **R — RULE:** Article 3 lets Parliament form new States and alter areas/boundaries; States have **no guaranteed territorial integrity** — the Union is indestructible, the States are not.
- **A — ANALYSIS:** Indian federalism does not give States a guaranteed existence; the Centre may reorganise after merely consulting the State legislature.
- **C — CONCLUSION:** The State's claim fails; the Centre may alter its boundaries under Article 3.

2. Centre-State Relations — Legislative, Administrative & Financial

Previous Year Questions

- **[16M]** Explain the **legislative, administrative and financial** relations between the Centre and the States. (★★★)
- **[Short Note]** Doctrine of pith and substance; doctrine of repugnancy; co-operative federalism.

The Hook

A federation lives or dies by **who gets to do what** — and **who pays for it**. The Constitution answers in three columns: who may **make laws**, who may **administer** them, and who controls the **money**. Master these three relations and you master Indian federalism.

A. Legislative relations (Arts. 245-255)

- **Territorial division (Art. 245):** Parliament legislates for the whole or any part of India; a State legislature for its territory.
- **Subject division (Art. 246 + Seventh Schedule):** the **Union List** (exclusive to Parliament), the **State List** (exclusive to States), and the **Concurrent List** (both). On the Concurrent List, **Union law prevails** in case of conflict (**repugnancy**, Art. 254).
- **Centre's encroaching powers:** Parliament may legislate on State subjects — in the **national interest** (Art. 249, Rajya Sabha resolution), during an **emergency** (Art. 250), with **two or more States' consent** (Art. 252), to implement an **international treaty** (Art. 253), and the **residuary power** (Art. 248) is the Centre's.
- **Doctrines: Pith and substance** (the true nature of a law decides its validity even if it incidentally touches another list), and **colourable legislation** (you cannot do indirectly what you cannot do directly).

B. Administrative relations (Arts. 256-263)

- States must exercise their executive power so as **not to impede** Union laws (Art. 256); the Centre may give **directions** to States (Art. 257).
- **All-India Services** (Art. 312) serve both Centre and States; the **Inter-State Council** (Art. 263) and zonal councils promote co-ordination.

C. Financial relations (Arts. 268-293)

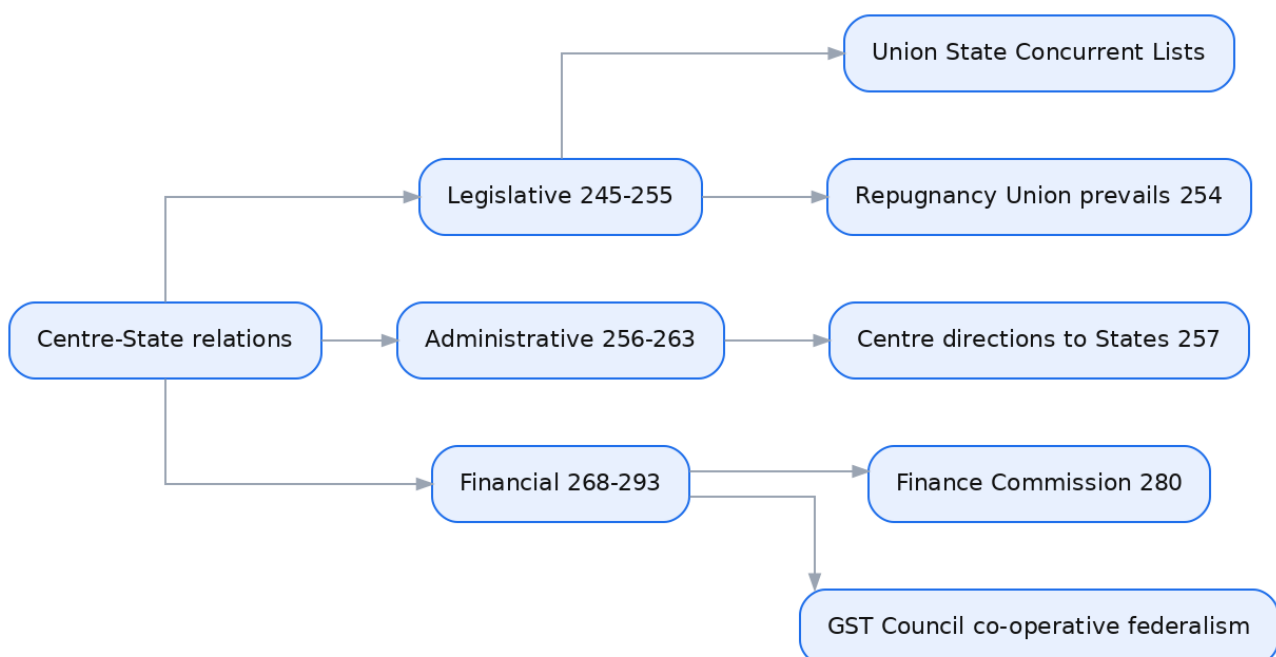
- Taxes are divided between the Centre and the States; many central taxes are **shared** with the States.
- The **Finance Commission** (Art. 280) recommends the distribution of taxes and grants-in-aid; **GST** (101st Amendment, 2016) created a shared tax with the **GST Council** — a landmark in **co-operative federalism**.

Recommendations of Commissions on Centre-State relations. Because the relationship has been a recurring source of friction, the Centre has appointed expert commissions to recommend reform: the **Sarkaria Commission (1983, report 1988)** urged that Article 356 be used **sparingly as a last resort**, that Governors be **non-partisan**, and that the **Inter-State Council** (Art. 263) be activated; the **Punchhi Commission (2007, report 2010)** carried this forward, recommending **fixed Governor tenure**, a narrowly-defined trigger for President’s Rule, and stronger consultative federal machinery. Many of these ideas were judicially absorbed in **S.R. Bommai** and shaped later practice.

Co-operative federalism: the modern trend by which the Centre and States act as **partners**, not rivals — seen in the Inter-State Council, the Finance Commission, the GST Council and the reform agenda of the **Sarkaria** and **Punchhi** Commissions.

In Simple Terms: Law-making is split by three lists (Union prevails on the shared list); administration is co-ordinated with the Centre able to direct States; and money is divided and shared, with the Finance Commission and GST Council keeping the partnership working.

The Visual



Case Laws

- **State of W.B. v. Kesoram Industries (2004):** taxation entries are interpreted strictly; pith and substance applied.
- **Prafulla Kumar Mukherjee v. Bank of Commerce (1947):** classic statement of the **pith and substance** doctrine.
- **M. Karunanidhi v. Union of India (1979):** test of **repugnancy** under Art. 254.
- **Zaverbhai v. State of Bombay (1954):** where a later Union law occupies the **same field** as an earlier State law on a Concurrent subject, the State law is **impliedly repealed** to the extent of the repugnancy.

☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Three relations:** legislative, administrative, financial.
- **STAGE 2** → **Legislative:** Art. 246 + three lists; repugnancy (254); Centre's encroaching powers (249, 250, 252, 253, 248).
- **STAGE 3** → **Doctrines:** pith and substance, colourable legislation.
- **STAGE 4** → **Administrative & Financial:** directions (256–257), all-India services; Finance Commission (280), GST Council.
- **STAGE 5** → **Verdict:** the design tilts to the Centre, but co-operative federalism (GST, Inter-State Council) softens it.

⚠️ FACT-PATTERN RISK ALERT

Scenario: A State law and a Union law on a **Concurrent-List** subject conflict; the State argues its later law should prevail.

- **I — ISSUE:** Which law prevails when a State and Union law on a Concurrent subject are repugnant?
- **R — RULE:** Article 254 — Union law prevails over a repugnant State law on a Concurrent subject; a State law may prevail only if **reserved for and assented to by the President** (and even then Parliament can override).
- **A — ANALYSIS:** Unless the State law received Presidential assent under Art. 254(2), the repugnant State provision is void to the extent of the conflict.
- **C — CONCLUSION:** The Union law prevails; the conflicting State law is void unless saved by Presidential assent.

3. Freedom of Trade & Commerce; Official Language

Previous Year Questions

- **[16M]** Explain the constitutional provisions relating to the **freedom of inter-State trade, commerce and intercourse** (Arts. 301-307). (★★)
- **[Short Note]** Official Language.

The Hook

A nation of 28 States could splinter into 28 tiny economies if each State taxed goods crossing its borders. **Article 301** prevents that — it makes trade, commerce and intercourse **throughout the territory of India free**, welding the country into a single economic unit.

Freedom of Trade & Commerce (Arts. 301-307)

- **Article 301** — trade, commerce and intercourse throughout India shall be **free**.
- **Article 302** — Parliament may impose restrictions in the **public interest**.
- **Article 303** — neither Centre nor State may make laws **giving preference** to one State over another (with an exception for scarcity).
- **Article 304** — a State may (a) impose **non-discriminatory taxes** on imported goods like those produced locally, and (b) impose **reasonable restrictions** in the public interest, with **Presidential assent**.
- The **compensatory tax** doctrine: a tax that is merely **compensatory** (a charge for the use of roads/facilities) does **not** offend Article 301.

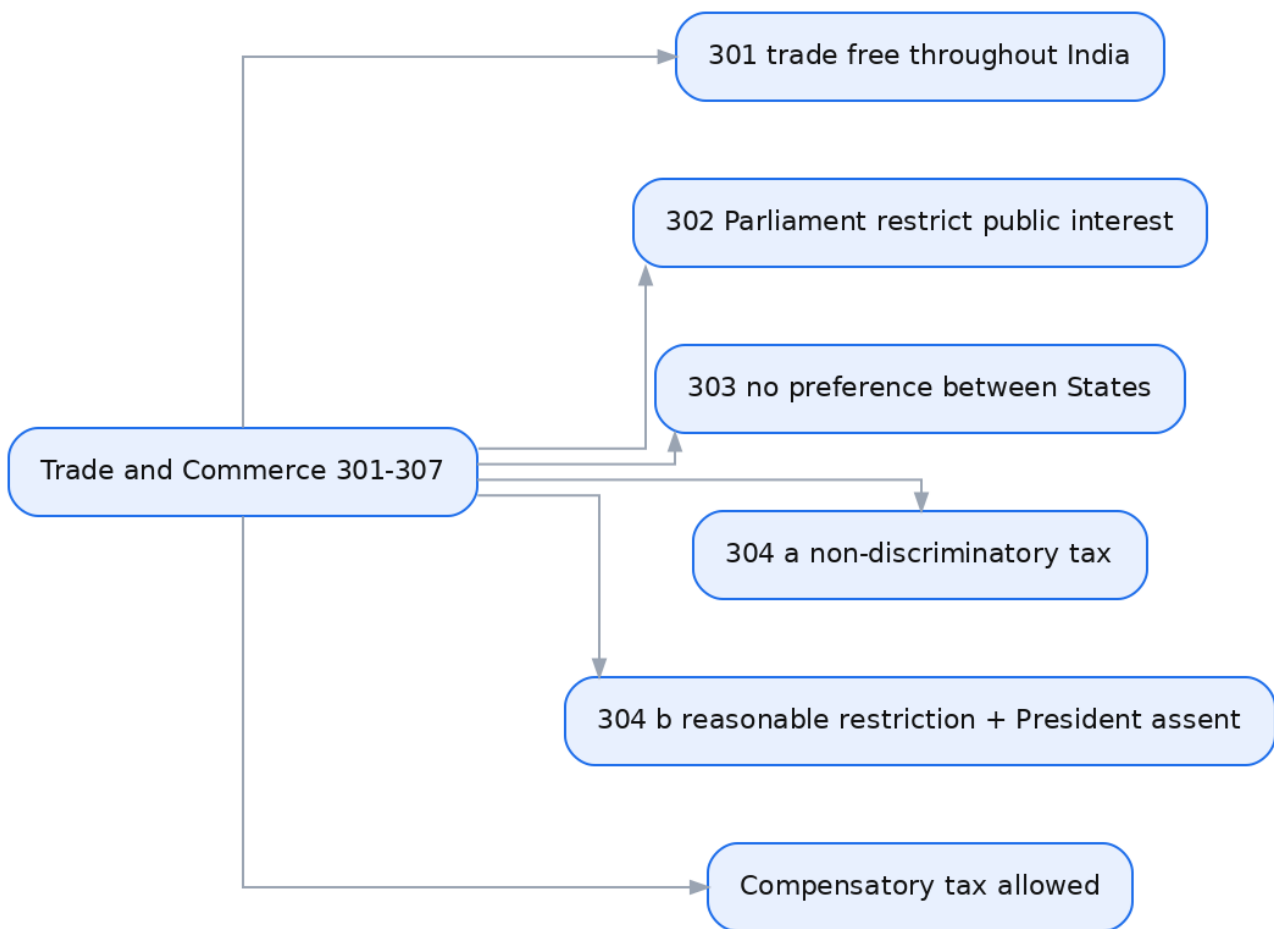
Article 301: “Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.”

Official Language (Arts. 343-351)

- **Hindi** in Devanagari is the official language of the Union (Art. 343); **English** continues for official purposes; States may adopt their own official language (Art. 345). The Eighth Schedule lists the recognised languages.

In Simple Terms: Goods and people may move freely across State borders; States may tax imports only if they tax their own goods the same way, and may restrict trade only reasonably and with the President’s assent. A purely **compensatory** charge (toll for a road) is allowed.

The Visual



Case Laws

- **Atiabari Tea Co. v. State of Assam (1961):** taxes that **directly and immediately** restrict trade offend Art. 301.
- **Automobile Transport v. State of Rajasthan (1962):** the **compensatory tax** exception — regulatory/compensatory charges do not violate Art. 301.
- **Jindal Stainless v. State of Haryana (2016):** a nine-judge bench refined the doctrine; entry tax need not be compensatory if non-discriminatory.

☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Purpose:** Art. 301 makes India a single economic unit.
- **STAGE 2** → **The scheme:** 301 (free) → 302 (Parliament restricts) → 303 (no preference) → 304 (State taxes/restrictions with assent).
- **STAGE 3** → **Compensatory tax:** Atiabari (direct restriction bad) → Automobile Transport (compensatory allowed) → Jindal Stainless.
- **STAGE 4** → **Official language:** Hindi + English; Eighth Schedule (brief).
- **STAGE 5** → **Verdict:** free trade is the rule; only non-discriminatory, reasonable or compensatory levies survive.

⚠️ FACT-PATTERN RISK ALERT

Scenario: A State imposes **octroi / entry tax** on goods entering from other States, while exempting goods produced within the State; an affected trader challenges it under Article 301.

- **I — ISSUE:** Is a tax that burdens imported goods but not local goods valid under Articles 301-304?
- **R — RULE:** Article 304(a) permits a State tax on imported goods **only if** it is **non-discriminatory** — local goods must bear the same tax; a discriminatory entry tax offends Art. 301/303.
- **A — ANALYSIS:** Exempting local goods while taxing imports is precisely the discrimination Art. 304(a) forbids; nor is it shown to be compensatory.
- **C — CONCLUSION:** The discriminatory entry tax is **unconstitutional** unless made non-discriminatory.

4. Local Self-Government (73rd & 74th Amendments); J&K & Special Provisions

Previous Year Questions

- **[16M]** Explain the salient features of the **73rd and 74th Constitutional Amendments** (Panchayati Raj and Municipalities). (★★)
- **[Short Note]** Article 370; Special provisions for specific States (Arts. 371-A to 371-J).

The Hook

Real democracy is not only in Delhi and the State capitals — it is in the **village panchayat and the town municipality**. For decades local bodies were creatures of State whim. The **73rd and 74th Amendments (1992)** gave them, for the first time, a **constitutional** existence.

Local self-government (73rd & 74th Amendments, 1992)

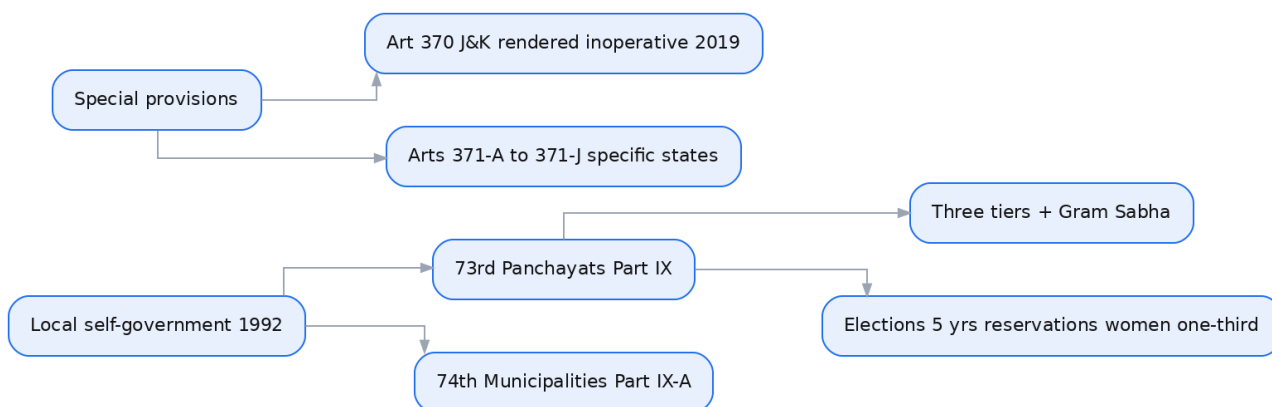
- **73rd Amendment — Panchayati Raj** (Part IX, Arts. 243-243-O; Eleventh Schedule): a **three-tier** structure (village, intermediate, district); **regular elections** every 5 years by the State Election Commission; **reservation** for SCs/STs and **women (one-third)**; a **State Finance Commission**; the **Gram Sabha**.
- **74th Amendment — Municipalities** (Part IX-A, Arts. 243-P to 243-ZG; Twelfth Schedule): Nagar Panchayats, Municipal Councils and Municipal Corporations, with similar elections, reservations and finance provisions.

J&K and special provisions

- **Article 370** — gave Jammu & Kashmir a **special, temporary autonomous status** (placed in Part XXI, “Temporary, Transitional and Special Provisions”); in **2019** it was **rendered inoperative** by Presidential Orders (C.O. 272/273) under Art. 370(3), and the State was reorganised into the Union Territories of J&K and Ladakh. In ***In re Article 370 (2023)*** the Supreme Court held Article 370 was **always a temporary provision** and **upheld** the power to render it inoperative.
- **Articles 371-A to 371-J** — special provisions for specific States (e.g., **371-A Nagaland, 371-G Mizoram, 371-J Hyderabad-Karnataka/Kalyana-Karnataka**), protecting local customs, land and development needs.

In Simple Terms: The 73rd/74th Amendments made village panchayats and town municipalities permanent constitutional bodies with elections, reservations and their own finances. Article 370 (J&K’s special status) was **rendered inoperative** in 2019 — a step the Supreme Court upheld in 2023, holding the provision was only ever temporary — while Articles 371-A to 371-J still give tailored protections to particular States.

The Visual



Case Laws

- **In re Article 370 of the Constitution (2023):** Article 370 was a temporary provision; the 2019 Orders rendering it inoperative, and the reorganisation of J&K, were upheld.
- **K. Krishna Murthy v. Union of India (2010):** upheld reservation of seats and chairperson posts in **local self-government** bodies (Arts. 243-D / 243-T), while requiring an empirical basis for OBC reservation.

☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Why:** local bodies were weak; the 1992 amendments gave them constitutional status.
- **STAGE 2** → **73rd:** Panchayati Raj — three tiers, Gram Sabha, elections, reservations (women one-third), State Finance Commission, Eleventh Schedule.
- **STAGE 3** → **74th:** Municipalities — Nagar Panchayat/Council/Corporation; Twelfth Schedule.
- **STAGE 4** → **Special provisions:** Art. 370 (rendered inoperative 2019; held temporary in *In re Article 370, 2023*); Arts. 371-A to 371-J for specific States.
- **STAGE 5** → **Verdict:** decentralisation deepened democracy; special provisions accommodate diversity within the Union.

⚠️ **FACT-PATTERN RISK ALERT**

Scenario: A State Government **does not hold panchayat elections** for several years after the five-year term expires, and defends the delay as an administrative convenience.

- **I — ISSUE:** Can a State postpone elections to local bodies beyond the constitutional term?
- **R — RULE:** The **73rd/74th Amendments** make panchayats and municipalities permanent bodies with a fixed **five-year term**; **Article 243-E / 243-U** require elections to be **completed before the expiry** of the term, and the State Election Commission (Art. 243-K / 243-ZA) superintends them.
- **A — ANALYSIS:** Indefinite postponement defeats the mandatory constitutional scheme of self-government; “administrative convenience” is not a recognised ground, and the courts can direct that elections be held.
- **C — CONCLUSION:** The delay is **unconstitutional**; the State must hold timely elections, and a court may compel them.

5. Quick Revision & Case Law Table

One-line memory hooks

- **Federalism:** quasi-federal — federal features + unitary bias; “Union” indestructible (Ambedkar); federalism = basic structure (*Bommai*); Art. 3 reorganisation.
- **Centre-State:** Legislative (three lists; repugnancy Art. 254, Union prevails; Centre’s powers 249/250/252/253/248; pith & substance, colourable legislation); Administrative (256–263, directions); Financial (Finance Commission 280, GST Council).
- **Trade & commerce:** Art. 301 free; 302 Parliament; 303 no preference; 304 non-discriminatory tax + reasonable restriction with assent; compensatory tax allowed (*Atiabari, Automobile Transport, Jindal Stainless*).
- **Local govt:** 73rd (Panchayats, Part IX, Eleventh Schedule) & 74th (Municipalities, Part IX-A, Twelfth Schedule), 1992 — elections, reservations (women one-third), State Finance Commission.
- **Special:** Art. 370 rendered inoperative 2019 (temporary provision, *In re Article 370* 2023); Arts. 371-A to 371-J specific States.

Master Case List for Unit I

Case	Topic	One-line ratio
State of W.B. v. Uol (1963)	Federalism	India not a true federation; strong Centre.
S.R. Bommai v. Uol (1994)	Federalism	Federalism is basic structure; President's Rule reviewable.
Prafulla Kumar Mukherjee (1947)	Legislative lists	Pith and substance doctrine.
M. Karunanidhi v. Uol (1979)	Repugnancy	Test of repugnancy under Art. 254.
Zaverbhai v. State of Bombay (1954)	Repugnancy	Later Union law on same field impliedly repeals State law.
Atiabari Tea Co. (1961)	Art. 301	Direct restriction on trade is void.
Automobile Transport (1962)	Art. 301	Compensatory tax exception.
Jindal Stainless (2016)	Art. 301	Entry tax valid if non-discriminatory.
In re Article 370 (2023)	J&K	Art. 370 temporary; rendering it inoperative upheld.
K. Krishna Murthy v. Uol (2010)	Local govt	Reservation in local bodies (243-D/243-T) upheld.

End of Unit I. Next: Unit II — Executive (President & Governor), Parliament & State Legislature, Council of Ministers.

Constitutional Law-II

KSLU LL.B. — Question Bank · Model Answers (Essays & Problems)

KSLU LL.B. Question Bank

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Notes Version: **v1.1**

June 2026

Read this first, then go to your unit. This companion to the study notes gives a full, exam-ready **model answer** to every essay and fact-pattern problem asked in past KSLU Constitutional Law-II papers, grouped by unit and topic in the same order as the notes. Short notes (5M / 6M) are answered in the notes bundle, not here.

How to Use This Question Bank

What this is. A rehearsal book. The study notes teach the concept; this bank shows you how to *write the marks* — a complete answer in the exact shape an examiner rewards.

The 3-step drill. (1) Read the question and try a 2-minute plan from memory. (2) Read the model answer; note the structure, the Articles, the cases, the verdict. (3) For problems, re-do the IRAC in your own words under time.

Priorities. The ★ rating shows how often a question repeats — ★★★ is a near-certainty; do these first. The Priority Index below lists them.

House rules that win marks. Lead with the Article + a definition + roadmap; name the case **and** the year; quote the exact Article; for problems use the four IRAC headings and always give a definite verdict.

Exam Pattern & Mark Weights

KSLU Const-II papers carry one **essay [16M]** and one **short note / problem** per unit, answered with an OR choice. Short notes are answered in the study-notes bundle; this bank covers the essays and the problems.

Mark slot	What it is	Where it's drilled
16M	Long essay	Section A of each unit
Problems	Fact-pattern, IRAC	Section B of each unit

Priority Index – Questions by Frequency

Rank	Question (short)	Type	Frequency	Unit
1	Distribution of legislative powers / quasi-federal	16M	★★★	1
2	Freedom of trade & commerce (Arts. 301-307)	16M	★★★	1
3	Powers & functions of the President	16M	★★★	2
4	Position & powers of the Governor	16M	★★★	2
5	Independence / appointment / transfer of judges	16M	★★★	3
6	Jurisdiction of the Supreme Court	16M	★★★	3
7	Article 311 safeguards for civil servants	16M	★★★	4
8	Tortious liability of the State (Art. 300)	16M	★★★	4
9	Kinds of Emergency & effect on FRs	16M	★★★	5
10	Amendment & Basic Structure (Art. 368)	16M	★★★	5
11	President's Rule (Art. 356) & judicial control	16M	★★★	5
12	Anti-Defection Law (Tenth Schedule)	16M	★★	3

UNIT I – Federalism, Centre-State Relations & Freedom of Trade and Commerce · Question Bank

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Scope of this unit's bank: full model answers to every **essay** (16M, §A), every **10-mark short / explanatory note** (§B) and every **fact-pattern problem** (IRAC, §C) asked in past KSLU papers for this unit.

A. Essay Questions – Model Answers

Q1.1 — [16M] Discuss the constitutional scheme of distribution of legislative powers between the Centre and the States. Is the Indian Constitution federal?

Asked: recurring (very frequent) · ★★ ★ · Notes: Unit I → Topic 2

Introduction. A federation lives or dies by **how it divides power** between the nation and its units; the Indian Constitution makes that division in the **Seventh Schedule** and tilts it deliberately toward a **strong Centre**. This answer sets out the scheme of legislative distribution and shows why India is best called **quasi-federal**.

The territorial and subject-wise division

1. **Territorial division — Article 245** — Parliament may legislate for the whole or any part of India and the State legislatures for their territory; Parliament alone has **extra-territorial** operation. This establishes the basic field within which each legislature may act.
2. **Three Lists — Article 246 & Seventh Schedule** — the **Union List** (defence, foreign affairs, currency) is the exclusive domain of Parliament; the **State List** (police, public health, agriculture) belongs to the States; the **Concurrent List** (criminal law, marriage, contracts) is shared. The Union List prevails over the others, and the Concurrent over the State List, giving the Centre the dominant field.

Centre's encroaching powers over the State field

1. **When Parliament legislates on State subjects** — Parliament may legislate on a State subject in the **national interest** (Art. 249, on a Rajya Sabha resolution), during a **National Emergency** (Art. 250), with the **consent of States** (Art. 252), to implement **international treaties** (Art. 253), and during **President's Rule**. These openings let the Centre invade the State field whenever larger interests demand.
2. **Residuary power — Article 248** — the **residuary power** of legislation on any matter not in the three Lists vests in **Parliament**, unlike the United States where it rests with the States, a strong unitary feature.

Repugnancy and the doctrines

1. **Repugnancy — Article 254** — if a State law on a Concurrent subject conflicts with a Union law, the **Union law prevails** and the State law is void to the extent of repugnancy, unless the State law was **reserved for and received the President's assent** (Art. 254(2)).
2. **Pith and substance & colourable legislation** — to test competence the courts look at the law's **true nature** (pith and substance), so an incidental encroachment is valid; and “what cannot be done directly cannot be done indirectly” (colourable legislation), preventing a legislature from disguising a transgression of its field.

Leading cases

- ***State of West Bengal v. Union of India (1963)*** — India is not a “true” federation; the Centre is supreme in important respects.
- ***S.R. Bommai v. Union of India (1994)*** — federalism is part of the **basic structure**, yet the Centre retains strong powers.
- ***State of Bombay v. F.N. Balsara (1951)*** — applied pith and substance; incidental encroachment does not invalidate.

The scheme thus combines a federal division with a decisive central tilt, exactly as the framers intended for a diverse and newly-united nation.

Conclusion. The Constitution distributes legislative power through the three Lists with the Union predominant, the residuary power in Parliament, and Union supremacy on repugnancy — making India **quasi-federal**: federal in form, unitary in bias.

Q1.2 — [16M] Explain the constitutional provisions relating to the freedom of trade, commerce and intercourse under Articles 301-307.

Asked: recurring · ★★★ · Notes: Unit 1 → Topic 3

Introduction. A nation that is politically one must also be **economically one**; **Article 301** guarantees that **“trade, commerce and intercourse throughout the territory of India shall be free,”** turning the country into a single common market. Articles 302-307 then qualify that freedom in the public interest.

The guarantee and its scope

1. **Article 301 — the free-flow principle** — trade, commerce and intercourse **throughout India** shall be free; the freedom protects the **free movement** and flow of trade across and within State borders against barriers that directly and immediately impede it. It binds both Parliament and the State legislatures.
2. **What is protected** — only restrictions that *directly and immediately* burden the movement of trade fall foul of Article 301; **regulatory** measures and **compensatory taxes** for the use of facilities (roads, bridges) do not, because they facilitate rather than hamper trade.

The permitted restrictions

1. **Parliament’s power — Article 302** — Parliament may impose restrictions on the freedom of trade in the **public interest**, subject to Article 303.
2. **No preference / discrimination — Article 303** — neither Parliament nor a State may make a law **giving preference** to one State over another or **discriminating** between States, except that Parliament may do so to deal with a situation of **scarcity** of goods.
3. **State’s power — Article 304** — a State may (a) impose **non-discriminatory taxes** on goods imported from other States as are levied on its own goods (Art. 304(a)), and (b) impose **reasonable restrictions** in the public interest, provided the **President’s prior sanction** was obtained (Art. 304(b)).
4. **Saving — Articles 305-307** — existing laws and State monopolies are saved (305), and Parliament may appoint an authority to carry out the purposes of these provisions (307).

The compensatory-tax doctrine

1. **Atiabari and Automobile Transport** — in **Atiabari Tea Co. (1961)** a tax that directly restricted movement was struck down; **Automobile Transport (Rajasthan) (1962)** refined this with the **compensatory-tax** theory — a tax that is merely **compensatory** for the use of trading facilities does **not** offend Article 301.
2. **Jindal Stainless** — **Jindal Stainless Ltd. v. State of Haryana (2016)** (9-judge bench) re-examined the doctrine, holding that **non-discriminatory** taxes do not per se violate Article 301 and substantially diluting the compensatory-tax test.

Leading cases

- **Atiabari Tea Co. v. State of Assam (1961)** — taxes directly impeding movement violate Article 301.
- **Automobile Transport (Rajasthan) v. State of Rajasthan (1962)** — compensatory taxes are valid.

- ***Jindal Stainless Ltd. v. State of Haryana (2016)*** — non-discriminatory taxes do not offend Article 301.

Conclusion. Articles 301–307 secure a **single economic India** — trade is free, but may be restricted by Parliament in the public interest and by States on a non-discriminatory basis with the President’s sanction, the courts policing the line through the discrimination and compensatory-tax tests.

B. Short Notes — Model Answers (10M)

S1.1 — Doctrine of Pith and Substance

Asked: recurring · ★★

Introduction. The **doctrine of pith and substance** is a rule of interpretation used to test the **legislative competence** of a law against the three Lists of the **Seventh Schedule**. Because the Union and State legislatures must keep within their allotted fields, disputes arise when a law appears to touch a subject in another List.

The rule. When a law is challenged as falling outside the enacting legislature’s field, the court looks not at its incidental effects but at its **true nature and character** — its “pith and substance.” If, in substance, the law falls **within** a subject assigned to that legislature, it is **valid**, even though it **incidentally encroaches** upon a subject in another List.

Rationale. The doctrine exists because the legislative entries are not water-tight compartments and inevitably overlap. A rigid view would paralyse legislation, so the courts allow incidental trespass provided the dominant purpose of the law is within competence. It gives the federal distribution of powers a flexible and workable operation and preserves the presumption of constitutionality.

Leading cases. The doctrine was classically stated in ***Prafulla Kumar Mukherjee v. Bank of Commerce (1947)***, where a State law on money-lending was upheld though it incidentally affected promissory notes (a Union subject). It was applied in ***State of Bombay v. F.N. Balsara (1951)***, where the Bombay Prohibition Act, substantially on a State subject (intoxicating liquors), was upheld despite its incidental effect on the import of liquor (a Union subject). The degree of encroachment may, however, be relevant in deciding where the pith truly lies.

Conclusion. The doctrine of pith and substance harmonises the inevitable overlap between Union and State powers by focusing on the real subject-matter of a law rather than its incidental effects, thereby sustaining legislation that is in substance within competence and keeping the federal scheme practical and functional.

S1.2 — Co-operative Federalism

Asked: recurring · ★★

Introduction. Co-operative federalism describes the modern trend by which the **Centre and the States act as partners**, not rivals, working together in the national interest rather than in rigid separation. It softens the competitive, compartmentalised model of “dual” federalism.

The Indian context. Although the Indian Constitution deliberately tilts towards a strong Centre, it also builds in several mechanisms that foster **consultation and shared decision-making** between the two levels of government, reflecting the framers’ belief that national problems demand co-ordinated solutions.

Institutional mechanisms. The key structures include: the **Inter-State Council (Art. 263)** and the zonal councils for inter-governmental co-ordination; the **Finance Commission (Art. 280)** for an impartial sharing of revenues; the **All-India Services (Art. 312)**, whose officers serve both the Union and the States; and, most notably, the **GST Council** created by the **101st Amendment (2016)** — a joint Centre-State body that decides indirect-tax policy by a weighted consensus and which the Supreme Court (in *Mohit Minerals*, 2022) described as an embodiment of co-operative federalism whose recommendations are persuasive rather than binding.

Reform recommendations. The **Sarkaria Commission** and later the **Punchhi Commission** recommended strengthening these consultative structures, activating the Inter-State Council, and restraining the misuse of central powers (such as Article 356), so that the relationship operates in a spirit of partnership.

Conclusion. Co-operative federalism tempers the Constitution’s unitary bias with a culture of dialogue and joint policy-making. It recognises that in a vast and diverse polity the Centre and the States are interdependent, and that genuine national progress depends on their working as collaborators rather than competitors. The contemporary working of bodies such as the GST Council and the NITI Aayog, which replaced the Planning Commission in 2015 to promote a consultative, bottom-up model of development, shows that co-operative federalism is not a mere theory but an evolving practice through which shared fiscal and policy decisions are increasingly taken jointly by the two tiers of government.

S1.3 — Official Language

Asked: occasional · ★

Introduction. Articles 343-351 (Part XVII) of the Constitution deal with the **official language of the Union and the States** — a question so sensitive at the framing that it was resolved only by a careful compromise balancing Hindi with India’s linguistic diversity.

Language of the Union. **Article 343** makes **Hindi in the Devanagari script** the official language of the Union, while providing that **English** would continue for official purposes for **fifteen years** from the commencement of the Constitution. To avoid disruption, the **Official Languages Act, 1963** extended the use of English **indefinitely** alongside Hindi, reassuring the non-Hindi-speaking States.

Languages of the States. Under **Article 345**, a State legislature may adopt **Hindi or any language in use in the State** as its official language, and Article 348 deals with the language of the higher courts and legislation. **Article 350-A** provides for instruction in the **mother tongue** at the primary stage for children of linguistic minorities, and **Article 350-B** provides a **Special Officer for Linguistic Minorities** to safeguard their interests.

The Eighth Schedule. The **Eighth Schedule** lists the languages recognised by the Constitution — now 22 — which the Union is directed to develop and enrich (Art. 351), and from which candidates may offer answers in public-service examinations. The list has been expanded several times to accommodate additional languages.

Conclusion. The official-language scheme reflects a constitutional balance between promoting Hindi as a national link language and protecting the equally legitimate claims of regional languages. By extending English, safeguarding minority languages and recognising a growing list of scheduled languages, the Constitution defused a potentially divisive issue and accommodated India's plural linguistic identity. The careful phasing of the transition — retaining English while gradually promoting Hindi, and protecting minority languages through Articles 350-A and 350-B — averted the linguistic conflict that had threatened national unity in the 1950s and 1960s, and the scheme continues to govern official communication, recruitment examinations and the language of the higher courts and legislatures today.

C. Problems — Model Answers (IRAC)

P1.1 — [Prob] A State levies a lower sales tax on cotton goods manufactured within the State than on cotton goods imported from other States. A trader challenges it as violating the freedom of inter-State trade. Decide.

Asked: recurring · ★★★ · Notes: Unit I Risk Alert (Topic 3)

Issue. Does a sales tax that discriminates against goods imported from other States violate Articles 301 and 304(a)?

Rule. Article 301 guarantees freedom of inter-State trade; **Article 304(a)** permits a State to tax imported goods **only at the same rate** as its own goods — it must **not**

discriminate between locally made and imported goods. Article 303 also forbids discrimination between States.

Application. The **decoy** is the State's power to tax under Article 304(a); but that power is conditional on **parity** of rates. Here the lower rate on local cotton and the higher rate on imported cotton create exactly the **discrimination** Article 304(a) forbids, erecting a fiscal barrier against goods from sister States and fragmenting the common market that Article 301 protects. The very object of Article 304(a) is to prevent a State from using its taxing power to shield local producers against competition from other States, which is precisely what this differential rate achieves. The tax is protectionist, not compensatory, so the *Automobile Transport* exception cannot save it, because it funds no trading facility and merely penalises imports. It therefore fails the non-discrimination test laid down in *Atiabari* and reaffirmed in *Jindal Stainless*, and no sanction under Article 304(b) can validate a tax that is discriminatory on its face.

Conclusion. The discriminatory sales tax is **unconstitutional** for violating Articles 301 and 304(a); the trader succeeds.

P1.2 — [Prob] A municipality levies octroi duty on the entry of goods into its limits. A trader challenges the octroi as violating Article 301. Decide.

Asked: recurring · ★★ · Notes: Unit I Risk Alert (Topic 3)

Issue. Is an octroi (entry tax) on goods entering a local area a violation of the freedom of trade under Article 301?

Rule. Under *Automobile Transport (Rajasthan) (1962)*, a tax that is **compensatory** — a charge for the use of trading facilities — does **not** offend Article 301; only a tax that **directly and immediately** impedes the free movement of trade is bad.

Application. Octroi is a tax on the entry of goods into a local area for use, consumption or sale. If it is levied as a **compensatory** charge for the civic facilities the municipality provides to trade (roads, markets, services), it is a regulatory/compensatory measure and is **valid** despite some burden on movement. If, however, it is **discriminatory** or so heavy as to **directly impede** the movement of goods rather than fund facilities, it would cross into a restriction that Article 301 forbids and would need the protection of Article 304(b) (reasonable restriction with the President's sanction). On the usual facts a moderate, non-discriminatory octroi is upheld.

Conclusion. A compensatory, non-discriminatory octroi is **valid**; it is struck down only if it is discriminatory or directly impedes trade without satisfying Article 304(b).

P1.3 — [Prob] The Government of India levies an import duty on goods imported by a State for governmental use. The State pleads that its property is immune from Central taxation. Decide.

Asked: recurring · ★★ · Notes: Unit I Risk Alert (Topic 1)

Issue. Is the property of a State immune from Union taxation, so that the State need not pay customs/import duty to the Centre?

Rule. Article 285 exempts Union property from State taxation, and Article 289 exempts State property and income from Union taxation — but Article 289(2) allows the Union to tax a State’s trade or business activities; and customs duty stands on a special footing.

Application. Article 289(1) immunity protects a State’s property and income from Union taxes, but the Supreme Court has held (in the *Sea Customs* reference, 1963) that **customs/import duty is not a tax on “property”** but a duty on the **act of importation** — it is levied on the taxable event of bringing goods into India, not on ownership. Hence the State’s Article 289(1) immunity does **not** extend to customs duty; the State must pay import duty like any other importer. Moreover, if the import is for the State’s **trade or business**, Article 289(2) independently permits Union taxation.

Conclusion. The State is not immune; import (customs) duty is leviable on the State’s imported goods, because it is a duty on importation, not a tax on State property under Article 289(1).

P1.4 — [Prob] A State, under its Municipalities Act, reserves the post of Chairman of Municipalities for SC/ST elected women members (and reserves 50% of local-body seats for women). It is challenged as violating Article 14. Decide.

Asked: recurring (Dec 2018, June 2025) · ★★ · Notes: Unit I → Local self-government

Issue. Is reservation of seats and chairperson posts in local bodies for women and SC/ST members violative of the equality guarantee of Article 14?

Rule. The 73rd and 74th Amendments expressly authorise reservation in local bodies: Articles 243-D and 243-T mandate reservation of seats for SCs/STs in proportion to population and not less than one-third for women, and permit reservation of chairperson offices. Such reservation is a constitutionally sanctioned facet of equality, and Article 14 permits protective classification in favour of the disadvantaged.

Application. The decoy is that reservation “discriminates” against the general candidate. But Articles 243-D/243-T are special constitutional provisions that **carve out** the

reservation, so it cannot be struck down as offending Article 14 — equality includes **substantive** equality and affirmative action for women and SC/STs in grassroots democracy. In ***K. Krishna Murthy v. Union of India (2010)*** the Supreme Court **upheld** reservation of seats and chairperson posts in local bodies, treating political reservation in panchayats/municipalities as distinct from the Article 16 ceiling, though it required an **empirical basis** specifically for OBC reservation. Reservation of chairperson posts for SC/ST women combines two valid heads (women + SC/ST) and is within the constitutional scheme.

Conclusion. The reservation is **constitutionally valid** under Articles 243-D/243-T and does not violate Article 14; it is a permissible measure of protective discrimination in local self-government (*K. Krishna Murthy*).

P1.5 — [Prob] A Presidential order requires that the training of administrative personnel be conducted only in Hindi. A writ is filed challenging the order. Decide its validity.

Asked: recurring (Jun 2019) · ★ · Notes: Unit I → Official Language

Issue. Can the Union, by executive order, make **Hindi the sole medium** for training administrative personnel, and is such an order open to challenge?

Rule. Under **Articles 343-351**, Hindi is the official language of the Union, but **English continues** for official purposes under the **Official Languages Act, 1963**, and the language policy must be implemented **progressively**, without discriminating against non-Hindi speakers. **Article 16** guarantees equality of opportunity in public employment, and any condition that disadvantages a class of candidates must be **reasonable** and non-arbitrary (Art. 14).

Application. The decoy is that Hindi being the “official language” justifies making it the **only** medium. But Article 343 itself preserves English, and a sudden order making Hindi the **exclusive** medium of training would **arbitrarily disadvantage** administrative personnel from **non-Hindi-speaking** States, offending Articles 14 and 16 and the constitutional policy of gradual, non-coercive promotion of Hindi. Such an order must, at the least, allow English as an alternative; an absolute Hindi-only requirement, imposed without transition, is **unreasonable** and beyond a bare executive order unsupported by law. The court can examine whether the order is a reasonable step in language policy or an arbitrary imposition.

Conclusion. An order making Hindi the **sole** medium of training is **liable to be struck down** as arbitrary and discriminatory; the Union may promote Hindi progressively but cannot exclude English so as to disadvantage non-Hindi-speaking personnel.

P1.6 — [Prob] The State of Karnataka reserves 10% of seats in professional colleges for the Hyderabad-Karnataka region. “X” challenges the reservation. Decide.

Asked: occasional · ★ · Notes: Unit I → Special provisions (371-A to 371-J)

Issue. Is a region-based reservation in education for a backward region of a State constitutionally valid?

Rule. Article 371-J (inserted by the 98th Amendment, 2012) makes a special provision for the Hyderabad-Karnataka region, empowering the State to provide for reservation in education and public employment for persons of that region, in recognition of its backwardness. Special provisions under Articles 371-A to 371-J are constitutionally authorised departures from the ordinary equality norm.

Application. The decoy is that region-based reservation offends the equality of opportunity guaranteed by Articles 14–16. But Article 371-J is a **specific constitutional mandate** permitting precisely such regional reservation to remedy the **historical neglect** of the Hyderabad-Karnataka (now Kalyana-Karnataka) region; a reservation traceable to that Article cannot be struck down as discriminatory. Provided the 10% reservation is **made under and within the limits of** Article 371-J (and the Presidential order issued under it), and is reasonable, it is valid. If, however, the reservation **exceeded** the constitutional authorisation or was applied arbitrarily, that part could be questioned.

Conclusion. The 10% regional reservation is valid if made under Article 371-J, which expressly sanctions reservation for the Hyderabad-Karnataka region; X’s challenge fails.

End of Unit I Question Bank.

