

NATIONAL LAW UNIVERSITY, JODHPUR
End Term Examination August-December, 2025
Semester: UG III Semester
Subject: Constitutional Law II

Time: 3 Hours

Marks: 100

Instructions:

1. All questions carry equal marks.
2. Attempt five questions.

Q.1). Frequent transfers and removals of Governors following changes in the Union Government have brought renewed scrutiny to the constitutional position of the Governor. Several instances have been reported where Governors have withheld assent to Bills, delayed action on ministerial advice, or invoked their *discretionary powers* under Article 163 in politically sensitive contexts. Critics argue that the existing system of appointment and removal of Governors under Articles 155 and 156 allows excessive control by the Union executive, thereby affecting neutrality in the exercise of discretion and disturbing the balance of Indian federalism. The Union Government requests the Law Commission of India to review the constitutional and judicial framework governing the office of the Governor and to assess its continued efficacy in contemporary political practice.

As Chairperson of the Law Commission of India, examine what the *existing law* is on the appointment, tenure, and removal of Governors under Articles 155 and 156, and assess whether this framework effectively ensures impartiality and accountability in the exercise of discretionary powers under Article 163.

(Marks 20)

Q.2). Before *S.R. Bommai v. Union of India*, (1994) 3 SCC 1, the Centre could invoke Article 356 with minimal scrutiny, but the judgment established that the President's satisfaction is subject to judicial review and open to examination for political misuse. How did this transformation reshape the limits on executive power and influence later judicial checks on the President's Rule?

(Marks 20)

Q.3). During a parliamentary investigation, it was alleged that several Members of Parliament, including MP Sudhir Dash, had accepted money and gifts from private companies in exchange for asking specific questions, influencing debates, and supporting certain bills in Parliament. A parliamentary committee recommended disciplinary action and also suggested a criminal investigation. Sudhir Dash claimed that his actions were protected under Article 105(2), arguing that he could not be prosecuted for anything done or said in the House. The Speaker accepted this claim of privilege and restrained external investigation, pending internal proceedings. The matter was challenged in the Supreme Court.

- (a.) Whether legislative privileges under Article 105(2) protect MPs from criminal prosecution for accepting bribes to ask questions, influence debates, or vote in a particular manner.
- (b.) The extent to which judicial review can intervene to ensure accountability without undermining the autonomy and privileges of the legislature.

(Marks 10+10)

Q.4). In the State of Madhya Kshetra, the ruling coalition holds a razor-thin majority of just two seats in the Legislative Assembly. Amid mounting tension, ten legislators from the ruling party publicly defect and align with the opposition, openly threatening to topple the government. Disqualification petitions under the Tenth Schedule are filed against these legislators. The Speaker, who is a senior member of the ruling party, delays action for six months, during which the government passes several critical bills, including those affecting state finances and key appointments, without facing a floor test. Opposition members allege that the Speaker is actively shielding defectors from disqualification, manipulating the timing of proceedings to favour the ruling party, and ignoring repeated requests for transparency. Despite widespread public criticism, media reports, and even internal party protests, the Speaker maintains that the power to decide disqualification lies solely with the Chair under Paragraph 6 of the Tenth Schedule and is immune from judicial review until a decision is made.

- (a.) Analyse the constitutional scope and limits of the Speaker's discretion under Paragraph 6 in light of the facts.
- (b.) Identify the problems that may arise from the Speaker being politically affiliated while exercising quasi-judicial powers over disqualification.

(Marks 10+10)

Q.5). Analyse how the judgment in *Anoop Baranwal v. Union of India*, (2023) 9 S.C.R. 1, served to enhance the impartiality of the Chief Election Commissioner's position. What were the subsequent legislative developments that altered this framework, and what are your comments on the divergence between the Court's direction and the later enactment by Parliament?

(Marks 20)

Q.6). Identify and explain the '*fatal constitutional flaws*' that led the Supreme Court to strike down the Ninety-Ninth Constitutional Amendment Act, 2014, which led to the creation of the National Judicial Appointments Commission (NJAC). Discuss how these flaws relate to the earlier judicial evolution from '*consultation*' to '*concurrence*' under Articles 124 and 217.

(Marks 20)

