

Name:	
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, December 2018

Course: Comparative Public Law

Semester: I

Programme: LL.M.

Time: 03 hrs.

Max. Marks: 100

Instructions:

SECTION A

(Attempt all questions. Each questions carry equal marks)		10 Marks	CO
i)	Nature of comparative public law	2.5	CO1
ii)	Difference between common law and civil law	2.5	CO1
iii)	Plea bargaining	2.5	CO1
iv)	Domestic violence	2.5	CO1


SECTION B

(Attempt all questions. Each questions carry equal marks)		20 Marks	CO
v)	“Comparative Law denotes a method of study and research by which laws and legal institutions of two or more countries are compared.” Explain the statement in the light of the law making process in civil and common law countries.	10	CO3
vi)	“The tight mold of federalism in which the American Constitution was caught, and could be both unitary as well as federal according to the requirements of the time and circumstances”. Explain.	10	CO3

SECTION-C

(Attempt all questions. Each questions carry equal marks)		20 Marks	CO
vii)	“The political scientists have largely focused on a single issue: should constitution-writers follow England in concentrating lawmaking power in a single parliamentary institution, or should they follow the United States and France in separating law-making authority among democratically elected rivals.” Explain.	10	CO1

viii)	“People in positions of authority should exercise their power within a constraining framework of public norms rather than based on their own preferences, their own ideology, or their own individual sense of right and wrong.” Comment.	10	CO2
SECTION-D			
	(Attempt all questions. Each questions carry equal marks)	50 Marks	CO
ix)	As a nation of over one billion people and the world’s largest democracy, India is sometimes confronted with situations in which its democratic institutions clash. Under the Indian Constitution, legislation concerning land reform is placed in a special category designed to immunize it from judicial scrutiny. Legislators seeking electoral benefit have abused this scheme, known as the Ninth Schedule. Simultaneously, the country has been rocked by a series of public corruption scandals. As Parliament has sought to clean up its image by expelling disgraced members, its actions have been challenged as unconstitutional, leading to a constitutional showdown between the legislative and judicial branches. India is often hailed as the world’s largest democracy. At the core of that democracy is a thriving, independent judicial system that has been an important engine of social change and development. Yet, despite possessing, a well-developed system of law inherited from British colonial rule, for the first fifty years following independence from Britain, the nation’s supreme court vacillated in exerting the full checks on the legislative branch requisite in modern democracies. Critically analyze new constitutional movements that are changing the boundaries of constitutionalism and constitutional systems.	12.5	CO2
x)	“It is difficult to see how the power of judicial review makes the judiciary supreme in any sense of the word. This power is of paramount importance in a federal constitution.... Judicial Review of constitutional amendments may seem involving the Court in political question, but it is the Court alone, which can decide such an issue. The function of Interpretation of a Constitution being thus assigned to the judicial power of the State, the question whether the subject of law is within the ambit of one or more powers of the legislature conferred by the constitution would always be a question of interpretation of the Constitution." Explain.	12.5	CO2
xi)	“The judiciary has reiterated the protective philosophy underlying the special legal provisions relating to children on various occasions under the reformatory theory of punishment. The Courts have held that very young children should not be sent to prisons. As far as possible, such young children should be released under the supervision and care of their parent and guardian.” Analyse the statement.	12.5	CO1
xii)	Michael Hudson worked for a restaurant in Cincinnati, Ohio from 1992 to 2014. For the last 10 years of his employment there, he worked as an assistant treasurer and would handle company funds. From 2008 to 2014, he transferred over \$3 million of the restaurant's money into his personal bank account in an act called embezzlement, basically theft of money belonging to an employer. Hudson also filed a false tax return and failed to file tax returns for multiple years. Whether Hudson is liable for the embezzlement of money? Explain.	12.5	CO1

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SECTION A

S. No.	(Attempt all questions. Each questions carry equal marks)	10 Marks	CO1
i)	Differentiate between division of powers and separation of powers	2.5	CO1
ii)	Purpose of study of comparative law	2.5	CO1
iii)	Plea Bargaining	2.5	CO1
iv)	Differentiate between public law and private law.	2.5	CO1

SECTION B

	(Attempt all questions. Each questions carry equal marks)	20 Marks	
v)	“The chief function of comparative jurisprudence is to facilitate legislation and the practical improvement of law”. Elucidate.	10	CO2
vi)	Explain the value of comparative law in respect of Constitutional law and Administrative law.	10	CO2

SECTION-C

	(Attempt all questions. Each questions carry equal marks)	20 Marks	
vii)	“The essential fundamental rights of human being are considered integral part of rule of law. A fruitful comparative study of such rights can be made and improvements can be suggested. The rule of law depends not only on the provisions of adequate safeguards against abuse of power but also on the existence of the effective Government capable of maintaining law and order.” Comment.	10	CO2
viii)	“Marital rape is not a husband’s privilege, but rather a violent act and an injustice that must be criminalized.” Comment.	10	CO1

SECTION-D

	(Attempt all questions. Each questions carry equal marks)	50 Marks	

ix)	<p>“The Constitution should not create an independently elected presidency to check and balance a popularly elected congress. Instead, it should authorize a prime minister and her cabinet to remain in power as long as they can retain the support of a democratically elected chamber of deputies. Constrained parliamentarianism tries to check the power of the cabinet and the chamber, however, by granting independence to a variety of other checking institutions, including a constitutional court.” Elucidate</p>	12.5	CO2
x)	<p>Delores Knight, her son Isaac, and two associates incorporated the business Just Like Family to provide in-home health care for the elderly and disabled in Ohio. The four employee has forged documents and falsified medical records, then billed federal health care programs for services that were never provided. They defrauded Medicare, Medicaid, and the Department of Veterans Affairs of more than \$8 million and purchased two homes with the profits. Whether Delores Knight is guilty of conspiracy to commit health care fraud? Decide.</p>	12.5	CO1
xi)	<p>“The key to a Constitution is the mechanism by which it may be amended or repealed. The body in which this power is vested is the body in which sovereignty is ultimately held. In most countries, this body is claimed to be the people. While in a few countries the people are directly consulted about constitutional reform through referenda and may even initiate it themselves, in most countries the role of the people in constitutional reform is exercised indirectly through their elected representatives.” Analyse the statement.</p>	12.5	CO3
xii)	<p>“A procedural understanding of the Rule of Law does not just require that officials apply the rules as they are set out; it requires that they apply them with all the care and attention to fairness that is signaled by ideals such as natural justice and procedural due process.” Elucidate.</p>	12.5	CO2