

NLUJAA

National Law University and Judicial Academy, Assam

One Year LL.M. Degree Programme: Semester-I (Academic Year: 2020-21)

Semester End Examination (January, 2021) :: Online Mode

Subject Code: 1.2 Comparative Public Law / System of Governance

Time: **3:30 Hrs.**

Total Marks: **100**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. Unnecessary queries on the Question Paper shall not be entertained.
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Answer any four questions from the following. All questions carry equal marks.

1. International and supranational law shapes increasingly public law at the domestic level. Choose at least one international jurisdiction and:

- (a) Compare the reception of that law in two domestic jurisdictions by choosing a specific area.
- (b) How should domestic courts approach or adjudicate international law? Be sure to give examples of different judicial practices.

10+15=25 Marks

2. “Too much emphasis on procedures for preventing arbitrariness can lead to subverting the doing of justice according to what might otherwise find support in the rule of law, and the legal strictures then become themselves a form of arbitrariness that is no more legitimate. On the other hand, those who defend the negative value of the rule of law object to more substantive understandings of the ideal on the grounds that morally ambitious aspirations about the rule of law threaten to purge the concept of its specificity and usefulness ... to open the concept to a whole host of extra-legal considerations about substantive justice and wider societal goals is to conflate ideas about “the rule of law” with notions about “the rule of good law,” such that any distinction between the two is reduced to nothing.”

- (a) Critically analyse the above statement.
- (b) Why does Joseph Raj state that the rule of law ceases to have any useful independent function if the rule of law is taken to encompass the necessity for good laws?
- (c) What are the values, according to Ronald Dworkin, that features in any serious theory of justice? Explain.

9+8+8=25 Marks

3. “Doctrine of Separation of Power in today’s context of liberalizations, privatizations and globalizations cannot be interpreted to mean either separation of powers or checks and balance of principle of restraint but community of powers exercised in the spirit of cooperation by various departments of states in the best interest of the people.”

- (a) Examine the implications of the given statement considering the current complex socio-legal and economic problems of the national legal systems and international legal order.
- (b) Do you think the unprecedented press conference of judges in 2018 and appointment of judges after retirement raises the question of integrity of judges and goes against the doctrine of separation of power? Advance your legal and logical arguments.
- (c) Do you think the independence of the judiciary is clearly a problem if the independence is misused to foster the sectoral privileges of judicial personnel or to allow unchallenged interpretations of the law?

9+8+8 =25 Marks

4. “The constitutionalism or constitutional system of government abhors absolutism – it is premised on the Rule of Law in which subjective satisfaction is substituted by objectivity provided by the provisions of the Constitution itself ... Constitutionalism is a legal principle that requires control over the exercise of governmental power to ensure that the democratic principles on which the government is formed shall not be destroyed.” Supreme Court in *Rameshwar Prasad v. Union of India* and *IR Coehlo v. State of Tamil Nadu*.

- (a) Critically examine the above statement of the Supreme Court of India.
- (b) How far Government of India success to run the administration of the country according to the principles of the constitutionalism as laid down by the Supreme Court of India through various case laws? Examine.
- (c) Discuss the effort of the Supreme Court of India to implement the ethos of transformative constitutionalism by reinterpreting the constitution under Article 142 of the Constitution.

8+8+9=25 Marks

5. The Chief Minister of state “Z” upon the completion of 3 years out of five years’ tenure of his government recommends to the Governor of the state the dissolution of the legislative assembly and holding of election on the ground of seeking a fresh mandate from the people. The Governor refers to dissolves the legislative assembly on the ground that the entire period of the five years of the state government has not elapsed and instead recommends imposition of President’s rule under Article 356 of the Constitution.

- (a) Discuss the validity of the Governor’s actions in the light of constitutional principles and case laws.
- (b) What is the extent of judicial review exercisable by the courts in such cases?

15+10=25 Marks

OR

Discuss the basic principles of good governance and examine its applicability in Indian legal system.

15+10=25 Marks
