

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination August-December, 2025

Semester: UG VII Semester

Subject: Comparative Constitutional Law & Judicial Process

(Constitutional Law Honours)

Time: Three Hours**Marks 100****Instructions:**

- 1. Attempt any five questions. All questions carry equal marks.*
- 2. No clarifications will be provided during the examination.*

Q.1). The “dialogical model” of comparative constitutional reasoning allows engagement with foreign constitutional experiences without diluting national constitutional identity. Critically analyse how this dialogical model transforms comparative constitutional law from an exercise in imitation into a process of constitutional self-reflection and identity formation. In your answer, discuss whether this model successfully reconciles living originalism with comparative constitutionalism. (Marks 20)

Q.2). Evaluate the doctrine of “Implicit Unamendability” as a judicially constructed limit on amendment powers. Does the recognition of “basic structure” or equivalent doctrines reflect a necessary defence of constitutionalism, or does it amount to judicial supremacy over constituent power? Discuss with reference to comparative jurisprudence. (Marks 20)

Q.3). The United States recently experienced a government shutdown (October 2025) after Congress failed to pass a continuing resolution due to partisan deadlock between the executive and the legislature. Critically examine how this episode highlights the structural weaknesses of the presidential system of government, particularly in relation to executive-legislative relations, political accountability, and policy continuity. In contrast, discuss how a parliamentary form of government with its fusion of executive and legislative powers might

have prevented or managed such a deadlock. In your answer highlight the strengths and weakness of parliamentary and presidential form of government. **(Marks 20)**

Q.4). Tarunabh Khaitan suggests that Directive Principles serve as tools of ideological containment and constitutional incrementalism to secure consent among dissenters, while Karin Lehmann warns against transforming courts into allocators of scarce resources through the “minimum core” doctrine. Evaluate whether judicial restraint in South Africa or constitutional expressivism in India offers a more sustainable model for realizing social and economic transformation without undermining democratic accountability. Support your analysis with examples from both jurisdictions. **(Marks 20)**

Q.5). “Power-Shifting Conventions are those conventions that transfer power from those who have legal power to those who can legitimately wield it.” Discuss with case law, how the judicial enforcement of such conventions redefines constitutional legitimacy. Do these developments strengthen constitutionalism, or do they risk judicial supremacy. Also discuss the modes of engagement by judges with conventions and the roles of court when confronted with constitutional Conventions. **(Marks 20)**

Q.6).The “Theory of Responsive Judicial Review” offers a coherent framework for understanding and reforming the Indian Supreme Court’s role amid legislative dysfunction, judicial overreach, and democratic inertia. Critically examine by comparing the scope and limits of Judicial Review in India, USA and UK. Also discuss whether responsive judicial review can reconcile the ideals of transformative constitutionalism with the need for institutional legitimacy and restraint in India’s constitutional democracy. **(Marks 20)**