

Roll No.....

HAMDARD INSTITUTE OF LEGAL STUDIES AND RESEARCH (HILSR)

SCHOOL OF LAW

LL.M END SEMESTER-1st, EXAMINATION JANUARY – 2024

JUDICIAL PROCESS

LL.M- 102

Duration: Three Hours

Maximum Marks: 60

Write your Roll No. on the top immediately on receipt of this question paper

UNIT I

(12 Marks)

Q.1. "The Adversarial system is a gaudy simulacrum of a cricket match while the Inquisitorial system bears semblance to a game of golf."

In the light of the above statement distinguish between Adversarial and Inquisitorial models of Judicial Process with special reference to Malimath Committee Report (2003)?

OR

(12 Marks)

Q.2. "The ratio decidendi of a case can be defined as the material facts of the case plus the decision thereon."

Elucidate the above statement of Prof. Goodhart and lay down the postulates to distinguish between material and immaterial facts?

UNIT II

(12 Marks)

Q.3. "Law is not a brooding omnipotence in the sky but rather a pragmatic instrument of social order."

In the light of the above statement discuss judicial process as an instrument of social ordering with special reference to recent judicial pronouncement in A. Nallasivan v. State of Tamil Nadu (2023)?

OR

(12 Marks)

Q.4. Discuss Judicial Review of administrative action with special reference to Doctrine of Legitimate Expectation?

UNIT III

(12 Marks)

Q.5. A prisoner in Tihar Jail wrote a letter to a judge of the supreme court of India that another prisoner in his neighbor prison cell was being tortured by police by inserting a baton into his anus. Can this letter be treated as a writ petition? Discuss Epistolary Jurisdiction as a tool to ensure human rights of have-nots?

OR

(12 Marks)

Q.6. Write Short Notes on the following-

- (a) Tribunalisation of Justice
- (b) Executive Courts and Judicial Independence

UNIT IV

(12 Marks)

Q.7. The supreme court in *Supriyo v. Union of India* (2023), while holding that the court in the exercise of the power of judicial review must steer clear of matters, particularly those impinging on policy, which fall in the legislative domain, observed that "In questions of such polycentric nature – whether social, or political – the court must exercise restraint and defer to the wisdom of the other branches of the state". Do you agree? Discuss with reference to Judicial Restraint?

OR

(12 Marks)

Q.8. "Judiciary Is Forced to Cross Lakshman Rekha because of Government Lethargy." Do you agree with this statement? Explain Judicial Overreach with the help of judicial decisions?

UNIT V

(12 Marks)

Q.9. The two principal lines of argument in the works of German constitutional lawyer, Carl Schmitt, and the French constitutional lawyer, Maurice Hauriou were used by Dietrich Conrad to defend the idea of implied limits on the amending power and its application to the Indian Constitution. Elucidate with reference to the Doctrine of Basic Structure of the Indian Constitution?

OR

(12 Marks)

Q.10. What do you mean by Unconstitutional Constitutional Amendment? Do a comparative analysis of Limited Constitutional Amendment powers in different jurisdictions?