

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Center-State Relations and Local Self-Government**
Semester- II (Batch: 2023-24)

End Semester Examination: April 2024 (LL M)

Date: 25th April, 2024

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: 600- 700 words.

Answer Any Five		Marks
Q.1	<p>a) The constitutional validity of the U.P. Transport Service Development Act was questioned by M/S Bharat Transport Co. Ltd. because the Act authorised the State Government to make scheme for nationalisation of Motor Transport in the State. The Act was passed by the State because the Motor Vehicles Act, a Union Law, did not contain any provision for the nationalisation of Motor Transport Services. Later Parliament amended the Motor Vehicles Act and incorporated provisions for nationalisation. Decide the validity of the State Act.</p> <p><u>Relevant Entry of 7th Schedule:</u> Entry 35 of Concurrent List: Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied.</p> <p>b) Parliament by exercising its legislative competence passed the Expenditure Tax Act. A leading business firm in Mumbai has challenged the Act. Its contention before the Court was that the Expenditure tax imposed on them by the Expenditure Tax officer was unconstitutional because of Entry 62 in List II, which reads "Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District council". Decide the dispute.</p>	(10)
Q.2	<p>"It is by reference to the ambit or limits of territory by which the legislative powers vested in parliament and the state legislatures are divided in Article 245. Generally speaking, a legislation having extraterritorial operation can be enacted only by parliament and not by any state Legislature; possibly the only exception being one where the extra-territorial operation of a state legislation is sustainable on the grounds of territorial nexus. Such territorial nexus, when pleaded must be sufficient and real not illusory." Explain this statement with the help of cases decided by the Supreme Court of India.</p>	(10)
Q.3	<p>The State of Pachimghat, a State of the Union of India, passed the Pachimghat Exhibition of Films through Electronic Devices (Regulation) Act, 2023 (hereinafter Act), a State Legislation based on Entry 33 of List II, which in its Section 12 required that every person facilitating the screening of a Movie in the State shall be licensed under this Act and shall in respect of each film in his possession, produce when demanded by an officer authorized by the Government in this behalf, a letter of consent got from the first owner of the copyright of such film under the copyright Act or from its assignee</p>	(10)

thereunder. The object sought to be achieved by the State Legislature by enacting the Act, as declared in its preamble, is the regulation in the State of the exhibition of films on Electronic Devices. Section 14 (1) of the Act reads: “No person licensed under this Act for keeping a Video shall sell, let to hire, distribute, exchange or put into circulation in any manner whatsoever any film other than a film which has been certified as suitable for publication by the authority constituted under Section 3 of the Cinematograph Act, and which, when exhibited, displays the prescribed mark of that authority, and has not been altered or tampered with in any way since such mark was affixed to that”. Metro Entertainments challenged Section 12 and Section 14(1) of the Act before the High Court on the grounds of lack of legislative competence on the part of the State Legislature. The High Court held that the provisions enacted by the State Legislature are beyond the State's legislative power. The State Government filed an appeal before the Supreme Court. Decide the Appeal.

Entry 33, List II:- “Theatres and dramatic performances; cinemas subject to the provisions of Entry 60 of List I; sports, entertainments and amusements”

Entry 60, List I:- “Sanctioning of Cinematograph films for exhibition”

Entry 49, List I:- “Patents, inventions, and designs; copyright; trademarks and merchandise marks”

Q.4 “The right to contest an election for any office in Panchayat is neither fundamental nor a common law right. It is the creature of a statute and is obviously subject to qualifications and disqualifications enacted by the legislation.” Critically analyse the above statement in the light of the relevant provisions of the Constitution (Seventy-Fourth Amendment) Act, 1992 and leading cases. (10)

Q.5 The State of Varunia, within the Republic of Indoria, is experiencing a breakdown in the functioning of its constitutional machinery. The situation has reached a point where the Varunia government struggles to govern and uphold law and order. The Challenges in Varunia include corruption across government levels civil unrest sparked by allegations of human rights abuses by state authorities and a severe disruption in delivering essential public services like healthcare and education. The state legislature faces difficulties in holding assembly regularly with reports indicating that some of the opposition legislatures are coerced to support the ruling party. (10)

Given these issues concerned citizens, civil groups, and opposition parties have urged the President of Indoria to step in and declare a State Emergency under Article 356 of the Constitution due to Varunia's failure of constitutional machinery.

You are a group of experts representing both the parties involved. Your objective is to present arguments on the following matters before the Supreme Court of Indoria:

- i. Whether the situation in Varunia constitute a failure of constitutional machinery as envisaged under Article 356 of the Constitution of Indoria?
 - ii. If the Court finds that there is a failure of constitutional machinery in Varunia, what steps should be taken by the President to address the situation?
- Provide your arguments supported by provisions, pertinent legal precedents, and principles of law and constitutional governance.

All laws are in pari materia with India.

- Q.6 Analyzing the substantive requirements set forth in Article 368(2) of the Indian Constitution, delve into the importance of the provisions regarding how amendments are introduced, ratified, and validated. Furthermore, elaborate on the constitutional history of basic structure with important constitutional amendments. (10)
