

2017-1-1

NLUJAA
NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM
ONE YEAR LL.M. DEGREE PROGRAMME: ACADEMIC YEAR: 2016-2017
END SEMESTER REPEAT EXAMINATION (MARCH - 2017)
SUBJECT CODE: 1.2 COMPARATIVE PUBLIC LAWS

Time: 3 Hrs.
Total Marks: 100

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper. It will be treated as malpractice.

Answer Q. No. 1, 2 and 3 are compulsory and answer any one question from Q. No. 4 and 5 both. All questions carry equal marks.

1. The originalist approach to constitutional interpretation has been criticized by Jeremy Waldron to be stagnating the constitutional deliberation to the ideological dogmas of the framers at the time of enactment of the constitution. If the constitution shouldn't really have a sacrosanct status in a political community, what other role do you think a written constitution can play? Discuss in the light of Waldron's critical stand against originalist approach to constitutional interpretation.
Critically examine the empowerment model of constitutionalism by distinguishing it from the "limited government" and "restrained government" model of Constitutionalism. (10+10)
2. Make a critical analysis of the different reasons Brian Tamanaha puts up to justify why the definition of rule of law should not necessarily include principles of Democracy and Human Rights?
Explain in detail how at the crossroads of the three interconnected themes of "government limited by law", "formal Legality" and "rule of law, not man" lies the idea of rule of law? (8+12)
3. By tracing the developments in the Natural Law School examine the development of the idea of Constitutionalism in practice through evolution of political institutions. Do the terms constitution and constitutionalism signify the same meaning? Justify by citing relevant illustrations. (10+10)
4. (a) By examining the relevant theories as they have historically evolved, explain the different ways of Horizontal structuring of power in a political community. By citing the relevant Presidential, Parliamentary and Hybrid constitutional systems examine the various relative advantages and disadvantages of each form of constitutional systems. (5+15)

OR

1.1-112

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SUBJECT CODE: 1.3 LAW AND JUSTICE IN GLOBALIZING WORLD

Time: 3 Hrs.
Total Marks: 100

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
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Answer Q. No. 1, 2 and 3 are compulsory and answer any one question from Q. No. 4 and 5 both. All questions carry equal marks.

1. What is your understanding about 'justice'? Is it possible to define justice and if so, can there be any possibility to frame a universal definition of justice? Construct your argument with the help of chapter five of the book "Justice: What is the Right Thing to Do?" by Michel Sandal.
2. What is the relation between Morality and Justice? Is it always proper to follow the principle of morality while defining justice? Elaborate your answer with citing any contemporary issue of your choice.
3. **Principle:** AV Dicey's conception of the rule of Law required governments to be held to account in the 'ordinary law'. Although Dicey recognized that there were some laws which applied to government that did not applied to everyone else, his starting point was very modern: wherever possible the political imperative is to put government on a level playing field with the rest of us. Accordingly the state legislatures should overturn the Crown's immunity from actions. The principle further undermine the idea that 'serve the law, the root of nation and wealth.' In the present world of modernization and globalization governments play an important role in distribution of the scarce recourses and policy making. While doing the same it might not able to foresee the consequences or future requirements. The present policies might be troublesome for coming generations. In the light of the aforementioned arguments analyse the following problem:

Issue: In a state having rich traditional base and sound cultural outlook, government comes up with a policy, according to which persons wearing casuals and short dresses are prohibited to enter into government offices. It is the opinion of the state that said policy will protect the tradition and culture, as all government employees have to wear the traditional dresses. Further as per the one report it is found that, said policy is formulated by observing the fact of increasing sexual offences in the country. In one year of the implementation of the said policy, it is found that there is a great fall in such cases, and further state's tradition start getting appreciation in the world community. But the said order is also getting criticized by people in and out of the country. The majority of people criticizing the cause are belonging to developed, independent spectrum of the society.

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END SEMESTER REPEAT EXAMINATION (MARCH - 2017)
SUBJECT CODE: 1.4 HRL INTERNATIONAL AND REGIONAL
PERSPECTIVE OF HUMAN RIGHTS

Time: 3 Hrs.
Total Marks: 100

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
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Answer Q. No. 1, 2 and 3 are compulsory and answer any one question from Q. No. 4 and 5 both. All questions carry equal marks.

1. "While it is true that international law recognized some forms of international human rights protection prior to the entry into force of the UN Charter, the internationalization of human rights and the humanization of international law begins with the establishment of the United Nations." In the light of Buergethal's statement, critically analyze the normative and institutional development of human rights law.
2. Human rights treaties are lashed with complaint mechanisms in an effort to ensure that there are no violations of guaranteed human rights. Elaborate on the communications procedure as provided under the International Covenant on Civil and Political Rights and its Optional Protocol.
3. "The European Convention on Human Rights and Fundamental Freedoms, 1950 (ECHR) has conferred upon the High Contracting Parties the right to derogate from their obligations in securing to everyone within their jurisdiction the rights and freedoms stipulated in the ECHR and the Protocols."—Discuss. Explain briefly Protocols 6 and 12 as amended by the Protocol 11 to the European Convention on Human Rights and Fundamental Freedoms, 1950. (14+6=20)
4. (a) The Commission on Human Rights was replaced with a smaller Human Rights Council to meet the expectations of men and women everywhere with regard to realization of human rights. Elaborate on the functioning of the Human Rights Council as the principal organ of the United Nations in the promotion and protection of human rights.

OR

- (b) The Inter-American Commission on Human Rights is an important means of protection under the American Convention on Human Rights, 1969, having competence with respect to matters relating to fulfilment of the commitments made by the State Parties to this Convention. In the light of the above statement discuss the functions, competence and procedure of the Inter-American Commission on Human Rights.

(4+8+8=20)

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END SEMESTER REPEAT EXAMINATION (MARCH - 2017)
SUBJECT CODE: 1.4 C.N. EXPANDING HORIZONS OF
CONSTITUTION OF INDIA

Time: 3 Hrs.
Total Marks: 100

INSTRUCTIONS:

1. Read the questions carefully and answer.
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Answer any five questions from the following. All questions carry equal marks.

1. The interpretation of Article 14 of the Constitution of India by the judiciary has gone through a change with the change in time, circumstances and need. Give a complete account of Article 14 as it stands today with the recent judicial trends.
2. Right to freedom of speech and expression guaranteed under Art 19(1)(a) is indispensable for the development of one's own individuality and for the success of parliamentary democracy. Elucidate the above mentioned statement with the help of various judicial decisions pronounced by the higher judiciary of India.
3. Right to life and personal liberty is the primordial right necessary for the development of human personality. It is the moral right which every human being everywhere at all times ought to have. Critically examine the meaning of 'right to life' and 'personal liberty' as mentioned in the Article 21 of the Constitution of India and as has been interpreted and expounded by the Indian judiciary.
4. The higher judiciary in India, applying its innovation and creativity, through PIL cases leave no single chance to make our country free of corruption in public life. Critically evaluate the role of Public Interest Litigation in bringing probity and transparency in the functioning of the various governmental machineries in India.
5. The Ninth Schedule of the Constitution was an exception to the doctrine of basic structure till the Waman Rao's decision though judicial review being held to be a part of the basic features of the constitution of India. Discuss the amenability of the Constitution of India in the light of the said proposition and point out its changing nature with the help of recent judicial trends.
6. Critically evaluate the powers of the President of India to impose emergency in a State under Art. 356 of the Constitution in the light of the Supreme Court's decision in S. R. Bommai v. Union of India.
