

**GUJARAT NATIONAL LAW UNIVERSITY
SILVASSA CAMPUS**

**Course: Fundamental Rights and Social Justice
LL.M Semester- I (Batch: 2025-26)**

End Semester Examination: October-November 2025

Date: 1st November, 2025

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: 700-800 words; 5 marks: 350-400 words.

Attempt any five questions from the following

- | | Marks |
|---|--------------|
| Q.1 Given below are the excerpts of a letter written by Nani Palkhivala to Prime Minister Indira Gandhi on 9 th November 1975. | (10) |

“My dear Indiraji,

I am personally very happy that the litigation regarding your decision is at long last over. There has never been any doubt in my mind that the judgment of the Allahabad High Court was erroneous on facts and in law and you deserved to succeed on every count – regardless of the subsequent Amendments to the Constitution.

There is one matter about which I have been thinking for some time of writing to you but I did not want to do so till the Supreme Court’s verdict in your case was pronounced. It is about the application made by the Government to the Supreme Court to reconsider the *Bank Nationalization* case and *Kesavananda Bharati* case.

I have nothing to say about the *Bank Nationalization* case.....

However, I am most distressed and perturbed by the Government’s attempt to get the judgment in *Kesavananda’s case* overruled. May I earnestly request you to consider the following points:

(1) The Supreme Court has already upheld the Amendments which have virtually abrogated the right to property. Further, the court has also upheld the validity of Article 31C. The optimum latitude of action is thus already assured to the Government.

(2) If Parliament is given an unlimited power of Amending the Constitution, the high degree of probability is that the Basic Structure of the Constitution which postulates a free democracy and the unity and integrity of the country will vanish within few years.

(3) The Basic Structure of the Constitution is the real safeguard of the minorities.

(4) The happenings in Bangladesh show how thin is the veneer of civilized political behavior. With limitless Amending power, the rule of law will itself disappear in the foreseeable future.

(5)

(6)

(7) India, Pakistan, Burma and Ceylon got their independence at about the same time. Of these countries, India is the only one with political stability.

(8) Your own case has been argued in Supreme Court on the basis that *Kesavananda's case* represents the law of the land. It would look strange that within three days of the historic judgment in your favour, the court should consider whether that very case should be overruled.

The hearing in the Supreme Court on the correctness of *Kesavananda's case* begins tomorrow. It need not continue unless the government wants it to be.

With Warm Regards,

Yours Sincerely,
N.A. Palkhivala”

Explaining the references to the cases and Constitutional provisions in the above-mentioned letter, trace the evolution of Basic Structure Doctrine in India. Do you think that Basic Structure Doctrine should have been overruled by the Hon'ble Supreme Court in 1975? Justify your answer with the Constitutional, political and judicial developments post-Kesavananda's case?

Q.2 In *Justice K.S. Puttaswamy v. Union of India*, 2017 (10) SCC 1, the judgment of Justice S.A. Bobde encapsulates the ratio as to against whom Fundamental Rights can be enforced. At page 359 of the judgment, the following observation was made: (10)

“397. Once we have arrived at this understanding of the nature of fundamental rights, we can dismantle a core assumption...that a right must either be a common law right or a fundamental right. The only material distinctions between the two classes of rights – of which nature and content may be the same – lie in the incidence of the duty to respect the right *and in the forum in which a failure to do so can be redressed*. Common law rights are horizontal in their operation when they are violated by one's fellow man, he can be named and proceeded against in any ordinary court of law...Where the interference with a recognized interest is by the State or any other like entity recognized by Article 12, a claim for the violation of fundamental right would lie. Where the author of an identical interference is a non-state actor, an action at common law would lie in an ordinary court.”

In his book *You Must Know Your Constitution*, Fali S. Nariman has stated the following at page 107:

“The above cited passage in the concurring judgment of Bobde J. was never dissented from nor adversely commented upon in any of the other judgments in *Puttaswamy*. In fact, in a January 23, 2023 decision of the Supreme Court of India in *Kaushal Kishore v. State of Uttar Pradesh* (2023) 4 SCC 1, the majority judgment on behalf of four judges in a Bench of five has approvingly reproduced in extenso the above quoted paragraph. 397 in *Puttaswamy*: - but then erroneously concluded that fundamental rights under Article 19 and 21 ‘*can be enforced under the Constitution against persons other than the State or its instrumentalities!*’”

Do you agree with Fali S. Nariman's conclusion with respect to erroneous observation of the Supreme Court? Justify your answer in the light of relevant judicial pronouncements of the Hon'ble Supreme Court of India. Furthermore, explain the kind of remedies are available where the violation of a fundamental right is by a person other than the State or its instrumentalities.

Q.3 Analyze the transformation of Article 21 of the Indian Constitution from a guarantee of negative protection against executive action to a source of positive obligations on the State. Do you think this judicial trend strikes a balance between Constitutionalism and judicial overreach? Support your answer through landmark judicial pronouncements. (10)

Q.4 In 2025, Parliament enacts the Sustainable Revenue Act, which imposes a "Luxury Sustainability Tax" of 35% on the sale of all *electric vehicles (EVs)* priced above ₹10 lakh. The stated object of the Act is to "encourage investment in conventional fuel-based automotive industries and to prevent revenue loss from declining petrol/diesel vehicle sales." No such tax is imposed on *luxury petrol/diesel cars, private yachts, or private jets*, many of which cost significantly more than ₹10 lakh. The government defends the Act by claiming that the classification is based on the "nature of industry" and its "contribution to tax revenue" and therefore satisfies the *Test of Reasonable Classification*. (10)

A public interest litigation is filed under Article 14 of the Indian Constitution challenging the Act on the grounds of discrimination and manifest arbitrariness. The petitioners argue that the tax penalizes environmentally-friendly vehicles while favouring more polluting alternatives, which is contrary to the stated objectives of sustainable development and equality.

1. Does the classification made under the Act satisfy the twin tests of intelligible differentia and rational nexus as required under the Test of Reasonable Classification?
2. If the Act passes the reasonable classification test, can it still be struck down under the doctrine of manifest arbitrariness? Support your answer through judicial pronouncements.

Q.5 "Reservations are an exception to equality, yet they promote substantive equality." Critically examine this statement with reference to Articles 15(4) and 16(4) of the Indian Constitution. (10)

Q.6 "The essential Religious Practices (ERP) doctrine has become the Court's central tool in interpreting Article 25, but it has blurred the line between judicial review and theological enquiry." Critically evaluate this statement with reference to case laws. (10)
