

NATIONAL LAW UNIVERSITY, JODHPUR

End-Term Examination April-May 2025

Semester: UG X Semester (Constitutional Law Honours)

Subject: Constitutional Remedies

Time: 3 Hours

Marks: 100

Instructions

Answer any five questions.

1. "Court's fusion of the public law and private law was neither incidental nor unintended, but was instead a direct effort to expand India's public law (ie, fundamental rights) jurisprudence to new domains, in the interests of justice."

In Indian constitutional jurisprudence, there is a growing trend of blending public law and tort claims, where private law remedies are sought through public law actions against State actors. Critically assess the implications of this hybrid approach, providing a well-reasoned analysis to support your perspective.

(Marks 20)

2. How does the use of the writ of habeas corpus in India reflect the relationship between individual freedom, especially women's right to choose a spouse, and the role of the State and family in such matters? Discuss how this legal tool highlights the balance between personal choice, state authority and family involvement in marital decisions

(Marks 20)

3. What are the defining features of authoritarian constitutionalism? To what extent can India's current constitutional practices, particularly the fusion of political parties with state institutions and gradual decline in executive accountability, be characterized as authoritarian constitutionalism?

(Marks 20)

4. To what extent has the Supreme Court of India contributed to the doctrinal confusion surrounding 'sovereign immunity' through its own jurisprudence, and what are the potential long-term systemic costs of its shifting approaches to public and private law claims against the State?

(Marks 20)

5. Given the widening scope of constitutional interpretation in India, where even executive discretion is open to judicial scrutiny, is it feasible for the judiciary to maintain restraint in politically sensitive issues, particularly those related to the authority and conduct of Governors? Critically examine with reference to relevant judicial pronouncements

(Marks 20)

6. Critically assess the remedy of continuing mandamus in Indian constitutional law. In your analysis, identify the core challenges in its enforcement, including issues related to the accountability of public authorities and the potential overburdening of the judiciary.

(Marks 20)



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Q.1).

Write a case comment on *Kaushal Kishore v. State of Uttar Pradesh* (2023) 4 SCC 1, analysing its contribution to the evolving understanding of free speech, state responsibility and the horizontal application of Fundamental Rights under the Indian Constitution.

(Marks 20)

Q.2).

How does the use of the writ of habeas corpus in India highlight the intersection of personal choice, state power and family dynamics, particularly regarding women's rights in the context of marital decisions?

(Marks 20)

Q.3).

What are the defining features of authoritarian constitutionalism? To what extent can India's current constitutional practices, particularly the fusion of political parties with state institutions and gradual decline in executive accountability, be characterized as authoritarian constitutionalism?

(Marks 20)

Q.4).

The integration of public law and tort claims, wherein private law actions are pursued as public law claims against State actors, has become a significant feature of Indian constitutional jurisprudence. Critically evaluate the implications of this hybridization. Provide a reasoned analysis to support your viewpoint.

(Marks 20)

Q.5).

In the context of India's expanding constitutional jurisprudence, where even discretionary decisions of the executive are subject to judicial review, can the judiciary realistically exercise restraint in political matters such as those involving the powers of Governors? Critically assess with the help of relevant judicial decisions.

(Marks 20)

Q.6).

Critically assess the remedy of continuing mandamus in Indian constitutional law. In your analysis, identify the core challenges in its enforcement, including issues related to the accountability of public authorities and the potential overburdening of the judiciary.

(Marks 20)

