

NLUJAA

National Law University and Judicial Academy, Assam
One Year LL.M. Degree Programme (Academic Year: 2017-18)

End Semester Examination (October, 2017)

Subject Code: 1.2 Comparative Public Law

Time: **3:00 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.
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Question No. 6 is compulsory. Answer any three out of the remaining five.

1. It has been pointed out by Jeremy Waldron that rights disagreements should be settled by an institution that has democratic legitimacy. He further points out that there is no reason for us to believe that rights are better protected through judicial review and also that exercising such power is democratically illegitimate. In the light of this above position critically analyze the arguments put forward by Waldron to justify his core of the case against judicial review. Do you think rights should only be decided by representative institutions having democratic legitimacy? What are your arguments for or against the idea of tyranny of majority in such representative institutions?

(10+4+6)

2. Justice Marshall in *Marbury v Madison* said, "All those who have framed written Constitutions contemplate them as forming the fundamental and paramount law of the nation, and consequently the theory of every such government must be, that an act of the legislature repugnant to the Constitution is void. This theory is essentially attached to a written Constitution."

The originalist approach as can be seen in the above mentioned quote 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)

3. Do the terms Constitution and Constitutionalism signify the same meaning? Justify by citing relevant illustrations.

By making a comparative analysis of Human Rights adjudication in India and South Africa examine the similarities and differences of the approaches to ensuring social justice of the courts in both these countries.

(6+14)

4. 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)

5. By examining the relevant theories as they have historically evolved explain the different ways of Horizontal structuring 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)

6. Short Notes: (Answer any four out of the six. Each carry ten marks) (10x4)

- (a) Evolution marble cake model of Federalism in the United States of America
- (b) The Integrative and Devolutionary mode of origin of Federalism and how they are sustained?
- (c) Inter-jurisdictional and intra-jurisdictional difficulties in Federal system
- (d) Distribution of Legislative and Administrative functions in Unitary systems and their centralist tendencies
- (e) Lon Fuller and the thin meaning of Rule of Law
- (f) Natural Law Theory and evolution of Constitutionalism

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Subject Code: 1.3 Law And Justice in a Globalizing World

Time: **3:00 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.
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Question Number 1, 2 and 3 are compulsory. Answer any one question from 4 and 5 both. All questions carry equal marks.

1. Elaborate the characteristics of Law in the light of the reading "On the definition and nature of Laws" by J.P Humphrey .Also explain how is law as we understand today is different from the Austinian philosophy of law.

10+10=20

2. "In contemporary talk, however, Rule of Law goes transnational or global. It is no longer a bounded conception but is now presented as universalizing/globalising notion. In part the new "global rule of law" relates to the emerging notions of global social policy and regulation". In the light of the statement, discuss the newness of the contemporary Rule of Law Talk. How has Rule of Law been unfolded by the Indian Judiciary in the globalising era?

10+10=20

3. Discuss the different dimensions of globalisation in the light of the reading "Globalisation and the state". Opine on whether globalisation has diminished the autonomy of state or whether state has begun to grow in continued strength with the help of any contemporary issue of your choice.

10+10=20

4. (a) Write Short Notes on:

10+10=20

- (i) Impact of Globalisation on Environment
- (ii) Globalisation and Religion

OR

- b) What is Lon Fullers' idea on the relationship between Legal Morality and Natural Law? What are the eight ways in which attempt to create and maintain a legal system may miscarry/fail?

10+10=20

5. (a) How do people choose principles of Justice in the hypothetical situation according to John Rawls? Answer with special reference to the two principles of justice.

10+10=20

OR

- (b) Write Short Notes on:

10+10=20

- (i) Utilitarian Concept of Justice
- (ii) Formal Justice
