



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY ASSAM

L.L.M. (TWO YEARS PROGRAMME)

ACADEMIC SESSION: 2013-14 (SECOND SEMESTER)

MID SEMESTER EXAMINATION (07-04-2014)

2.1 INDIAN CONSTITUTIONAL LAW : NEW CHALLENGES

MARKS- 100 (ONE HUNDRED)

TIME- 3 (THREE) HOURS

SECTION ONE

PLEASE ANSWER THE FOLLOWING QUESTIONS IN APPROXIMATELY 100 WORDS. ALL QUESTIONS ARE COMPULSORY.

- 1.1 What was the historic 'Objectives Resolution'? Discuss in brief Jawahar Lal Nehru's views on the Objective Resolution.
- 1.2 What was the purpose of appointing the Sapru Committee? Discuss in brief the views of the Sapru Committee in the drafting of the Fundamental Rights.
- 1.3 Discuss the differences between 'Class Legislation and Reasonable Classification' with the help of the Supreme Court decisions.
- 1.4 Examine the women rights recognized in personal laws in India with special reference to the Article 14 of the Constitution.

4x4=16 MARKS

SECTION TWO

PLEASE ANSWER EIGHT OF THE FOLLOWING QUESTIONS ANALYTICALLY IN APPROXIMATELY 250 WORDS. IT IS COMPULSORY TO ANSWER FOUR QUESTIONS FROM EACH MODULE.

MODULE - I

- 2.1 What is the significance of the Preamble of a Constitution. Explain in brief the text of the draft of the Preamble as suggested by B.N. Rau in his memorandum dated 30 May, 1947.
- 2.2 Discuss the main functions of the Constituent Assembly. Explain the Constituent Assembly Debates on Article 10 (presently Article 16) of the Draft Constitution of India.

- 2.3 Explain the concept of "Popular Sovereignty" as promoting constitutionalism in any legal order.
- 2.4 Write the recommendations of the Sarkaria Commission, 1988 on Federalism.
- 2.5 Analyze role of the Parliament in the creation of new states under Article 3 of the Constitution of India. Which two conditions are required to be fulfilled for introducing a Bill for the creation of new states? Mention the significance of the *Constitution (Eighteenth Amendment) Act, 1966*.

#### MODULE- II

- 2.6 "The Uniform Civil Code is a vehicle to bring all communities in the country under a common umbrella with respect to the prevailing personal laws in India". Critically analyze the objectives and constitutional imperatives enshrined in Article 44 of the Constitution of India.
- 2.7 "Fundamental Rights and Directive Principles of State Policy are supplementary and complementary to each other". Make a critical appraisal of the given statement with the help of the decided Supreme Court cases.
- 2.8 "... carving out classes of citizens for favoured treatment in matter of public employment, except in cases for which there is an express provision in clause (4) of Article 16, would in the very nature of things run counter to the principle of equality of opportunity enshrined in clause (1) of Article 16"- Khanna and Gupta, JJ., in the *State of Kerala v. N.M. Thomas*, AIR 1976 SC 490.

- 2.9 Justify the given statement. Advance your arguments with logical reasoning and considering the present scenario in the country. "Imposition of the vicarious criminal liability upon the State, under Article 32 of the Constitution of India, is the violation of the constitutional mandates by the apex court of India". Advance your logical arguments with the help of the Supreme Court cases.

- 2.10 Write a legal essay on the topic of Right to Pollution Free Environment *vis-a-vis* Article 21 of the Constitution.

8x7=56 MARKS

#### SECTION THREE

**PLEASE ANSWER ANY TWO OF THE FOLLOWING QUESTIONS ANALYTICALLY IN APPROXIMATELY 1000-1200 WORDS.**

- 3.1 Discuss the relevance of the Doctrine of Basic Structure under the Constitution of India. Explain the judicial activism and the judicial restraint exercised by the Indian Supreme Court in the application of this Doctrine.
- 3.2 Article 1 of the Constitution of India declares that "India, that is Bharat, shall be a Union of States". Whether the Constitution of India can be cited as a model of a pure Federal State? Mention the different types of Federal Constitutions. What are the essential features of a Federal Constitution? What are the features peculiar to the Constitution of India?
- 3.3 "The judiciary has been balancing effectively its role both as a sentinel for the Fundamental Rights and also an effective arm in the developmental and humanistic jurisprudence of socio-economic justice". Evaluate the role of the Supreme Court for balancing the conflicting interests in given society.
- 3.4 Critically examine the constitutional validity of the *Armed Forces (Special Powers) Act, 1958*.

2x14=28 MARKS

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NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY ASSAM  
LL.M (TWO YEAR PROGRAMME)  
ACADEMIC SESSION: 2013-14  
MID-SEMESTER EXAMINATION (10-04-2014)  
2.2 JUDICIAL PROCESS (SECOND SEMESTER)



MARKS- 100 (ONE HUNDRED)      TIME- 3 (THREE) HOURS

SECTION ONE

PLEASE ANSWER THE FOLLOWING QUESTIONS IN APPROXIMATELY 100 WORDS. ALL QUESTIONS ARE COMPULSORY.

- 1.1 What is the significance of understanding the concept of "Judicial Process"?
- 1.2 Explain the expression "*Ejusdem generis*" with the help of illustrations.
- 1.3 How can you define "Judicial Discretion" as a component of judicial creativity? Give an illustration.
- 1.4 What do you mean by the term "Sub-conscious" factors in the judicial process?

4x4=16 MARKS

SECTION TWO

PLEASE ANSWER EIGHT OF THE FOLLOWING QUESTIONS ANALYTICALLY IN APPROXIMATELY 250 WORDS. IT IS COMPULSORY TO ANSWER FOUR QUESTIONS FROM EACH MODULE.

MODULE – I

- 2.1 With the help of suitable illustrations explain the factors which can influence the scope of judicial process.
- 2.2 How can you define the term "legal analogy"? Discuss how the tool of legal analogy was applied by the Hon'ble Supreme Court in the case of *Maneka Gandhi v. Union of India* and *Anr AIR 1978 SC 597*.
- 2.3 Define the expression "Mixed Question of Law and Fact". Explain with the help of a suitable hypothetical situation where the "Mixed Question of Law and Fact" can arise in a court of law.

- 2.4 What do you mean by the term "Sanctioning Rights"? Critically examine the role of Sanctioning Rights in the Administration of Justice in the Indian context.
- 2.5 Illustrate specific cases which can establish the proposition that "Judicial Process is a tool of social ordering".

**MODULE- II**

- 2.6 What is the binding force of a judicial decision? Explain the techniques of identifying the *ratio decidendi* in a decision with the help of case laws.
- 2.7 Which one according to you is more effective – "Judicial Process" or "Legislative Process"? Support your answer with the rationale and some suitable instances.
- 2.8 Explain the factors which weaken the binding force of a judicial precedent with the support of suitable illustrations.
- 2.9 Comment as to what extent you support the schools of thought which explain the Doctrine of Precedent. Give reasons in support of your answer.
- 2.10 Define the expression "*obiter dictum*". What is the binding value of *obiter dictum* observed in a case law? Explain by giving emphasis on the Indian scenario.

**8x7=56 MARKS**

**SECTION THREE**

**PLEASE ANSWER ANY TWO OF THE FOLLOWING QUESTIONS ANALYTICALLY IN APPROXIMATELY 1000-1200 WORDS.**

- 3.1 What do you mean by the term "Dharma"? What is the correlation between the concepts of "Dharma" and "Justice"? How can you establish the relevance of Dharma in the contemporary legal system in India? Substantiate your answer with relevant provisions of law.
- 3.2 Discuss the philosophical foundation of the Deterrent Theory and the Reformatory Theory as constituents of the Theories of Punishment. Critically examine the success and failure of the

application of the Deterrent Theory and the Reformatory Theory as an approach to the administration of justice in modern India.

- 3.3 Give a critique of the Sloth Machine Theory and the Realists Theory on the judicial creativity. What according to you is the practical relevance of the two theories? Give suitable illustrations to support your answer.
- 3.4 Define the term "overruling" of a precedent. What are the circumstances when a precedent is overruled? What is the significance of overruling a precedent prospectively? Explain specific case laws where prospective overruling can be established.

**2x14=28 MARKS**

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NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM  
LL.M. (TWO YEAR PROGRAMME)  
ACADEMIC SESSION: 2013-14 (SECOND SEMESTER)  
MID-SEMESTER EXAMINATION (09-04-2014)  
2.6.3 NATIONAL INSTITUTIONS AND HUMAN RIGHTS



MARKS- 100 (ONE HUNDRED)      TIME- 3 (THREE) HOURS

**SECTION ONE**

**ANSWER THE FOLLOWING QUESTIONS IN APPROXIMATELY 100 WORDS. ALL QUESTIONS ARE COMPULSORY**

- 1.1 Clearly write four objectives of the National Human Rights Institutions that you consider as the important ones.
- 1.2 Outline a few reasons for the establishment of the National Human Rights Institutions.
- 1.3 Write a brief note on appointment of the members of a National Human Rights Institution.
- 1.4 Discuss the jurisdiction of the State Human Rights Commissions in India.

**4x4=16 MARKS**

**SECTION TWO**

**ANSWER EIGHT QUESTIONS FROM THE FOLLOWING ANALYTICALLY IN APPROXIMATELY 250 WORDS. IT IS COMPULSORY TO ANSWER FOUR QUESTIONS FROM EACH MODULE**

**MODULE – I**

- 2.1 Critically evaluate the normative framework established by the National Human Rights Institutions for the implementation of Civil, Political, Economic, Social and Cultural rights.
- 2.2 Discuss the importance of the standards set by the United Nations through the *Paris Principles*, 1992 for creating the National Human Rights Institutions in the world.

- 2.3 Critically analyse the role of the Indian Constitution in institutionalising the human rights protection system and its implementation mechanisms in national level.
- 2.4 Discuss the key factors which are contributing in the effective functioning of the National Human Rights Institutions in the world.
- 2.5 Critically assess the working of the National Human Rights Commission and its effective role in the promotion of human rights in India.
- MODULE –II**
- 2.6 “Liberal democratic Constitution systems in the world have adopted principles of rule of law, which are basic foundations for the protection, promotion and enforcement of human rights in the domestic spheres. At present the ideals of rule of law are grossly violated due to lack of effective monitoring mechanism. To address these lacunas, the National Human Rights Institutions have been created.” Advance your arguments in support of this position and provide critical comments.
- 2.7 Discuss the vital distinction between the ‘National Human Rights Institutions’ and the ‘Non-Governmental Organisations’. Assess the role of Non-Governmental Organisations in creation of human rights monitoring bodies.
- 2.8 Give a critical comment on *Human Rights Act, 1993* and its contribution in effective promotion, implementation and enforcement of human rights in India.
- 2.9 Discuss the Standards laid down in the *Vienna Declaration and Programme of Action, 1993* for setting up of National Human Rights Institutions.
- 2.10 Critically analyse the efforts and role of the Asia Pacific Regional Organisation in building the National Human Rights Mechanisms in the region.

**8x7 =56 MARKS**

**SECTION THREE**

**ANSWER ANY TWO OF THE FOLLOWING QUESTIONS ANALYTICALLY IN APPROXIMATELY 1000-1200 WORDS**

- 3.1 Discuss the contribution of the Regional International Organisations such as the European Union, the African Union, the Organisation of American States and the League of Arab States for the creation of National Human Rights Institutions in their respective regions.
- 3.2 Write a critical essay on the Role of United Nations in the evolution of National Human Rights Institutions to the effective implementation of human rights standards.
- 3.3 “The aim of National Human Rights Institutions establishment should be to promote and protect human rights, through effective investigation of broad human rights concerns and individuals’ complaints about human rights violations they have suffered, and through making recommendations accordingly.” In the light of the above statement and keeping in view, the Amnesty International has developed various recommendations. Enumerate some of those recommendations and write your critical comments on those recommendations.
- 3.4 “The National Human Rights Institutions have been established for the purposes of providing good governance and to institutionalise the human rights”. Do you agree with this statement? Write a critical essay on this aspect.

**2x14=28 MARKS**

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- 3.2 While the apex court is reluctant for a short period to confer specially a right to a clean and humane environment under Article 21 of the Constitution, and does not hold explicitly that the right to the environment is contained in the compendium of unenumerated right to life and personal liberty in Article 21, various high courts in the country went ahead and enthusiastically declared that the right to environment was included in the right to life concept in Article 21 of the Constitution.
- 3.3 Evaluate the High Courts' efforts to maintain healthy environment in the country. Examine the reasons which seriously wounded the credibility of the High Courts in this sphere.
- 3.3 Give a critical assessment on the historical development of human rights in Indian legal system with special reference to the Muslim regime in India.
- 3.4 Examine as to how the Fundamental Rights operate as a limitation against the state instrumentalities. Are there any provisos of such limitations?

**2x14=28 MARKS**

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**NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM**  
 L.L.M. (TWO YEAR PROGRAMME) by the Assam  
 ACADEMIC SESSION: 2013-14 (SECOND SEMESTER)  
 MID SEMESTER EXAMINATION (12-04-2014)  
**2.6.4 INDIAN LEGAL PERSPECTIVE OF HUMAN RIGHTS**



**MARKS- 100 (ONE HUNDRED) TIME- 3 (THREE) HOURS**

**SECTION ONE**

**PLEASE ANSWER THE FOLLOWING QUESTIONS IN APPROXIMATELY 100 WORDS. ALL QUESTIONS ARE COMPULSORY.**

- 1.1 'Human Rights' is a dynamic concept and it endeavours to adapt itself to the needs of the day. Explain the concept of 'Human Rights' in the light of the given statement.
- 1.2 Give a short discussion on the 'Mrs. Besant's Commonwealth of India Bill of 1925'.
- 1.3 Fundamental Rights are the modern name for what have been traditionally known as the 'Natural Rights'- Examine the above statement with your logical arguments.
- 1.4 Attempt a brief appraisal on the Fundamental Rights available to all persons residing within the territory of India.

**4x4=16 MARKS**

**SECTION TWO**

**PLEASE ANSWER EIGHT OF THE FOLLOWING QUESTIONS ANALYTICALLY IN APPROXIMATELY 250 WORDS. IT IS COMPULSORY TO ANSWER FOUR QUESTIONS FROM EACH MODULE.**

**MODULE - I**

- 2.1 'The Fundamental Rights Sub-Committee was faced with a problem of balancing the individual liberty *vis-a-vis* social control'. Give critical appraisal on the probable problems involve in the fundamental rights considering the given statement.
- 2.2 '... Nehru Report- contained an explanation of its draft Constitution that speaks for itself. The Fundamental Rights incorporated in the

Nehru Report, were reminiscent of those of the American and post-war European Constitutions....'

In light of the above statement, discuss the impact of the Nehru Report in shaping the basic human rights in the Constitution of India.

2.3 'In order to appreciate the concept of human rights under the Indian Constitution, it is also pertinent to look to the aims and objects of the preamble, which are indeed the aims and objects of Indian Constitution'.

Critically evaluate how far the preamble to the Constitution reflects the high purposes and noble objectives of the Indian Constitution?

2.4. "...equality is a multifaceted and multi-coloured concept and several definitions of the terms can be given. The concept of equality has many shades and connotations..." - Mathew, J. in *Indira Nehru Gandhi v. Raj Narain*, AIR 1975 SC 2299 (at p. 2384).

Elucidate the above statement and examine critically the present status of Article 17 of the Constitution.

2.5 Critically examine how Fundamental Rights could be enforced against the judiciary.

#### MODULE- II

2.6 The Indian Constitution bears the impact of the Universal Declaration of Human Rights and this has been recognized by the Supreme Court of India - *Golak Nath v. State of Punjab*, AIR 1967 SC 1643 (at p.1656).

Evaluate how far the Universal Declaration of Human Rights has influenced in framing of the Indian Constitution.

2.7 '... the procedure cannot be arbitrary, unfair or unreasonable. The concept of reasonableness must be projected in the procedure contemplated by Article 21. The court now has the power to judge the fairness and justness of procedure established by law to deprive a person of his personal liberty...' - *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

Give a critical appraisal of Supreme Court's interpretation on the procedure established by law as reflected in various judicial pronouncements.

2.8 '... Directive Principles constitute the "Collective human rights of the people" thereby inspiring the courts to indirectly ensure their implementation by the state' - *D.S. Nakara v. Union of India*, AIR 1983 SC 130.

Examine the role of the Supreme Court for establishing a "welfare state" within the framework of the Constitution and with the help of the above statement.

2.9 'While civil and political rights are recognized as the traditional rights of the individual against the state and are based on the *laissez faire* doctrine of non-interference, the position of economic, social and cultural rights is different'.

Examine the rationality of the above statement through lens of constitutional provisions.

2.10 Discuss as to how far the Supreme Court has succeeded to promote and protect those rights which are not specifically incorporated in the Indian constitution.

8x7=56 MARKS

#### SECTION THREE

PLEASE ANSWER ANY TWO OF THE FOLLOWING QUESTIONS ANALYTICALLY IN APPROXIMATELY 1000-1200 WORDS.

3.1 'Any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a country is incompatible with the purposes and principles of the United Nations' - The U.N. General Assembly Resolution 1514 of 1960.

Justify the struggle for the right to self-determination with the help of above statement and with special reference to Nagaland and Jammu and Kashmir.