

Reg. No. : .....

Name : .....

**Third Semester LL.M. Degree Examination, August 2024**

**Constitutional Law**

**Paper VI : JUDICIAL REVIEW OF LEGISLATION**

**(2021 Admission Onwards)**

Time : 3 Hours

Max. Marks : 60

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

1. (a) Cardozo J. said in *Panama Refining Co. vs Ryan* [293 U.S. 3,88,440 (1935)] the principle of separation of powers "is not a doctrinaire concept to be made use of with pedantic rigour. There must be sensible approximation, there must be elasticity of adjustment in response to the practical necessities of Government which cannot foresee today the developments of tomorrow in their nearly infinite variety". Elaborate on the contours of judicial review in a system practising separation of powers.

OR

- (b) "The main frame within which the judicial limits are circumscribed consist of judicial review of administrative and legislative actions and scrutinizing several Constitutional amendments in the light of Constitutional provisions thereby protecting the sanctity of the Constitution and protecting the fundamental rights of the citizens". Elaborate on the interplay between parliamentary sovereignty and powers of judicial review.
2. (a) Elaborate on the concept of Rule of Law as a basic tenet of Constitutional governance in India.

OR

- (b) Make a comparative analysis of the Constitutional basis of judicial review in India, USA and Australia.

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3. (a) "The courts adopting the power of judicial review as an integral part of the Basic Structure of the Indian Constitution evidences the adherence to the judicial commitment to Constitutional governance". Discuss.

OR

- (b) Elaborate on the exercise of powers of judicial review under the Indian Constitution. Also touch upon the concept of 'political questions' in this connection.
4. (a) "The notion that ouster clauses should be granted effect where there is 'sufficient justification' raises questions about both what, in normative terms, ought to constitute such justification and how, in doctrinal and drafting terms, such a policy objective might be realised". Elaborate on the effect and impact of ouster clauses on the powers of judicial review.

OR

- (b) Evaluate the limiting impact of Constitutional amendments on the powers of judicial review, touching upon the developments related to the IX Schedule, in particular.
5. (a) Elaborate on the scope and ambit of doctrines of pith and substance, colourable legislation and eclipse, as tools of judicial review.

OR

- (b) "In Constitutional law, the presumption of Constitutionality is the legal principle that the judiciary should presume statutes enacted by the legislature to be constitutional, unless the law is clearly unconstitutional or a fundamental right is implicated". Elaborate in the Indian context.

(5 × 12 = 60 Marks)