

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Constitutional Bodies
Semester-II (Batch: 2017-18)

LL M End Semester Examination: April-May 2018

Date: 02 May, 2018

Duration: 3 hours

Max. Marks: 70

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 any thing 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.
- Constitution of India Bare Act is not allowed.

Part-A

- Question 1 is compulsory. Attempt any three questions from question 2 to 6.**
- | | Marks |
|---|------------|
| Q.1 Explain the following statements:
(a) "If the executive has failed to comply with its unconditional obligation to place the Ordinance before the legislature, the deeming fiction attributing to the Ordinance the same force and effect as a law enacted by the legislature would not come into existence."
(b) "The enduring rights theory attributes a degree of permanence to the power to promulgate Ordinances in derogation of Parliamentary control and supremacy." | (7x7=14) |
| Q.2 "The text of the Constitution seems to have been departed from. The construction now placed by the court makes the Supreme Court and the High Courts totally undemocratic. The new meaning given by the Supreme Court appears to be beyond the scope of mere interpretation and virtually amounts to re-writing the relevant constitutional provisions." Critically discuss the evolution of "Collegium System" in India in the light of the above statement. | (12) |
| Q.3 Explain the meaning of Executive Functions. Discuss the extent of executive functions of the Union and State. | (12) |
| Q.4 State whether you agree with the following statements or not? Support your views with reasons based on Constitutional provisions and Supreme Court judgements.
(a) "Granting of pardon is in no sense an overturning of a judgment of conviction, but rather it is an executive action that mitigates or sets aside the punishment for a crime. It eliminates the effect of conviction without addressing the defendant's guilt or innocence."
(b) President's power under Art. 72 falls squarely within the judicial domain and can be examined by the Court by way of judicial review.
(c) The petitioner is entitled to an oral hearing from the President on his petition under Article 72 of the Indian Constitution. | (4+4+4=12) |

- Q.5 The procedure for the removal of a judge of the Supreme Court is both ineffective and outdated. Place your arguments in favour as well as against the said statement. (12)
- Q.6 Write short notes on the following: (6+6=12)
- (a) Election Commission of India as an independent and impartial body.
 - (b) Doctrine of Separation of Powers.

Part-B

Answer the questions

- Q.7 Define "Money Bills". State and explain the Special procedure for Money Bills. (8 Marks) (8+4=12)
- Q.8 The Speaker of the Legislature is a political creature, and therefore, generally he is not impartial. Most of the times, he takes a view which is in the interest of the party to which he belongs. Do you agree that the anti-defection law should be amended to bar all defections – individual or group – and that the function to decide upon the question of disqualification arising out of defection should be taken away from the Speakers and be vested in the Election Commission which is an autonomous, non-political, non-partisan body? (4 Marks)

Part-C

Answer any two of the following

- Q.9 The Constitution has left it to Parliament to enact a law to strengthen the position of the Comptroller and Auditor-General and equate him with his British counterpart. But this has not been done so far. In this context, critically evaluate the role of the Comptroller and Auditor General. (4 Marks) (2x4= 8)
- Q.10 Critically examine the JMM Bribery case (*P.V. Narasimha Rao v State AIR 1998 SC 2120*). Why did the minority Judges express the view narrowly interpreting Article 105 (2)? Why the minority view seems preferable to the majority view? (4)
- Q.11 Explain the concept of consolidated fund and its origin, how is consolidated fund formed and what is excluded from the fund? How is parliamentary control over appropriations from consolidated fund ensured? (4)
