

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Comparative Public Law/Systems of Governance
Semester-I (Batch: 2019-20)

LL.M. End Term Examination: November 2019

Date: 6th November, 2019

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write anything on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- **Bare Act is not allowed.**

Each question carries one mark.

Q.1

PART A

State True or False

(1x10
=10)

- (i) The doctrine of separation of powers safeguards individual liberty which would be in jeopardy if there is fusion or concentration of all Governmental powers in the same hands.
- (ii) There is no antithesis between fundamental rights and directive principles of state policy.
- (iii) The original US Constitution contained Bill of Rights.
- (iv) While interpreting the fundamental rights provisions in the Indian Constitution, the Supreme Court of India has drawn from the International Declarations on Human Rights.
- (v) Until 1998, the protection of individual freedom in Britain rested not on any constitutional guarantee, but on public opinion, good sense of the people, strong common law traditions favouring individual liberty and the parliamentary form of Government.
- (vi) A *lis inter partes* is an essential characteristic of judicial function but this is not true in all quasi-judicial functions.
- (vii) In Canada, an amendment may be initiated by the House of Commons, Senate or Legislative Assembly of a Province.
- (viii) The Supreme Court of Canada is a court of general appellate jurisdiction standing at the top of hierarchy of federal and provincial courts. It has jurisdiction over all kinds of cases, but it doesn't have original jurisdiction.
- (ix) Principles of natural justice may be provided through a Statute. Even if it is absent in the Statute, it is required to be followed by administrative authorities in administrative and quasi-judicial functions.
- (x) If an amendment initiated by the National Assembly with a majority of 2/3rd members in the Constitution is related to a specific Province of South Africa, then the National Council of that Province can pass resolution approving amendment only after the assent of concerned provincial legislature.

Q.2

Part B

Fill in the blanks

(1x20
=20)

- (i) The Board of Control for Cricket in India (BCCI) _____ (is/ is not) a state under article 12 of the Constitution.

- (ii) Right to privacy _____ (is/is not) a fundamental right under the Indian Constitution.
- (iii) The Constitution (99th Amendment) Act, 2014 and the National Judicial Appointments Commission Act, 2014 were struck down by the Supreme Court of India for violating _____.
- (iv) Article 300 of the Indian Constitution provides for _____.
- (v) The concept of Public Interest Litigation (PIL), which has become quite popular in India, originated in _____ (name the country).
- (vi) The idea to have directive principles of state policy in the Indian Constitution has been borrowed from the _____ Constitution.
- (vii) The doctrine of _____ is ascribed to *Marbury v Madison* [1 Cranch 137: 2 L Ed 60].
- (viii) _____ Act was enacted by the UK Parliament to amend the Law relating to civil liabilities and rights of the Crown and to civil proceedings by and against the Crown, as also to amend the law relating to the civil liabilities of persons other than the Crown in certain cases involving the affairs or property of the Crown.
- (ix) _____ Act 1998, enacted by the UK Parliament, intends to give effect to the rights and freedoms guaranteed under the European Convention on Human Rights.
- (x) The Canadian Constitution has been amended and a Charter of Rights has been formally incorporated therein in _____.
- (xi) Contention of State Sovereignty in India based on the fact that Constitution of India being federal and the States have due share in the sovereignty and thereby Parliament cannot take away the State Rights was contested by Plaintiff under Article _____ in the case of *State of West Bengal v Union of India*, AIR 1963 SC 124.
- (xii) Validity of the State Re-Organization Act, 1956 relating to Re-organization of State of Bombay was challenged on the ground of non-compliance of Article 3 in the case of _____.
- (xiii) _____ is the process of formulating general rules of conduct without reference to a particular case.
- (xiv) Doctrine of Absolute Necessity as an exception to *Nemo iudex in Causa sua* was held in the case of _____.
- (xv) Traditional approach towards identifying the federal character of the Constitution are based on the five principles: _____.
- (xvi) The yardstick that is the Federal Union is constitutionally immune against dissolution by secession in the context of the Constitution of United States of America was answered by the Supreme Court of USA in _____ case.
- (xvii) The subjects of Legislative Powers assigned to provinces in Canada are provided under Section _____ of the Canadian Constitution Act, 1982.
- (xviii) Allocation of seats in Rajya Sabha (Council of States) is provided in Schedule _____ read with Article _____ of the Constitution of India.
- (xix) Absence of power expressly conferred such as is to be found in the _____ Constitution to legislate for acquisition of property of States indicates that it was not the intention of the Constitutional makers to confer that power upon the Union Parliament.
- (xx) _____ is responsible for the administration of both State and Federal Law in Germany.

Q.3

Part C
Multiple Choice Questions

(1x20
=20)

1. Comparative law is:
 - (a) A body of rules of law.
 - (b) An approach to or method or technique of studying law.
 - (c) Both (A) and (B).
 - (d) Neither (A) nor (B).

2. Consider the following statements on PIL:
 - (i) Public Interest Litigation is meant to bring justice to the doorstep of the weak, the unorganised and exploited sections of society.
 - (ii) It is for those who have no access to the courts because of the prohibitive cost of litigation.
 - (iii) It is brought before the court not for the purpose of enforcing the right of one individual against other.

Which of the above statements is correct?

 - (a) All are correct.
 - (b) Only (i).
 - (c) Only (i) and (ii).
 - (d) Only (i) and (iii).

3. Which of the following statements is correct?
 - (a) The doctrine of sovereign immunity has relevance in the present day context.
 - (b) State cannot claim sovereign immunity if its officers are negligent in exercise of their powers.
 - (c) State can succeed in pleading its immunity by showing that the tort was committed by its servants.
 - (d) State can claim sovereign immunity even if its officers are negligent in exercise of their powers.

4. Who said: 'There would be an end of everything, were the same man, or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.'
 - (a) Aristotle.
 - (b) John Locke.
 - (c) Montesquieu.
 - (d) Bentham.

5. The antithesis of constitutionalism is:
 - (a) Absence of arbitrary powers.
 - (b) Equality before the law.
 - (c) Despotism.
 - (d) Parliamentary form of government.

6. Which of the following would mean: 'among equals, the law should be that likes should be treated alike':
 - (a) Equal protection of the laws.
 - (b) Equality before the law.
 - (c) Equal privileges to the citizens.
 - (d) All of the above.

7. Equality before the law is correlative to the concept of _____ for all round evolution of healthy social order.
- Privilege.
 - Rule of law.
 - Positivity.
 - Fundamental rights.
8. India has:
- A dual system of courts as in the United States.
 - A single integrated system of courts.
 - No hierarchy of courts under each High Court.
 - None of the above.
9. The directive principle of state policy aim at:
- Social justice.
 - Economic justice
 - Political justice
 - All the above.
10. The directive principles of state policy are fundamental for the:
- Upliftment of backward classes.
 - Protection of individual rights.
 - Administration of justice.
 - Governance of State.
11. Justice should not only be done, but manifestly and undoubtedly be seen to be done;
- Leeson v. General Council of Medical Education & Registration
 - R v. Sussex.
 - King v. Chancellor, University of Cambridge
 - Maneka Gandhi v. Union of India
12. Narrow view regarding application of principles of natural justice was decided by Privy Council in which of the following case;
- Nakkuda Ali v MFDES. Jayaratne (1951) AC 66
 - Re K. (H.) (an infant) (1967) 1 All E.R 226
 - Pett v Gre hound Racing Assn (1968) 2 All ER 545
 - None of the above.
13. "We find ourselves in agreement with the High Court that the rules of natural justice were completely discarded and all canons of fair-play were grievously violated by Shri B.N. Bhalla continuing to preside over the trial decision arrived at by such process and order founded on such decision cannot possibly be regarded as valid or binding" - This Statement of the Supreme Court of India made the origin for following principle;
- Personal Friendship
 - Personal hostility
 - Judge Witness Combination
 - Judge, Prosecutor Combination
14. "A pecuniary interest however slight, will disqualify even though it is not proved that the decision is any way affected"- Identify the author/s of this statement.
- H.W.R Wade
 - Griffith and Street
 - Beaston, Mathews and Elliot
 - Garner

15. Even Administrative orders which involve civil consequences have to be passed consistently with the rules of natural justice. This was held in;
- (a) A.K. Kraipak v Union of India, AIR 1970 SC150
 - (b) State of Orissa v Dr.Bina Pani, AIR 1967 SC1269
 - (c) J.Mohapatra & Co. v State of Orissa, (1984) 4SCC 103
 - (d) None of the above.
16. Identify the author of the statement: "By the federal principle I mean the method of dividing powers so that the general and regional Governments are each within a sphere, co-ordinate and independent."
- (a) A V Dicey.
 - (b) Ivo D Duchacek.
 - (c) K C Wheare.
 - (d) Livingston.
17. Predominance of national legislation over provincial legislation in the law making power of the Parliament and the Provincial Legislatures was provided in which Section of the South African Constitution.
- (a) Section 143
 - (b) Section 146
 - (c) Section 243
 - (d) Section 43
18. Federal Constitutional Court of Germany is established under which of the following Article.
- (a) Article 92
 - (b) Article 95
 - (c) Article 79
 - (d) None of these
19. The Principle "A true federation form of Govt. envisages a compact among independent sovereign states agreeing to surrender part of their sovereign power in favour of a common national Govt. and retaining residue power"-pronounced in which of the following case.
- (a) State of West Bengal v Union of India, AIR 1963 SC 1241
 - (b) SR. Bommai v Union of India AIR 1994 SC 1918
 - (c) Kuldip Nayar v Union of India (2006) 7 SCC 1
 - (d) State of Rajasthan v Union of India AIR 1977 SC1361
20. Is the collective sharing in federal rule making adequately secured by equal representation of unequal units in a bicameral system in the Constitution of Canada?
- (a) Equal representation of every state has 10 seats
 - (b) Representation of 3seats to 6seats based on population
 - (c) Nomination by Federal Government
 - (d) None of the above
