

END SEMESTER EXAMINATION QUESTION PAPERS

WINTER SEMESTER 2017-2018

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THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

LL.B. End Semester Examination – 6th Semester – 2015 Batch

ADMINISTRATIVE LAW

Full Marks – 70 marks

Time Allowed: 3 hours

#Attempt any 3 from the following questions (20 * 3 = 60 marks)

- Q1 (a) Administrative law is an exception to the strict compliance of Separation of powers in India. Do you agree? Support your answer with case laws/statutes. (08 marks)

(b) Ms. Roopa, a high school teacher was *suspended* from her service in a state aided institution on the ground that she was imparting education to the students in the vernacular language whilst the school was strictly an English medium school. Upon being served a *show cause notice*, she *responded* stating that she was very concerned about the vernacular language dying. Hence, it was all in good faith.

The inquiry committee submitted its report stating that the said teacher imparted her teachings mostly in English and partly in the vernacular medium (70:30). Nonetheless, the Principal of the school decided to terminate the service of Ms. Roopa. The daughter-in-law of the school Principal was eligible to apply for the post that would fall vacant upon the termination of Ms. Roopa.

As the counsel for the School, argue on ground(s) of Natural Justice, if any, as to why the decision should be upheld. (12 marks)

- Q2 (a) Article 163(1) of the Indian Constitution states that ‘there shall be a Council of Ministers headed by Chief Minister to aid and advice the Governor who shall act in accordance with such advice except in cases where the Constitution requires the Governor to act in his discretion.’

Article 162(2) ‘if any dispute arises whether the power of Governor is his discretionary power or not, his decision shall be final and binding.’

In light of relevant case laws, are Article 163 (1) & (2) powers delegated to the Governor of the State or is it a statutory conferment of power. (12 marks)

(b) Sec 23 of Kerala Pesticides (Control of Use) Act 2017 covering varieties of pesticides, required that any change in the permissible limits of the listed pesticides usage under the Act, should be published in a local newspaper along with an English

newspaper. However when changes were made in March 2018, publication was made only in the local newspaper.

Will such publication be deemed sufficient? Discuss in the light of relevant case laws.

(08 marks)

- Q3 (a) The annual Staff Selection Commission recruitment examinations had over 5 lacs applicants. However, the exam conducted in Dec. 2017 had to be cancelled owing to a leak of the question paper in the State of MINARVA. Applicants from different states protested against the cancellation of the examination and in February 2018 filed for a judicial review of the Commission's decision.

As a Judge, You are required to decide the petition in the light of the principles of judicial review. (12 marks)

(b) Will the route for filing the judicial review petition be the same if the incident had occurred in 1992 and the decision was that of a Tribunal? (08 marks)

- Q4 (a) The Election Law Act of State TZN states:

“SECTION 08: The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate in case of any allegations in this regard, the matter *shall be* referred to the concerned State High Court only by the Chief Election Commissioner of India.”

Candidate Bimal of PDF constituency appealed for votes on ground of *gender*, ensuring that he certainly will work towards an inclusive participation from all persons. The candidature of Bimal on been being challenged u/s 8 of the Act was dismissed by the Chief Election Commissioner.

Can the decision of the Chief Election Commissioner be challenged on ground of non-application of mind in the exercise of his discretionary power?

(12 marks)

(b) Is there an exception to the rule of pre-decisional hearing? If so, discuss two grounds where the exception may be granted. (08 marks)

Answer the following question (10 marks)

Q6 Residents of ANOKHA district were given 100% tax exemptions since 1990, upon investment in cottage industries producing coir and soap. Due to financial loss suffered by the State on account of such exemptions, the State passed a law thereby reducing the tax exemption to 30% to be implemented from the financial year 2017-2018. Mr. Pradhan approaches the court stating that he had made huge investment in the years 2010-2017 on grounds of legitimate expectation of the tax exemption he would be provided.

Is the claim of the petitioner sustainable?

(10 marks)

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

LL.B End Semester Examination – 8th & 10th Semester – 2014 & 2013 Batches

Elective Subject: Advanced Gender and Law

Full Marks: 55

Time Allowed: 3 Hrs.

Part 1: Answer any two (2):

20x2=40

1. In recent times, there has been a transformation and rethinking of the sexual as an academic field, including legal studies and practice. Scholars argue that sexuality is intrinsically connected to other hierarchies and social processes like globalization. Elucidate how the rich sexuality studies discourse has emerged and influenced legal understanding of sexuality. Also analyse whether the nuances of the sexuality discourse are adequately represented/captured in law.
2. What is meant by 'sexual rights'? How has the rights language shaped the legal claims made by the Queer rights movements? You may refer to both the global and the Indian context to analyse similar and different claims made for sexual citizenship.(Arguments made here should not be repeated in Q4,though some overlap may be possible)
3. Sexuality studies include understanding masculinities as a social construct. Following Connell and Kimmel, draw out the contours of masculinities and discuss if law constructs/represents diverse masculinities.
4. Map the trajectory of the queer movement's engagement with the law in India from NAZ to NALSA. (Arguments made here should not be repeated in Q2, though some overlap may be possible)

Part II: Answer any one (1): 15

5. The surrogacy debate in India encapsulates body politics and legal regulation, working at the intersection of woman's body, commercialisation and socio-economic hierarchies of class and gender. Elucidate
6. The latest development in the Queer movements in India is the legal recognition of the 'transgender' as a legal and social category endowed with citizenship rights. Who is this transgender'? Critically analyze the 'transgender bill' in India.

7. Write short notes on: (Any two)

7.5x2=15

Materiality or performativity

Gender Dysphoria

Relationship between sexual behaviour and sexual identity

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

End Semester Examination – 10th Semester – 2013 Batch

Elective subject: Advanced IP Law

Full Marks - 50

Time Allowed - 3 Hours

Note:

- A. Answer any **Five questions** in total including **Question number six** which is compulsory.
 - B. All questions carry equal marks
 - C. Read the questions as it is, no clarifications can be sought
1. Golconda wine is a famous wine brand in India and abroad. The wine is produced from Golconda Wine Ltd, Hyderabad and is a registered geographical indication. Nizam Hotels Ltd is a popular hotel which is also from Hyderabad and is having its branches across the country. Nizam hotels in its Delhi branch have been using the name “Golconda” for its boutique hall. In the boutique hall dinner and such other get together events are hosted. Generally in the events eatables, different food items beverages including Golconda wine is offered. Golconda Wine Ltd thinks that its geographical indication is violated by Nizam Hotels in using the name “Golconda” in their hotel business. In this regard decide the following with the help of established standards and case laws under the geographical indications law in India:
 - a. Does Golconda Wines Ltd have a case here?
 - b. Geographical Indication protection is for product or for the name?
 - c. Can Nizam Hotels Ltd get away with using the name “Golconda” for its boutique hall? (1*10=10)
 2. The TRIPS agreement is considered to be the most vibrant international agreement in the matters relating to intellectual property laws. It is argued that the agreement has not only made uniform the intellectual property laws in its member countries but has advanced the canons and

cantors of intellectual property laws. Highlight the role played by the TRIPS agreement in advancing the canopy of Indian Intellectual Property Law with special emphasis on the subject matter of protection under IPR laws in India. (1*10=10)

3. TATA Motors Ltd is an established Company in the Indian Automobile market. The company is coming out with “Premier 2020” a new Car which will be released to the market in the year 2020. The Company in its unit at Jamshedpur working on the design and making of the car. Since, automobile market is not only influenced by the efficiency but as well by the outlook of the product, the Company has assigned the task of designing the outlook of the car to ‘Heritage Motors Company’ which is known for its best innovation in shape and outlook of the products. In this regard; Heritage Motors has supplied TATA with the artistic sketches of the design they have developed on the basis of the description given about their new Car. TATA Company impressed with the artistic sketch of the outlook design of the car intends to protect the same. Later, once the design is applied and used on the Car, TATA intends to seek industrial design protection before the Design Controller in India. Give your opinion to TATA about how the artistic sketch on the outlook design of the care could be protected before it is applied and used on the industrial goods. (in this case new premier 2020 Car) Advice TATA on how the actual design of the outlook of the car could be protected once it is applied on the new Car with the help of decided case laws. (1*10=10)

4. Coca Cola is a famous soft drinks company having huge market across the globe. The company has come out with a new soft drink with apple flavor which is planned for release into the market in 2019. A meeting of international soft drink and beverage producers was hosted by the International Beverage Producers Association, New York at New York on 24th and 25th of March, 2018. In which Coca Cola, Pepsi Cola and such other soft drink company executives have participated. Accidentally couple of files belonging to Coca Cola Company got exchanged with

executives of Pepsi Cola Company which were later handed over back to Coca Cola. These files were reportedly on the making and storing of the above mentioned new soft drink. Off late on 10th of April, 2018 Pepsi Cola Company announces that it is going to release an apple flavored new soft drink into the market by the end of 2018. The Coca Cola Company thinks that their formula of new apple flavored soft drink, which is their trade secret, has been copied and misappropriated by the Pepsi Cola Company during the said conference. The company wants to file a suit against Pepsi Cola Company for misuse, misappropriation of their trade secret, and such other anti-trade practices under common law. Advice the company on the common law practices in the regulation of trade secrets with the help of decided case laws. (1*10=10)

5. It is argued that Indian Plant Varieties and Farmers Rights Act is more advanced than most of the similar systems around the world. In this regard most of the countries which are rich in terms of biological resources and the so called developing countries are considering the Indian plant varieties and farmers rights system as a role model in terms of encouraging intellectual endeavors of breeders, while balancing the same with the community interests. Developing nations consider the plant varieties system in India to be more driven towards the protection of community rights. In this back ground analyze the salient features of Indian Plant Varieties Protection system and their significance in the agrarian economies like India. (1*10=10)

6. Write short note on any four of the following: (2.5*4=10)
- A. Community IPR
 - B. Functional Designs
 - C. National Gene Fund
 - D. Conventional IPR
 - E. Copyright in Designs

**THE W.B. NATIONAL UNIVERSITY OF JURIDICAL
SCIENCES**
LL.B. End Semester Examination – 6th Semester – 2015 Batch

ALTERNATIVE DISPUTE RESOLUTION

Full Marks – 65 marks

Time Allowed: 3 hours

**Bare Act of Arbitration and Conciliation Act, 1996 without
commentary is allowed.**

Questions:

1. (a) Briefly mention Indian Public Policy Rule with regard to arbitral awards based on leading Supreme Court Judgments.

[6]

(b) Piya Saha a four years old girl lost her legs in a Motor Accident. A Claim Petition in this respect was filed for Rs. 3 Lakhs. But there was an inordinate delay in its disposal, due to which the father of the claimant agreed to settle the claim through Lok Adalat only for Rs. 50,000/-

Can the fair interests of the parties be sacrificed in the name of speedy resolution of disputes?

[4]

2. (a) Do provisions of Part – I of the Arbitration and Conciliation Act, 1996 apply to Part-II (International Commercial Arbitration) held outside India? State reasons and mention relevant case laws to support your answer. [5]

(b) Whether the power exercised by the Judges of High Court or Hon'ble Supreme Court under Section 11(6) of the Arbitration and Conciliation Act, 1996 is a judicial power or an administrative power? State reason and mention relevant case laws to support your answer. [5]

3. Differentiate between: [2.5 x 4 = 10]

- a) *Ad hoc* Arbitration and Institutional Arbitration
- b) Lok Adalat and Permanent Lok Adalat
- c) ADR and Litigation
- d) Med-Arb and Arb-Med-Arb

4. Mediation Problem Solving Exercise

General Instructions

Maria and John know a lot of the same people, and have often found themselves in the same group activities during the past three years. Maria moved this year to the same residence hall where John lives, on the same floor, and they often see each other around.

About 3 or 4 weeks ago John said to Maria, "How about dinner tomorrow at the Flame and Grill?" and she agreed. They left the residences hall together, and no one else met them at Flame and Grill. When Maria commented, "The others couldn't make it?" John replied that no one else had been invited. Maria didn't say anything. John tried once to hold her hand, but she pulled away. He hugged her when they parted at the door to her room. After that John started emailing her 3-4 times a week. At first she didn't answer at all. She received a box of candy from "A Friend." About 2 weeks ago John called Maria and again asked her to dinner. She refused and said, "I don't think we'd make a good couple." After that, the next time she received email from him, she wrote asking him not to send her any more email, because she did not want to be "close." Since then John has sent her 3 messages (nothing personal: jokes and gossip), and called and left 2 voicemail requests for her to call him back. Maria thought about filing a harassment complaint, but decided to request mediation.

Secret Instructions for Maria

You'd heard about clueless males but never experienced it firsthand before. John just doesn't seem to understand "NO." You told him on the phone and in your last email that you don't want to be close to him. You begin the mediation insisting that John has been harassing you and should apologize for pursuing you

relentlessly. It's not that you don't like John -- he's been a good friend and is otherwise a nice guy -- you just don't want to go out with any men right now. You have other things to think about. You would never have agreed to go out with him and assumed before the dinner at the Flame and Grill that it would be a group event, as in the past. You don't want to talk about why you do not want to date now. You feel in a particularly uncomfortable spot because the mutual friends you hang around with, especially Kate and Evan, seem to be on John's side. Kate even commented on what a good couple the two of you make. Kate just doesn't get it either. She is a good friend, but you do not want to discuss dating with her. That's why you told her you had a good time at dinner with John, because you thought she'd drop the subject. That strategy backfired. You need the companionship of this group of friends and so don't want to make an enemy of John. But you want him to keep his distance. So you hope this will be resolved in mediation.

Secret Instructions for John

You were very surprised to receive a call from the mediation coordinator saying Maria had requested mediation in the hope of avoiding a harassment complaint. All you did was ask her out and send some email. People do this all the time. When did that become harassment? You left the voicemail messages so you could talk to Maria. You want to know what's wrong. You had a great

time when you and Maria went out to dinner and thought she did too. In fact a couple of your mutual friends, Evan and Kate, said you should go out with her and the two of you make a good couple. Kate talked to Maria after that dinner and said Maria had a good time, and Kate thinks she doesn't answer email because she's just busy. When you got her email saying she was getting too much mail from you and didn't want to get close, you stopped sending her personal things and just sent a few jokes or such, the kind of stuff you send other friends. If Maria doesn't want to go out on with you right now, that's too bad, but you still want to be her friend. You still have some hope that Maria will change her mind some day. The group of friends you both belong to is very important to you, and you don't want that group to be divided. You certainly want this misunderstanding to be resolved without any ill will between you.

Assume yourself as the Mediator in the given fact scenario. Frame probable questions and answers for both the parties and try to reach to a positive settlement at the end. [10]

5. In the contract between A and B the following arbitration clause was stipulated:

“All disputes, controversies or claims arising out of or in connection with this contract including the validity,

invalidity, breach, or termination thereof, shall be finally resolved by an Arbitral Tribunal according to the provisions of Indian law. The seat of the arbitral tribunal shall be Delhi, India.

The language of the arbitration proceedings shall be English.”

Assuming that the arbitral tribunal had been already constituted and after its constitution, it becomes apparent that one of the appointed arbitrators, Prof. Gupta, had published a paper concerning the legal issues relevant for the given case - his views being, however, clearly in favour of one of the parties , i.e, B.

a. Does this act give rise to justifiable doubts as to Prof. Gupta’s independence or impartiality? **[2.5]**

b. Who is the competent authority to decide upon a possible partiality of Prof. Gupta? **[2.5]**

c. Mention Pre and Post - 2015 Amendment of the Arbitration and Conciliation Act, 1996 in this regard. **[5]**

6. Write short notes on any three of the following: [5 x 3 = 15]

a) Emergency Arbitrator

b) BATNA

c) *Omnia Prius verbis experiri quam armis saoiensem decet*

d) ADR – ODR

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

End-Semester Examination – 10th Semester – 2013 Batch

Elective Subject: Banking Law & Regulations

Full Marks: 55

Time Allowed: 3 hours

(Students may choose to carry any legislation, such as the Banking Regulation Act, the Reserve Bank of India Act, the Negotiable Instruments Act etc.)

Answer any five questions out of the following:

Q.1. (a) Mr. Bhojani has borrowed Rs. 40 lakhs and Rs. 6 lakhs respectively on April 2, 2018 and April 10, 2018 from Sind Bank to buy a residential apartment and a car. They have agreed upon EMIs of Rs. 35000 and Rs. 8000 respectively for the two loan accounts. On June 1, 2018, Mr. Bhojani submits a cheque of Rs. 5000 to the bank without indicating which loan account it should be credited to. In the light of acceptable customary principles governing banker-customer relationship, what is the correct legal action for the bank to take without seeking clarification from Mr. Bhojani? Would the answer change in any way had the cheque been of Rs. 8000 instead of Rs. 5000? Would the answer change in any way had there been a single loan account through which both loans had been taken, instead of a single account? Can the bank use this money only towards payment of principal or interest? (4)

Q.1. (b) You are going to open a new account with a scheduled commercial bank in India and avail of all the various services that it provides to its customer. Briefly explain exactly what are the various kinds of transactional relationships that may arise between the bank and yourself in course of availing all these services, with examples. (5)

Q.1. (c) Garnishee Order only implies that the bank to which such order has been provided will not allow any further transaction from the account concerned – explain the extent to which this statement is a true one. (2)

Q.2. (a) Write a detailed note in your capacity as a legal counsel of the Reserve Bank of India for the shareholders of the banking company explaining the ways in which RBI uses the various instruments of credit control, both quantitative and qualitative, to control the market economy. (10)

Q.2. (b) Explain the concept of marginal standing facility and the conditions under which the scheduled commercial banks can use such facility, if any. (1)

Q.3. (a) Briefly explain, in the lines of the arguments made by Benston and Kaufman, how the existence of various positive and negative externalities in the banking sector may justify the imposition of regulations by the government in that sector. You may use illustrative examples from the banking sector of any jurisdiction if you so choose. (8)

Q.3. (b) Briefly delineate the various impacts of intervention by the State in the banking sector either in the form of establishment of a central bank to provide lender of last resort support to the financial system OR in the form of establishment of a State-sponsored system of deposit insurance, following the line of argument made by Kevin Dowd. (You have to refer to only one form of intervention among the two mentioned above) (3)

Q.4. (a) The Core Principles for Effective Banking Supervision, as laid down by the Basel Committee on Banking Supervision, seek to balance the objectives of raising the bar for banking supervision against the need to maintain the universal applicability of the Principles and the need for continuity and comparability – Illustrate the veracity of this statement by using as examples at least two Core Principles relating to the supervisory power, responsibilities and functions and at least three Core Principles relating to prudential regulations and requirements. (5)

Q.4. (b) Briefly explain the new liquidity rules and capital rules and standards introduced by the Basel III norms, which are intended to ensure stable long term sustenance of the banking system and increase its ability to withstand short term economic and financial stress. (5)

Q.4. (c) Mention at least two suggestions prescribed by Jahangir Aziz, Ajaya Shah and Ila Patnaik for India to deal with the aftermath of the shock caused by the 2008 Financial Crisis (Sub-Prime). (1)

Q.5. You are representing as legal counsel for a multinational and reputed bank, which has been approached by a company (debtor) that intends to borrow a huge sum of money. Your client bank does not wish to expose itself to such a huge risk all on its own and has therefore proposed a syndicate arrangement, with itself acting as the lead/arranging bank. Draft a brief opinion to your client explaining the following issues lucidly:

(a) The exact nature of its responsibilities as the arranger bank

(b) The nature of relationship that it is going to have as the arranger bank with other banks/creditors participating in the syndication arrangement, with reference to the various applicable theories/views. Mention the grounds on which your client may end up incurring liability to the other banks/creditors provided the arrangement is taking place in the European market.

(c) Whether your client should insist upon the inclusion of any particular clause in the loan agreement to protect itself from aforesaid liability and if so, the effectiveness of such clause in the light of various case-laws. (1.5 + 7 + 2.5)

Q.6. (a) As the legal counsel retained by the government of a sovereign country that is planning to borrow large amounts of money from various multinational financial institutions, write a brief note explaining to your client the ways in which its interests can be adversely affected by vulture creditors and also explaining how subsequent governments may be able to claim odious debts as a defence against repayment of such loans, along with the possibility of citizens of the country seeking tortuous action against the creditors on the ground of financing of distasteful regimes.

(6.5)

Q.6. (b) You are the legal counsel of a bank that had extended a loan of \$20 billion to the sovereign country of Fleece, which is now forced by its deteriorating economic conditions to restructure all its existing debts. In relation to such restructuring, Fleece has made an exchange offer to all its creditors, which includes inter-alia a write-off. Instead, your client the bank is claiming the whole value of \$20 billion and hence refusing to accept Fleece's offer. Mention at least three relevant case-laws and explain how they may help support your client's position as a holdout creditor. (4.5)

Q.7. (a) You have been made a member of the Board of a multinational bank that is desirous of initiating business involving Islamic Finance. Write a brief note explaining to the rest of the Board how the existing religious tenets as prescribed by the Shariah law prohibit the various forms of regular financial transactions in four major ways. (7)

Q.7. (b) Write short notes on any two of the following Islamic-compliant product structures intended to provide various forms of funding to the customers of a bank. (4)

(i) Murabaha **(ii)** Tawarruq **(iii)** Bai'Salam **(iv)** Bai'al'ina **(v)** Ijara

Q. 8. (a) Give reasoned opinion whether the following is an example of a valid promissory notes and bills of exchanges under the provisions of the Negotiable Instruments Act, 1881. [2.5+2.5=5]

(i) An instrument signed by A stating “I, A, promise to pay a certain sum to X, a certain time after his marriage, after deducting any interest or money which he may owe me at that time.”

(ii) An instrument signed by B stating “I, B, hereby order C to pay a sum of Rs. 10000 to the order of Y out of the money remaining in the hands of C belonging to Company Z.”

Q.8. (b) D (drawer) draws a bill of exchange on E (drawee) payable to F (payee) or order. F endorses it in blank and negotiates it. The bill, thereafter, is lost and G, who finds it, forges an endorsement in blank with the signature of H and negotiates it by delivery to I. Discuss with reasons whether I has any rights on the instrument and if so, against whom? [3]

Q.8. (c) J, the holder of a bill, transfers it to K without consideration. K transfers it to L without consideration, but L transfers it to M for consideration. M again transfers it to N without consideration. Can N hold J, K, L or M liable for payment? [1.5]

Q.8. (d) O is the holder of a negotiable instrument payable to the order of P and endorsed by P to Q, Q to R and R to S. O strikes out the endorsement of Q and R without the consent of S. Can O subsequently claim the payment from S? [1.5]

Biotechnology Law

Time Allowed: 3 Hrs.

Note:

A. Answer **Any Five** questions **including question number Six** which is compulsory

B. All questions carry equal marks

Max Marks: 50

C. Read the questions as it is, no clarifications can be sought.

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1. Discuss the ideological and philosophical differences between the US and the European Union (EU) in the regulation of biotechnology trade and development. Highlight how issues pertinent to the environment, public health and safety have left US and EU at the logger heads in the context of trade in biotechnology with the help of decided case laws. (1*10=10)
2. Human genetic research is showing greater results in finding cures to diseases which were once thought as not curable. However, it is argued that; human genetic research is said to touch upon the cantors of human rights philosophies while degrading the human values such as 'dignity', 'integrality', 'self-sustenance.' At this juncture, Reddy's Laboratory, Hyderabad has produced pain killer tablets by using the hormone produced by an identified gene in the pregnant women's body which produces such hormone at the time of delivering the baby. The said hormone relaxes the body of pregnant women having undergone pain and labor in delivering the baby. It perhaps kills the pain and relaxes the body of pregnant women. Reading the properties of such hormone and having identified the gene

which produces such hormone, Novartis started commercially producing the said protein which is used in producing pain killer tablets. “Being Human’ an NGO from Hyderabad challenged the research of Reddy’s Laboratory, Hyderabad on the ground of violation of dignity of women, and integrity of human body. Decide the matter in the light of human rights concerns involved in the said research, while emphasizing on decided case laws. (1*10=10)

3. “Ethics and morality differs from person to person, place to place and time to time.” Analyze the statement in the light of increased acceptance of biotech products, increased presence of genetically modified and living stuff as marketable commodities in the contemporary world, which were once considered as not acceptable at all levels in the legal and ethical circles. Debate on the ethical and societal concerns involved in the biotechnology research while highlighting Indian social standards. Support your answer with the help of decided case laws. (1*10=10)
4. It is well known that biotechnology research and development banks on the biological resources and rich biodiversity. Biotechnology research and development depends on availability of natural genetic and biological resources. Accordingly, the regions rich in biodiversity are considered crucial for the growth of biotechnology industry. Countries like India are considered as rich in biodiversity and there have been number of plant, animal and such other living species with rare and having unique qualities and features. Meanwhile, Gene Tech Company, USA has produced a genetically engineered wheat crop. The engineered crop is said to have been produced by using a wheat crop grown in the Punjab, India while fine tuning its characteristics and nutrition features. The Gene Tech Company collected samples of wheat crop in the Punjab region of India

and developed the same in its research laboratories in California and successfully tested the field trials in California and other selected regions of USA before marketing the same in USA. Punjab wheat growers association raised concerns of use of Indian biological resources by the Gene Tech Company and complained to the National Biodiversity Authority, Government of India. National Biodiversity Authority finds that no permission was taken by the said US Company before using wheat crop samples from India. Decide the matter in the following manner:

- a. Identify the issues and concerns involved in the above matter after deeper understanding of the facts
- b. Address the issues in the light of decided case laws while highlighting the established norms and practices involved there in.

(1*10=10)

5. "Everything under the sun made by man is patentable." Analyze the statement made by the US Supreme Court while emphasizing on the context and background of such an overwhelming and over broad statement ever made by an apex court across the globe in the history of intellectual property laws and in particular patent laws. (1*10=10)

6. Write short notes on any four of the following; (2.5*4=10)

- a. Genetic databases and copyright
- b. BT brinjal fiasco in India
- c. Therapeutic cloning
- d. Third Generation of Biotechnology
- e. Biotechnology Regulatory Authority of India

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

II YEAR B.A. LL.B., FOURTH SEMESTER EXAMINATION – BATCH 2016 (WINTER2017-18)

LAW OF CIVIL PROCEDURE

Maximum Marks : 70

Time : 3 Hours

General Instructions

- A. **Read all the instructions carefully before proceeding to answer the questions.**
- B. **This question paper consists of a total of 8 printed pages, including the annexure. Ensure that your question booklet has all 8 printed pages.**
- C. **Candidates are expected to rely on the question paper as it is. No clarifications may be sought. If you are making any assumptions when answering a question, clearly state what those assumptions are. It goes without saying that incorrect/ invalid/impossible assumptions cannot be made.**
- D. **Mobile phones and all other electronic devices are strictly prohibited in the examination hall.**
- E. **Candidates are allowed to consult any written or printed material of their choice while attempting this examination.**
- F. **The length of your answers are not *as such* a relevant consideration for marking. Writing an excessively wrong answer will not fetch you more marks. Focus on bringing out the relevant legal principles & the reasons for your answers. An answer that dwells on irrelevant aspects will invite poor marking as it will be treated as indicative of lack of clarity of concepts.**
- G. **Since this is an open book examination, *merely* reproducing the statutory provisions or statements from the slides or other sources will not fetch you any marks.**
- H. **All questions are compulsory.**

Question 1

(4 X 2.5 = 10 marks)

Write short notes on any four out of the following

- a) The scope of the *proviso* to Section 16 of the Code.
- b) Deemed Decrees.

- c) The differences between the powers available to the court under revisional and supervisory jurisdictions
- d) Cause of Action
- e) The difference between “sufficient cause” in the context of O.37 R.3 (7) and “special circumstances” in Rule 4 of that Order.

Question 2

(15 marks)

Darth Varadarajan was a successful industrialist who has the following assets: One house in Bangalore (where Varadarajan resided with his wife Padmini Amidala); One house in Chennai (where his unmarried son Luke Varadarajan resided); A house in Kolkata (where his daughter, Leia Varadarajan lived with her Husband Hansaraj Ramamurthy and son Kyolo Ramamurthy). Before his death, Varadarajan had executed a will bequeathing the house in Bangalore to his wife and the houses in Chennai and Kolkata to his daughter and the will has been probated.

Varadarajan passed away in 2017 and since then Leia has been wanting to take possession of the properties willed to her by her father. However, Luke, was unwilling to move out of the house in Chennai. Left with no other option, Leia is compelled to file a suit.

Answer the following questions

- a) Which is the court in which Leia has to institute a suit? (3 marks)
- b) Assuming that Leia dies on 1.1.2018, after the suit is instituted, when would the suit abate? (3 marks)
- c) What needs to be done to prevent the abatement of the suit instituted by Leia? (3 marks)
- d) Assuming that the suit filed by Leia was decreed as prayed for (the court declared that Leia was the rightful owner of the house in Chennai and that she was entitled to possess it, a mandatory injunction directing the eviction of Luke from the house in Chennai & an amount of Rs. 1 Lakh that Leia can recover from Luke in lieu of his unauthorized occupation of the house in Chennai), and assuming that Luke was not obeying the decree, explain how can Leia execute the decree that was passed in her favour (6 marks)

Question 3

(15 marks)

Shylock is a resident of Bombay, and he is a money lender. Antonio, who is from Bangalore, works at a law firm in Bombay. Antonio wishes to purchase an apartment in Bangalore. The apartment that he wants to purchase is worth 1 crore, however he has

only 75 lakhs with him. Since Antonio was a lawyer, no Bank was willing to lend him money. Antonio approached Shylock for borrowing Rs.25 lakhs. Shylock readily lent him Rs. 25 lakhs at 10 percent compound interest, without any security. Antonio used this money and purchased the apartment in Bangalore. Antonio then realized that he requires another 5 lakh rupees to furnish the apartment. Once again, he approached Shylock for the money and Shylock readily lent him Rs. 5 lakhs on the same terms and conditions as before. Antonio got his apartment ready, found a new job in Bangalore and shifted to Bangalore.

Antonio began repaying the loan, in terms of the agreed repayment schedule. However, after about a year, Antonio felt quite weary about paying such vast sums of money back to Shylock. The more Antonio thought about the long repayment schedule and the significant amounts of money that he is going to lose, the more enraged he felt. Antonio felt that approaching the courts of law was not an option – as it would only lead to a prolonged litigation with significant costs and there was no certainty of success. Antonio decided that he must take matters into his own hands and teach Shylock a lesson – not to mess with lawyers. He got in touch with Bassanio, a local goon that he was familiar with in Bombay. Together, Antonio and Bassanio hatched a plot against Shylock.

In furtherance of this conspiracy Antonio instituted a Suit, O.S. 15/2018, in the District Court 1 at Bangalore (within whose jurisdiction his apartment was located) seeking an injunction against Shylock from trespassing on his apartment in Bangalore. In this suit, Antonio alleged that he had borrowed a sum of 30 lakhs from Shylock and that he had repaid the same with interest. Antonio further alleged that despite him repaying all the amounts due to Shylock, Shylock has demanded another 20 lakh rupees from him and that Shylock has threatened to dispossess Antonio from his apartment if the money is not paid. The court granted an *ad interim* injunction in favour of Antonio and has issued summons to Shylock, which he has received. Further, Antonio stopped repaying the debt.

Meanwhile, Bassanio, on the instructions of Antonio, trespassed on an apartment in Bombay that belonged to Shylock and started residing there with some other goons. When Shylock attempted to remove them, Bassanio stated that this was Antonio's apartment and that he was tenant of Antonio. Bassanio even produced a rent deed, apparently signed by Antonio. Though Shylock had approached the police and sought their assistance to remove Bassanio, on seeing the rent deed, they refused to intervene – stating that this was a civil dispute and that Shylock must go to the Civil Court.

Shylock has approached you for legal assistance. Please answer the following questions
(5X3 = 15 marks)

- (a) If Shylock was to sue Bassanio for eviction, who would be the necessary and proper parties to that suit?
- (b) Can Shylock Institute a single suit for the recovery of money due from Antonio and for eviction of Bassanio?
- (c) Assuming that Shylock managed to get a decree of eviction against Bassanio, can he then file another suit against him for *mesne profits*?

- (d) Shylock thinks that it is unnecessary to enter appearance in O.S. 15/2018 as it was a false case and it was too costly to travel to Bangalore and defend himself. What would be the potential impacts of his non-appearance?
- (e) Can Shylock ask for O.S. 15/2018 to be transferred to Bombay? If so, which is the court that he needs to approach for that purpose? (1.5+ 1.5)

Question 4

(15 marks)

Vikram and Betaal were room-mates at the hostel for the National Institute for Political Science studies, located at Kolkata. At the end of studies, Vikram moved to Delhi as his residence was in Delhi. Betaal left for Allahabad, where his parents resided. Betaal currently lives in Bombay, where he works for an NGO.

On reaching home, Vikram realized that his watch worth Rs.5 lakhs and Laptop worth Rs.1 lakh was missing from his bag. He posted a note about the same on his class whatsapp group. A few moments later, one of his classmates, Shakuni, called up Vikram and informed him that he had seen Betaal steal both of these items from Vikram's bag, moments before they had left. Vikram does not trust Shakuni all too well as he is known to be a liar and a person who enjoys creating rifts between friends.

Vikram called up Betaal to chat with him about the missing goods and in the course of the conversation, Vikram developed an impression that Betaal was attempting to hide something and that he sounded 'strange'. Vikram now entertains a suspicion that perhaps Shakuni was right – although he is not too sure. Vikram does not want to initiate a criminal case against Betaal as he thinks that that would be too harsh.

He has decided to only seek a recovery of his lost properties through the process of the Civil Courts. He has approached you for legal advice. (5X3 = 15 marks)

- a) Which forum would have the territorial jurisdiction to hear Vikram's case?
- b) Enlist any two interlocutory orders that may be sought for by Vikram, in his suit.
- c) Assuming that the interlocutory orders that were sought for (as enlisted by you) were denied by the trial court, how can Vikram challenge the correctness of those orders before a superior court?
- d) Assuming that at the end of trial, the Court granted only a decree for recovery of the laptop and stated nothing about the watch, can Vikram file another suit for recovery of the watch? If not, what remedy does Vikram have?
- e) Can Vikram file two separate suits for the recovery of the watch and the laptop?

Question 5

(15 marks)

Silvester Inc. is a major social networking website (hereinafter "Silvester") that is popular amongst the youth. It has over 50 million users in Narnia (A South Asian Country) alone. Silvester collects a significant amount of data concerning its users which enables them to develop a significantly accurate profile of its users, concerning their

consumer preferences, political opinions, economic status etc. The profile that the company develops can be used for multiple purposes such as market research, targeted advertisements etc. Silvester provides access to this database to interested third parties, on payment of a negotiated sum of money.

Escobar Party of Narnia (hereinafter “EPN”) is a major political party in Narnia which aims to capture power at the upcoming general elections, scheduled to take place in June 2018. A significant element of the EPN election strategy has been to attract young and tech-savvy voters. EPN feels that it is their voting behavior that will determine the outcome of this election.

In order to facilitate targeted advertisements to people of the age group between 18-35 and to develop a wholesome picture of the political inclinations of the various sections of the society, EPN had entered into a contract with Silvester Inc. In terms of this contract, Silvester Inc. was to provide access to their database to EPN, till June, 2018, for which EPN has paid an agreed sum of money.

In the first week of April, 2018, a major scandal broke out, when as a result of investigations in United States, it came to light that the election process therein was manipulated by a foreign power. Investigations revealed that Mother Russia, had used the database provided by Silvester to send deceptive, targeted advertisements to the voting population so as to influence the election outcome. The investigators concluded that such targeted advertisements, a significant part of it which consisted of fake news created a negative impression about the candidate who lost the election. The investigators concluded that while no laws were broken, there was need to ensure that there were adequate regulations in place to prevent such incidents in future.

The world at large discussed this incident and the report of the investigators. There was widespread public sentiment and resentment against Silvester Inc. as most people felt that it was unethical of Silvester to have shared such sensitive data with third parties, without adequately informing the users. There were social movements shaping up which called for boycotting Silvester.

Sensing that public opinion was going against them and that there was a possibility that users might *en masse* leave their platform, Silvester Inc. made a public announcement that they are suspending all their contracts with third parties for sharing of data and that they were undertaking a comprehensive review of the company policies regarding collection, storage use and sharing of any data that they collect. In terms of this decision, Silvester informed EPN that in a weeks time from today (23.4.2018) they will withdraw the access to data that was granted to them.

EPN was terribly unhappy with this. Nearly the whole of their election campaign and strategy was built around the use of the data that Silvester had given them access to. Without access to that data, EPN would not be able to fight the election as there was inadequate time left for developing a new strategy and approach. It is also notable that almost 80% of the election funds that was available with EPN was spent on the data access contract with Silvester.

EPN has filed a suit asking for an injunction restraining Silvester from withdrawing their access to their data. EPN also sought for a temporary injunction restraining Silvester from withdrawing/preventing access to the database pending the disposal of

the Suit. Silvester has entered appearance in the suit and contended that the civil court cannot hear this suit by virtue of Section 61 of the Information Technology Act of Narnia.

Answer the following questions:

- a) Does civil court have jurisdiction to hear this suit? (7.5 marks)
- b) Decide the application for temporary injunction sought for by EPN (7.5 marks)

Note

1. *The relevant Provisions of the Information Technology Act of Narnia are reproduced in the Annexure to this question paper*
2. *All laws that are in in force in India (other than the Information Technology Act of India) are in force in Narnia too.*

ANNEXURE

Relevant Provisions of the Information Technology Act of Narnia

(See Question 5)

Section 2 Definitions

"computer" means any electronic magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic, and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, computer software, or communication facilities which are connected or related to the computer in a computer system or computer network;

"computer network" means the interconnection of one or more computers through— (i) the use of satellite, microwave, terrestrial line or other communication media; and (ii) terminals or a complex consisting of two or more interconnected computers whether or not the interconnection is continuously maintained;

"computer system" means a device or collection of devices, including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, which contain computer programmes, electronic instructions, input data and output data, that performs logic, arithmetic, data storage and retrieval, communication control and other functions;

"computer data base" means a representation of information, knowledge, facts, concepts or instructions in text, image, audio, video that are being prepared or have been prepared in a formalised manner or have been produced by a computer, computer system or computer network and are intended for use in a computer, computer system or computer network;

CHAPTER IX

PENALTIES AND ADJUDICATION

Section 43 Penalty for damage to computer, computer system, etc.

If any person without permission of the owner or any other person who is in charge of a computer, computer system or computer network, —

- (a) accesses or secures access to such computer, computer system or computer network;
- (b) downloads, copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium;
- (c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network;
- (d) damages or causes to be damaged any computer, computer system or computer network, data, computer data base or any other programmes residing in such computer, computer system or computer network;
- (e) disrupts or causes disruption of any computer, computer system or computer network;
- (f) denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means;
- (g) provides any assistance to any person to facilitate access to a computer, computer system or computer network or computer database in contravention of the provisions of this Act, rules or regulations made thereunder;
- (h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network,

Annexure

he shall be liable to pay damages by way of compensation not exceeding one crore rupees to the person so affected.

Section 46 Power to adjudicate.

(1) For the purpose of adjudging under this Chapter whether any person has committed a contravention of any of the provisions of this Act or of any rule, regulation, direction or order made thereunder the Central Government shall, subject to the provisions of sub-section (3), appoint any officer not below the rank of a Director to the Government of India or an equivalent officer of a State Government to be an adjudicating officer for holding an inquiry in the manner prescribed by the Central Government.

(2) The adjudicating officer shall, after giving the person referred to in sub-section (1) a reasonable opportunity for making representation in the matter and if, on such inquiry, he is satisfied that the person has committed the contravention, he may impose such penalty or award such compensation as he thinks fit in accordance with the provisions of that section.

(3) No person shall be appointed as an adjudicating officer unless he possesses such experience in the field of Information Technology and legal or judicial experience as may be prescribed by the Central Government.

(4) Where more than one adjudicating officers are appointed, the Central Government shall specify by order the matters and places with respect to which such officers shall exercise their jurisdiction.

(5) Every adjudicating officer shall have the powers of a civil court which are conferred on the Cyber Appellate Tribunal under sub-section (2) of section 58, and—

(a) all proceedings before it shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code;

(b) shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

58. Procedure and powers of the Cyber Appellate Tribunal.

(1) The Cyber Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Cyber Appellate Tribunal shall have powers to regulate its own procedure including the place at which it shall have its sittings.

(2) The Cyber Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents or other electronic records;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents; (e) reviewing its decisions;

(f) dismissing an application for default or deciding it *ex parte*; (g) any other matter which may be prescribed.

(3) Every proceeding before the Cyber Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code and the Cyber Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

61. Civil court not to have jurisdiction.

No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the Cyber Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

End Semester Examination – 10th Semester – 2013 Batch

CLINIC II: PROFESSIONAL ETHICS

Time Allowed: 3 hours

Total Marks: 50

EXAMINEES ARE PERMITTED TO REFER TO **UNANNOTATED** COPIES OF:

(1) THE ADVOCATES ACT 1961

&

(2) THE BAR COUNCIL RULES FRAMED THEREUNDER.

PART I

Answer ANY 1 of the following:

(20)

Q1. Justice V.R. Krishna Iyer had, in *Bar Council of Maharashtra v. M.V. Dabholkar* [AIR 1976 SC 242], expounded upon the “Canons of Professional Conduct” wherein he observed:

“The rule of law cannot be built on the ruins of democracy, for where law ends, tyranny begins. If such be the keynote thought for the very survival of our Republic, - the integral bond between the lawyer and the public is unbreakable, and the vital role of the lawyer depends upon his probity and professional lifestyle. Be it remembered that, the central function of the legal profession is to promote the administration of justice. If the practice of law is thus a public utility of great implications, and a monopoly is statutorily granted by the nation, - it obligates the lawyer to observe scrupulously those norms which make him worthy of the confidence of the community in him as a vehicle of social justice”.

Elucidate the various implications of the above observation with suitable justifications and appropriate practical illustrations.

Q2. Lord Esher, MR had famously ruled in *Re: G Mayor Cooke* [(1889) 5 TLR 407]:

“An act of professional misconduct is committed by a lawyer who does something which is dishonourable to him as a man and dishonourable in his profession....[it is equally important that] a lawyer should not degrade himself [merely] for the purpose of winning a client’s case.”

Do you agree with this sentiment?

Comment with reference to:

- Ss. 35 & 49(1)(ah), (c) of the Advocates’ Act, 1961;
- Chapter II (Sections I, II, III & IV) of the Bar Council of India Rules;
- and any relevant illustrative statutory provisions.

PART II

Answer ANY 1 of the following:

(20)

Q3. Critically analyse the court’s majority opinion in *V.C. Rangadurai v. D. Gopalan & Ors* [AIR 1979 SC 201] pertaining to the limited point on the legal fraternity’s relation between a lawyer and his peers/juniors.

Are you in concurrence with the “punishment” meted out in this case, which was justified via Art.39A of the Constitution of India?

State your reasons.

Q4. Build your case on behalf of the Bar Council Disciplinary Committee examining the limits of “zealous and conscientious service to one’s client”, to be presented via Section 38 of the Advocates Act, 1961 before the Supreme Court of India in re: *Chandra Shekhar Soni v. Bar Council of Rajasthan & Ors.* [AIR 1983 SC 1012].

PART III

Answer ANY 2 of the following:

(5x2 = 10)

Q5. Do you feel that the core tenets of Aristotle's *Nicomachean Ethics* retain any relevance for the good governance of a modern day polity, and the ushering in of the "rule of law"?

Q6. Do you believe that the classic Aquinian canon as encapsulated in *de Fides*, read with the Kantian *Categorical Imperatives* may be regarded to have served as the very foundations of present day human rights litigation and public interest advocacy? State your reasons.

Q7. Does Kelsen's exposition of the *Grundnorm* contribute to the modern day lawyer's substantive appreciation and practical application of the Constitutional ethos? Discuss with reference to the Hart-Fuller debate.

Q8. Critically analyse Sen's 2009 treatise "*An Idea Of Justice*" where argues against the feasibility of the Rawlsian thought exercise, whilst emphasising on the necessity for appreciating the individual nuances of "न्याय" (*Nyaya*) and "नीति" (*Neeti*), towards the ends of attaining "just" society.

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

LL.B End Semester Examination – 10th Semester – 2013 Batch

Competition Law (Optional Paper)

Full Marks – 70

Time Allowed – 3 Hrs.

COMPETITION ACT, 2002, BARE ACT ALLOWED, WITHOUT COMMENTARY.

Use EU, US and Indian case laws as applicable, to substantiate your answers

Part A

(All Questions are Compulsory)

1. Smart Travels Pvt. Ltd. (“Smart Co”) was set up in Delhi, in April 2008. Initially it started operations in Mumbai and Delhi with 500 cabs in each city. In November 2009, Smart Co introduced its services in Bangalore and Kolkata with 200 cabs each. All these cabs were owned by Smart Co and expenses regarding fuel, salary of drivers, insurance, permit, fleet maintenance etc. were borne by the company. The cars were fitted with a Global Positioning System (GPS) and meter, and the drivers were provided with smart phones with the mobile application (a software for radio cab business), locked from downloading any other competing networks’ application. Smart Co quickly gained popularity as a premium cab service among urban Indians. By July 2014, Smart Co was getting around 500 point-to-point trips per cab per month on average and had a market share of around 30% of the radio cab market in the urban cities where it operated.

While Smart Co was building up its market share in India, competing with traditional taxi services, Mr. Krishnan, a young technology entrepreneur, started exploring the possibility of offering cheaper cab services, through a technology aggregator model. He incorporated Hola Pvt Ltd. (Hola) in July 2014. Hola followed a purely aggregator model. The company did not own cabs in its own name. Instead, it set up a platform for a network of cabs and customers, which included provision of a call-centre, software applications for mobiles and internet GPS, feedback system, quality maintenance check lists (both for cars and drivers), setting up of the price charging formula and prices. In the aggregator model, the fleet operators, or individual drivers with their own cabs, attached themselves to Hola which entered into a revenue sharing arrangement with the drivers. The drivers were also given incentives based on performance, that is, minimum number of trips in a given period, loyalty, feedback from customers etc. The prices of Hola cabs were extremely competitive from the very beginning.

Within the first 1 year of its launch, Hola acquired a market share of 40% and operated a fleet size of 500 in each of the top Indian cities - Mumbai, Delhi, Bangalore and Kolkata - with each cab doing more than 700 point-to-point trips per cab per month on average. One advantage of Hola was that its services were much cheaper than Smart Co and other radio cab operators. However, radio cab operators felt that the competitive pricing was due to below cost pricing, as Hola was able to use surge pricing strategically during peak hours to charge prices above competitive levels, and make up for losses sustained.

Consequently, when Smart Co lost around 8% of the radio cab market share in India from July 2014 to July 2016, it alleged that this was due to unfair pricing by Hola, which made Smart Co cabs seem unreasonably expensive to its consumers. However, Mr. Krishnan claimed that this was due to the superiority of the economics of the aggregator-based model.

In the meantime, another market player, Hyper Pvt. Ltd. (“Hyper”) also based on the aggregator model, started following a pricing strategy similar to Hola. Hyper however, being a new entrant had very small market share. Hola argued that since there was competition in the market between Hola and Hyper, it was not possible for Hola to increase prices above competitive levels.

Smart Co has now approached the Competition Commission of India (CCI) claiming Hola to be in violation of Section 4 of the Competition Act, 2002. The CCI has directed you, the Director General (DG) to conduct investigation into the matter. You are required to give a detailed opinion on this case after considering the following:

- (a) the relevant market
- (b) dominance, if any, in the relevant market
- (c) price abuse alleged here and the law on the same **(5+5+10=20 marks)**

2. The Indian market for cars is fiercely competitive, with 20 car companies operating in the market and selling various models of cars, at different prices. In March 2018, Mr. Kajaria, a purchaser of a Honda car, has complained to the CCI that despite the car market being competitive, car manufacturers are restricting the supply of spare parts and diagnostics tools in the market, thereby creating a situation where the manufacturers, through their authorized dealers, became the sole suppliers of spare parts and after sales repair/maintenance services in India. This was allowing individual car companies to impose unfairly high prices on spare parts and repair/maintenance services for their cars. Further, since spare parts, diagnostic tools and technological information were not made available to independent workshops, the same was resulting in denial of market access to thousands of independent repairers.

The car companies however, are claiming that the restrictions imposed on dealers are necessary for maintaining the efficiency of their distribution networks. Moreover, if spare parts were sold directly in the aftermarket, car companies would not be able to protect their IP rights, or ensure quality and safety of the spare parts. This could encourage the sale of spurious/substandard spare parts. As regards repair/maintenance services, the car companies claimed that repairing of vehicles by independent workshops was not feasible in India, as independent workshops did not possess the required skill, or training, to carry out repairs of such sophisticated products. Further, and most importantly, this business model has been followed by car companies for many years, and the growth of the Indian car industry has been phenomenal in the last two decades. In fact the growth rate of the Indian car industry has surpassed that of Europe and US.

You are the DG entrusted with investigating this matter. Give an opinion on this matter focusing on:

- (a) Inter brand v. Intra brand competition and economic theories
 - (b) The concept of “aftermarket” and the law on the same
 - (c) Section 3(4) violations, if any and the law on the same
 - (d) Any other issue you consider relevant
- (4x5=20 marks)**

Part B

Answer any TWO questions

3. “Tying Agreements are a normal feature of commercial life and are used to maintain efficiency.” With reference to this statement, discuss :
- (a) the policy considerations for and against tying
 - (b) the development of the law in this regard
- (5+10=15 marks)**
4. “Price discrimination is harmful to the competitive process. Yet there is no per se prohibition of the same, as price discrimination may increase allocative efficiency.” With reference to this statement, discuss:
- (a) The efficiencies of price discrimination
 - (c) Price discrimination as an abuse of dominance
- (5+10=15 marks)**
5. “The main argument against oligopoly is that the characteristics of the market (in which oligopolists operate) are such that oligopolists are interdependent on one another and may not be able to charge competitive prices.” In this context, discuss:
- (a) The concept of oligopolistic interdependence
 - (b) Detection of cartels/concerted practices in such markets with the help of circumstantial evidence
- (5+10=15 marks)**

Constitutional Law II

(ANSWER ANY TWO OF THE FOLLOWING QUESTIONS)

(35x2=70)

1. a) In order to provide for the social-economic upliftment of the socially and economically weaker states of the country, the government announces a scheme, whereby a student domiciled in any of the states designated as 'special category states' by the government (by passing appropriate laws to that effect) would be entitled to lower qualifying marks for admission to any college or university in the country. Additionally, they would also be entitled to significantly reduced rates of tuition fees and the respective college/ university would be at liberty to compensate for this revenue deficit by having cross-subsidized seats, like management quota, NRI quota etc., fetching higher tuition fees per seat. This scheme would be operationalized in addition to the already existing scheme of reservation.

A state-financed college 'X', a private unaided college 'Y' and a Minority Educational Institution 'Z' decide to challenge the said scheme in the Supreme Court, vis-a-vis the applicability of the said scheme in their case. Analyse, with reference to relevant constitutional provisions, and precedents. (5x3=15)

- b) Are you in agreement with tenor of the 117th Constitutional Amendment Bill, 2012, which had proposed a new approach to defining the concept of 'backwardness', in the context of reservation in promotions and consequential seniority? Elucidate, with reference to decided cases, especially the ones which triggered the proposal for the amendment. (12)

- c) In the much-celebrated *Sukhdev Singh v. Bhagatram* case (AIR 1975 SC 1331), Mathew, J., in his concurring opinion, held:

"Institutions engaged in matters of high public interest or performing public functions are, by virtue of the nature of the functions performed, government agencies. Activities which are too fundamental to the society are by definition too important not to be considered government function".

In light of recent Supreme Court decisions on the interpretation of 'other authorities' in Article 12 of the Constitution, do you witness a distinct departure from this formulation? Analyse, citing relevant references to the context. (8)

2. a) The Mahishmathi Temple is run by a sect founded by Shri Katappa, a fifteenth century seer. The Katappans, as the followers of Shri Katappa are popularly called, worship such characters from mythologies and scriptures that have been traditionally associated with the evil – like Ravana, Duryodhana, Asuras etc. There is a whole series of books written by Shri Katappa where he outlines his philosophical basis, and these books are extremely revered by the Katappans.

On the day of the Ram Navami, the Katappans decided to take out a procession from the temple where they would chant slogans in honour of Ravana and against Ram, the 'Aryan Torturer', according to one of their holy books. There were news reports that huge truckloads of arms (like lances, swords etc.) had been accumulated inside the Mahishmathi Temple for the purpose of the procession. Fearing a violation of public peace and tranquillity, the local police revoked the permission to the Katappans to take out their procession. Moreover, a raid was ordered to be conducted inside the temple. The police entered the temple, searched the entire premises including the *Garbha Griha* (sanctum sanctorum) and could not find any arms in it.

However, this news infuriated the Katappans, who decided to pursue appropriate legal remedies for redressal of their grievances. They claim that there has been a violation of several of their Fundamental Rights, and that the restrictions imposed by the state suffer from a lack of reasonableness.

As an impartial commentator, examine the situation and with reference to appropriate provisions and precedents, give a nuanced analysis of the same. (15)

b) The Parliament has passed a law to create special courts and investigative mechanisms in the areas that are marked as 'disturbed' by appropriate gazette notifications. In the said law titled Disturbed Areas (Investigation and Trial) Act, 2013 (*hypothetical*), whereby competent local youth can be appointed on an *ad hoc* basis as 'Specially Empowered Police Officers' and vested with all powers of the Police in the Cr.P.C., including powers of search and seizure. The appointment, performance assessment and removal of the said 'officers' are to be conducted by the District Collector, in consultation with the local Panchayats or Municipalities, as the case might be. The law also creates special courts for trying the offenders who, in the opinion of the District Collector, 'are a threat to the peace and tranquility of the area'. The special courts would conduct trials on a day-to-day basis, and their orders would be appealable in the High Courts.

Consider the constitutional viability of the said law in a writ petition filed in the Supreme Court challenging its constitutional *vires*. (12)

- c) The Union Parliament passes an amendment to the Representation of People Act, 1951 whereby political parties and electoral candidates would be barred from having any stake, in terms of shareholding or any other mode of control, either directly or through family members, in any media organization which is in the business of providing news. All media houses would be required to make an affidavit of their shareholding pattern to the Election Commission upon the issuance of the Election Notification, and any media house (print or electronic) which is unable to do so shall have their licenses amenable for cancellation by the appropriate authorities.

Mr. Pappu Chaiwala, a prominent politician who partially owns a newspaper called 'India Times' and a television channel called 'India News' challenges this amendment citing violations of Article 19(1)(a). Assuming you were the judge, what would be your decision? (8)

3. a) The State of Neverland (a fictional state in India) decides to impose a prohibition on "consumption, manufacture, storage, transport and sale of all forms of liquor (except for medicinal purposes)". According to the law, those found indulging in unlawful import, export, transport, manufacture, possession, sale, intoxicant or liquor could attract a minimum 10 years of jail term which may extend to imprisonment for life besides a minimum fine of Rs 1 lakh which may extend to Rs 10 lakh. Under this law, all the offences are non-bailable in nature and the police are allowed to assume that manufacturing of alcohol was ongoing if utensils containing a mix of jaggery or grapes are found. Under the law, only special courts constituted under the law can try the cases. It also empowers authorities to confiscate properties upon whose premises liquor is either consumed or stored.

A group of liquor shop owners decide to challenge the constitutional validity of this law, alleging a violation of *inter alia* their Article 14, 19(1)(g) and 21 rights. Do you think they have a viable case? Analyse with appropriate references to provisions and precedents, and putting special emphasis on a possible *Res Extra Commercium* counter that the State would certainly offer. (15)

- b) In the famous *Zoroastrian Society* case, Balasubramian, J., famously remarked:

"A right to enforce a fundamental right against State action, cannot be extended to challenge a right to enter into a contract giving up an absolute right in oneself in the interests of an association to be formed or in the interests of the members in general of that association."

Do you consider this to be a constitutionally viable proposition, especially in light of the ever-widening ambit of horizontal application of Fundamental Rights? Analyse, with appropriate references to the context. (12)

- c) It has been argued that just as the *Maneka Gandhi* case introduced the standards of procedural due process into our constitutional horizon, post-*Maneka* cases have taken this idea further and has firmly entrenched the Substantive Due Process principles into our constitutional interpretation process. Are you in agreement with this proposition? Articulate, with appropriate examples. (8)

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

END SEMESTER EXAMINATION- WINTER SEMESTER 2017

CONTRACT-II

Full Marks-60

Time Allotted- 3 Hrs

Please read the questions carefully. All questions carry equal marks. Answer any three of the four questions given hereunder. Please answer the questions with relevant reasons and cases. Answer as per the information provided in the questions. Students are permitted to bring in three Bare Acts viz. Indian Contract Act, Partnership Act and the Sale of Goods Act along with a case list.

Q.1 Kishore is a merchant who does jewelry business. He also lends money to his customers against the pledge of valuable jewels. Rima needs money for financing her medical treatment. She has heard about Kishore and his money lending business. Rima approaches Kishore and requests him to lend her an amount of ten lakh rupees. She offered her valuable jewels, worth fifteen lakhs. Kishore keeps the valuable jewels and lends her the loan amount of ten lakhs. Rima visits the doctor and gets herself treated. The doctor insists that Rima be admitted to the hospital. After a month in the hospital Rima is discharged from the hospital. The bill for the entire period of treatment amounted to nine lakhs. Rima leaves the hospital and goes to Kishore and requests him to release the valuable jewels pledged by her. Kishore insists on the repayment of the entire loan amount within a period of fifteen days. Rima approaches the bank PSB, and requests them to lend a loan of ten lakh rupees. The bank insists on collaterals. Rima has none to provide. However she has the receipt document that she received from Kishore, which was the proof of pledge. Rima endorsed her signature and marked the document in favour of the PSB bank. Thus Rima gave the endorsed receipt as a collateral for the loan. The bank accepted the same and transferred the loan amount to the account of Rima. Meanwhile, Kishore loses confidence that Rima will be able to pay the loan back. Kishore mulls over his choices. He decides to wait for fifteen days and on the fifteenth day he holds a public auction and sells of the jewels, deposited with him by Rima. Rima on the other hand has decided to use part of the loan received from PSB bank for investment in shares. Rima also plans to make only a part payment to Kishore and pay the rest later, hoping to convince Kishore to extend time for repayment. Rima is completely unaware of Kishore's plan of action. Hence Rima was taken by surprise when she came to know about Kishore selling her jewels. She demanded an explanation from Kishore, who informed her that the sale was at a loss since the gold prices have crashed. Further Kishore argued that Rima is to be blamed for the sale since she never intimated him about her willingness to pay off the debt within time. Rima is in a fix since her only hope of repaying the loan to the bank was the jewels. The PSB bank also comes to know about the sale of the jewels and were consulting their legal team as to the options. Rima in the meantime absconded with the entire loan amount and could not be traced.

Frame a legal opinion by identifying the relevant issues. Support your reasons with relevant case law

(8+12=20 marks)

Q.2Tina and Suri plan to invest in a startup. They approach Mr. Surana to be their guarantor for the loan application. Mr. Surana, agrees to be their guarantor. However he insists that their needs to be another person who should be included as a guarantor. Tina and Suri approach their father, a renowned businessman. Their father agrees to be a co-guarantor. Tina and Suri then apply for loan to the Bank of Bikaner (hereinafter called BB). BB's manager scrutinizes the application and is convinced about the viability of the project. The manager however wants to secure the loan further and hence he insists on certain additional collaterals. Tina and Suri pool in their jewels, worth 3 lakhs and deposit the same with BB for securing the loan. BB's manager then handed over to them the loan application. Tina and Suri are required to get the signature of their guarantors. They go to the office of Mr. Surana. Mr. Surana was in a very important meeting. Hence he is not in a position to read through the fine print of the agreement. Mr. Surana accordingly signs on the form without reading through the terms of the loan agreement. Tina and Suri then approach their father to get him to sign the loan form. Their father insists on reading through the terms of the loan agreement. As per the loan agreement: 1) *the debtor is to pay the loan in equal installments, to be paid on the 15th of every month.* 2) *both the guarantors are liable to the same extent as the debtor.* 3) *The guarantors agree to be liable for the debt subject to the debt being secured by co-guarantors and other collaterals.* 3) *the guarantors understand that they will be liable to pay on the default of the debtor without any delay or demur and on demand of the creditor.* 4) *the guarantor agrees to be liable for all default of the debtor, subject to the debtor submitting collaterals worth 4 lakhs of rupees.* 5) *The guarantor with full knowledge and information waives off his rights guaranteed under the Indian Contract Act and shall not be discharged due to any change/variation or any other benefit, unilaterally being given to the debtor.....*

Tina and Suri's father reluctantly signed the contract after going through the agreement. Tina and Suri had already informed both their guarantors that they are applying for a loan amount of twenty lakh of rupees. The BB's manager processed the application on the receipt of all the necessary documents, duly signed by the debtor and the two guarantors. The loan amount was promptly transferred to the joint account of Tina and Suri. Soon they opened an account in the name of their startup business, and the money was transferred by them to the account of their startup. Tina and Suri started their startup business with lot of enthusiasm. Unfortunately for them, their business was not a success and they defaulted badly on their commitment towards BB in repayment of loan. BB' manager being sympathetic to the cause of Tina and Suri, allowed them extended time for repayment of the loan amount. While the original time for repayment of each installment was fifteenth of each month, BB's manager changed it to the end of every month. Tina and Suri were grateful for the same, though the same was not informed to their guarantors. Tina and Suri made all efforts to pay off the loan amount but to no avail. Soon the business failed completely and they had to file for insolvency. BB's manager consulted his board to determine the next course of action.

Frame a legal opinion by identifying the relevant issues. Support your reasons with relevant case law (8+12=20 marks)

Q.3M/s. Zero and Brothers, an unregistered partnership (hereinafter called the firm) are in the business of selling factory paints and greases, to be used for industrial purposes. The firm comprised of three partners and one minor. Partner One (hereinafter called P1) was the managing partner. Partner two and three (hereinafter called P2 and P3 respectively) were the dormant partners. The minor was aged sixteen and was the son of one of the former partners of the firm. P1 was running the business. P1 had unlimited authority to contract on behalf of his firm and P2 and P3. However he was strictly prohibited to take loan without the express permission of P2 and P3. P1 contracted with Kim and Sarah (hereinafter called K&S). K&S were an unregistered business run in the form of partnership. They were in the business of manufacturing linen and nylon materials. They regularly bought the industrial greasepaint from the firm. K&S were regular in making their payment on the goods supplied to them by the firm. However on 1st March 2018, K&S suffered huge loss due to default of one of their client. As a result they were not able to pay on time. P1 unilaterally condoned the delay, and extended the time of repayment. K&S were permitted further supplies by P1 without recovering the previous dues. Since K&S was one of the major buyer of the firm, the non-payment of price, caused losses to the business of the firm. P1 however wanted to avoid bringing this to the notice of P2 and P3. P1 accordingly approached Corrupt Bank (hereinafter called CB) for loan to override the losses suffered in the business of the firm. CB agreed to extend the loan facilities to the firm. CB however insisted on the loan being secured. P1 hypothecated two machines, owned by the firm as well as gave a personal guarantee, as a surety for the firm, to secure the loan. The loan however does not help P1 to revive the fortune of the firm. Meanwhile, K&S are determined to not pay the unpaid dues to the firm and decide to approach another supplier for industrial paints. P1 has no option but to tell P2 and P3 about the dire condition of the firm business. P1, P2 and P3 are mulling over the various legal options available to them to deal with the situation facing them. The guardian of the minor is also worried about the firm's condition and approaches a lawyer to discuss the possible legal course.

Frame a legal opinion by identifying the relevant issues. Support your reasons with relevant case law
(8+12=20 marks)

Q.4 Khatri and Raj enter into an agreement to sell five quintals of rice to be imported from Malaysia. Raj agrees to make the payment on determination of the price as and when the goods arrive at the Mumbai port. Khatri agrees to notify Raj about the arrival of the goods at the Mumbai port. Khatri in the meantime makes all arrangement for the unloading of the goods, as and when it arrives at the Mumbai port. It was agreed that the goods will, till delivery to the consignee, be stored at the warehouse owned by Mumbai Port Authorities. Raj in the meantime forms a contract with Pankaj and hands over a document that evidences the description of the rice to be imported from Malaysia. Raj informs Khatri that the goods are to be delivered to Pankaj, to whom the entire quantity of rice, bought by Raj, has been pledged. Khatri consents to hand over the goods to Pankaj. Unfortunately when the goods do arrive at the Mumbai Port, there were heavy rains in Mumbai. Consequently there was water inside the warehouse where the rice was stored. As a result ten percent of the rice of the total quantity of five quintals of rice, got severely damaged. This ten percent bad rice also affected thirty percent of the balance of the rice but not severely. In other words the thirty percent of the rice was edible but deteriorated in

quality. Khatri informed Raj about the arrival of the goods. Raj in turn asked Pankaj to pay for and take delivery of the rice, subject to determination of the price. Pankaj duly arrived at the Mumbai Port. However on minute inspection of the entire consignment of the rice, so imported by Khatri, Pankaj was not satisfied with the quality of the rice. Pankaj went to the extent of claiming that the rice did not match the description which was given at the time of the agreement to sell. Khatri protested stating that Pankaj had no right to protest. He was bound to take delivery of the goods and pay the price as determined on proper weighing and measuring done in the presence of Pankaj. Khatri denied that the sale of rice was by description or sample. Khatri agreed to sell to Raj only five quintals of rice to be imported from Malaysia. Pankaj refused to take the delivery of rice and went back disappointed with the whole affair. Pankaj called up Raj and narrated the entire incident and threatened to sue Raj for breach of contract of pledge. Raj in turn calls up Khatri to find out the actual facts. On being told of the entire episode, Raj too threatens to terminate the contract. Khatri is furious with both Raj and Pankaj. Khatri insists that the terms of the contract has been duly complied with and the goods are the same as has been contracted for. Raj is nonetheless not convinced and dismisses the claim of Khatri. All three viz. Khatri, Raj and Pankaj mull the options available to them under the law by consulting with their lawyers.

Frame a legal opinion by identifying the relevant issues. Support your reasons with relevant case law (8+12=20 marks)

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

End Semester Examination – 10th Semester – 2013 Batch

Elective subject: Corporate Criminal Liability (CCL)

Full Marks - 50

Time Allowed - 3 Hours

1. (a) The legal proposition is that if the person or group of persons who control the affairs of the company commit an offence with a criminal intent, their criminality can be imputed to the company as well as they are "alter ego" of the company. However, in a reverse fact scenario, say if the company is the accused person, can the acts of the company be attributed and imputed to such person or group of persons.

Is it the correct principle of law? Give reason and relevant case laws in support of your answer. [2+3=5]

(b) Section 420, The Indian Penal Code (IPC):

***Cheating and dishonestly inducing delivery of property.**—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*

ABC Company was held liable u/s. 420, IPC. What punishment will the company get in the present case in the light of Pre and Post *Standard Chartered Bank Case* [AIR 2005 SC 2622]? [5]

2. Write short notes on **any two** of the following: [5x2=10]
- a) Obstacles faced while imposing CCL
 - b) Defense of Due Diligence
 - c) *Model Penal Code of 1962*
 - d) Legal concept of "Person"
3. (a) What is the difference between Nominalist perspective and Realist perspective? [5]

(b) What are the various types of legal and social sanctions available to corporate bodies?
[5]

4. Corporate Criminal Liability (CCL) is still not recognized in some countries. Give a comparative analysis of CCL in different jurisdictions with special reference to Civil and Common Law approach in this regard. [10]
5. What are the various doctrines employed to attribute criminal liability to a corporation? Why these doctrines are unsuitable model for imposing CCL? [5+5=10]

The West Bengal National University of Juridical Sciences

End Semester Examination Winter Semester 2017- 18

LLB Optional Course - Corporate Insolvency

Full Marks - 50

Instructions: Kindly write legibly and clearly

Time allowed 3 hours

O.6 is compulsory of the rest attempt any 4. All questions carry equal marks.

1. Explain the Principle of Pari passu as followed under the IBC 2016 with its underlying philosophy?
2. Discuss the liabilities imposed upon Directors as under the 2013 Act and the IBC 2016 towards rescue of a sick company.
3. SARFAESI is deemed to be an extension of RDDBFI. Would you agree/disagree with this statement? Give reasons and justify your answer.
4. Explain the differences in between a compromise and an arrangement and the procedure for making an application to the court under Section 231-233 of the companies Act 2013 to hold meetings of the shareholders and the creditors.
5. Corporate Rescue has come into age through the IBC 2016. Discuss the statement with the provisions of IBC 2016.
6. Write Short notes on any two: –
 - a. Corporate Debt Restructuring
 - b. Moratorium
 - c. Non Performing Assets
 - d. Resolution Professional versus Insolvency professional.
 - e. Administrator

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
B.A. LL.B. End Semester Examination – 6th Semester – 2015 Batch

CORPORATE LAW - II

Full Marks – 40 marks

Time Allowed: 3 hours

General Instructions

This is an open-book exam. You may refer to written notes, prints, commentaries or legislation. Mobile phones, tablets, laptops and other electronic devices are **prohibited** in the examination centre.

All questions are compulsory. If questions appear unclear please write your responses on the basis of explanations or assumptions as you consider appropriate, in each case clearly stating such explanations or assumptions.

Question 1

[25]

Annexure I relates to an amalgamation. Please examine Annexure I and answer the following questions.

- (A) Why is such an amalgamation proposed? What type of amalgamation is it? [3]
- (B) How would the process be different if Coffee Day Enterprises Limited acquires Coffee Day Overseas Private Limited? [3]
- (C) In this amalgamation what meetings must statutorily take place? [3]
- (D) Why are the meetings (referred to in question (C) above) necessary for a scheme of amalgamation? [3]
- (E) Why is audit committee approval important in such transactions? [3]

(F) What are the fiduciary duties of the boards of each of the companies in this situation? Are the duties different? [3]

(G) What is the jurisdiction of the NCLT in relation to such schemes? [3]

(H) Mr. Sadananda Poojary tells his barber about the proposed amalgamation just after the board meeting of Coffee Day Enterprises Limited on 11.08.2016. The barber purchases shares of Coffee Day Enterprises Limited the next day. What are the liabilities of the parties? Would they change if the barber did not purchase any shares? [4]

Question 2 [6]

Please distinguish with reasons between: (i) Royal British Bank v Turquand (1856) 6 E&B 327; and (ii) Jasdev Singh and others v Unit Trust of India Limited (2011 Del). Please explain which of these decisions are more consistent with Meena Chawla v Prism Entertainment Private Limited and others (2011 Del). To what extent are the decisions (Turquand, Jasdev Singh) helpful to companies?

Question 3 [6]

Please articulate and contrast the legal issues that arise or may be relevant in a situation where corporate restructuring by way of acquisition by a company of an undertaking from another company is effected either by: (i) direct purchase using a business transfer agreement between the companies; or (ii) a scheme of arrangement under sections 230-232, Companies Act, 2013.

Question 4 [3]

How are powers and duties of directors of a company affected / altered upon the commencement of winding-up.

Annexure I

BEFORE THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
IN THE MATTER OF SECTIONS 391 TO 394 OF THE COMPANIES ACT,
1956 AND SECTIONS 230 TO 232 OF THE COMPANIES ACT, 2013
AND
IN THE MATTER OF SCHEME OF AMALGAMATION
BETWEEN
COFFEE DAY OVERSEAS PRIVATE LIMITED
WITH
COFFEE DAY ENTERPRISES LIMITED
COMPANY APPLICATION NO. IN
TP NO. 266/2017
739 / 2016

COFFEE DAY ENTERPRISES LIMITED, a
Company incorporated under the provisions of the
Companies Act, 1956 and having its Registered Office
at No-23/2, Coffee Day Square Vittal Mallya Road,
Bengaluru 560001, represented by its APPLICANT/TRANSFeree COMPANY
Compliance Officer Mr. Sadananda Poojary

NOTICE CONVENING THE MEETING OF THE EQUITY SHAREHOLDERS
OF THE APPLICANT COMPANY PURSUANT TO THE ORDER DATED
FEBRUARY 2, 2017 BY THE NATIONAL COMPANY LAW TRIBUNAL

To,
The Equity Shareholders of Coffee Day Enterprises Limited ("Applicant
Company" or "Company"):

Notice is hereby given that by an order dated February 2, 2017 of the Bangalore
Bench of the National Company Law Tribunal (NCLT) has directed a meeting to
be held of 'Equity shareholders' of the company for the purpose of considering, and
if thought fit, approving with or without modification, the amalgamation proposed
to be made between the company and 'Equity shareholders' of the company
aforesaid.

In pursuance of the said order and as directed therein further notice is hereby given that a meeting of 'Equity shareholders' of the said company will be held at Global Village, RVCE Post, Mysore Road, Mylasandra, Bangalore-560059 on Friday the 10th day of March 2017 at 12.00 Noon and members are requested to attend.

Persons entitled to attend and vote at the meeting (or respective meetings), may vote in person or by proxy, provided that all proxies in the prescribed form are deposited at the registered office of the company not later than 48 hours before the meeting.

Forms of proxy can be had at the registered office of the Company is attached with the notice.

The Tribunal has appointed Shri S. V. Ranganath, Independent Director as the chairperson of the said meeting.

The above mentioned amalgamation, if approved by the meeting, will be subject to the subsequent approval of the tribunal.

To transact the Special Business mentioned below. This notice is given for consideration of the resolution mentioned below to be passed at such Tribunal Convened Meeting and by remote e-voting pursuant to Regulation 44 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("Listing Regulations, 2015") and Section 108 of the Companies Act, 2013 read with the relevant rules.

The Audit Committee and the Board of Directors of the Company had at their respective meetings held on 11 August, 2016, approved the Scheme, subject to approval by the requisite majority of the shareholders of the Company and creditors of the Company, as may be required, and subject to the sanction of the National Company Law Tribunal and of such other authorities as may be necessary.

To consider and, if thought fit, approve with or without modification(s), the following Resolution under Sections 230(3) of the Companies Act, 2013 (including any statutory modification(s) or re-enactment thereof for the time being in force) and the provisions of the Memorandum and Articles of Association of the Company for approval of the proposed amalgamation embodied in the scheme of amalgamation of Coffee Day Enterprises Limited and Coffee Day Overseas Private Limited and their respective shareholders and creditors ("Scheme").

“RESOLVED THAT pursuant to the provisions of Sections 230(3) and other applicable provisions, if any, of the Companies Act, 2013 (including any statutory modification(s) or re-enactment thereof for the time being in force), the provisions of the Memorandum and Articles of Association of the Company and subject to the approval of the National Company Law Tribunal, if and when applicable, and subject to such other approvals, permissions and sanctions of regulatory and other authorities, as may be necessary and subject to such conditions and modifications as may be prescribed or imposed by the Hon’ble National Company Law Tribunal, if and when applicable or by any regulatory or other authorities, while granting such consents, approvals and permissions, which may be agreed to by the Board of Directors of the Company (hereinafter referred to as the “Board”, which term shall be deemed to mean and include one or more Committee(s) constituted/to be constituted by the Board or any other person authorised by it to exercise its powers including the powers conferred by this Resolution), the proposed amalgamation embodied in the scheme of amalgamation of Coffee Day Overseas Private Limited with Coffee Day Enterprises Limited and their respective shareholders and creditors (“Scheme”) placed before this meeting and initialed by the Chairman of the meeting for the purpose of identification, be and is hereby approved.

RESOLVED FURTHER THAT the Board be and is hereby authorized to do all such acts, deeds, matters and things, as it may, in its absolute discretion deem requisite, desirable, appropriate or necessary to give effect to this resolution and effectively implement the amalgamation embodied in the Scheme and to accept such modifications, amendments, limitations and/or conditions, if any, which may be required and/or imposed by the Hon’ble National Company Law Tribunal, if and when applicable while sanctioning the amalgamation embodied in the Scheme or by any authorities under law, or as may be required for the purpose of resolving any doubts or difficulties that may arise in giving effect to the Scheme, as the Board may deem fit and proper.”

TAKE FURTHER NOTICE that in pursuance of the said Orders and as directed therein, a meeting of the equity shareholders of the Company, will be held at Coffee Day, Global Village, RVCE Post, Mysore Road, Mylasandra, Bangalore-560059 on 10th March, 2017 at 12.00 Noon, and you are requested to attend.

TAKE FURTHER NOTICE that you may attend and vote at the said meeting in person or by proxy provided that a proxy in the prescribed form, duly signed by

you or your authorised representative, is deposited at the registered office at 23/2, Coffee Day Square, Vittal Mallya Road, Bangalore -560001 not later than 48 (forty eight) hours before the time fixed for the aforesaid meeting.

TAKE FURTHER NOTICE that each equity shareholder can opt for only one mode of voting i.e. either at the venue of the meeting of the equity shareholders of the Company or by remote e-voting. If you opt for remote e-voting, then do not vote at the venue of the meeting and vice-versa. In case of shareholders exercising their right to vote via both modes, i.e. at the venue of the meeting of the equity shareholders of the Company as well as remote e-voting, then remote e-voting shall prevail over voting by the said shareholder at the venue of the meeting of the equity shareholders and the vote cast at the venue of the meeting by that shareholder shall be treated as invalid.

(a) A copy of the Scheme, the Explanatory Statement under Section 102 of the Companies Act, 2013, Form of Proxy, Attendance Slip, Observation Letters issued by BSE Limited (“BSE”) and National Stock Exchange of India Limited (“NSE”), Valuation report by Vishnu Ram & Co., Fairness Opinion issued by SPA Capital Advisors Limited, Complaints Report, report of the Board of Directors on the Draft scheme of Amalgamation, Supplementary accounting statement for the period ending September 30, 2016, Pre and Post amalgamation shareholding are enclosed.

Place: Bengaluru

Date: February 6, 2017

By order of the Board of Directors For Coffee Day Enterprises Limited

THE WEST BENGAL NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

LL.B End Semester Examination – 10th Semester – 2013 Batch

Elective subject: **Corporate Taxation Law**

Full Marks: 50

Time Allowed: 3 Hrs.

- i. Any Bare Act and Bylaws including circulars without any commentary are allowed.
- ii. Calculator *simplicitor* is allowed.
- iii. **Attempt any four questions.**

1. What do you mean by corporate tax system? Critically examine the determination of residential status of companies under the IT Act, 1961 with the help of statutory provisions and decided cases.

4+8.5

2. “The requirement of maintaining and keeping detailed books of accounts and audit, makes the compliances burdensome, particularly for small businessman and professionals and leading to high cost of compliance and administration, resulting into non-compliance which in turn leads to evasion/avoidance and revenue loss. A tax system should provide some alternative mode of computation of taxable income and relax the burden of keeping and maintaining the books of accounts and audit for the small businessman and professionals. It will lower down the cost of compliance and will improve the compliances and will also bring down the cost of administration resulting in more revenue.” Critically comment on this statement with the help of statutory provisions and illustration(s).

12.5

3. “Corporate taxation in India has become complicated and irrational particularly because of too many tax incentives. The government is trying to simplify and rationalize it by phasing out the profit linked incentives with investment linked incentives and lowering down the corporate tax rates. However the government is still continuing with the MAT provisions. Such piecemeal reform is not sufficient. There is a need to go for structural reforms in the corporate taxation system. Therefore, it is suggested to scrap the IT Act, 1961 to the extent that it applies to a corporate entity and enact a separate Corporate Taxation Act based on the book profit concept (MAT).” Critically examine the statement with the help of statutory provisions and suitable illustration(s).

12.5

4. Critically examine the income tax implication in corporate restructuring by way of amalgamation and merger. Refer the statutory provisions and suitable illustration(s).

12.5

5. Elucidate the concept of “exempt income” and “100% deduction of profit from an activity”. Also critically examine the broad differences of approach/scheme between the

incentives available to assessee under section 10A, 10AA of chapter III AND sections 80 IA, 80IAB of part C, chapter VI A with case law and suitable illustration.

4+8.5

6. Write short notes on **any two** of the followings-
- a. Double taxation and relief
 - b. Transfer pricing
 - c. Mutual fund and income tax implication
 - d. Demerger vs. slump sale - income tax implication.

6.25+6.25

THE WEST BENGAL NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

B.A./B.Sc. LL.B (Hons.), 4th Semester, 2016 Batch

End Semester (Winter) Examination – 2017

Full Marks – 70

Time Allowed – 3 Hours

CRIMINAL PROCEDURE CODE (CrPC)

Bare Act without any comment is allowed.

ANSWER ANY FIVE QUESTIONS FROM AMONGST QUESTION 1 TO 7.

QUESTIONS 8 AND 9 ARE COMPULSORY.

QUESTION NO 1.

4 + 4 = 8 MARKS

- (a) What do you mean by FIR? Discuss elaborately the rule relating to the registration of FIR, value of timely registration and the ways to remedy situations of non-registration in light of the provisions of the CrPC and decided cases.
- (b) Every search of a place has potential risk of invasion of privacy. Discuss in detail power of police to carry out search and seizure under CrPC. What safeguards are provided to protect the rights of the citizens? Give your views citing decided cases.

QUESTION NO 2.

2 + 6 = 8 MARKS

What do you mean by the term cognizance? Discuss in detail power of the court to take cognizance and the limitations on such power as laid down in CrPC and as interpreted by the judiciary.

QUESTION NO 3.

5 + 3 = 8 MARKS

- (a) Discuss elaborately the role, power and functions of the public prosecutors under CrPC citing different decided cases.
- (b) The power of Prosecutor to withdraw prosecution is a contentious issue and a series of Supreme Court decisions have attempted to explain such power. Discuss in detail citing relevant case laws on such power of withdrawal from prosecution.

QUESTION NO 4.

3 + 5 = 8 MARKS

What is meant by 'Framing of Charge'? Discuss elaborately the rules relating to framing of charge.

QUESTION NO 5.**2 + 6 = 8 MARKS**

- (a) What do you mean by the term Bail?
- (b) Discuss in detail the circumstances and consideration when bail can be granted in non-bailable offences and when can it be cancelled.

QUESTION NO 6.**8 MARKS**

The Code of Criminal Procedure describes Executive Magistrates as Criminal Courts which indicates that they discharge judicial functions. However, the main function of the Executive Magistrate remains largely to discharge executive responsibility. Discuss in detail in which circumstances the Executive Magistrate can act as a Criminal Court, or in other words discharge judicial functions, and under which circumstances they act within their executive capacity.

QUESTION NO 7.**8 MARKS**

On one hand CrPC constantly emphasizes upon speedy trial of criminal cases and suggests that hearing may be conducted on a day to day basis. On the other hand the judiciary has declared that the 'right to speedy trial' is a fundamental right guaranteed under Article 21 of the Constitution. However, if the right to speedy trial is to be fully realised there must be some time limit prescribed to complete the trial. Explain to what extent is the right to speedy trial protected. Refer to relevant Cr.P.C provisions and case laws to support your answer.

Q 8 ATTEMPT ANY FIVE SHORT NOTES**5 X 3 = 15 MARKS**

- (a) Legal aid under CrPC
- (b) Victim's rights to compensation
- (c) Plea Bargaining
- (d) Discuss Delhi Judicial Service Association Vs. State of Gujarat, 1991 AIR 2176
- (e) Anticipatory Bail
- (f) Speedy trial

Q. 9. IDENTIFY AND ELABORATE UPON DIFFERENCES BETWEEN (ANY FIVE)**5 X 3 = 15 MARKS**

- (a) Bailable offence and Non-bailable offence
- (b) Cognizable offence and Non-cognizable offence
- (c) Summon trial and warrant trial
- (d) Compoundable offence and non-compoundable offence
- (e) Discharge and Acquittal
- (f) Investigation and inquiry

THE WEST BENGAL NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

B.A./B.Sc. LL.B (Hons.), 4th Semester, 2016 Batch

End Semester (Winter) Examination – 2017

Economics - II

Full Marks: 50

Time: 3 Hours

Answer any five questions (10×5)

1. On August 2, 2017, Reserve Bank of India declared a cut on benchmark lending rate by 0.25 per cent to over six-year low citing reduction in inflation risk. The repo rate, at which RBI lends to banks, was down to 6 per cent, the lowest in more than six-and-a-half years. The reverse repo, at which RBI borrows from banks, was also readjusted accordingly by similar percentage point to 5.75 per cent. What will be the impact of this policy on the exchange rate of rupee with respect to dollar? (10)
2. Show that expansionary fiscal policy is more effective if we consider interest sensitivity of money supply. (10)
3. Show that in presence of the Wealth Effect, wage-price flexibility suffices to ensure attainment of full employment equilibrium even in presence of the Keynesian characterizations of the economy like savings-investment gap and infinite interest elasticity of speculative demand for money. (10)
4. “The mere addition of the consumption function, by itself, to an otherwise classical model modifies the nature and conclusions of that model very little.” Discuss. (10)
5. What is balanced budget multiplier? Derive its value in S.K.M. Can its value ever exceed unity? (1+4+5)
6. Suppose the money market and the commodity market adjustment occurs at different speeds. Interest rate adjustment is so fast that money market is always at equilibrium, but commodity market adjustment is slow. How will you undertake the stability analysis? What happens if money supply rises? (5+5)

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

END SEMESTER EXAMINATION – B.A. LL.B - WINTER SEMESTER 2017

ENGLISH-II

Full Marks-30

Time Allotted- 2 Hrs

1. Answer any **ONE** of the following questions : **(1x10=10 MARKS)**
 - a) Critically examine the social concerns of Vijay Tendulkar as explored in his play *Silence! The Court is in Session*.
 - b) Describe the method in which C. Auguste Dupin is able to retrieve the stolen letter in Edgar Allan Poe's short story *The Purloined Letter*.
 - c) How does T.S.Eliot portray an image of urban wasteland in his poem *Preludes*.
 - d) "Andrew Marvell's poem *To His Coy Mistress* is a dialectical argument formed in a tight syllogistic structure"- discuss with reference to this statement.

2. Explain any **ONE** of the following statements with reference to the context : **(1x5=5 MARKS)**
 - a) "But at my back I always hear/ Times winged chariot hurrying near:/And yonder all before us lie/ Deserts of vast Eternity"
 - b) "My life was a burden to me. But when you can't lose it, you realize the value of it. You realize the value of living. You see what happiness means. How new, how wonderful every moment is! "
 - c) "Perhaps it is the very simplicity of the thing which puts you at fault", said my friend.
 - d) "The morning comes to consciousness/ of faint stale smells of beer/ With all its muddy feet that press/ To early coffee-stands."

3. Attempt any **ONE** of the following: **(1x10=10 MARKS)**
 - a) Write a CV with a covering letter to a renowned law firm seeking a summer internship.
 - b) Write a Notice along with an Agenda for the next Student Council Meeting in your college.
 - c) Jot down notes and write a summary for the given extract:

"Conversation is indeed the most easily teachable of all arts. All you need to do in order to become a good conversationalist is to find a subject that interests you and your listeners. There are, for example, numberless hobbies to talk about. But the important thing is that you must talk about other fellow's hobby rather than your own. Therein lies the secret of your popularity. Talk to your friends about the things that interest them, and you will get a reputation for good fellowship, charming wit, and a brilliant mind. There is nothing that pleases people so much as your interest in their interest. It is just as important to know what subjects to avoid and what subjects to select for good conversation. If you don't want to set down as a wet blanket or a bore, be careful to avoid certain unpleasant subjects. Avoid talking about yourself, unless you are asked to do so. People are interested in their own problems not in yours. To be a good conversationalist you must know not only what to say, but how also to say it. Be mentally quick and witty. But don't hurt others with your wit."

4. Give the meanings of any **FIVE** legal terms- **(5x1=5 MARKS)**

Una voce, Suffragette, Sisto, Recordum, Quo-ad-hoc, Proviso, Periculum, Nulla bona, Modus operandi, Haeres legitimus.

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
End Semester Examination- 8th Semester- 2014 Batch
Environmental Law

Full Marks - 70

Time Allowed: 3 Hrs.

Students are allowed to consult Module-5 of Environmental Law in the Examination Hall, consisting of bare provisions without comments

Answer question no.1 and **three** from the rest.

No clarifications please

1. Write short note on any one: [10X1=10]
 - a. Legal issues in *Subhash Kumar v. State of Bihar* [AIR 1991 SC 420];
 - b. Environmental issues in *ND Jayal Case* [(2004) 9 SCC 362];
2. Bhubaneswar municipality in the state of Orissa, for a long time, did not discharge its obligatory duties for the purpose of improving the health and hygiene condition of the city. The unplanned slum and cowshed established on the bank of the river have caused extreme river water pollution. The trade effluents from the chemical industries and domestic sewage are allowed to drain directly into river water without taking services of the sewage treatment plants. In order to prevent river water pollution Mr. Mitra has filed a petition before the honourable Supreme Court. Please decide the case with the help of relevant legal materials. [20]
3. A portion of the deep dense forest has been declared as national Park in 2008 and 2010 the central government allowed coal mining within the forest and partly within the national park. A NGO 'Save Earth' (hereinafter 'SE') filed a writ petition before the Supreme Court prying for closure of coal mining and issued guidelines to the central government along lines of sustainable development, which should be applicable to granting any license to coal mining in future. Decide the case with the help of relevant legal materials. [20]
4. The state of Karnataka granted 300 licenses for shrimp culture in the year 1989. The state government however, cancelled all the licenses after 1991 because of legal implications of coastal regulation zone notification of 1991. In 2013, the Karnataka state issued 150 licenses for shrimp culture on the coastal line on the ground that the coastal regulation zone notification of 1991 has been replaced by new coastal regulation zone management notification of 2011. The NGO 'My Sea' (hereinafter 'MS') filed a case under article 32 of the Indian Constitution before the Supreme Court praying for cancellation of licenses as these licenses were granted in gross violation of new coastal regulation zone notification of 2011. Decide the case. [20]
5. A historical monument 'Man-made Pyramid' (hereinafter 'MP') is located in the state of Madhya Pradesh, which is made of white marble and red stone. For the last 30 years many industries grew in and around MP Emitting harmful gases they not only caused acid rain but also affected the structure of MP. A public spirited citizen Mr. Anil has filed a case before the Supreme Court for relocation of the industries. Decide the case with the help of relevant legal materials. [20]

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

END SEMESTER EXAMINATION- WINTER SEMESTER 2017

FAMILY LAW I

Full Marks-65

Time Allotted- 3 Hrs

**ALL QUESTIONS COMPULSORY
BARE ACT NOT ALLOWED**

QUESTION NO. 1

K.T. Subramanya (the deceased) was employed with Karnataka Power Corporation (for short, "KPC") at Linganamakki. He took four life insurance policies from Life Insurance Corporation of India being dated 13.1.1987, 16.2.1987, 31.3.1987, and 3.6.1988. Indisputably, therein he nominated Challamma, his mother as the beneficiary thereof. The Tilaga is said to have entered into wedlock with the deceased on 3.12.1974. Subramanya died on 22.9.1998 leaving his entire post retirement benefits and fixed deposits of 5, 00, 000 /-in Corporation Bank Sunderban Branch.

The two sons of the deceased Subramanya and Tilaga are Ramy and Somu. The Tilaga filed an application for grant of succession certificate in their favour in terms of Section 372 of the Indian Succession Act, 1925 (for short, "the Act") in the Court of Civil Judge, Sunderban in respect of the scheduled debts. Challamma admittedly being the mother of the deceased filed an application for being impleaded as a party therein, which was allowed. Challamma objected to the grant of the said succession certificate contending that the deceased was not married at all. The core question in view of the aforementioned stand taken by the Challamma in the said proceedings was as to whether the **Tilaga was married to the deceased or not.**

A large number of witnesses being namely, Tilappa, Muniyamma, and the mother of Tilaga, Puttappa, father of the Challamma, Y.M. Bangera, Administrative Officer, L.I.C. of India, Sunderban and Subba Rao B.R., the Personnel Officer of the K.P.C. were examined by court in support of their contention that the **Tilaga was married to the deceased.** A large number of documents including photographs showing performance of marriage ceremony were also filed. *Inter alia on a finding that the Tilaga and the deceased having been residing in a quarter together and furthermore having arrived at a finding of fact that the society accepted them as husband and wife, the learned trial judge held that a presumption of valid marriage should be drawn and on the basis thereof the application for grant of succession certificate filed by the Tilaga was allowed.*

Challamma, aggrieved by and dissatisfied with the said judgment and order preferred an appeal there against in the court of District Judge, Sunderban. The said appeal was eventually transferred to the Court of Additional District Judge I, Sunderban.

Challamma would contend that the courts below committed a serious error in passing the impugned judgments insofar as they failed to take into consideration the evidences brought on record by the parties in their correct perspective. It was urged that keeping in view the provisions of the Hindu Marriage Act, 1955, it was obligatory on the part of the Tilaga to establish that all the ingredients of a valid marriage were proved. In a case of this nature where the Tilaga was a

woman of easy virtue, it was urged, the presumption of a valid marriage ought not to have been drawn.

Tilaga in her deposition stated in great details the factum of her marriage which took place on 3.12.1984 at Dhakineshwar Temple according to Hindu rights and rituals but also produced a document styled as an 'agreement of marriage' which was registered with the office of Sub-Registrar, Sunderban on 13.12.1984. She furthermore produced various documents to show that the deceased had insured his life with the Life Insurance Corporation of India and also under group insurance while in service. Furthermore some documents were also brought on record to show that the deceased applied for allotment of a house as a married person. An officer of the Life Insurance Corporation of India was also examined to prove the life insurance policies.

- A. *Whether a valid marriage had taken place between the deceased Subramanya and the Tilaga? Discuss.*
- B. *If the parties were Sunni Muslim then discuss the nature and scope of Muslim marriage.*

Marks (5x2=10)

QUESTION NO. 2

Anu Bhandari and Pradip Bhandari's marriage was solemnized as per Hindu rites on 18.05.1997. They have two children-Bhuvi, the elder daughter born on 19.04.1998 and Vibhu, son born on 31.01.2008. On account of marital discord and temperamental differences, they have been living separately since March, 2011. Family left for UK in the year 2008 after birth of son. The children were of Indian origin and that the minors were Indian citizens by birth as they were born in Delhi and that they had not given up her Indian citizenship though they were granted UK citizenship subsequent thereto. That the children were admitted to a primary school in UK in September 2001 and that she had studied there till June 2011 was noted. It was mentioned as well that till she accompanied her mother on 02.07.2011 to India, no proceeding of any kind had been filed in the UK Court, either in relation to any matrimonial dispute between the parents or for their custody. In India, the child had been living with her grand-parents and other family members and relations unlike in U.K., where she lived in a nuclear family of four with no other relatives. That they had been studying in India for last over 6 years and had spent equal time in both the countries up to the first six years of her life was taken note of as well. Mother was of opinion that the child would be more comfortable and secured to live with their mother here in India, who can provide them with motherly love, care, guidance and the required upbringing for her desired grooming of personality, character and faculties. That being a girl child, the custody, company and guardianship of the mother was of utmost significance was felt. It was also recorded that being a girl child of the age, she ought to be ideally in the company of her mother in absence of circumstances that such association would be harmful to her. That there was no restraint order passed by any court or authority in U.K. before the children had travelled with their mother to India was accounted for as well. The son was suffering from cardiac disorder, which warranted periodical medical reviews and appropriate care and attention, which it felt could be provided only by the mother as the father being employed would not be in a position to extend complete and full attention to his son. Mother had neither any intention to return to UK nor according to her if the children returns to UK, she would be able to secure the desired access to her to the

children to provide care and attention was noted in express terms. On an evaluation of the overall facts and circumstances, this Court thus was of the unhesitant opinion that it would be in the interest of the child to remain in the custody of her mother and that her return to UK would prove harmful to her.

- A) Can Mother be directed immediately to return the children to custody and control of father in UK? Discuss with help of law and judgments of apex court.
- B) Mother wants to file petition before Supreme Court seeking decree for restitution of conjugal rights between parties and for declaration that she was sole and permanent guardian of child and custody of child? Guide mother with help of law and judgments of apex court
- C) Whether wife and children are entitled to maintenance? Discuss with help of law and judgments of apex court.
- D) If the parties were Sunni Muslim then discuss the custody law and maintenance.

Marks (5x4=20)

QUESTION NO. 3

Write short notes on any two of the followings:

- i. Factum Valet
- ii. Prohibition of Child Marriage Act
- iii. Codification of Hindu Law
- iv. Acknowledgement and *Hijanat*
- v. *Meher* (Dower)
- vi. Uniform Civil Code

Marks (5x3=15)

QUESTION NO. 4

Shukendu Das and Rita Mukherjee are Husband and wife. Their marriage was performed on 19th June, 1992 as per the Special Marriage Act, 1954 (hereinafter referred to as "the Act"). A girl child was born out of the wedlock on 14th April, 1996. There was matrimonial discord between the Shukendu Das and the Rita Mukherjee and they were living separately since the year 2000. The Shukendu Das filed an application Under Section 27 of the Act seeking a divorce. Shukendu Das alleged that the differences arose because of the improper behavior of the Rita Mukherjee in not showing due respect to his ailing father. It was further alleged that the Rita Mukherjee deserted him and refused to give the custody of the child to him. The Shukendu Das further averred in the application that the Rita Mukherjee did not visit him even when he was seriously ill. The Rita Mukherjee is Accused of using intemperate language and threatening the Shukendu Das with filing of criminal cases if he perused the petition for divorce which he proposed in the year 2005.

Rita Mukherjee filed a written statement denying the allegations made in the application filed by the applicant for divorce. She refuted all the averments in the application and sought for dismissal of the application for divorce. The Rita Mukherjee did not participate in the proceedings before the trial court after filing the written statement. The Chief Judge, City Civil Court, Calcutta by the judgment dated 6th August, 2009 dismissed the application for divorce. The Appeal filed against the said judgment was dismissed by the High Court of Calcutta on 4th April, 2012. The Rita Mukherjee did not seek to appear before the High Court also. The correctness of the judgment of the High Court is assailed in the above Appeal.

After referring to the pleadings in the case, the trial court found that the Shukendu Das failed to prove cruelty on the part of the Rita Mukherjee. The evidence adduced by the Shukendu Das was scrutinized by the trial court to come to a conclusion that the Shukendu Das did not make out a case for divorce. The High Court, taking note of the fact that the Shukendu Das and the Rita Mukherjee are officers working under West Bengal Government, made an attempt for conciliation between the parties. However, in spite of the effort of the High Court, both the Shukendu Das and the Rita Mukherjee did not appear personally before the High Court. Despite taking note of the fact that the Shukendu Das and the Rita Mukherjee were living separately since the year 2000, the High Court dismissed the Appeal by holding that irretrievable breakdown of marriage cannot be a ground for divorce. The High Court held that the Shukendu Das failed to prove mental cruelty on the part of the Rita Mukherjee.

Notice was issued to them on 8th October, 2015 to explore the possibility of an amicable resolution to the matrimonial dispute. The parties were directed to appear before the Mediation Centre of the Supreme Court on 21st November, 2015. The parties did not appear before the Mediation Centre in spite of service of the Notice. They chose not to appear before this Court. Fresh Notice was ordered on 17th December, 2015 but they did not appear in spite of receipt of Notice again.

- i. Is there any remedy available for them under the Law?
- ii. Discuss with help of law and judgments of apex court.
- iii. Do you suggest any law reform?
- iv. If the parties were Sunni Muslim then discuss the position of Islamic Law on this?

Marks (2.5x4= 10)

QUESTION NO. 5

1. Is Hindu Marriage a sacrament or contract?
2. Is Muslim Marriage a sacrament or contract?

Marks (5x2=10)

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
LL.B. End Semester Examination- 8th Semester- 2014 Batch
Forest Law and Land-Use

Total Marks: 40

Time: 3 hours

This is an open book exam. You may consult any written notes, commentaries or legislation. However consultation with others is not allowed. All questions are compulsory.

Question 1

How does the Panchayats (Extension to Scheduled Areas) Act, 1996 affect management of forests – and what are its limitations. [10]

Question 2

Please devise a system of forest management that does not follow the approach taken by the Indian Forest Act, 1927. You may specify broad policy changes as well as desirable changes to other legislation in order to make your proposal consistent [10]

Question 3

“*The JFM Scheme and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 are contradictory*”. Please defend this statement with reasons. [10]

Question 4

Please refer to the decision of the Supreme Court in *Orissa Mining Corporation v Ministry of Environment and Forests* (2013 SC). Do you agree that this decision reflects on the contradictory policies of the Union and State governments with respect to diversion of forest land for non-forest purposes? Assuming there is a divergence what, in your view, are the reasons for such a state of affairs - and what policy / legislative steps can be undertaken to redress it? [10]

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
LL.B. End Semester Examination – 6th Semester – 2015 Batch

HUMAN RIGHTS LAW

Full Marks – 60 marks

Time Allowed: 3 hours

Part A

Answer any 3 questions out of 4 questions

Q1. What are the categories of rights that stand protected under the UDHR? Has the Declaration been meticulously drafted to impart universality to it? [10 marks]

Q2. Discuss the role of the higher judiciary in creatively expanding the ambit of the Art.21 of the Constitution of India. Support your answer with appropriate cases.

[10 marks]

Q3. Trace the disability rights movement in India. How has the United Nations Convention on Rights of Persons with Disabilities impacted law reform in India in sphere of disability rights?

[10 marks]

Q4a. Torture has been a part of human history since the beginning of time. However the acceptability of the use of torture has wavered throughout the centuries. Trace the evolution of torture through the centuries till the adoption of the United Nations Convention against Torture in 1984.

Q4b. The laws of Country A prohibits torture, custodial violence and confessions extracted by force that are inadmissible in court. Nevertheless, authorities often use torture during interrogations. Mr. X's brother, a resident of country A has is being tortured in custody by the police, so that he confesses to have murdered Y. Country A has ratified the United Nations Convention against Torture on 12th August 2006, with certain reservations. What is the remedy available to Mr. X under the Convention against Torture?

[5 + 5 = 10 marks]

Part B

Multiple Choice Questions:

[1 x 30 = 30 marks]

1. A special mechanism to receive and consider communications from individuals or group of individuals claiming to be victims of a violation by the Committee has been established under which Convention?
 - a) CERD
 - b) CEDAW
 - c) ICESCR
 - d) ICCPR

2. Any dispute between two or more State parties with respect to the interpretation or application of CERD, which is not settled by negotiation or the procedures expressly provided in the Convention shall at the request of the parties be referred to the
 - a) General Assembly
 - b) Security Council
 - c) International Court of Justice
 - d) Economic and Social Council

3. The members of the Committee on the Elimination of Racial Discrimination is elected and are elected for a term of
 - a) Five years
 - b) Three years
 - c) Four years
 - d) One year

4. "No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation." Such a right has been secured
 - a) under the International Convention on Civil and Political Rights
 - b) by the Supreme Court of India in Jolly George Varghese v Bank of Cochin
 - c) Both A and B
 - d) Expressly by the Indian Constitution.

5. A Convention becomes legally binding on a State through the process of
 - a) Signature
 - b) Declaration
 - c) Ratification or accession
 - d) Adoption

6. The task of drafting the CEDAW vested on
 - a) The Commission on Human Rights
 - b) The ECOSOC
 - c) The Commission on the Status of Women
 - d) None of the above

7. What is the legal nature of UDHR?
 - a) It is a multilateral treaty
 - b) It is a UN General Assembly Resolution
 - c) It is a UN Security Council Resolution
 - d) It is a declaration adopted by several states at an international conference

8. In the year 1978, the Supreme Court delivered a path-breaking decision the purpose of which was to render constitutional liberties a living reality for the most vulnerable and powerless sections of the Indian society and ultimately set the stage for the efflorescence of Article 21.
 - a) Supreme Court Advocates on Record Association v Union of India
 - b) Maneka Gandhi v Union of India
 - c) Keshavananda Bharti v State of Kerala
 - d) Sheela Barse v Union of India

9. The right to compensation for the enforcement of the fundamental rights was established in
 - a) Veena Sethi v State of Bihar
 - b) Nilabati Behara v State of Orissa
 - c) Rudal Shah v State of Bihar
 - d) All of the above

10. Human Rights day is observed on
 - a) 10th October
 - b) 10th December
 - c) 12th December
 - d) 12th August

11. The Universal Declaration of Human Rights is applicable to
 - a) Every citizens of third world countries
 - b) Citizens of UN member countries
 - c) All peoples and all nations
 - d) None of the above

12. Who among the following is eligible to become the Chairperson of the National Human Rights Commission?
 - a) A former Chief Justice of the Supreme Court
 - b) The present Chief Justice of the Supreme Court
 - c) Any Supreme Court Judge
 - d) None of the above

13. Which of the following authorities may study treaties and other international instruments on human rights and make recommendations for their effective implementation in India?
- National Human Rights Commission
 - State Human Rights Commission
 - Parliament
 - Both A and B
14. Some of the basic principles of care and protection of children enshrined in the UNCRC have been introduced in which of the following legislation in India?
- Protection of Children from Sexual Offences Act, 2012
 - Juvenile Justice (Care and Protection of Children) Act, 2015
 - Child Labour (Prohibition and Regulation) Act, 1986
 - Right to Education Act, 2009
15. The age of attaining adulthood for a boy under the Prohibition of Child Marriage Act, 2006 is:
- 20 years
 - 18 years
 - 21 years
 - 22 years
16. Article 1 of the United Nations Convention on the Rights of the Child ('UNCRC') defines a child as "every human being below the age of 18 years unless, under the law applicable to the child, majority is attained....."
- Earlier
 - Later
17. The focus of the United Nations Convention on the Rights of the Child is best expressed through the words:
- 'special safeguards' for children
 - 'mankind owes to children the best it has to offer'
 - 'best interest of the child'
 - 'maximum benefits for children'
18. Following a policy of welfare in independent India, to frame policy guidelines for the entire country and to prioritise disability programmes, which of the following bodies was set up:
- National Council for Handicapped Welfare
 - Rehabilitation Council of India
 - Department of Empowerment of Persons with Disabilities
 - Disability Sensitisation Committee

19. Till the 1990s, only persons and groups with physical disabilities tended to constitute the disability rights groups. To represent the needs of the other group of disabled people with mental disabilities which of the following Acts was passed?
- National Trust Act, 1999
 - Persons with Disability (PWD) Act 1995
 - Mental Health Act, 1987
 - Rehabilitation Council Act, 1992
20. In which of the following cases, advocate S. Rungta intervened for the National Federation of the Blind on behalf of all persons with disabilities and wanted the Supreme Court to consider the specific issue of whether “backward classes of citizens” as defined by the Constitution could include persons with disabilities
- Parmanand Katra v. Union of India* 1989 SCR (3) 997
 - Paschim Banga Khet mazdoor Samity & ors v. State of West Bengal & ors* 1996 SCC (4) 37
 - Indra Sawhney v. Union Of India & Others* AIR 1993 SC 477
 - State of Karnataka v. Appa Balu Ingale & Others* AIR 1993 SC 1126
21. The United Nations Convention on the Rights of Persons with Disabilities shifts from the older models of disability and embraces a model of disability that perceives disability as a long-term physical, mental, intellectual or sensory impairments, which in interaction with various harriers may hinder their full and effective participation in society on an equal basis with others. This model of disability is:
- Welfare model of disability
 - Social model of disability
 - Medical model of disability
 - Charity model of disability
22. According to scholars to the likes of Christopher J. Einolf historically torture has been used against
- Members or citizens of a society
 - Religious groups and factions within a society
 - People who are not full members of a society, such as slaves, foreigners, etc
 - Members or citizens of the society even if they were engaged in petty crimes
23. The first universal human rights treaty to explicitly include a prohibition of torture and other cruel, inhuman or degrading treatment was the:
- UDHR
 - ICCPR
 - ICESCR
 - Geneva Convention Relative to the Treatment of Prisoners of War

24. Under the United Nations Convention Against Torture, exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may be cited by State Parties as a justification of torture.
- Yes
 - No
 - Only a state of war or a threat of war may be cited as an exceptional circumstance
 - Only an internal political instability may be cited as an exceptional circumstance
25. In which of the following cases the Supreme Court took a stern view of abuse in police custody and laid down detailed “requirements to be followed in all cases of arrest or detention”
- Charles Sobraj v. Superintendent Central Jail, Tihar* AIR 1978 SC 1514
 - Shri D.K. Basu, Ashok K. Johri v. State of West Bengal, State of U.P* (1997) 1 SCC 416
 - Hussainara Khatoon v. State of Bihar* AIR 1979 SC 1369
 - Sunil Batra v. Delhi Administration and Ors.* AIR 1978 SC 1675
26. Which of the following have been included within the definition of ‘disability’ in the newly enacted Rights of Persons with Disabilities Act, 2016
- Autism and acid attack victims
 - Autism and schizophrenia
 - Mental retardation and autism
 - Mental illness and AIDS
27. India signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on October 14, 1997. But the Convention is subject to ratification. One of the probable reasons for non-ratification of the Convention by India can be attributed to its reservations against three Articles of the Convention that allow a State Party to recognize the competence of the Committee to entertain complains against it. Which of the following three articles are they?
- Articles 19, 20 and 21
 - Articles 22, 23 and 24
 - Articles 17, 18 and 16
 - Articles 20, 21 and 22
28. Many scholars in Netherlands and USA including Jeffrey Jensen Arnett of the University of Missouri advocate:
- Advocate delaying the age of adulthood to the mid twenties
 - Fixing the age of adulthood to the late teens
 - Fixing the age of adulthood at 18 year
 - Lowering the age of adulthood to less than 18 years

29. can be defined as norms that embrace customary international laws that are so universal and derived from values so fundamental to the international community that they are considered binding on all nations, irrespective of a State's consent

- a. Obligations erga omnes
- b. Jus cogens
- c. Jus gentium
- d. Pacta sunt servanda

30. Principle: Article 51 of CRC declares 'reservations incompatible with the object and purpose of the convention shall not be permitted.' However, the emphasis in the Convention is on assisting state parties to meet their obligation rather than on penalising non-compliance.

Facts: Country A has ratified the UNCRC. However, Country A neither has a separate law to try juvenile offenders nor does it provide adequate safeguards to them from torture or other cruel, inhuman or degrading treatment or punishment. It has formulated reservations under Article 13 (freedom of expression) and Article 37 (con-cerning right of juvenile offenders). In light of this choose the correct option:

- a. Country A has violated the UNCRC since the reservations are incompatible with the object and purpose of the convention.
- b. Country A has not violated the UNCRC.
- c. Country A has not violated the UNCRC, since it has fulfilled the other obligations under the UNCRC.
- d. Country A is well within its right to do as it pleases, so long as no child of any other State Party is harmed.

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

END SEMESTER EXAMINATION – B.A. LL.B - WINTER SEMESTER 2017

INDIAN PENAL CODE

Full Marks-70

Time Allotted- 3 Hrs

Students are allowed to carry bare act (without commentary) and case list

(Attempt All Questions)

No clarification may be sought during examination

INSTRUCTIONS

- The question paper consists of four pages. Please ensure that your paper runs up to page no.4.
- Read the question very carefully before attempting to write an answer.
- You may attempt question in any order (i.e; it is not necessary to maintain the chronological order).
- The answer number should be marked properly.
- Start the new answer in a fresh page.
- Answers should be supported with the relevant provisions of IPC and decided cases. However, it is not necessary to copy the entire provision from the bare act. It is sufficient to highlight the essential ingredients of the relevant section of IPC. You may also substantiate your answer by formulating hypothetical examples. Preference will be given if decided cases are correctly cited. Marks will be deducted for wrong citation.
- There is no standard length of answer. You should endeavour to write to the point but there is no restriction in citing authorities – the more, the better. Ideally, you should check the mark allotted for an individual question before attempting to write answer so that you can frame your answer accordingly.

QUESTION

[10 x 7 Marks = 70 Marks]

1. X, a producer, applied for certification of his movie in the Censor Board. A movie cannot be released unless it is certified by the Board. The Board provide certification on the basis of the rules framed under Movie Certification Act, 2017 [Fictitious Statute]. The Act provides for the procedural requirement and the content is regulated by the provisions of Indian Penal Code and various other laws. Under the Act, the board should provide certification on the basic of content. The board shall deny certification if the content is in contravention of the provisions of the Indian Penal Code among other special laws dealing with the subject. The Board provided certification of a movie but without checking the content as per the substantive laws. The movie has been released in theatres across India but cases are filed in various court on the ground that certain scenes of the movie are in contravention of Section 292 of the IPC. An injunction has been granted. Consequently, the movie has been withdrawn from the theatre. All the petitions are clubbed together and taken up by the Supreme Court. It is proved in the Court that several scenes of the movie are in violation of the provisions of Section 292. The Court has to disposed of the matter in the next hearing and it is likely that the decision will be in favour of banning the movie, along with imposing punishment to the producer, the director and distributors of movies. What could be a possible argument in favour of director, producer and distributors under the IPC?

2. Nirbhaya was brutally raped by an unidentified person. Since the time of incident, the victim has been in mental trauma. She only speaks about getting justice and often narrates that the only hope of her recovery is when the accused will be adequately punished by the court of law. There was no witness of the crime. However, a person was arrested in connection with the crime. The victim was aware of the trial and she showed some positivity in her attitude and her mental condition had been improving from the date she came to know arrest was made and the matter was taken up by the court. However, the accused has been acquitted due to lack of evidence. The accused successfully pleaded alibi. The victim is not aware of the judgement of acquittal rather the concerned person has informed that the accused has been convicted of the crime. The condition of victim has actually improved drastically and she is trying to follow the ordinary pursuits of life from the day of communication of judgement of conviction. The victim has a legal right to know the outcome of the case. Later on, she came to know that the accused was acquitted. She filed a case against the person

who wrongly communicated the decision. the concerned person (communicator) has taken plea of necessity u/s 81 of IPC. Decide the matter with the help of precedent.

3. It has been proved beyond reasonable doubt that the wife of the co-accused took the minor girl (prosecutrix) to her house and closed the door from outside. Thereafter, the co-accused (husband) committed rape of the girl. Whether the wife of the co-accused has committed any offence under the IPC? Explain with reason.
4. A married woman was abducted and converted to another religion. The husband and relatives of the woman reached the house of the abductor and demanded her return from him. The abductor rejected the demand and the woman too refused to go with her relatives. When the relatives attempted to take her by force, the accused resisted by using force resulting in the death of one of the assailants. There is a nexus between an act of the accused and death of victim. The accused has taken plea of right of private defence. Decide with the help of decided cases.
5. X was standing facing Y. Z came from behind of Y and hit him with a sword but X did not alert Y to move away to escape from the attack. The victim succumbed to injuries. X and Z were charged and convicted u/s 302/34. X has appealed in the High Court against the decision of the trial court. As a Judge of the High Court, decide the appeal with the help of decided cases.
6. X sent an email to Y but it never reached the inbox of Y due to fault of internet service provider. The content of the email is as follows: *“Ram doesn’t deserve to live in this world. He has completely destroyed our reputation by continuous humiliation. We should not wait for the justice from the court of law. He must die at any cost. Please do the needful to ensure that his hour of life is counted. I am confident you can execute my intention with ease. Please let me know if you need any cooperation from my end in this regard”*. Whether X has committed any offence under IPC? Explain with reasoning.
7. Anil was in possession of a car on the basis of the hire purchase agreement and issued several post-dated cheques to the owner of car. However, after successful credit of couple of cheques, the next two cheques were bounced due to insufficiency of fund in the bank account. The financier took away the car from the possession of Anil without his consent. Whether the financier has committed any offence under the IPC? If yes, state the offence/s with proper reasoning.

8. The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act – Explain this statement with the help of an example.
9. X (a public servant) and Y (a clerk) entered into criminal conspiracy to commit offence. They were charged u/s 120B of IPC and convicted by the trial court. The court of appeal acquitted X on the ground that prior sanction of the competent authority was not obtained, which was required u/s 197 of CrPC. However, the conviction of Y has been upheld. Discuss the validity of the decision of the court of appeal with the help of decided case.
10. Aarti, wife of Raman, had an extra-marital affair. The husband was aware of the affair and tried to convince his wife on several occasions for dissociating from her paramour. At times, he also gave threat of death to his wife. On one occasion, the husband, under the influence of intoxication, beat his wife by a stick, inflicting two blows on non-vital part of the body as a result of which she fell unconscious. Thereafter, he cut her limb into two pieces. The prosecution filed a case u/s 302 of IPC on the ground that the accused had intention to cause death. The defence relying on the evidence of witnesses argued that the case of accused should fall u/s 304 by virtue of exemption u/s 86 and 79 of IPC. As per the statements of witnesses, the accused was heavily drunk at the time of the incident, continuously fumbling in his speech and movement and was unable to control himself and made no attempt to run away from the crime scene. The prosecution countered the defence by relying on King Emperor vs. Sree Narayan & Ors (AIR 1949 Ori. 48). In this case, the accused burnt the victim to death on the mistaken belief that the latter died but as per the medical evidence, cause of death was anti-mortem burn injuries. The Court held that the accused “...must be deemed to have known that their act was likely to cause the death of Anuchi [victim]. It follows that the appellants [accused] are guilty of an offence under Section 304, part 2, Penal Code”. Moreover, the prosecution cited several cases including Basdev vs. State of Pepsu [AIR 1956 SC 488] to emphasize on the point that if knowledge is proved or presumed, a person is presumed to intend the natural consequences of his act. However, the defence succeeded in rebutting the presumption of intention by adducing cogent and convincing evidence. Therefore, the court convicted the accused u/s 304 of IPC. Aggrieved by the decision, the prosecution preferred an appeal for changing the sentence from Section 304 to Section 302 of IPC. Assuming that as per the law of evidence the defence version fulfills the requirement of challenging the presumption that a person is presumed to intend the natural consequences of his act, prepare an argument for the prosecution.

INDIRECT TAX LAWS (OPTIONAL PAPER)

Full Marks - 50

Time Allowed – 3 Hrs.

- i. Any Bare Act and Bylaws including circulars without any commentary are allowed.
- ii. Calculator *simplicitor* is allowed.
- iii. **Attempt any four questions.**

1. “The Constitution (101st Amendment) Act, 2016 has made possible the realization of the dream of one nation, one market and one tax. However, it has undermined the fiscal autonomy of the state”. Critically examine the statement with the help of constitutional provisions and with particular reference to the Amendment, 2016.

12.5

2. The Ramdhani National Law University, Siliguri, one of the best fully residential law university in India has been set up in 2005 by the west Bengal Government under the West Bengal ACT, 2005 with aim and objective to provide education in law of international standards. The university is offering B.Com./LLB, B.A./LL.B, LL.M, Ph.D. to Indian as well as foreign students and charging composite fees (including hostel and mess fee) Rs. 4lakh per annum for LL.B and Rs. 1 lakh for LL.M and Rs. 70,000 for Ph.d.. In addition to its regular course, the university also offers duly approved diploma, certificate and executive diploma courses to the eligible students and charges the approved fees. The university also conducts/organizes the training programs, workshops, seminars and conferences some of which are free being fully sponsored and some are charged (being not fully sponsored or partly sponsored). The university also rents for consideration its building to outsiders for various purposes including conduct of examinations. The university has also world class canteen for its students, faculty and staff, but has outsourced, the same. The housekeeping and security services are also outsourced. The GST has been implemented from July 1, 2017 in India and in all the States, including West Bengal. Someone has told to the VC of the university that the university is required to get registered but has so far not registered, thereby inviting penalty under the law. The VC is frightened and engages you as a consultant for legal opinion as to whether the university is required to get registered? If yes, is there any way out, not to get registered. Provide the requisite detailed legal opinion based on the statutory provisions.

12.5

3. Explain the concept of “place of supply”. Also critically examine the rules for determination of “place of supply of goods” with the help of statutory provisions and suitable illustration(s).

3+9.5

4. Explain the concept of “time of supply” under the GST Law. Critically examine the rules for determination of “time of supply of goods” with the help of statutory

provisions and suitable illustration(s). Are “advances” taxable under GST? Give reasons.

2+8.5+2

5. Critically examine the meaning of “supply” under the GST law with the help of statutory provisions and suitable illustration(s). Does distribution of medicine to medical practitioner by pharmaceutical companies amount to supply under GST law? YES OR NO, Give reasons.

9.5+3

6. Write short notes on **any two** of the followings-
- a. Fundamental rule of Valuation under GST with suitable case law and illustration (s).
 - b. Input tax credit and its regulation under GST
 - c. Composition scheme
 - d. Composite and mixed supplies and tax implications under GST *vis-a-vis* erstwhile indirect system.

6.25+6.25

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCE
LL.B End Semester Examination – 10th Semester – 2013 Batch

INFORMATION TECHNOLOGY LAW

Full Marks – 70

Time Allowed – 3 Hrs.

**BARE ACT (INFORMATION TECHNOLOGY ACT, WITHOUT COMMENT) IS
ALLOWED**

ANSWER ALL QUESTIONS

NO EXPLANATION SHALL BE OFFERED

1. “Many of the governments whose citizens are connected to the Internet have expressed concern about the problem Internet has created. They have attempted to take action against Internet intrusion upon the moral and cultural sensibilities of their citizens. However, individual attempts at regulating a worldwide system seem futile. Most attempts to define new rules rely on disintegrating concept of territory while ignoring the new network and technological borders that transcends national boundaries”. Examine the issue of Internet Regulation and its effectiveness with special reference to the above quotation. 10
2. If a website is accessible in a particular place that may itself be sufficient for the Courts of that place to exercise personal jurisdiction over the owner of website. Argue for and against this statement. 10
3. Examine existing legal regime in India to offer effective remedy in case of Spam activity. 10
4. X offers a course on ethical hacking through a website. Examine liability of X in India. 10
5. There is an apprehension that Facebook users’ data may be used to influence electoral process in India. Prepare a note for Govt. of India to frame charges against Facebook by exploring existing legal regime in India. 10
6. Examine the role of Information Technology Act in building confidence in E – Commerce activities in India. 10
7. Obscenity law in India has failed to remove undesirable content from the Internet. Critique the role of obscenity law. 10

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
LL.B. End Semester Examination- 8th Semester- 2014 Batch
Intellectual Property Rights, Plant Genetic Resources and Agriculture

Total Marks: 70

Time: 3 hours

A: Answer the following questions:

1. (a) “Seeds reproduce themselves almost indefinitely and thus do not lend themselves to commodification. Because seeds are not easily commodified, two things have remained true until the latter part of this century: the genetics of most major crop plants have been regarded as common heritage, and little private investment has been made in plant and crop improvement.”

How far the above statement stands valid in view of plant variety protection as recognized under international realm of global trade and property protection? Discuss.

- (b) What are the core requirements of an effective *sui-generis* system for plant variety protection? – Explain. 8+6

2. “Although the text of TRIPS and the CBD provide little guidance as to how to implement their provisions, and recent WTO jurisprudence is not fully elucidatory either, it can be seen that the overarching principles espoused in each agreement guide their implementation with a pervading flavour of flexibility and equity. To this extent, specific provisions such as Articles 67¹ and 30² of TRIPS may be more fully utilized in future in order to achieve practicable consonance between these two important international instruments.”

Critically analyze the above statement with special reference to the Indian legislative policy in this regard. 14

B: Answer any three of the following questions:

3. “.....extension of property rights to intangible like intellectual property represents another reification³ of the concept of property. By granting the status of property to knowledge, IPRs do not make distinctions between tangibles and intangibles. Plant breeders’ rights

¹ **Technical Cooperation:** In order to facilitate the implementation of this Agreement, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favour of developing and least-developed country Members. Such cooperation shall include assistance in the preparation of laws and regulations on the protection and enforcement of intellectual property rights as well as on the prevention of their abuse, and shall include support regarding the establishment or reinforcement of domestic offices and agencies relevant to these matters, including the training of personnel.

² **Exceptions to Rights Conferred:** Members may provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

³ Reification is a complex idea for when you treat something immaterial as a material thing / regarding something abstract as a material thing.

and patents in life forms take it a step further and do not make distinctions between biological and non-biological forms of property. It replicates the old form of jurisprudence to all forms of innovative activity, DNA, micro-organisms, which makes it possible to acquire IPRs over life forms which lack the basic criteria of man-made innovations.”

In view of the above critically discuss the development of plant intellectual property rights with special reference to the role played by the judiciary in it. 14

4. (a) “Neither the WTO Agreement nor the TRIPS Agreement prevents any State from adopting legislation or measures to safeguard the interest of the marginalized people involved in agriculture. Rather, the fact that issues like farmers’ rights or traditional or community intellectual property rights were not subject to TRIPS negotiations, implies that States are free to adopt legislation in these areas. They can also adopt any relevant measures in order to ensure the realization of the right to food. The only condition is that these laws or measures do not negatively affect the realization of TRIPS, meaning that the TRIPS provisions cannot be given effect.”

Critically analyze the above statement.

(b) Can the modalities of rights protection that TRIPS promotes be utilized to the socioeconomic benefit of all members? Justify your answer. 8+6

5. “Engagement with law can influence a group’s institutional architecture, discourse, and strategies. However, this engagement presumes the capacity of the right bearer to engage with law. Ownership rights are meaningless for a community of farmers whose engagement with law is severely constrained because of a whole host of factors like absence of functional literacy or legal literacy, awareness of bureaucratic/ legal procedures, financial resources to name a few.”

In view of the above statement critically evaluate the legislative framework in India recognising farmers’ rights in the context of proprietary claims in agriculture. 14

6. (a) Can traditional knowledge be protected through IPRs mechanisms? Justify your answer.

(b) Write short note on the following:

- i. International Union for the Protection of New Varieties of Plant;
- ii. GM Seed and Indian agriculture.

4+5+5

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
LL.B. End Semester Examination- 8th Semester- 2014 Batch
International Criminal Law

Full Marks - 70

Time Allowed: 3 Hrs.

Attempt any **Five** Questions. All questions carry equal marks. **(14x5)**

Q.1 The Post-World War II era is the most important turning point in the development of international criminal law. Examine this statement with special reference to Nuremberg Trials.

Q.2 Genocide is the international destruction of the members of the 'protected' group in whole or in part through well specified categories of conduct. Can the prohibited acts of crime of genocide be extended to rape?

Q.3 'I contend that the scope of the area of international criminal justice that deals with basic human rights violations should be wider than is currently acknowledged, in that it should include some individual violations of human rights rather than only violations that have a collective dimension'- Massimo Renzo. Evaluate this statement with special reference to crimes against humanity.

Q.4 The most important difference between prior legal framework and Article 25 (3) ICC Statute lies not in the redefinition of the scope of individual criminal responsibility in international criminal law but in the systematisation of modes of participation. Examine this statement.

Q.5 War crimes are serious violations of customary and treaty rules belonging to the corpus of international humanitarian law of armed conflict. Analyse and explain.

Q.6 Write a critical notes on **any two**:

- A) Crimes of aggression
- B) Tokyo Trial
- C) International Criminal Tribunal for the former Yugoslavia (ICTY)

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
LL.B. End Semester Examination- 8th Semester- 2014 Batch
International Investment Law

Total Marks: 50

Time: 3 hours

INSTRUCTIONS

1. The paper is divided into two parts- Part I consists of a single compulsory question. Part II consists of 4 questions, of which you are to attempt any 3.
2. You may answer the paper in any order, but please answer one Part at a time, and number the questions accurately. The internal questions in Part II may be answered in any order of your choice.
3. This is an OPEN BOOK exam. Thus, you are allowed access to all material you desire to carry, except those stored electronically.
4. Do not leave any answer unattempted. The purpose of this paper is to test your understanding, not to question your intelligence or ability.

ALL THE BEST.

PART I- COMPULSORY

1. In 2012, the German oil company Fast Exploration entered into an oil exploration and production contract with the small state Amalgamasia. Amalgamasia is a poor country of only about 1 million people, known for its natural beauty and a small but developing tourist industry. Especially the country's short coastline is famous for its white, unspoilt beaches and lush vegetation.

According to the contract, the company was given exclusive rights to explore the whole continental shelf outside the country's coastline, and to develop any prospective oil or gas reserves that might be found. The latter was subject to a future production license being granted by the government. The company had however been given strong assurances by the government that this was merely a formality and that a production license would be granted, provided that the oil could be produced in a safe and secure manner without harm to health and the environment. It also undertook certain minimum commitments regarding the exploration work to be undertaken. Inter alia it should perform full scale seismic exploration of certain more closely defined areas and drill a minimum of four exploration wells. This amounted to a minimum investment of about 100 MUSD.

Oil was discovered not far outside the Amalgamasian coast after the exploration program had almost run its course and was nearing the end. The discovery of oil caused uproar among the Amalgamasian public. The tourist industry, aided by both local and international environmental groups, voiced strong opposition against a producing oil field just outside the unspoilt Amalgamasian coastline. As a response, the oil company commissioned an independent impact assessment from a respected international consultancy firm, which

concluded that producing the oil did not pose any particular environmental risks. Since the field was so close to shore, it would even be possible to produce the oil by using almost entirely subsea installations, which both meant that the environmental risk could be reduced, and that there would be no visible surface installations in the vicinity of the beaches.

The sitting government strongly supported the plans to develop the oil field, and turn Amalgamasias into another "haven of welfare capitalism" as they called it. This did not persuade the environmental lobby and the public opposition led by the tourist industry however. With reference to the Deepwater Horizon accident in the Gulf of Mexico the message was hammered into the public that oil production always posed a risk, no matter what safety measures were taken. In elections in 2014, the government was ousted from office and a new government was elected based on its outspoken desire to ban all oil production in Amalgamasian waters "for all eternity." Soon after, a new law was enacted which put a ban on all oil exploration and production activities on the Amalgamasian continental shelf. Fast Exploration nevertheless went ahead with its plans, and applied for a production license on the basis of a development plan that was confirmed by independent consultants to be state of the art and based on the newest and most advanced technology available, with only negligible risk to the environment. The license application was nevertheless summarily rejected by the government, with reference to the ban.

After a six month period of unsuccessful consultations and negotiation with the government, the company has presented a claim before international arbitration based on the bilateral investment treaty between Germany and Amalgamasias (see annexure), demanding compensation for its losses. The parties are in agreement that Fast Exploration is an investor within the terms of the agreement, but counsel for Amalgamasias argues that the company has not made an investment in Amalgamasias, as it does not possess any physical property or other tangible interests in Amalgamasias that could properly be deemed an investment. Furthermore, the contract contains an exclusive jurisdiction clause, saying that all disputes under the contract should be submitted to the Amalgamasian courts. Amalgamasias therefore disputes that there is arbitral jurisdiction under the treaty. Fast Exploration on the other hand maintains that the treaty provides a separate basis of jurisdiction irrespective of the contractual jurisdiction clause, and that the government's ban of petroleum activities and subsequent refusal to grant a production license constitutes an indirect expropriation of its investments in Amalgamasias in accordance with article 6 of the BIT. Write a legal opinion where you analyze and answer the following:

- i. Does the Arbitral Tribunal have jurisdiction over the dispute?

- ii. (Irrespective of the first answer) Is the claim for indirect expropriation likely to succeed? If not, can a separate claim of breach be raised by Fast Exploration? Explain.

[8+12 = 20 marks]

PART II- OPTIONAL

(Answer any 3 of 4)

2. Explain the concept of Full Protection and Security (FPS). Does this standard merely complement the FET protection? Do you feel the FPS standard should include non-physical protection of investment? Explain.

[10 marks]

3. Discuss whether arbitral jurisdiction under a bilateral investment treaty may be based on an MFN-clause. Illustrate with suitable cases.

[10 marks]

4. Write Short Notes on **any two** of the following:

I. Exhaustion of Local Remedies;

II. Distinguishing International Investment and Trade Regimes;

III. Calvo Doctrine and the New International Economic Order.

[5+5 = 10 marks]

5. In the *White Industries* case (2011), India lost an arbitration dispute against the Australian investor based on certain provisions of the India-Australia BIT. Examine the backdrop to the dispute, the issues raised and analyse the final verdict. What strategies could India adopt in order to avoid such claims in the future?

[10 marks]

Annexure

Relevant provisions of the bilateral investment treaty between Germany and Amalgamasia

Article 1. Definitions For the purpose of this Agreement: (...)

(2) "investment" means any kind of asset, provided that the investment has been made in accordance with the laws and regulations of the other Contracting Party, and shall include in particular, though not exclusively:

(a) movable and immovable property and any other property rights such as mortgages, liens or pledges;

(b) shares, debentures or any other kinds of participation in companies;

(c) claims to money or to any performance having an economic value;

(d) intellectual and industrial property rights, including copyrights, patents, trademarks, trade names, technical processes, know-how and goodwill;

(e) concessions conferred by law or under contract, including concessions to search for, extract or exploit natural resources. (...)

Article 6. Expropriation and compensation

(1) Neither Contracting Party shall take any measure depriving, directly or indirectly, an investor of the other Contracting Party of an investment unless the following conditions are complied with:

(a) the measure is taken in the public or national interest and under due process of law; (b) the measure is not discriminatory; (c) the measure is accompanied by provisions for the payment of prompt, adequate and effective compensation.

Article 8. Disputes between an investor of one contracting party and the other contracting party

1. Disputes between an investor of one Contracting Party and the other Contracting Party arising in connection with an investment in its territory and concerning the consequences of the non-implementation, or of the incorrect implementation of the obligations under this Agreement shall, to the extent possible, be settled amicably.

2. If such a dispute has not been amicably settled within a period of six months from written notification of a claim, it may be submitted by either party to the dispute:

- either to the competent tribunal of the Contracting party in whose territory the investment was made; or

- an ad hoc arbitration tribunal established under the arbitration rules of the ICSID

Elective Subject: IP & Competition Law

Total Marks: 50

Time Allowed: 3 Hrs.

Section A

Please answer any four out of five questions: (10*4=40)

(All questions are for ten marks each).

1. Please refer to the chart provided. ABC Limited wants to register the **word** Mark “ARJUN” for bed sheets and bedcovers in Class 24. Advise them on the chances of getting a registration based on the search report.
2. Distinguish between passing off and infringement of trademark with reference to leading case laws.
3. Critique the Compulsory Licensing Regime in India with reference to the TRIPS Agreement.
4. Mobartiz has an existing patent for a cancer drug called Rexavar. The patent is about to expire. They have made a significant improvement to the drug due to which hairfall will not occur. Advise them on whether the patent can be registered with reference to case laws.
5. ABC Ltd. a mobile operator is offering data services for free if you subscribe to the calling services. Is this an instance of bundling? Is it anti- competitive? Decide.

Section B (Answer any 2) (5 marks each). (5*2=10).

1. Three airlines enter into a code sharing agreement to fly between Kolkata and Agartala as there is not much traffic on this route. Decide on the implications of this consortium.
2. How can the conflict between research and innovation and access to life saving drugs be balanced?
3. What are the FRAND provisions? What are the parameters a court must look at to see if the provisions are violated or not?

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

End Semester Examination – 6th Semester – 2015 Batch

LABOUR AND INDUSTRIAL LAW-I

Full Marks – 70 marks

Time Allowed: 3 hours

Instructions

1. All questions are compulsory
 2. This is an open-book examination
 3. You are allowed to bring books, journals, notes and other printed materials. However, no electronic device can be used during the examination
 4. In any case of any omission in the facts that you believe is so substantial as to prevent you from forming a conclusive opinion on any issue, please state so with reasons.
 5. The characters referred to in the questions are fictional. Any resemblance to any actual person is purely coincidental.
-

Question No. 1

“The tests of relationship of employment have gradually been expanded to cover forms of work which provide greater autonomy for the workers as a conscious response to systematic evasion of labour regulation through outsourcing of work. Yet, in spite of these new indices of employment, centrality of relationship of employment in labour law leaves a large pool of intermediate workers outside the scope of labour law”. Do you agree. Please comment with reference to case law. **[14 Marks]**

Question 2

“Subsequent statutory changes have made a significant part of the judicial dicta on definition of ‘appropriate government’ redundant.” Please comment.

[10 Marks]

Question 3

Please assume that the laws of Berzerkistan are in parimateria with laws of India.

Deposit Insurance and Credit Guarantee Corporation, (DICGC) is a subsidiary of Reserve Bank of Berzerkistan established under the DICGC Act, 1991, a law of the Parliament of Berzerkistan, for the purpose of providing insurance of deposits and guaranteeing credit facilities. It insures all bank deposits, savings, fixed, current and recurring deposits up to the limit of Rs.1 lakh of each deposit in a Bank. Deposits held by all commercial Banks, including branches of foreign banks functioning in Berzerkistan, Local Area Banks, Regional Rural Banks and all eligible co-operative banks as defined under the DICGC Act 1991 are covered by the Deposit Insurance Scheme. All the banks pay a yearly premium that is mandatory under the statute in lieu of the insurance coverage.

DICGC established a Research and Policy Division in 1992 that was mandated to monitor contemporary academic research in the field of credit guarantee and deposit insurance. The Division was headed by an Additional Chief General Manager and it has its own subordinate staff and a separate Human Resource Manager. The service conditions of the staff of the Division are different from other branches of the DICGC. Its accounts are however managed by the Accounts Divisions of the DICGC. It operates out of the same corporate office as the DICGC and the Senior Managerial staff of the Policy Division are often inter-changed with Senior Managerial Staff of other divisions. The total number of sanctioned staff in the Research and Policy Division numbered 108. The total number of sanctioned staff employed by DICGC inclusive of the Research and Policy Division was 611.

Part A

On 1st January 2017, Aneeta Unnithan was appointed as a Clerk by the Research and Policy Division of the DICGC.

The Contract of employment of Aneeta Unnithan provided, inter alia:

- a) She was required to work as a Data Entry Operator, Maintain Human Resource Files and maintain records of all research materials of the Research and Policy Division

- b) She was engaged for a term of 4 years and the contract would automatically be renewed on the expiry unless DICGC decided otherwise.
- c) She would be paid a salary of Rs. 9000 per month and the salary would be subject to an annual increment of 10% and such increment would come into effect on January 1 of every year.

On 8th October 2017, the DICGC decided to close down the Research and Policy Division after an Organisational Review found that the contribution of the Division to the work of the Contribution was marginal and did not justify the expenditure incurred on it. The DICGC served a notice of one month to all the subordinate staff of the Research and Policy Division and terminated their employment on November 8, 2017 and closed down the Research and Policy Division.

Aneeta Unnithan applied to the Central Government of Berzerkistan challenging the legality of termination of her employment by DICGC asking for a reference to an Industrial Tribunal. The Government, in its response to her application, refused a reference on the ground that DICGC is not an industry.

She has been advised by her acquaintance, a Professor of Beliaghata Labour Relations Institute (BLRI), that she can file a writ challenging the refusal of reference. Do you agree? Does she have any other remedy that she can pursue? Does she have sufficient grounds to question the legality of termination of her employment? **[8 marks + 4 marks + 8 marks]**

Part B

The Chairman of DICGC was served a notice by the Central Labour Commissioner of Berzerkistan directing the Corporation to make necessary contributions under the Employees State Insurance Act 1948 and the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The DICGC has sent you a query asking whether it is covered by these two social security statutes. Please advise.

[10 marks]

Question 4

On November 2012, Himalaya Drugs Workmen's Union [HDWU] submitted a demand for payment of dearness allowance to the daily-rated workmen employed the Wadala Factory of Himalaya Drugs Ltd.[HDL] at the same rate as is paid to the monthly-rated employees, with effect from January 1, 2013. On November 15, 2012 these demands were placed before the Conciliation Officer and the management of HDL and the HDWU were able to thrash out a settlement wherein it was, inter alia, provided that:

- (1) The daily-rated workmen shall have the same rate of dearness allowance at 6 % of the basic wages.
- (2) This settlement shall be effective from 1st April 2013 and shall be for a period of four years.
- (3) Except as otherwise provided or modified by this Settlement, the workmen shall continue to be governed by all the terms and conditions of service as set forth and regulated by the Certified Standing Orders governing the Factories of HDL.
- (4) Clause (6) of the Standing Orders stated that all workmen of HDL shall be entitled to annual Diwali bonus of 50 % of their average pay for 30 days.
- (5) Clause (16) of the Standing Orders stated that workmen are prohibited from going in strike during any period in which a settlement is in operation in respect of any of the matters covered by the settlement or award.

Part A

On 1st January 2018, a new Trade Union, Himalaya Drugs Daily Mazdoor Sangh [HDDMS] was set-up. On 6th January, 2018, the HDDMS made a representation to the CMD of HDL asking for increase of Dearness Allowance and Diwali Bonus. On 14th January, 2018, the HDDMS members went on a strike in support of their demand. Please determine the legality of the strike.

[8 Marks]

Part B

Gopal Goud, one of the workmen, was employed as a floor-chemist on a daily-rated basis on a consolidated daily salary (including dearness allowance) of Rs 600 per day from 01 November 2016. His daily salary was increased to Rs. 800

per day on 1st November 2017. On 6th November 2017, he was paid a Diwali Bonus of Rs. 6000. Claiming that he was denied his rightful Diwali Bonus, he instituted a civil suit against HDL.

Please decide

- (a) whether the Gopal Goud's claim that the Diwali bonus paid to him was deficient has any merit.
- (b) whether the civil suit instituted by him is maintainable.

[8 marks]

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
LL.B. End Semester Examination- 8th Semester- 2014 Batch
Law of Insurance

Total Marks: 50

Time: 3 hours

Bare Acts Allowed – Insurance Act, 1938 and IRDAI Act, 1999

This Question Paper is divided into **two parts**. Part –A and Part – B. Answer **both** the questions from Part-A and **any two** questions from Part – B.

PART- A

Answer **Both** the Questions from this Part

2x15 = 30 marks

1. National Assurance Company Limited (hereinafter 'NACL') is a statutory company that is carrying on a business of Life Insurance since past 40 years in India. Insurance Services Company limited (hereinafter ISCL) is a company which is into the business of accepting and dealing in the assignment of life insurance policies issued by NACL.

ISCL would acquire life insurance policies by paying a consideration to the policyholders of life insurance policies that are on the verge of lapsing due non-payment of premiums. These policy-holders would thereafter assign the policies in favour of ISCL. Subsequently, ISCL would re-assign these Life Insurance Policies to a new third party assignee for recovering the entire price and some additional commission from the new third-party assignee.

Aggrieved by the business practice of ISCL, NACL issued a circular declaring that the practice of 'trading in Life Insurance Policies' by ISCL, is 'illegal' with retrospective effect and that NACL shall have full discretion to refuse or not to register or honour assignments in favour of ISCL or any third party re-assignees to the life insurance policies made by ISCL.

ISCL complained to the regulator i.e. Insurance Regulatory Authority (hereinafter 'IRA') requesting IRA to declare the said circular 'null and void' and also direct NACL to honour all assignments made in favour of ISCL. Against this, IRA directed NACL to furnish a reply and justify its action against ISCL. The response of NACL was as under:

Life Insurance Policies, in general, are a measure of social security for the family members of the life assured and in the absence of adequate savings or securities, these

Policies are often the only financial security available to the family members of the deceased life assured.

NACL noticed that these Policies were being purchased and traded in like saleable securities of a stock market.

Such trading in the NACL's Life Insurance Policies offends the very essence of the Life insurance contract and leaves the family of the life assured totally unprotected in the event of the death of the life assured. Hence, in order to prevent such speculation and wagering which causes harm to the families of the insured deceased, NACL has taken a policy decision to refuse the registration of assignments in favour of ISCL, whose business is purely in the nature of trading in Life Insurance Policies.

NACL also argued that such practices of trading in life insurance policies if allowed would be against public policy and may also pose itself to be a moral hazard to the society, esp. as the component of 'insurable interest' is absent on the part of such assignees in this case.

Applying appropriate provisions of law, write a reasoned judgment whether or not ISCL would succeed in its plea? Argue on both sides. 7.5 + 7.5 = 15 marks

2. Sundar took a life insurance policy for a period of 20yrs with the National Assurance Company Limited (hereinafter 'NACL'). NACL is the largest provider of Life Insurance Policies in India. Sundar paid his premiums regularly. At the time of entering into the contract of life insurance, the medical officer of NACL examined his health conditions and found him healthy and fit. He produced his horoscope in support of his age, which was accepted by NACL and the NACL also granted the age admission certificate to Sundar. Sundar also completed other formalities under the policy. After 2yrs and 6 months suddenly Sunder died of cardiac arrest. Following Sundar's death, his nominee immediately informed the NACL's manager of local office and claimed the sum insured under the policy. NACL after three years from the date of nominee's claim intimated the nominee, that Sundar suppressed his actual age at the time of entering into the life insurance contract. Sundar was well past insurable age under the policy and also that Sundar suppressed a material fact that he suffered from a disease called elephantiasis at the time of entering the policy and hence Sundar's nominee is not entitled to receive the sum insured under the policy.

Write a reasoned judgment whether Sundar's nominee is actually entitled to receive the sum insured or not. Argue on both sides. 7.5 + 7.5 = 15 marks

PART- B

Answer any **Two Questions** from this Part

2x10 = 20 marks

3. With the help of decided cases, critically analyse the significance of various underlying principles in a contract of insurance. 10 marks

4. Discuss the impact of 'assignment' and 'nomination' upon a Policy of Life Insurance in India. 10 marks

5. Write short notes on any two of the following: 2x5 = 10 marks
 - a. Reinsurance
 - b. India's FDI policy in the Insurance sector
 - c. Loss apportionment under a policy of marine insurance

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

LL.B End Semester Examination – 10th Semester – 2013 Batch

THE LAW OF PRIVACY

Full Marks – 50

Time Allowed – 3 Hrs.

INSTRUCTIONS

1. The paper is divided into two parts- Part I consists of a single compulsory question. Part II consists of 4 questions, of which you are to attempt any 3.
2. You may answer the paper in any order, but please answer one Part at a time, and number the questions accurately. The internal questions in Part II may be answered in any order of your choice.
3. This is an OPEN BOOK exam. Thus, you are allowed access to all material you desire to carry, except those stored electronically.
4. Do not leave any answer unattempted. The purpose of this paper is to test your understanding, not to question your intelligence or ability.

ALL THE BEST.

PART I- COMPULSORY

1. All is not well in the kingdom of Id. Julius, the long time Prime Minister and leader of the Conservative Party, is sick and suspicious. He feels threatened that his kingdom shall fall upon hard times upon his imminent death and that his beloved nephew and successor in-office, Augustus, shall have a hard time governing a nation filled with political dissenters and subversive elements. He is especially worried about the nearest competitor, Brutus, recently elected leader of the opposition by the Labour Party. Brutus has been rallying support from the working classes and teachers unions across the country and his popularity has been on the rise in recent times. Julius is due to retire from active politics within the year, after which the general elections are due. Julius feels his political empire shall fall apart upon his death/ retirement, and he needs to act swiftly.

In consultation with his Home Minister, Antonius, he devised a strategy to curb dissent through propaganda. They hired a technology-based startup called Cicero Academy (CA) who agree to run a campaign of misinformation with the slogans ‘Glorious years with Julius’ and ‘Don’t Elect the Brute’. CA managed to hack into the social media site, NoteBook, and unearth personal information of millions of citizens, analysing their data to create accurate personality profiles. They then curated the social media newsfeed for each individual separately, feeding handpicked information in order to sway voters towards the Conservatives. Tiberius, an employee of CA, felt uncomfortable about this venture and decided to disclose this before the media. What followed was a huge uproar within the media and civil society of Id raising concerns about civil liberties including the freedom of speech

and privacy, and several lawsuits were filed against the State of Id and CA. While the State denied all allegations of involvement and promised to assist with the prosecution of Id, CA maintained that since the entire profiling process was done by computers and hence they were not liable. They also argued that since the Right to Privacy can only be claimed against the State, they were not bound by the law in this regard.

You are the senior counsel and consulting constitutional expert to the People's Union for Civil Liberties, an NGO which plays a watchdog role in Id politics. You have been asked for your opinion on whether a case can be brought against Id and CA on the grounds of violation of Freedom of Speech and Right to Privacy. Give your reasoned opinion based on decided cases and legal provisions.

The Laws of Id are *pari materia* with that of India.

[20 marks]

PART II- OPTIONAL

(Answer any 3 of 4)

2. The Cellular Jail in Andaman Islands is an example of a prison constructed along the lines of Jeremy Bentham's Panopticon. Explain the structure, function and purpose of this model with reference to Foucault's knowledge-power paradigm and the modern 'surveillance state'.

[10 marks]

3. Samuel Warren and Louis Brandeis' article in the Harvard Law Review sets forth the notion of privacy as the 'right to be let alone', and continues to serve as the wellspring for the modern conception of the right. What are the limitations to the Warren-Brandeis model? Evaluate them against the Solove-model based on Taxonomy of Privacy.

[10 marks]

4. There was an noticeable upsurge in the number of incidents of road accidents on American highways in the aftermath of 9/11. Account for this strange phenomenon with reference to terrorism, national security and civil liberties.

[10 marks]

5. Write short notes on **any two** of the following:

I. Internet of Things;

II. Legality of Roving Wiretaps under PATRIOT Act;

III. ICMR Guidelines on Biobanking.

[5+5= 10 marks]

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

End Semester Examination – 8th & 10th Semester – 2014 & 2013 Batch

Elective subject: Law of Secured Transactions

Total Marks: 70

Time Allowed: 3 Hrs.

Section A

Please answer any five out of six questions:

(10*5=50)

(All questions are for ten marks each).

1. What is the process of securitisation by which assets are transferred from the Obligor to the Special Purpose vehicle? How does the SPV issue Asset backed Securities? 7+3=10
2. What is the procedure for adjudicating a ‘dispute’ under the Insolvency and Bankruptcy Code, 2016? Tabulate the steps from the point of serving a notice of a claim?
3. Innovation Industries Limited (IIL) took a loan from IBIDI Bank for an amount of Rs. 10 Lakhs. It was a **revolving** Loan. As on April 1, 2018 Rs. 5 lakhs was due to IBIDI Bank from IIL. However, 3 lakhs had yet to be disbursed. IBIDI served a demand notice for an amount of 2.5 lakhs which had become due from November 1, 2017. IIL asked for a restructuring of the loan. The key term of the restructuring was that the 3 lakhs should be disbursed now as it would help to revive the company. Identify the key issues and decide.
4. Bharat Waterworks (BW) took a loan from HABC Bank to the tune of Rs. 1 crore. PRK Infrastructure had guaranteed the amount. BW was facing a lockout in its factories called by its employees. BW could not manufacture and started delayed its EMI for 3 months. HABC Bank served a notice of default on BW. BW argued that it was not a default. The claim was not bonafide. They said that the entire amount had not been disbursed. Also, HABC called upon PRK to pay the amount. Decide with respect to decided case laws.
5. In 2010, ABC Pvt. Ltd. Had taken a loan from Royal Irish Bank (RIB) to the tune of Rs. 10 crores. Subsequently there was a default to the tune of 3 crores. RIB proceeded under the SARFAESI Act. However, proceedings kept getting stalled at the Debt Recovery Tribunal. RIB now wants to proceed under Section 7 of the IBC. Advise RIB.
6. What is meant by moratorium under the IBC? What are the rights of the creditors during the period?

Section B

(All questions are for 5 marks each). Answer any four. (5 x 4 = 20)

1. Distinguish between financial and operational creditors under the IBC with the help of examples. How can they prove their “debts”?
2. How do you ensure that the Bank is “Bankruptcy Remote” in a securitisation Transaction? Explain with reference to the balance sheet crisis?
3. What is the process of appointment of an Insolvency Resolution Professional (IRP)? What are the duties of an IRP?
4. What is the ambiguity with the term “default” under the IBC? How is it to be determined?
5. Does the NCLT have the power to pass ex-party Orders under the IBC? Can it impose a moratorium on a corporate debtor’s assets without the requisite notice? Answer with reference to decided cases.

LAW OF WRITS

Full Marks: 70

Time Allowed: 3 hours

Attempt any **Five** Questions.

Q.1 Can fundamental rights be claimed against following entities under Article 32 of the Constitution of India-
(7x2 = 14 marks)

- A) B.C.C.I
- B) Council of Scientific and Industrial Research (CSIR)

Q.2 A private university is established by an Act of the State Legislature. The Act makes it mandatory for the university to implement the directive of the government including those relating to the terms and conditions of service, pay and allowances applicable to the other universities recognised by University Grant Commission which is a statutory body. A college run by a Trust and affiliated to the private university refuses to pay revised pay scales to its teachers and its employees even though other universities have implemented the direction of the government in this matter. What is the remedy for the aggrieved teachers and employees? State the powers of the court in case they approach it for any relief. **(14 marks)**

Q.3 On what grounds can a writ of certiorari be issued? Can it be issued to correct conclusions arrived at based on facts? **(14 marks)**

Q.4 Government of India decided to fill vacancies in Indian Administrative Service on an urgent basis. To this effect, Government of India decided to fill 50% of vacancies through open competition and remaining 50% vacancies from various states by inducting Provincial Civil Service officers in IAS cadre. Central Government directed states to conduct interviews of PCS officers in their respective states and send a list of recommended officers to UPSC. In Uttar Pradesh, an interview board was constituted in this regard, and Mr X, a senior PCS officer, was made a member of the board. Mr. X had also applied for induction in IAS cadre. However, Mr. X did not sit in the selection board at the time his name was considered for selection. When final selection list was published his name was on the list of selected candidates. Mr. Y, who was also an applicant, challenged this selection list on the grounds of violation of principles of natural justice. Assuming yourself a judge in this case decide on the legality of this selection list. **(14 marks)**

Q.5 The traditional rule of standing which confines access to the judicial process only to those to whom legal injury is caused or legal wrong is done has now been jettisoned by this court and the narrow confines within which the rule of standing was imprisoned for long year as a result of inheritance of the Anglo-Saxon system of jurisprudence have been broken and a new dimension has been given to the doctrine of *locus standi*.... [Bhagwati J. In *PUCL v. Union of India* AIR 1982 SC 1473]. In the light of this statement, discuss the emergence of new jurisprudence with regards to locus standi with special reference to *S.P. Gupta v. Union of India* AIR 1982 SC 149. **(14 marks)**

Q. 6 Attempt briefly any *four* of the following: **(3.5x4= 14 marks)**

- A) Curative petition
- B) Distinguish between judicial review and appeal
- C) High Court's power to annul a marriage under Article 226
- D) Exhaustion of alternative remedies
- E) Laches as rule restricting judicial review.

Q.7 In the year 2016, University of NCR advertised for the post of Assistant Professor (Law) against 120 vacancies on permanent basis. The requisite qualification was LLM with at least 55% marks along with

NET. University was facing acute shortage of teachers in Faculty of Law and it used to appoint ad-hoc teachers on yearly basis. Many ad-hoc teachers were teaching in the university for several years and they had also applied for these advertised vacancies. In September 2017, interviews were conducted. In December 2017, selected candidates were informed about their selections via telephonic conversations or WhatsApp messages. The final selection list was not published. Ad-hoc teachers were asked to leave and now ad-hoc teachers are questioning the selection process alleging that University has not followed UGC criteria and has not published the results in public domain to escape public scrutiny. These ad-hoc teachers have approached you for your legal advice. Give your advice with regards to appropriate writ in this case. **(14 marks)**

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
B.A. LL.B. End Semester Examination – 6th Semester – 2015 Batch

LAW RELATING TO LAND AND REAL ESTATE

Full Marks – 50 marks

Time Allowed: 3 hours

Instructions:

- **Students are allowed to consult Module and bare acts pertaining to Land Acquisition Act, 2013, SEZ Act, 2005 and Real Estate Regulation and Development, Act 2013**
- **Answer all questions**
- **Kindly use relevant materials, cases and statutory provisions in support of your answer**
- **No clarification can be sought in the exam hall**

1. Mr. Singh is owner of various tracts of fertile agricultural land situated in Chak Gujran Village, Hoshiarpur District in the State of Punjab. M/s. International Tractors Ltd., is a Company incorporated under the Companies Act, 2013. It intends to set up a project named Ganesha Iron Ore. In this regard, it requested the State Government to acquire lands possessed by Mr. Singh as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (*for short, the Act*). In pursuance, the State Government issued a notification U/s.11 of the Act, on 15.03.2014, as under:

“Whereas it appears to the Governor of Punjab that Land is likely to be taken by the Government at the public expense, for a public purpose, namely, for setting up of Ganesha Iron Ore Project by M/s. International Tractors Ltd. at Chak Gujran Village, Hoshiarpur District. It is hereby notified that the land in the locality described below is likely to be required for the above purpose

In exercise of powers conferred by the aforesaid section, the Governor of Punjab was pleased to authorize the officers, for the time being, engaged in undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted under the law.

Any person interested, who has any objection to the acquisition of any land in the locality may within thirty days of the publication of this notification file an objection in writing before the Collector, Land Acquisition Department of Industries & Commerce, Punjab, 17-Bays Building, Chandigarh”

Mr. Singh filed his objections inter alia, stating that:

‘a).The proposed acquisition by the Punjab Government is unconstitutional, uncalled for and against law and fact of the case, just in order to cause loss to the objectors and to give unlawful gain to M/s. International Tractor Ltd.’

b).The acquisition of the proposed land belonging to the objectors is against the interest of the policies of the State.

c). The land in question is cultivable fertile land and the proposed project, if any, can be shifted elsewhere at some barren land or in an industrial zone.

d). The objectors are cultivating the land for the last 25 years. It is the only source of income and if the land is acquired by the State Government, the objectors cannot eke out their livelihood and it grossly offends their right to life.

After giving all concerned parties due opportunity, the Land Acquisition Officer, made an Award and a declaration was issued for taking over the physical possession of the land. Mr. Singh, highly aggrieved and greatly prejudiced by the action of the State Government in so far as acquisition of his land is concerned approached NUJS Legal Aid Cell. Advise Mr. Singh about the remedies available under the law. **9 Marks**

2. The property measuring about 10 cents of land is situated in Cuttack belonging to one Mr. Panda. The land was situated in the heart of the City. Mr. Panda gave power of attorney to the builder for construction of a multi-storeyed apartment on the said land. On an application made to Odisha Developmental Authority by the builder, the Authority, on 3.3.2006, accorded sanction for construction of a four storeyed building, in accordance with the building plans sanctioned by the Authority. The construction commenced and as the building came up, it was found to be built grossly in excess of the sanctioned plan on all the floors. Though the sanction accorded by the Authority permitted only four storeys, the builder erected six storeys. On complaint, the Authority initiated proceedings under Section 92 of the Orissa Development Authorities Act (*hereinafter referred to as 'the Act'*) against the builder calling upon him to show cause as to why the offending portions should not be demolished. The stand taken by the builder in its response was that the deviations were very minor ones and called for a sympathetic view and sought compounding of the deviations instead of being demolished. However, the Authority in a hasty manner considered the plea of the Builder and thereby passed an order regularizing the unauthorized constructions made in the building. Soon thereafter, the residents of the said locality made a collective application to the Authority seeking the withdrawal of the order granting regularization of the unauthorized construction as it would be detrimental to the environment and would also endanger life and safety of the occupants of the building and other inhabitants of the locality. The collective representation made by the people of the said locality was also marked to Odisha Municipality, Orissa Pollution Control Board, the State Government and all the concerned Authorities. However, no visible action was forthcoming and the representation made by the residents was kept in a cold storage. The unauthorized construction is causing great and irretrievable hardships to the residents. With no options left, the residents approached NUJS Legal Aid Society for immediate relief. Advise. **6 Marks**

3. On 06.08.2002, the Rural Commissioner, Thane Municipal Corporation (for short, "Corporation") made a proposal for acquiring lands measuring 99.94 acres for the development of Special Economic Zone, in particular IT Parks. Portions of the said land was used for common community purposes comprising of Lake, Ponds and Play Ground and Gracing area for live stocks etc. The proposal of the Rural Commissioner was backed by approval of the Standing Committee. The proposal of the Rural Officer as approved by the Standing Committee was sent to Collector Thane. The Collector taking into consideration the socio and economic developments of the area, sanctioned the proposal and forwarded the same to Special Land Acquisition Officer, Thane for further action. On 30.09.2004, a notification under Section 4 of the Land Acquisition Act, 1894 was published in the official gazette. Then notices under Section 4(1) were served on to the land owners / interested persons. On 26.12.2005, a declaration under Section 6 of 1894 Act was published in the official gazette and on 02.02.2006, it was also published at the site and on the notice board in the Office of Tahilsdhar. Following the notices under Section 9 of 1894 Act on 31.01.2008, the Special Land Acquisition Officer made an award under Section 11 of the 1894 Act, ordering the taking over of possession. Though, an Award U/s.11 was passed, the possession of the land was not taken. However, the compensation amount was deposited to the Government Treasury. After a period of ten years, the land owners approached the Court challenging section 4(1) Notification and consequentially prayed for enhancement of compensation or reconveyance of land. Enumerate the remedy available to the land owners under the 2013 Act. **9 Marks**

4. 'Casa Grande' reputed company engaged in the construction of residential Apartments. Apart from that, the company also promotes individual residential plots and Villas all throughout the Country. Despite being a company of such repute, it has not registered itself with the Kolkata Real Estate Development Authority, because the said Real

Estate Regulation Authority has not been constituted by Government of West Bengal under RERA. One day the company advertised in Indian Express about its construction of new complex near Rajahart. Within a matter of three days, as many as 100 people booked their flats trusting the contents of the advertisement, and the prospective buyers even paid seventy percent of the flat values. They also entered into an agreement with company. Though, the said Advertisement specifically promised to hand over the possession on or before Durga Pooja 2017, the buyers came to know that only one floor of the building was completed as on Durga Pooja. Further, no work was carried on in the said premises for a long period of time and not even required building materials was seen on the spot. On enquiry with the General Manager of the company, the prospective flat owners came to know that due to the absence of co-operation from the municipal corporation, there was humongous delay in construction. The flat owners approached the State Government and expressed their grievance. However, the concerned Governmental Authority orally informed the flat owners that they are not going to constitute RERA as mandated by the Central Act, as it stands in violation of the State Act and thereby directed the flat owners to exhaust other remedies. The flat owners feeling disheartened approached you. Advise them suitably. **6 Marks**

5. Mr. Banerjee owns a Commercial Property measuring 3000 Sq. Ft, which was let out for lease to one Mr.Pattu. At the time when the property was leased out, Mr. Banerjee's son Rohit was a minor. However, Mr. Rohit attained majority in 2010. Mr.Rohit is also qualified with a post-graduate diploma in computer science and intends to set up a consultancy service in the property leased out to Mr. Pattu. In this regard, Mr.Banerjee issued a notice to vacate the property. However, the notice did not evoke any response. Mr.Banrjee personally requested Mr.Pattu to vacate the premises. Nonetheless, Mr. Pattu bluntly refused to vacate the premises. Prepare a brief in defense of Mr. Pattu. **5 Marks**

6. Write Short notes on any three of the following: **3 x 5 = 15 Marks**

- a. Significance of slum clearance and regulation rules
- b. Building code and its enforceability
- c. Land pooling scheme
- d. Land records
- e. De-notification of land acquisition
- f. Comment on the decision of the Supreme Court in Kedar Nath Yadav v. State of West Bengal and Others, (2016) with regard to return of agriculture land to the original land owners.

THE WEST BENGAL NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

2nd Year B.A. LL.B, 4th Semester, 2016 Batch

End Semester (Winter) Examination – 2017

LEGAL HISTORY – II

- A. **Answer any five long questions:** **10 x 5 = 50**
1. Trace the structure of government in the Turko-Afgan period of medieval Indian history. Explain the nature of the administrative apparatus in Turko-Afghan times? 6 + 4 = 10
 2. Evaluate the significance of departmental administration under the first six Mughal Emperors, with special reference to the administration of Emperor Akbar. 7 + 3 = 10
 3. Did the British demonstrate a desire to politically control India through its early charters, especially the Charter of 1600, the King's Commission and the Charter of 1661? 10
 4. Was the Charter of 1753 meant to reorganize the judicial system of India? Did the British succeed in ensuring a free and fair justice delivery system through the provisions of this charter? 6 + 4 = 10
 5. Examine the establishment of the *adalat* system in India. Did the *adalat* system succeed in establishing the Rule of Law in the subcontinent? 6 + 4 = 10
 6. What were the circumstances under which the High Courts of Judicature were established in India? 10
- B. **Answer any four short notes:** **5 x 4 = 20**
7. Evaluate the nature of the laws of succession under the Sultans of Delhi? 5
 8. Explain the purpose of *zat* and the *sawar*. What did the *do-aspa-sih-aspa* system imply? 3 + 2 = 5
 9. Briefly trace the establishment of the East India Company's factory at Surat. 5
 10. Explain the first phase in the administration of justice in Madras in the colonial period? 5
 11. Analyse in brief the establishment of the judicial system at Calcutta. Was the judicial system of Calcutta meant to give the British an upper-hand over Indian lawmakers? 3 + 2 = 5

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
LL.B.End Semester Examination- 8th Semester- 2014 Batch
Mergers & Acquisition

Full Marks - 50

Time Allowed: 3 Hrs.

You are permitted to carry unannotated copies of the following:

Companies Act 2013 with Rules
Competition Act 2002
Takeover Code 2011

Part A: This Question is Compulsory

(20 marks)

In 2018, Vodafone and Idea are set to merge. Enclosed are some extracts from the Scheme. Please read the Scheme and answer the following questions.

PLEASE NOTE THAT YOU MUST REFER TO THESE FACTS ALONE AND NOTHING YOU HAVE READ EARLIER ABOUT THIS MERGER.

1. There are three parties in the merger: Vodafone Mobile Services Limited (Transferor Company 1), Vodafone India Ltd (Transferor Company 2) and Idea Cellular Services (Transferee Company). Transferor Company 1 is a wholly owned subsidiary of Transferor Company 2. Transferor Company 1 and Transferor Company 2 are unlisted companies while the Transferee Company is listed on both Stock Exchanges.

2. The parties and their subsidiaries are primarily engaged in the business of providing fixed and mobile telecommunications services to consumer and enterprise customers, including direct-to-consumer video and content services that are bundled with telecommunications services in India. In addition, the Parties and their respective Groups also engage in the mobile wallet business and the Idea Group has an in-principle approval to engage in the payments bank business.

3. The Scheme is presented under Sections 230 to 232 of the Act, together with sections 13,14, 61,62,188 and other applicable provisions of the Act, for inter-alia the amalgamation of the Transferor Companies into and with the Transferee company in accordance with the relevant provisions of the Act and the applicable Laws. This Scheme will result in the consolidation of the businesses of each of the Parties as existing on the Effective Date.

4. Share Capital

Share Capital of Transferor 1	Share Capital of Transferor 2	Share Capital of Transferee
Authorised Share Capital	Authorised Share Capital	Authorised Share Capital
1,516,000,000 equity shares of Rs 10 each	5,000,000,000 equity shares of Rs 10 each	6,775,000,000 equity shares of Rs 10 each
649,412,000 equity shares of Rs 85 each		1,500 redeemable cumulative non-convertible preference shares of Rs. 10,000,000 each
200,000 0.1% non-cumulative redeemable preference shares of Rs 100 each		
5,000 0.001% non-cumulative preference shares of Rs 1,000,000 each.		
48,000,000 preference shares of Rs 100 each		
Issued, subscribed and paid-up capital	Issued, subscribed and paid-up capital	Issued, subscribed and paid-up capital
1,376,302,720 equity shares of Rs 10 each	2,813,295,823 equity shares of Rs 10 each	3,603,497,124 equity shares of Rs 10 each

5. Amalgamation of Transferor Company 1 into and with Transferee Company

With effect from the Effective Date, subject to the provisions of this Scheme, the Undertaking of Transferor Company 1 shall stand transferred to and vest in the Transferee Company as a going concern, together with all its estate properties, assets, rights, claims, title and authorities, benefits, liabilities and interest thereon, subject to existing charges thereon in favour of banks and financial institutions of otherwise, as the case may be, without any further act, instrument, deed, matter or thing being made, done or executed, so as to become, as and from the Effective Date, the estate, properties, assets, rights, claims, title and authorities, benefits, liabilities and interest of the Transferee Company by virtue of and in the manner provided in the Scheme pursuant to the sanction of the Scheme by the Tribunal and the provisions of sections 230 to 232 and other applicable provisions of the Act.

From the effective date, the authorised share capital of Transferor Company 1 shall stand transferred to and be amalgamated with the authorised share capital of the Transferee Company, without any liability for payment of any additional fees or stamp duty and consequent to the transfer the authorised share capital of the Transferee company will stand enhanced without any further act, instrument or deed to 23,793,002,000 equity shares of Rs 10 each and 1,500 redeemable cumulative non-convertible preference shares of Rs 10,000,000 each. The authorised share capital of Transferor 1 shall be deemed to have been reclassified into equity shares of Rs 10 each.

The Boards of Transferor Company 1 and Transferee Company have decided that equity shares of transferee company shall be issued to Transferor Company 2 as a shareholder of Transferor Company 1 based on the valuer report and their independent judgement. The Transferee Company will issue and allot to the Transferor Company 2, an aggregate number of equity shares of Rs 10 each of the Transferee Company, credited as fully paid-up, equal in number to 89 % of the issued, subscribed and fully paid-up share capital of the Transferee Company on a Fully Diluted Basis on the date prior to such issuance in consideration for the amalgamation of the Transferor Company 1 into and with the Transferee Company. It is hereby clarified that such shares shall be deemed to have been issued by the Transferee Company and received by the Transferor Company 2 on the Effective Date and following such issuance, the Transferor Company 2 shall hold 47% of the equity share capital of the Transferee Company on a Fully-Diluted Basis.

6. Amalgamation of Transferor Company 2 into and with Transferee Company

With effect from the Effective Date, subject to the provisions of this Scheme, the Undertaking of Transferor Company 2 shall stand transferred to and vest in the Transferee Company as a going concern, together with all its estate properties, assets, rights, claims, title and authorities, benefits, liabilities and interest thereon, subject to existing charges thereon in favour of banks and financial institutions of otherwise, as the case may be, without any further act, instrument, deed, matter or thing being made, done or executed, so as to become, as and from the Effective Date, the estate, properties, assets, rights, claims, title and authorities, benefits, liabilities and interest of the Transferee Company by virtue of and in the manner provided in the Scheme pursuant to the sanction of the Scheme by the Tribunal and the provisions of sections 230 to 232 and other applicable provisions of the Act.

From the effective date, the authorised share capital of Transferor Company 2 shall stand transferred to and be amalgamated with the authorised share capital of the Transferee Company, without any liability for payment of any additional fees or stamp duty and consequent to the transfer the authorised share capital of the Transferee company will stand enhanced (from 23,793,002,000 equity shares of Rs 10 each and 1,500 redeemable cumulative non-convertible preference shares of Rs 10,000,000 each) without any further act, instrument or deed to 28,793,002,000 equity shares of Rs 10 each and 1,500 redeemable cumulative non-convertible preference shares of Rs 10,000,000 each.

The Boards of Transferor Company 2 and Transferee Company have decided that equity shares of transferee company shall be issued to the shareholders of Transferor Company 2 based on the valuer report and their independent judgement. The Transferee Company will issue and allot to the equity shareholders of the Transferor Company 2, an aggregate number of equity shares of Rs 10 each of the Transferee Company,

credited as fully paid-up, equal in number to 100 % of the issued, subscribed and fully paid-up share capital of the Transferee Company on a Fully Diluted Basis immediately prior to such issuance in consideration for the amalgamation of the Transferor Company 2 into and with the Transferee Company. It is hereby clarified that such shares shall be deemed to have been issued by the Transferee Company and received by the shareholders of the Transferor Company 2 on the Effective Date and following such issuance, the shareholders of Transferor Company 2 shall hold 50% of the equity share capital of the Transferee Company on a Fully-Diluted Basis.

On the basis of these facts answer the following questions:

- (a) What are the possible motivations for such a merger? (1)
- (b) What classes will be required to meet and consent? (2)
- (c) On what basis will such classes be constituted? (2)
- (d) There are three companies that are being merged here. Which company is being merged with the transferee company first? (2)
- (e) Outline the structure of the Transaction by highlighting the corporate structure of the old entities and the new entity including their known shareholding. You can use a pictorial depiction for ease. (3)
- (f) What type of merger is this as per the Companies Act 2013? (1)
- (g) Would the NCLT agree to such a transaction? Give reasons for your answer. (4)
- (h) Will there potentially be any other regulatory hurdles in such a transaction? If so, why? (2)
- (i) What would be the impact on the public shareholders of the Transferor companies, if any? (1)
- (j) What is the available recourse of a minority shareholder in such a situation? (2)

Part B: Answer any two of the following

(2 x 10 marks)

- 2. To what extent are joint ventures a valuable restructuring tool in India?
- 3. Evaluate the effectiveness of the mandatory bid rule.
- 4. What are the avenues of restructuring that are available to an over capitalised company?

Part C: Compare and Contrast the following:

(2 x 5 marks)

- 5. Reduction of Share Capital and Buyback of Shares
- 6. Arrangements and Compromises
- 7. Private Placement and Preferential Allotment

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
End Semester Examination- 8th Semester- 2014 Batch
Mining & Petroleum Law

Total Marks: 50

Time: 3 hours

Instructions:

- ***Students are allowed to consult Module***
- ***No clarification can be sought in the exam hall***
- ***Answer all questions***
- ***Kindly use relevant materials, cases and statutory provisions in support of your answer***

1. As per the Industrial Policy, 2016 of the State of Kerala, the mining and exploitation of beach sand minerals will be permitted only through State/Central Public Sector Undertakings. The reason behind the said policy decision is to restrict the indiscriminate mining and exploitation of minerals by scientific mining, taking into account the geographical and ecological conditions as well as population density. As a result of this, many of the mining companies lost their opportunities for exploration & exploitation of these minerals. The lease holder formed an association and approached the State Government to withdraw this industrial policy as it was detrimental to their mining activities. Which would also violate the provision of the Mines and Mineral (Development & Regulation) Act, 1957. But State contended that the policy framework primarily adopted by the State of Kerala is in consonance with the National Mineral policy as both are designed to encourage the scientific methods of mining, beneficiation and economic utilization.

A group of private company association approached NUJS Legal Aid Cell with following questions for immediate relief

- a. Whether State of Kerala has the power to reserve the areas for public sector undertaking in order to prevent environmental degradation thereby to ensure the maintainability of public health without consultation with central government. [3 marks]
- b. Does the State Government's policy act in adherence to sustainable development requirements under the national mineral policy framework? [5 marks]

- c. Whether the State Government has the competence to frame policy under the MMDR Act and reserve the area for exploitation of minerals in the Public Sector Undertakings? [2 marks]

Prepare your brief for both State & Private Companies by quoting relevant provisions of mining and other environment laws

2. Jambunatha Temple situated on Jambunath Hill falls in the area of Western Ghats of Maharashtra. The temple was built in the 15th century with massive granite blocks. It is situated on a hillock at a height of 700 ft. And is surrounded by a range of hillocks rich in pure iron-ore. To the south of the temple are two sub-shrines dedicated to Veerabhadra and Brahma in front of which is a well which gets water through a perennial source from the hillock and serves the needs of the temple and pilgrims. The water from this well is believed to have medicinal and curative properties and hence considered very sacred by pilgrims. It is to be noted that the temple was declared as a Protected Monument by the Government of Maharashtra by notification dated 13.9.1991. Further, the State Government declared an area within the radius of 200 meters from the periphery and precincts of Jambunatha temple as 'Safe Zone' where no mining activity could be undertaken. In the year 2016 Ministry of Environment, forest and climate change issued notification declaring the area as an ecological sensitive zone and thus given a heritage tag.

On 5.4.1972, various companies including PRS India Ltd, APS ACC Ltd and XYZ Company Ltd were granted mining lease for areas measuring 282.45 hectares within the periphery of 200 meters of the Jambunatha temple for extraction of iron ore for a period of 30 years. The lease was renewed on 4.2.2002 for a further period of 30 years.

Villagers of the area felt that unless mining activities are stopped in the vicinity of the temple, a century old ancient monument, and valuable environmental resources may be totally destroyed.

Villagers formed an association and approached the Nature Committee of NUJS to prepare a brief. Prepare a brief for the villages by quoting the relevant provisions of law. [10 marks]

3. The Purulia police station *suo moto* registered a FIR knowing that some persons were extracting and selling sand from the Yamuna Basin for the past one week. On that basis on 10th April, 2018 they conducted a surprise raid and visited the site where they found one truck loaded with sand. The person driving the said truck, when asked to produce the documents failed to produce any relevant document and rather stated that he was carrying out illegal mining activities. At that moment, some other digging equipment were also found which were also taken into possession. Accordingly, people involved in this incident were arrested.

According to the version of the arrested persons that petitioners *FIR* in this case by the Police is illegal inasmuch as no offence was made out under sections 379 read with 411 of Indian Penal Code. It is submitted that offences if at all which could have been taken cognizance of would be under the provisions of the Mines and Mineral (Regulation and Development) Act, 1957. As a consequence of this arrest, the accused filed a petition challenging the validity of this arrest. Advise the petitioners on the legality of the FIR using relevant provisions of mining law. [5 marks]

4. How HELP (Hydrocarbon Exploration & Licensing Policy) is different from previous policy NELP (New Exploration & Licensing Policy), Do the investors see HELP as a boon or bane for them to invest in exploration and production activities. Explain [5+5=10 marks]

5. Write short notes on any 3 of the following questions [3x5=15 marks]

- a. Comments on the rationale behind recognizing sub-soil mineral wealth rights with land owner.
- b. Captive coal mining
- c. The role of Director General Mines Safety in implementing the Mines Act, 1952
- d. Criteria for fixation of mining royalty in India
- e. Impact of United National Framework Convention on Climate Change (COP 21) on coal mining sector/ industry in India.
- f. Comments on the advisory opinion of sea bed dispute chamber of International Tribunal for Law of Sea regarding responsibilities and obligations of States sponsoring persons and entities with respect to activities in the areas

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
LL.B. End Semester Examination- 8th Semester- 2014 Batch
Patent Law

Total Marks: 70

Time: 3 hours

ATTEMPT ALL QUESTIONS
BARE ACT (PATENT ACT) WITHOUT COMMENT IS ALLOWED
ALL QUESTIONS CARRY EQUAL MARKS
NO EXPLANATION SHALL BE OFFERED

EXAMINE PATENTABILITY OF FOLLOWING APPLICATIONS

1. An artificial heart which is capable of substituting for a natural human heart in moving blood through human body. 10

2. X is a known substance that is used to treat cervical cancer. Y is a new form of X and equally effective in the treatment of cervical cancer. However it is found that Y is also very effective in treating pancreatic cancer. The present application is about Y. 10

3. Sungene, a Biotechnology Company has developed a sunflower variety with very high oleic acid content by using recombinant DNA technology. The present claim is for the characteristic that is sunflower with high oleic acid content and gene producing the characteristic. 10

4. A process whereby a number of neurological diagnostic tests were performed and resulting data stored into a computer. The Computer accumulated test responses and by using Applicant's process narrowed the possible neurological malfunctioning. 10

5. Current literature shows, Ashwagandha possesses anti-inflammatory, antitumor, anti-stress, antioxidant, and rejuvenating properties. But now it is found that Ashwagandha, if used in a given way, can benefit the endocrine, cardiopulmonary, and central nervous systems. 10

6. A device used for gambling. 10

7. A method of painting. 10

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

END SEMESTER EXAMINATION – B.A. LL.B - WINTER SEMESTER 2017

POLITICAL SCIENCE-II

Full Marks-70

Time Allotted- 3 Hrs.

Q1.) Answer any four questions:

(4x15=60 Marks)

- a) Explain Rajni Kothari's model of 'One-party System' and its impact on India. How has this model undergone a change since 1990s? (8+7=15)
- b) "Communalism in India developed mainly with the emergence of colonial rule." Discuss this view in the context of growth of communalism in British India, from 1935 till 1947. Was Partition inevitable? (8+7=15)
- c) Define Caste. Explain the general characteristics of caste in Indian politics. Do you think caste plays a positive or a negative role in Indian politics? Argue your case. (5+5+5=15)
- d) Compare Gandhian and Nehruvian ideas on secularism. Mention the problems associated with Nehruvian secularism. (8+7=15)
- e) Explain the concept of decentralization in Indian politics. Discuss the significance of the 73rd Amendment. (5+10=15)
- f) Discuss the socio-religious reform movement in India during the second half of the 19th century and the first half of the 20th century. (15)
- g) What are the factors behind the growth of regional parties in India? Argue your case by highlighting the growth and functioning of three regional parties of India. (9+6=15)

Q 2) Write Short Notes on any two:

(2x5=10 Marks)

- a) 74th Amendment on Urban Governance
- b) Partha Chatterjee's views on anomalies of a secular state (India)
- c) Aligarh Movement
- d) Separatist movements in India
- e) Dalit movement in Post Ambedkar Era
- f) Myron Weiner on Equality

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
B.A./B.Sc. LL.B. End Semester Examination – 6th Semester – 2015 Batch

PRIVATE INTERNATIONAL LAW

Full Marks – 60 marks

Time Allowed: 3 hours

ANSWER ANY SIX OF THE FOLLOWING QUESTIONS LEGALLY (6 x 10 = 60)

- 1) “No theory can possibly answer the question as to what is the theoretical basis of Private International Law”. In the light of above statement examine the various theories of private international law and its relevance.
- 2) Define Private International Law, also critically examine its evolution and growth. How Private International Law is different from Public International Law?
- 3) Define Domicile and explain and its kinds.
- 4) Enforcement of Foreign Judgment in Private International law is a paramount principle to ensure the growth of the subject. Analyse.
- 5) Comment and discuss in detail the doctrine of Renvoi.
- 6) Critically examine the Choice of Law applicable to “Foreign Torts”.
- 7) Analyse the role of Private International Law, in the unification of Laws Pertaining to marriage. Evaluate the position in India and U.K.
- 8) Mr. X, a British Subject dies interstate in Brussels. He leaves movable in both England and Belgium. An English Court is called upon to decide, whether the movable are to be distributed according to English or Belgium Law. Discuss the above applying the principle of Renvoi.

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
LL.B. End Semester Examination- 8th Semester- 2014 Batch
Public Interest Lawyering Law

Total Marks: 60

Time: 3 hours

ANSWER ANY SIX QUESTIONS LEGALLY (10 X 6 = 60)

- 1) The evolution of Public Interest Litigation Jurisprudence in India has made access to justice to the marginalized a reality. Critically Examine.
- 2) The movement of Public Interest Lawyering in South Africa is infused in the South African Constitution. Enumerate.
- 3) The Armed Forces Special Powers Act (AFSPA) 1958, is a classical legislation which violates human rights and the principle of humanity both at the national and Internal sphere, despite the contention that it safeguards national security. Elaborate.
- 4) Legal Education in India needs drastic reforms as indicated by several commissions and reports, in order to cope up with the changing times. In this regard what are the tangible reforms, which can be incorporated to make legal education more inclusive and research oriented.
- 5) The upward growth of law has resulted in the emergence of new fields, one such field is Jurimetrics, which is the Juxtaposition of Law and Science. What are the advantages of applying the principle of science to Law?
- 6) There is a clarion need to appreciate and acknowledge the rights of the transgender from the prism of human rights. Examine this statement in the context of constitutional morality versus social morality.
- 7) The Law Commission of India has played a seminal role in progressive development and codification of laws in India. Analyse the above statement with few landmark Law Commission Reports.
- 8) In spite of the technological boom, the stigmatization associated with HIV/AIDS in India is deplorable. The role played by the judiciary is very limited in this regard. What are the steps taken and what steps could be taken to wipe out the stigmatization associated with HIV/AIDS?

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

END SEMESTER EXAMINATION – B.A. LL.B - WINTER SEMESTER 2017

SOCIOLOGY – II

Total Marks: 60

Time: 2 hrs. 30 mins.

You can attempt the questions in any order. However, make sure that you attempt the exact number of questions asked for. Do not answer more than the number required.

Attempt any 3

3x20= 60 marks

1. Keeping in mind Nicholas Dirks' main proposition that the diverse changes under colonial rule had resulted in the creation, or more specifically, consolidation of 'caste as we know it', argue whether Ghurye's analysis of the basic features of the Caste system can be seen as being Orientalist in essence.
2. Christophe Jaffrelot has noted that Ambedkar 'has become the symbol of confrontation between the lower castes and the upper castes'. Assess the veracity of the statement while also highlighting Ambedkar's contribution to ensuring social justice and the eradication of untouchability.
3. W.W. Rostow, in his work, *The Stages of Economic Growth*, asserted that it is possible to locate all countries, in terms of their socio-economic development, at one of the five stages he identified. Explain the different stages and critically analyse the arguments raised by the critics of the Modernization school of thought.
4. The ILO has noted that the Indian government 'avoids the terminology indigenous' to refer to the tribal communities- explain the debate over this issue. Has there been an official policy on the tribal development issue? Examine the issue in the post- Independence scenario, and point out the current status of this issue.
5. "Feminism has no theory of the state. It has a theory of power...The man/woman difference and the dominance/ subjugation dynamic define each other", writes Catherine Mackinnon in her early work on the relationship between radical feminism and the law. Using Mackinnon's thesis and drawing from the theoretical suggestions given by radical feminism, critically analyse the Supreme Court's judgement in the *Mathura rape case* (Tukaram v. State of. Maharashtra, AIR 1979 SC 185). Reflect on the issues that the Supreme Court ruled on in the *Mathura rape case*, with particular reference to its understanding and theories of consent in rape cases.
6. In the famous *Hadiya case* (2017), the Supreme Court ruled that a woman did not have the right to enter a marriage with a Muslim man of her choice because of the SC's belief that the marriage was a part of larger scheme of "love jihad" conducted by Muslim men as a part of terrorist activities in India. Drawing from the features of the theoretical school of intersectional feminism, highlight the issues that arise in the *Hadiya case* and how the case would have been different 'if *Hadiya*' had been a man'.

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES
LL.B. End Semester Examination- 8th Semester- 2014 Batch
Third World Approach to International Law

Full Marks - 70

Time Allowed: 3 Hrs.

Attempt any **Five** Questions. All questions carry equal marks.

Q.1 “The term 'Third World' has historically had layers of complexity to it, and it crucially includes not only states but also peoples. On the other hand, grand narrative traditions of the rise and growth of international law remain typically concerned with its 'lawness', the changing nature of its subjects, and its sources”- Upendra Baxi. Critically analyse this statement. Do you agree that the term ‘Third World’ has become obsolete in post cold war era? **(14 marks)**

Q.2 The Third World scholars have perceived the universal human rights as hegemonic exercise of the west. Universal human rights have negated the contribution of the Third World countries and their cultural values in the realm of human rights. Asses critically. **(14 marks)**

Q.3 The post colonial states have received their sovereignty as a hard won prize of their long struggle of emancipation but decolonisation has resulted in the creation of the many ‘Third World’ states that lacked the institutions that would make sovereignty real. This lack of real sovereignty has resulted in the failure of these countries to make any significant change in the hegemonic, euro-centric international law. Evaluate this statement in the light of the debates on Permanent Sovereignty over Natural Resources (PSNR) and New International Economic Order (NIEO). **(14 marks)**

Q.4 Humanitarian interventions have been received with suspicion by the Third World scholarship and selective approaches of international institutions and international law with regard to humanitarian military interventions have vindicated their fear of recolonisation. Discuss critically. **(14 marks)**

Q.5 The present day vocabulary of international law talks in terms of democracy, development and good governance. In practice, then, these concepts have been developed at the international level principally in relation to Third World states. But these moves towards democracy and good governance remain only at the surface level as many international institutions remain entirely outside genuine democratic accountability. Based on this statement write a critique of western narrative of democracy, development and good governance from TWAIL perspective. **(14 marks)**

Q.6 Write a critique of Bretton Woods institutions and international economic law from the perspective of Third World approach towards international law. **(14 marks)**

Q.7 The Third World scholarship does not wish to annihilate the present body of international law. Rather, its critique of international law is a quest for an inclusive international law which also takes concerns from developing nations into account. Based on this statement, critically examine the relationship between Third World and international law. **(14 marks)**

World Trade Law

Marks: 45

Time Allowed: 3 Hours

Instructions:

- (i) No clarification can be sought on the question paper.
- (ii) Students are allowed to carry the bare text (without commentary) of WTO Agreements.
- (iii) Answer **question no. 7 and any four among the remaining six** questions.

1. “The meaning of a particular expression in a tariff schedule cannot be determined in isolation from its context. It has to be interpreted in the context of Article II of GATT 1994 ... It should be noted in this regard that the protection of legitimate expectations in respect of tariff treatment of a bound item is one of the most important functions of Article II.” Evaluate this statement in the light of a case decided by the WTO dispute settlement body. **8 Marks**
2. Critically evaluate the approaches of the WTO dispute settlement body on the aspects of *locus standi* and standard of review in the dispute settlement. **4 + 4 = 8 Marks**
3. Elaborately discuss the determination of “measure by Members affecting trade in services” with the help of cases decided by the WTO dispute settlement body. **8 Marks**
4. Discuss the *Thailand - H-Beams* case (2001) in the context of determination of injury and causation under the Antidumping Agreement. **8 Marks**
5. “WTO Members have the right to determine the level of protection of health that they consider appropriate in a given situation ... [t]he more vital or important [the] common interests or values pursued, the easier it would be to accept as ‘necessary’ measures designed to achieve those ends.” Elaborate upon the jurisprudential developments that have reduced down the threshold of proof of ‘necessary’ under Art. XX of the GATT. **8 Marks**
6. Write explanatory notes on the following
 - (a) Government procurement exception under Article III:8(a) of the GATT as interpreted in *India - Solar Cells* case (2016)
 - (b) Environmentalists objections to multilateral trading system and their credibility **4 x 2 = 8 Marks**
7. Republic of Revita’s economy is largely dependent on the production of agricultural products. In 2008, Revita entered into trade negotiations with Junaland and agreed to reduce down the tariff on imports of wheat from 40% to 20%. In the subsequent years, the imports of wheat to Revita from several countries started to increase steadily. Following table reflects the status of wheat imports in Revita.

Country Name	2011 Imports (in tons)	2012 Imports (in tons)	2013 Imports (in tons)	2014 Imports (in tons)	2015 Imports (in tons)
Junaland	10,800	12,000	15,000	28,000	25,000
Argeria	6,000	6,800	12,000	20,000	22,000
Palago	7,200	8,000	11,400	19,000	24,600
Eqalera	4,500	7,900	14,300	16,000	20,000
Belvarik	6,800	13,200	14,000	15,000	16,200

Given a large scale agricultural economy, Revita was producing on an average 2,00,000 tons of wheat every year before the 2008 negotiations. The imports from other countries were less than 5,000 tons in total. Starting from 2011, the domestic producers of wheat in Revita found it difficult to compete with foreign producers due to increased labour charges. Added to this, floods in 2013 and 2014 have resulted in destruction of crops in Revita. Consequent to these developments, the domestic production of wheat in Revita reduced down to 90,000 tons in 2015.

In 2016, Revita initiated an investigation for safeguard action and made a preliminary determination that there is clear evidence of increased imports causing serious injury to the domestic wheat industry. Circumstances were found to be so critical that delay would cause irreparable injury to the domestic industry. Hence, Revita resorted to provisional safeguard measure of imposing an import quota of 5,000 tons to each of the exporting countries from June 2016 to November 2016.

Meanwhile, the subsequent investigation was carried out, and a report setting forth the findings of Revitan National Investigating Authority (NIA) was published in March 2017. In the report, NIA mentioned that there has been an absolute increase in the imports of wheat, which has resulted in serious injury to the domestic industry as per Art. 2.1 of the Agreement on Safeguards. In arriving at this conclusion, the NIA has evaluated the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in the level of sales, capacity utilization, profits and losses, and employment. The factors other than the increased imports, such as increase in labour charges and floods during 2013 and 2014, have been considered, and injury caused by these factors is not attributed to the increased imports.

After the completion of investigation, Revita has imposed safeguard measure in the form of import quota on wheat against all exporting countries except Palago, which is Revita's partner in a free trade agreement entered under Art. XXIV of the GATT. Junaland, Argeria, Eqalera and Belvarik are challenging the safeguard action taken by Revita. Point out the possible arguments that can be put forward by the complainants with the help of decided cases.

Note: All states are parties to WTO Agreements.

13 Marks
Page 2 of 2