

**GUJARAT NATIONAL LAW UNIVERSITY
SILVASSA CAMPUS**

**Course: Center State Relations and Local Self Government
Semester- II (Batch: 2023-24)**

End Semester Examination: April-May 2023 (LL.M.)

Date: 25th April, 2024

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: (5 Marks:500-700 words), (10 Marks:800-1000 words)

ANSWER ANY FIVE OF THE FOLLOWING QUESTIONS

Marks

(10)

Q.1

“In any attempt at classification of types of federal systems, there are two important points to note. First, we must take account of the difference between constitutional form and operational reality. In many political systems, political practice has transformed the way the constitution operates. In Canada and India, for example, the initial constitution was clearly quasi-federal, containing some central overriding powers more typical of unitary systems. However, in both cases, the use of these powers has been moderated (virtually completely in the Canadian case) such that the operational reality today comes closer to that of a full-fledged federation. Other particularly notable examples of the impact of operational practice in a more unitary direction have occurred in Malaysia, Pakistan, Russia, South Africa and Venezuela. To characterize federal systems, therefore, it is necessary to study both their constitutional law and their politics and how these have interacted. Second, while knowledge about the structural character of a federal political system is important to gain an understanding of its character, equally important is the nature of its political processes.”

In light of the passage quoted above and the discussions that have transpired in the classroom delineate the typologies of federalism discussed by the author and discuss the factors that differentiates one federation from the other.

Q.2

“India’s political system was marked by a greater degree of unitary-federal hybridity in past decades than today. Yet some degree of hybridity continues, especially with reference to greater federal decentralization in the political and administrative domains than in economic and financial matters. While political and administrative decentralization will probably continue for the foreseeable future, it is unlikely that economic and financial centralization will disappear soon – mainly for two reasons. For one, the federal government is in a much stronger economic and financial position than the state and local governments. For another, pressure from the major regional powers such as China and Pakistan and international terrorism is something with which India must learn to live, despite some evidence of a thaw in Indo-Pakistani and Indo-Chinese relations. Nevertheless, the general direction of change toward greater federalization would

(10)

appear to be irreversible given the level of social mobilization and politicization and the rise of regional parties.”

In light of the passage quoted above, discuss the changing trends of ‘hybridity’ in Indian federalism and the factors responsible for it.

- Q.3 *“Article 246 gives each legislature the power (either exclusively or otherwise) to make laws ‘with respect to’ ‘matters enumerated’ in the respective Lists. It is this expression that marks a clear divide between competence and repugnance, because it shows that the test of vires is to be applied to the legislation as a whole, and not to individual provisions in it. The significance of this is that a law which ‘as a whole’ is ‘with respect to’ a matter in the appropriate List does not become ultra vires simply because it contains provisions which may also be validly enacted by the other legislature. One may ask what happens if an intra vires Central law contains a provision which is inconsistent with an intra vires State law. The answer is that the inconsistency does not affect the competence of either legislature but is resolved by applying the provisions of the Constitution that deal with repugnance.”* (10)

In light of the passage quoted above critically examine the way in which the author has engaged with the jurisprudence evolved by the Supreme Court of India in addressing the issue of ‘competence’ and ‘repugnance’ while ascertaining legislative competence of Union and State Legislature.

Elucidate your answer with reference to relevant case laws.

- Q.4 *“[T]rough its role in the allocation of discretionary grants to the states and its capacity in co-shaping and monitoring a wide array of Centrally Sponsored Schemes, [the Planning Commission] not only added to the interdependence of Indian federalism, but also to its centralization. This is so because the states were insufficiently involved in decision-making in these areas, i.e. the states did not acquire more shared rule to offset the increasing intrusion of the center in (the funding of) their competencies. Furthermore, the PC also appeared to erode some of the activities of the Finance Commission, a statutory body which has allocated pooled tax revenues to the (center and the) states in a less discretionary and more formulaic manner.”* (10)

In light of the passage quoted above, discuss the pitfalls of the Planning Commission of India as highlighted by the author and how it tilted the scale of Indian federalism towards excessive centralisation.

- Q.5 *“The typical rationales given in India for simultaneous elections rest on three arguments. First, concurrent elections will reduce the cost to political parties and the exchequer of running elections. Second, concurrent elections will improve the efficiency of governance by reducing the amount of time that governments spend in campaign mode and during which the Model Code of Conduct is in force, ensuring that new initiatives cannot be announced. Third, that frequent elections encourage political parties to prioritize “populist measures” focused on individual benefits “instead of nationalist ones”. Critics, in turn, have raised concerns that simultaneous elections will erode the fabric of Indian federalism by subsuming autonomous spaces for the articulation of regional identities, issues and policies. Simultaneous elections, they claim, will flatten the diversity of political life across India and undermine the autonomy of state governments”* (10)

In light of the passage quoted above, discuss the feasibility and possibility of One Nation One Elections in India. Critically examine the impact that it would have on the Indian federal structure.

Q.6 Critically examine the way in which the Hon'ble Supreme Court of India dealt with the following issues in *Re: Article 370 of the Constitution*: 5+5

- a. Whether the Proclamation which was issued by the President under Article 356 of the Constitution on 19 December 2018 and the subsequent extensions are constitutionally valid?
- b. Whether the Jammu and Kashmir Reorganisation Act 2019 by which the State of Jammu and Kashmir was bifurcated into two Union Territories (Union Territory of Jammu and Kashmir and Union Territory of Ladakh) is violative of Article 3 of the Constitution of India?
