

Reg. No. :

Name :

Third Semester LL.M Degree Examination, September 2023

Constitutional Law

Paper VI : JUDICIAL REVIEW OF LEGISLATION

(2021 Admission)

Time : 3 Hours

Max. Marks : 60

Answer all questions. All questions carry equal marks.

1. (a) "The separation of the judicial from the executive from the executive power seems originally to have arisen from the increasing business of the society, in consequence of its increasing improvement. The administration of justice became so laborious and so complicated a duty as to require the undivided attention of the persons to whom it was entrusted. "Examine the impact of overarching powers of judicial review of the Constitutional Courts in India on the functional separation of powers between the Legislature, Executive and the Judiciary that the Constitution of India visualise.

OR

- (b) Examine (critically as well) the role and effectiveness of a centralised system of judiciary in a federally structured system of governance in a country like India.

2. (a) Elaborate on the constitutional mandate relating to judicial review in India. Compare and contrast the same with that of the mandates in the United States of America and Australia.

OR

- (b) "If considered not solely an instrument of the government but as a rule to which the entire society, including the government, is bound, the rule of law is fundamental in advancing democracy. Strengthening the rule of law has to be approached not only by focusing on the application of norms and procedures. One must also emphasize its fundamental role in protecting rights and advancing inclusiveness, in this way framing the protection of rights within the broader discourse on human development." Elaborate.
3. (a) "Delegated legislation does not fall beyond the scope of judicial review, the courts often decide the validity of the delegated legislation on the ground whether it is ultra vires or intra vires to the parent Act." Examine (critically as well) in detail the grounds of judicial review of legislations including delegated ones in India touching upon various judicial pronouncements as well.

OR

- (b) "The scope of judicial review before Indian courts has emerged in three dimensions – *firstly*, to establish fairness in administrative action, *secondly*, to protect the guaranteed constitutional fundamental rights and *lastly*, to rule on questions of legislative competence between the centre and the states." Elaborate on the concept of judicial review as an essential part of the basic structure of the Constitution of India.
4. (a) "It is reasonable to say that ouster clauses are at odds with the Rule of Law. The orthodox view is therefore that courts will only give effect to them if the statutory language introducing them is absolutely clear." Elaborate.

OR

- (b) "The evolution of judicial review in India has been a very interesting story with the executive led legislature versus judiciary coming into forefront many a times. The story of the IX Schedule of the Constitution evidences this tussle vividly." Examine the evolution of judicial review powers in Indian through judicial pronouncements.

5. (a) Elaborate on the procedure requirements for exercise of powers of judicial review in India.

OR

- (b) Examine the scope of doctrines and tools like pith and substance, colourable, legislation, eclipse and severability which come in handy for the reviewing courts.

(5 × 12 = 60 Marks)

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