

Reg. No. :

Name :

Second Semester LL.M. Degree Examination, March 2025

Core Paper

Paper V : JUDICIAL PROCESS

(2021 Admission Onwards)

Time : 3 Hours

Max. Marks : 60

Answer **all** questions. All questions carry equal marks.

1. (a) Courts should "search for light among the social elements of every kind that are the living force behind the facts they deal with". Clarify the role of the court as a dispute resolution body in a community.

OR

- (b) Discuss the evolution of courts in India under the secular legal system in disposition of civil and criminal matters.
2. (a) "The social interest, served by symmetry or certainty through precedent must be balanced against the social interest served by equity and fairness or other elements of social welfare. The balance of these interests in the proper choice of methods is the hall-mark of judicial process." Do you agree with this statement? Give reasons in support of your answer.

OR

- (b) Keeping in mind the maxim, *ignorantia Judicis est calamitas innocentis* (the ignorance of the judge is the calamity of the innocent), establish the significance of sound legal understanding and logic in the process of judicial reasoning and adjudication.

3. (a) "A comparison between the judge and the legislator seems relevant, because even though we were traditionally told that the judge only applies old rules through specific determinations to cases brought before him, while the legislator makes or changes the law, we know that to a considerable extent the judge and the legislator perform the same function." Do you agree? Validate your viewpoint with reasons and illustrations.

OR

- (b) "The feeling is that nine times out of ten, if not oftener, the conduct of right-minded men would not have been different if the rule embodied in the decision had been announced by statute in advance", opines Cardozo. With specific reference to this statement, establish the role of the judge as an arbiter in a community.
4. (a) "Political procedure is the best strategy to determine debates where qualities clashed and it is a logical inconsistency in majority rule government for an oligarchic court to set itself against the chosen law-making body or to act in its stead." Analyze this statement. Does it represent a fetter on judicial discretion and activism?

OR

- (b) "Judicial self-restraint, once a rallying cry for judges and law professors, has fallen on evil days. It is rarely invoked or advocated," opines Richard A. Posner (2012). Is this statement true of India? Justify your position with appropriate illustrations and case laws.
5. (a) "Over the years the original, beneficial character of the Indian Supreme Court's activism in Public Interest Litigation has been largely converted into a general supervisory jurisdiction to correct actions and policies of government, public bodies and authorities. This is a type of judicial activism unparalleled in any other judiciary." Critically comment.

OR

- (b) "It is vitally important in a democracy that individual judges and the judiciary as a whole are impartial and independent of all external pressures and of each other". Elucidate.

(5 × 12 = 60 Marks)