

NATIONAL LAW UNIVERSITY DELHI

LL.M., Semester- I (Batch of 2023)

Repeat Examinations, July- 2024

Paper: Comparative Public Law

Time:3 Hours

Total Marks: 50

Instructions:

1. All questions are compulsory and carry equal marks.
 2. Answer to any question should not exceed six sides.
 3. Reading material and class notes are allowed.
 4. All the answers must be comparative in nature.
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- Q.1** Professor Dicey said, “There exists at any given time a body of beliefs, convictions, sentiments, accepted principles, or firmly-rooted prejudices, which, taken together, make up the public opinion of a particular era, or what we may call the reigning or predominant current of opinion. ... it may be added that the whole body of beliefs existing in any given age may generally be traced to certain fundamental assumptions which at the time, whether they be actually true or false, are believed by the mass of the world to be true with such confidence that they hardly appear to bear the character of assumptions . . . The large currents of public opinion which in the main determine legislation, acquire their force and volume only by degrees, and are in their turn liable to be checked or superseded by other and adverse currents, which themselves gain strength only after a considerable lapse of time.” Elaborate upon the significance of above statement in understanding of what makes Public Law.
- Q.2** “The question is how much purchase Hirschl’s claims will have outside of the North American context. This North American bias also becomes clear in Hirschl’s description of what he sees as the basis for a new era of comparative law: globalization, the transnational era, and transnational legal environments”. Critically evaluate the above statement.
- Q.3** “The constitution is the state, because the state is treated as something genuinely imperative that corresponds to norms, and one sees in the state only a system of norms, a “legal” order, which does not actually exist, though it is valid in normative terms. The legal order, nonetheless, establishes an absolute concept of the constitution because a closed, systematic unity of norms is implemented and rendered equivalent to the state. Therefore, it is also possible to designate the constitution as “sovereign” in this sense, although that is in itself an unclear form of expression. For only something existing in concrete terms can properly be sovereign. A merely valid norm cannot be sovereign”. Explain the above statement.
- Q.4** “The distinction between directly and indirectly effective provisions applies to written and entrenched constitutional arrangements only; un-entrenched and in particular evolutionary constitutional legal provisions tend to be directly effective: if they are not directly effective, they are not law”. Elucidate with the help of suitable examples.
- Q.5** Write short notes on the following
- a) Indian idea of relationship between Law, State and Religion.
 - b) Exceptionalism and emergency provisions.