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NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination | August-December, 2025

Semester: LL.M (Compulsory)

Subject: Comparative Public Law

Time: Three Hours

Marks 100

Instructions:

Attempt any four questions in serial order.

Q.1. Yaniv Roznai distinguishes between explicit and implicit unamendability as two manifestations of the limits to constitutional amendment powers. Critics, however, argue that such doctrines entrench the “*dead hand*” of the founding generation, constraining the democratic will of the living people. Critically examine this distinction with reference to comparative constitutional experiences and judicial doctrines. In your answer, discuss the philosophical justifications, democratic implications, and judicial enforcement challenges associated with both forms of unamendability.”

(25 Marks)

Q.2. How have the constitutional courts in South Africa and India interpreted socio-economic rights within their respective jurisdictions? Discuss the key challenges these courts have encountered in enforcing such rights and examine the judicial strategies or solutions they have developed to address these concerns.

(25 Marks)

Q3. The theory of responsive judicial review proposes a nuanced judicial role that compensates for legislative dysfunction while remaining attentive to the limits of institutional competence. Critically examine this idea in the context of India’s constitutional practice. In your answer, discuss how *responsive judicial review* seeks to address the blind spots and the burden of inertia in Indian governance, and how it differs from conventional models of judicial activism and restraint.

(25 Marks)

Q.4. India’s constitutional design reflects a gradual movement towards federalism, yet it does not fully embody all the features of a classic federation. Discuss this statement with reference to constitutional provisions, judicial interpretations, and the evolving balance of power between the Union and the States.

(25 Marks)

Q.5. Upendra Baxi observes that Public Interest Litigations “come with unusual problems, never before so directly confronted by the Supreme Court. They seek extraordinary remedies, transcending the received notions of separation of powers and the inherited distinctions between adjudication and legislation on the one hand and administration and adjudication on the other. They bring, too, a new kind of lawyering and a novel kind of judging.”



In light of this observation, discuss the novel features of Public Interest Litigation in India at the stage of access and maintainability, the adjudicatory process, and the relief and enforcement stage. How did these developments redefine the judiciary's function and its relationship with other organs of the State?

(25 Marks)

Q.6. Although the doctrine of proportionality has assumed a central role in Indian constitutional adjudication, its application to right-limiting measures has been uneven and context-specific. With reference to key Supreme Court decisions, critically analyse how Courts in India have varied in their deployment of the proportionality test. What do these divergences reveal about the coherence and consistency of judicial reasoning in assessing the constitutionality of state action that restricts fundamental rights?

(25 Marks)