

NLUJAA

National Law University and Judicial Academy, Assam

One Year LL.M. Degree Programme: II-Semester (Academic Year: 2017-18)

Special Repeat 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.

Answer any five questions from the following. All questions carry equal marks.

1. 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)

2. 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)

3. 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)

4. 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)

5. Critically analyze the two different senses in which the term state has been used to refer to in a Unitary State and explain the difference between the terms “nation” and “state”. By citing relevant examples, examine the different ways in which the territories in a Unitary State can be organized.
(5+15)

6. With the help of relevant examples explain the differences between federalism, federation and a confederation. What do you understand by the principle of subsidiarity? Explain with the help of relevant examples. How does federalism help in policy and polity stability in a diverse political community?
(5+5+10)

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One Year LL.M. Degree Programme: II-Semester (Academic Year: 2017-18)

Special Repeat Examination (October, 2017)

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.

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 do you mean by 'Justice'? Discuss with the help of chapter five of the book "What is the Right Thing to Do" by Michel Sandal as to whether it is possible to have an universal definition of justice.
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. What is your understanding of the term 'globalisation'? How has globalization impacted the sovereignty of states?
4. (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
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?
5. Write short notes on the following:
 - (i) Globalisation and law
 - (ii) Impact of globalisation on environment.

OR

- (b) Write short notes on the following:
 - (i) Surrogacy and Law
 - (ii) LGBT rights and principle of equality

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

Special Repeat Examination (October, 2017)

**Subject Code: 1.4 (CN) Constitutional Law of India
And Expanding Horizons**

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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Answer any five questions from the following. All questions carry equal marks.

1. As society advances and evolves, it has been witnessed that the traditional notion of equality are no longer remain the same as it was in the past. Make a brief analysis of the changing face of interpretation of Article 14 of the Constitution of India and provide an account of equality encapsulated under the Article as it stands today with the help of recent judicial trends.
2. "The fundamental right to freedom of speech and expression is regarded as one of the most basic elements of a healthy democracy for it allows citizens to participate fully and effectively in the social and political process of the country." Elucidate.
3. Discuss critically the extent of 'right to life' and 'personal liberty' as enshrined under Article 21 of the Constitution of India and as has been interpreted and expounded by the Indian judiciary on the light of the recent Supreme Court judgment on 'right to privacy'.
4. Make an estimate about the nature and significance of the writ jurisdiction reposed to the Supreme Court of India under Article 32 of the Constitution of India as a weapon in the hands of the little Indian's to fight for the protection of their fundamental rights with the help of relevant judicial pronouncements.
5. Illustrate briefly, the influence of the 'doctrine of basic feature' as evolved by the Supreme Court in His Holiness Kesavananda Bharati Sripadagalvaru and Others v. State of Kerala and Another AIR 1973 SC 1461, in preserving and promoting the sanctity of the Constitution of India with the help of recent judicial trends.
6. "Exercise of discretion is an inseparable part of sound administration and therefore, the State which is itself a creature of the Constitution, cannot shed its limitation at any time in any sphere of State activity."
Elucidate the above statement on the light of the power of the President to proclaim emergency for the failure of Constitutional machinery in a State under Article 356 of the Constitution of India.

