

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Comparative Constitutional Law**
Semester- IX (Batch: 2018-23)

End Semester Examination: November 2022

Date: 12th Nov, 2022

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 700-800 words

- | | Marks |
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| <p>Q.1 One must remember that “Comparative Constitutional Law” is not a principle, or body of rules of law, but an approach to, or method or technique of studying, law or any breach or topic of it, arising from the diversity of legal systems in the world and the different approaches adopted to common problems, by examining side by side and in relation to one another the attitudes, institutions or rules on any matter of any two or more legal systems. Such study may be made for various purposes e.g., with a view to discover general trends or majority views on any matter, with a view to determine generalizations applicable to law generally, or a group of systems generally, with a view to the unification of law and the achievement of a universal law shared by all civilized humanity. Not least, the comparative study is valuable for parting the study of any one legal system into perspective and deepening the understanding of it.
In the light of the above mentioned proposition discuss the scope and significance of the study of comparative constitutional law.</p> | (10) |
| <p>Q.2 “We think that [black people] are not included, and were not intended to be included, under the word "citizens" in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time [of America's founding] considered as a subordinate and inferior class of beings who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them.” Clarify the above stated quote with special reference to relevant cases and constitutional amendments along with your own views on it.</p> | (10) |
| <p>Q.3 “Parliament’s power to alter the boundaries of States without their consent is a breach of the federal principle, but in fact it is not Parliament which has, on its own, altered the boundaries of States. By extra constitutional agitation, the States have forced Parliament to alter the boundaries of States. In practice, therefore, the federal principle has not been violated.”- Discuss this statement and analyse following questions based on constitutional practices of the Constitutions of India, United States of America, Australia, Germany and Canada: Is the Federal Union constitutionally immune against</p> | (10) |

dissolution by secession? Are the Component Units immune to elimination of their identity and authority in a Federation?

- Q.4 Ontario, a province in the federation of Canada where the legislature of the province passed a law known as the Ontario's Taxpayer Protection Act, 1999. The Act prohibited for introduction of a bill to impose a new tax without first holding a referendum on the proposal and obtaining the approval of the voters. This legislation is similar to the legislation passed by the Canadian Parliament known as the Canadian Taxpayer Protection Act, 1998. However, a new Government got elected in the province of Ontario levied a new health tax, and did so without prior referendum and the provincial legislature of Ontario subsequently made a change into the Ontario's Taxpayer protection Act, 1999 and made health tax as an exception to the said Act. This conflict in laws required to be decided, explain the principles, provisions, and adjudicatory mechanism based on the provisions of the Constitution of Canada. (10)

The National Education Policy Bill passed by the South African Parliament provides for a uniform policy for the schools across South Africa. This was challenged by provinces on the ground that it encroached on the autonomy of provinces. Explain the scope of judicial powers in South Africa.

On the basis of the above said disputes explain the exercise of judicial powers by higher judiciary in the Constitutions of the United States of America, Canada, Germany, South Africa and Australia.

- Q.5 Ivo D. Duchacek in his book 'Comparative Federalism' characterised certain yardsticks to identify the federal character of the Constitution based on the constitutional experience of the Constitution of the United States of America. Identify the yardstick related to the power of amendment and compare the amendment powers and procedures in the Constitutions of India, United States of America, Canada, Germany, Switzerland, Australia and South Africa. (10)
