

## COMPARATIVE PUBLIC LAW/ SYSTEMS OF GOVERNANCE

- Public Law ó Constitution and Administrative Law
- Concept of Constitution
  - Meaning and Idea of Constitution, Nature and Goals
  - Living Constitution
  - Constitution as Supreme Law
- Study of Comparative Constitutional Law
  - Relevance
  - Problems and Concerns in Using Comparison
- Constitutionalism
  - Concept, Distinction between Constitution and Constitutionalism
  - Essential features of Constitutionalism -Written Constitution, Separation of Powers, Fundamental Rights, Independence of Judiciary and Judicial Review
- Constitutional foundations of powers
  - Supremacy of Legislature in Law Making
  - Rule of law
    - Dicey's Concept of Rule of Law
    - Modern Concept of Rule of Law
    - Social and economic rights as part of rule of law
  - Separation of powers
    - Concept of Separation of Powers
    - Checks and Balances
    - Separation of Powers or Separation of Functions
- Forms of Governments
  - Federal and Unitary Forms
    - Features, Advantages and Disadvantages
    - Models of Federalism and Concept of Quasi-federalism
    - Role of Courts in Preserving Federalism
  - Parliamentary and Presidential Forms of Government
- Constitutional Review
  - Methods of Constitutional Review
    - Judicial and Political Review
    - Concentrated and Diffused Review
    - Anticipatory and Successive Review
  - Concept and Origin of Judicial Review
  - Limitations on Judicial Review

- Amendment of Constitution
  - Various Methods of Amendment
  - Limitations on Amending Power: Comparative Perspective
  - Theory of Basic Structure: Origin and Development

### Suggested Readings\*

#### BOOKS

1. Christopher Forsyth, Mark Elliott, Swati Jhaveri, *Effective Judicial Review: A Cornerstone of Good Governance* (Oxford University Press, 2010).
2. D.D. Basu, *Comparative Constitutional Law* ( 2nd ed., Wadhwa Nagpur).
3. David Strauss, *The Living Constitution* (Oxford University Press, 2010)
4. Dr. Subhash C Kashyap, *Framing of Indian Constitution* (Universal Law, 2004)
5. Elizabeth Giussani, *Constitutional and Administrative Law* (Sweet and Maxwell, 2008).
6. Erwin Chemerinsky, *Constitutional Law, Principles and Policies* (3<sup>rd</sup> ed., Aspen, 2006)
7. M.V. Pylee, *Constitution of the World* (Universal, 2006)
8. Mahendra P. Singh, *Comparative Constitutional Law* (Eastern Book Company, 1989).
9. Neal Devins and Louis Fisher, *The Democratic Constitution* (Oxford University Press, 2010)
10. S.N Ray, *Judicial Review and Fundamental Rights* (Eastern Law House, 1974).
11. Sudhir Krishna Swamy, *Democracy and constitutionalism in India – A Study of the Basic Structure Doctrine* (Oxford University Press, 2009)
12. Sunil Khilnani, Vikram Raghavan, Arun Thiruvengadam, *Comparative Constitutionalism in South Asia* (Oxford University Press, 2013).
13. Vikram David Amar, Mark Tushnet, *Global Perspectives on Constitutional Law* (Oxford University Press, 2009).
14. Zachery Elkins, Tom Ginsburg, James Melton, *The Endurance of National Constitutions* (Cambridge University Press, 2009).

#### ARTICLES

1. Aman Ullah and Uzair Samee, "Basic Structure of Constitution: Impact of *Kesavananda Bharati* on Constitutional Status of Fundamental Rights", Vol. 26 (2) *South Asian Studies* 299-309 (July-December 2011).
2. Anne Smith, "Internationalization and Constitutional Borrowing in Drafting Bills of Rights", 60(4) *International and Comparative Law Quarterly* 867-894 (2011 October).
3. Bruce Ackerman, "The New Separation of Powers", 113 (3) *Harv. L. Rev.* 634-729 (2000)
4. Bryan Clark and Amanda Leiter, "Regulatory hide and seek: What agencies can (and can't) do to limit judicial review", 52(5) *Boston College Law Review* 1687-1732 (2011 November)
5. Chhavi Agarwal, "Rule of Law: Reflection upon we the People and Beyond", 252 (1) *Madras Law Journal* 8-16 (2010)
6. Daniel B. Rodriguez, "Change that matters: Essay on State Constitutional Development", 115(4) *Penn State Law Review* 1073-1098 (Spring 2011).
7. Daryl Levinson and Richard H. Pildes "Separation of Parties, Not Powers", 119(8) *Harvard Law Review* 2311-2386 (2006).
8. David King, "Formalizing Local Constitutional Standards of Review and the Implications for Federalism", 97 (7) *Virginia Law Review* 1685-1726 (November 2011).

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\* Suggested Readings are not exhaustive. Need to be supplemented with additional readings.

9. David Staruss, "Do we Have a Living Constitution" 59 (4) *Drake Law Review* 973-984 (2011 Summer)
10. Devi Prasad Singh, "Sovereignty, Judicial Review and Separation of Power", 7(5) *Supreme Court Cases* 1-13 (2012 September)
11. Glen Staszewski, "Political Reasons, Deliberative Democracy and Administrative Law", 97(3) *Iowa Law Review* 849-912 (2012 March):
12. Ishwara Bhat, "Why and how Federalism matters in Elimination of Disparities and Promotion of Equal Opportunities for Positive Rights", 54(3) *Journal of the Indian Law Institute* 324-363 (July-Sept 2012).
13. Jessica Bulman, "Federalism as a safeguard of the Separation of Powers", 112(3) *Columbia Law Review* 459-506 (2012 April)
14. Jonathan Siegel, "Institutional case for Judicial Review" 97(4) *Iowa Law Review* 1147-1200 (2012 May).
15. K.K. Venugopal, "Separation of Power and the Supreme Court of India", Vol. 2 No. 2 *Journal of Law and Social Policy* 64-82 (July 2008).
16. Linda Bosniak, "Persons and Citizens in Constitutional Thought" 8 (1) *International Journal of Constitutional Law* 9-29 (January 2010).
17. Mark Tushnet, "The Possibilities of Comparative Constitutional Law", 108 *Yale.L.J.* 1225 (1999).
18. Nathan Chapman, "Due Process as Separation of Powers", 121(7) *Yale Law Journal* 1672-1807 (2012 May).
19. Quinn Rosenkranz, "Subjects of the Constitution" 62 (5) *Stanford Law Review* 1209-1292 (May 2010)
20. Rajvir Sharma, "Judiciary as Change Agent: Some insights into the Changing role of Judiciary in India", 58(2) *Indian Journal of Public Administration* 264-286 (2012 April-June).
21. Rebecca Brown, "Assisted Living for the Constitution" 59 (4) *Drake Law Review* 985-1000 (2011 Summer).
22. Schapiro., "Judicial Federalism and the Challenges of State Constitutional Contestation", 115(4) *Penn State Law Review* 983-1006 (2011 Spring).
23. Tom Ginsburg, Eric Posner, "Sub Constitutionalism" 62 (6) *Stanford Law Review* 1583-1628 (June 2010).