

Reg. No. :

Name :

Third Semester LLM Degree Examination, September 2022

Constitutional Law

Paper VII : AMENDING PROCESS AND JUDICIAL REVIEW

Time : 3 Hours

Max. Marks : 75

- Instructions 1) Answer **all** questions.
2) All questions carry **equal** marks.

1. (A) Power to amend the constitution is different from the power to amend any other legislative instrument in view of the fact that the former is power to alter the most significant instrument in the polity. Write the difference between ordinary law and amending process in Indian constitution.

Or

- (B) Explain the doctrine 'Prospective Overruling'. How Indian judiciary applied this doctrine in Golaknath v. State of Punjab.

2. (A) A good constitution should be adaptable to the need of the society. It should be flexible rather than rigid. Our framers of the constitution were very pertinent to this statement. Critically comment your answer in the light of 42nd constitutional amendment Act.

Or

- (B) Write a comparative analysis about the constitutional amending procedure of USA and India.

3. (A) Write the constitutional significance of judicial review in unconstitutional law enacted by the legislatures. Explain how the judiciary interfere, if the law ultra-virus the supreme law of the land.

Or

(B) Marbury v. Madison is a landmark case which established the principle of Judicial review in the United States, meaning that the American courts have the power to strike down laws and statutes that they find violative of the constitution of USA. Comment on the reflection made by Marbury in Indian judiciary.

4. (A) UOI v. Rajendra Shah (2021) is a landmark judgement relating to amendments affecting state power. Comment.

Or

(B) The Court in Kesavananda Bharati case, stated that all sections of the constitution are open to amendment other than the contours of the basic structure, and judicial review is one of them. Including an Act in the Ninth Schedule does not exclude it from the scrutiny of the court. In this context write the relevance of I.R. Coelho v. State of Tamil Nadu (2007)

5. (A) Analyse the procedure prescribed by Article 368 for amendment of the constitution in India with the amendment procedure of Canada.

Or

(B) The Court in Golaknath case opined that Fundamental Rights included in Part III of the Constitution are given a transcendental position under the Constitution and are kept beyond the reach of Parliament. But thereafter the parliament passed 24th constitution amendment act to transgress the situation. In 1974, the Kesavanda Bharati case elaborated the basic structure doctrine to safeguard the constitutional principles. Elaborate.

(5 × 15 = 75 Marks)
