

LLM
SECOND SEMESTER
INDEPENDENCE OF JUDICIARY
LLM - 2.1 CAL-4
[USE OMR SHEET FOR OBJECTIVE PART]

**SET
A**

Duration: 3 hrs.

Full Marks: 70

Time: 30 min.

(Objective)

Marks: 20

Choose the correct answer from the following:

1×20=20

- Which principle ensures judges can make decisions without fear of pressure or influence?
 - Judicial Review
 - Judicial Independence
 - Judicial Activism
 - Separation of Powers
- What is NOT a characteristic of an independent judiciary?
 - Security of tenure for judges
 - Financial independence from other branches of government
 - Ability to make laws without legislative approval
 - Freedom from political pressure
- Judicial review allows the judiciary to-
 - Set tax rates
 - Create new government agencies
 - Review actions of the executive branch
 - None of the above
- An independent judiciary can help to-
 - Reduce the number of court cases
 - Ensure all laws are popular with the public
 - Uphold the rule of law
 - Grant special privileges to certain groups
- In some countries, judges can be removed from office for misconduct. This is important because-
 - It allows the public to directly influence the judiciary
 - It helps to ensure accountability of judges
 - It weakens the independence of the judiciary
 - It allows the government to control court decisions
- Which part of the Indian Constitution guarantees the independence of the judiciary?
 - Preamble
 - Part V (Chapter IV)
 - Directive Principles of State Policy
 - Fundamental Rights
- In India, how are judges for the Supreme Court appointed?
 - By direct election
 - By the President alone

- c. By the President after consultation with the Chief Justice of India and other judges
 - d. By Parliament
8. Security of tenure for judges in India refers to-
 - a. A set number of cases they must hear each year
 - b. The ability to hold other government positions
 - c. The requirement to retire at a specific age
 - d. The inability to be removed from office except for proven misconduct
 9. What is an example of a power exercised by the Indian judiciary to maintain its independence?
 - a. Setting tax rates for the government
 - b. Approving new laws before they are implemented
 - c. Striking down laws found to be unconstitutional
 - d. Collecting taxes from citizens
 10. Which of the following is NOT a threat to judicial independence in India?
 - a. Undue political influence on judicial appointments
 - b. Insufficient funding for the judiciary
 - c. A high number of judges in the court system
 - d. Pressure from the media on high-profile cases
 11. The collegium system, used for appointing judges in India, has been criticized for-
 - a. Being too transparent and open to public scrutiny
 - b. Giving the government too much control over the judiciary
 - c. Requiring judges to pass a difficult written exam
 - d. Lacking transparency and potentially promoting nepotism
 12. How does the Indian Constitution protect judges from arbitrary removal?
 - a. By requiring a two-thirds majority vote in Parliament for removal
 - b. By granting lifetime tenure to judges
 - c. By giving the President sole authority over judge removal
 - d. By establishing a tribunal to oversee judge removal proceedings
 13. Which constitutional provision establishes the doctrine of judicial independence in India, explicitly separating the judiciary from the executive and legislative branches?

a. Article 50	b. Article 122
c. Article 141	d. Article 50A
 14. In the landmark judgment of S.P. Gupta v. Union of India (1981), the Supreme Court clarified its stance on the independence of the judiciary by asserting-
 - a. The judiciary is immune from any form of parliamentary scrutiny.
 - b. Executive consultation is mandatory for judicial appointments.
 - c. The judiciary can overrule parliamentary decisions if they violate constitutional principles.
 - d. The judiciary has the final say in all matters of national importance
 15. What is the significance of the Second Judges Case (1993) in India's judicial history?
 - a. It established the collegium system for judicial appointments
 - b. It introduced mandatory retirement age for judges.

- c. It granted the President sole authority over judge appointments
 - d. It abolished the concept of judicial review
16. Under the collegium system, how are recommendations for judicial appointments made?
- a. By the President of India
 - b. By the Prime Minister of India
 - c. By a committee of senior judges headed by the Chief Justice of India
 - d. By the Law Minister of India
17. In the case of Supreme Court Advocates-on-Record Association v. Union of India (1993), the Supreme Court held that the collegium's recommendations for judicial appointments are-
- a. Binding on the President of India
 - b. Subject to approval by the Prime Minister
 - c. Reviewable by the Parliament
 - d. Advisory in nature
18. In the case of Supreme Court Advocates-on-Record Association v. Union of India (2015), the Supreme Court struck down the NJAC Act, stating that it violated-
- a. The doctrine of parliamentary supremacy
 - b. The principle of judicial review
 - c. The independence of the judiciary
 - d. The separation of powers
19. The concept of "judicial activism" often intersects with discussions on judicial independence. Which of the following best defines judicial activism?
- a. Judges refraining from making decisions that could be perceived as controversial
 - b. Judges actively interpreting laws and intervening in matters of public policy
 - c. Judges adhering strictly to precedent without deviation
 - d. Judges deferring to the executive branch in matters of law interpretation
20. In the context of judicial independence, what is the significance of the case of A. K. Roy v. Union of India (1982)?
- a. It affirmed the supremacy of the Parliament in judicial appointments.
 - b. It established the principle of judicial review in India.
 - c. It upheld the doctrine of separation of powers between the executive and judiciary.
 - d. It emphasized the need for transparency and consultation in judicial appointments.

(Descriptive)

Time : 2 hrs. 30 min.

Marks : 50

[Answer question no.1 & any four (4) from the rest]

1. *"The Indian Constitution establishes a robust framework for an independent judiciary."* 10

Discuss the key features enshrined in the Constitution that ensure this independence, and elaborate on the crucial roles the judiciary plays in the Indian political system. Critically examine any challenges the judiciary faces in upholding its position and suggest potential solutions to ensure it continues to effectively serve as the guardian of the Constitution.

2. In the Indian context, evaluate the complexities and tensions inherent in maintaining the independence of the judiciary within the framework of the rule of law. Analyze the historical evolution, constitutional provisions, and landmark judicial decisions shaping the autonomy of the judiciary. Assess the contemporary challenges posed by political interference, executive influence, and societal expectations on judicial independence. Finally, propose substantive reforms or policy initiatives to bolster the independence of the judiciary and strengthen the rule of law in India's dynamic socio-political landscape." 10

3. In light of recent debates and reforms, critically examine the process of appointment and transfer of judges to the Supreme Court of India. Assess the constitutional provisions, judicial pronouncements, and institutional mechanisms governing these processes, with a focus on ensuring transparency, meritocracy, and judicial independence. 10

4. *"The concepts of parliamentary sovereignty and the independence of the judiciary represent two fundamental pillars of a well-functioning democracy. Parliamentary sovereignty grants the legislature supreme lawmaking power, while judicial independence ensures the judiciary can interpret and uphold the law without undue influence. However, these principles can create tension when the legislature enacts laws that the judiciary deems unconstitutional."* 10

Discuss the potential conflicts between parliamentary sovereignty and judicial independence. How can these concepts be reconciled to ensure a system of effective governance that protects individual rights?

5. Discuss the contrasting paradigms of judicial activism and judicial restraint within the context of contemporary legal systems. Finally, assess the prospects for achieving a judicious balance between judicial activism and restraint in promoting judicial independence, accountability, and effective governance in modern democracies. 10
6. In the context of the independence of the judiciary, critically examine the inherent tension between the apolitical ideal of the judicial process and its unavoidable entanglement with political dynamics. Explore how factors such as judicial appointments, judicial decision-making, and public perceptions intersect with broader political influences, partisan interests, and societal expectations. 10
7. Trace the evolution of the court system in India, from ancient times to the present day. Discuss the key influences that have shaped the development of Indian courts, and analyze how these courts have reflected the changing political and social landscape of the country. 10
8. *“Judicial accountability is a critical concept in maintaining public trust and upholding the rule of law. However, striking a balance between accountability and judicial independence is a complex challenge.”* 10

Discuss the various mechanisms for ensuring judicial accountability. How effective are these mechanisms, and what are the potential drawbacks?

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