



# TAMILNADU NATIONAL LAW UNIVERSITY

## QUESTION PAPERS

### LL.M

END SEMESTER (EVEN-SEMESTER) EXAMINATIONS,  
&  
REPEAT (ODD-SEMESTER) EXAMINATIONS,  
MAY - 2022

Name :

Register No.:

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**  
**Second Semester, End Semester (Even-Semester) Examinations, May -2022**  
**LAW RELATING TO WATER**

Time: 3 ¼ Hours

Maximum Marks: 50

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions:**

1. *“Right to water is to evolve as a positive fundamental right rather than as a negative one”*. Critically evaluate this statement referring to the relevant judicial decisions of the Supreme Court of India.
2. Trace and evaluate the application of principles relating to equitable sharing and reasonable use and states’ obligation not to cause significant harm and customary use of water for a long term in river water sharing between states.
3. Distinguish the groundwater rights and surface water rights by analysing the groundwater Bill 2005. Decide and evaluate whether the excess use of groundwater can be controlled through state regulatory mechanisms.
4. Laws relating to water in India do not confer ownership to private persons and confers only right to access and use of water. Whether ownership is conferred under any law in India and explain the scope of privatisation of water rights through infrastructure by private individuals?
5. *“Wetlands are the kidney of the earth”*. Critically evaluate the need for conservation of wetlands for sustainable development and the available legal mechanisms to protect the wetlands in India.

Name :

Register No.:

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. Programme

Second Semester, End Semester (Even-Semester) Examinations, May -2022

LAW AND PRACTICE OF PATENTS

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 = 50 Marks)

Answer the following questions:

1. *“Patents and trade secrets are nonetheless closely intertwined and capable of being used in conjunction to fully protect information. They not only substitute each other in some circumstances but can also complement each other. The intersection of patents and trade secrets can be described as a delicate balance of disclosure and secrecy.”*

In this context, answer the following:

- a. Comment on the origin of patents and trade secrets, their legal reach, scope & differences and critically examine the importance of the disclosure function of the patent system?
  - b. Whether the Indian patent law views trade secret protection as an alternative or as a complement to patent protection in the light of recent judicial decisions?
2. Mr. Anand, the proprietor of Sri Hari Krishna Sweets, a famous Indian sweet shop having outlets in both India and abroad, successfully created ‘low glycaemic sweets’, especially for patients with diabetes. The claimed ‘low glycaemic sweet’ is an Indian Sweet, which can be consumed by any person, especially by a diabetic person or a person showing the symptoms of diabetes. The texture and visual properties are maintained equal to that of any conventional sweet. He particularly used Levulose, a fruit sugar with the appropriate ratio of carbohydrate and protein preferably under inert gas/es blanket or high-pressure steam replacing the conventional cane sugar. Anand claims that his process is different from every other industrially known process of making such kinds of sweets. He also added that his claimed process is more economical and also retains conventional taste. Anand filed a patent application on ‘low glycaemic sweets’ which include low glycaemic Gulab Jamoon, Mysore Pak, Rasagolla, etc. Decide the patentability of ‘low glycaemic sweets’.

3. *“There will be other pandemics and other major health emergencies. No single government or multilateral agency can address this threat alone. The question is not if, but when?”*

In this context, answer the following,

- a. Do you agree with the statement that compulsory licensing of patents is still a territorial response that relies on national laws and how flexible the law is? If yes, then what are the additional options that are available within the existing patent system particularly when the patent application is pending before the patent office?
  - b. Do you think that the present flexibilities available under the Indian Patent Act, 1970 are inadequate to respond a pandemic situation? Why?
4. M/s. Jarvis International Bank filed a patent application in India through the PCT route claiming the priority date of 25<sup>th</sup> April 2016 from the US Patent No: 2678912 granted on 1<sup>st</sup> January 2018. The claimed invention in the patent application is, “A method to compute the credit risk rating of a client through software by analysing the business operations of the said individual”. The invention includes a method, a computing system, and a program product for evaluating credit risk rating independently of market valuations. The object of the invention is to assess the creditworthiness of an individual and also scrutinize his past transactions to predict the individual’s prospects in the industry in which he operated. Jarvis also stated that this particular invention will solve the present problem prevailing in the banking industry in India, especially in reducing the credit risk i.e. the risk of default on a debt that may arise from a borrower failing to make required payments. Jarvis claimed that this method is more accurate than present business practices and also has both technical advances and economic significance in the light of prior art like Trans Union CIBIL, Experian, Equifax and CRIF High Mark etc. Jarvis International Bank seeks your legal opinion as to the patentability of the above-said invention under the Indian Patent Act, 1970. Advise.
5. *“Perhaps no doctrine in patent law is as controversial as the Doctrine of Equivalents, a common law creation that allows a court to expand patent scope beyond the rights literally claimed in the patent. According to Allison, Lemley and Schwartz, the doctrine of equivalents had decreased in its successful use in the United States (U.S.) and cited empirical evidence to explain its decline”.*

In this context, compare and contrast the use of the doctrine of equivalents to determine patent infringement under U.S., U.K. and Indian Patent Laws.

Name :

Register No.:

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**  
**Second Semester, End Semester (Even-Semester) Examinations, May 2022**  
**CORPORATE INSOLVENCY AND BANKRUPTCY INCLUDING**  
**REVIVAL OF SICK COMPANIES**

Time: 3 ¼ Hours

Maximum Marks: 50

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions:**

1. Panjuvannam Ltd., registered under the Companies Act, 2013, has leased certain premises of Landscape India Ltd. (LIL) to store cotton bales. The agreement has the following clause:

The Lessee agrees and undertakes, to pay the rent at the rate of Rs.6/- (Rupees Six only) per sq.ft. per month calculated on the Built Up area of 12,943 sq. ft. of the premises which is Rs.77,658/- (Rupees seventy seven thousand six hundred and fifty eighty only) with applicable service tax, **monthly** in advance to the Lessor on or before the 7<sup>th</sup> day of every month, subject to statutory deduction of tax at source.

As on 28.07.2021, rent for June and July remains unpaid. LIL has filed a petition to initiate insolvency resolution process against Panjuvannam Ltd., You are required to prepare a brief for Panjuvannam Ltd., defending it.

2. The following is an excerpt of a news item published in the Financial Express daily as regards the resolution plan proposed in the matter of Jet Airways Ltd.:

The Murari Lal Jalan and Kalrock Capital consortium has proposed to issue 1 equity share for every 100 shares held by existing public shareholders of Jet Airways. Further, the equity shares held by the former promoters, Etihad, financial institutions and all the preference shares held by the former promoters and Etihad shall stand fully extinguished. However, a fixed sum of Rs. 10,000/- will be paid to the existing shareholders of the airline other than public shareholders.

The consortium will invest a maximum sum of Rs. 600 crore in the equity of the airline which will give them 89.79% stake in the company. Accordingly, the public shareholding will be reduced to about 0.21% after that. Similarly, financial creditors will hold 9.5% and workmen and employees will hold 0.5% stake as per resolution plan.

The financial creditors of Jet Airways will get Rs. 385 crore against the admitted claim of Rs. 7,807 crore, implying a 95% haircut for the lenders. The lead creditor, State Bank of India, has the highest admitted claims of Rs 1,636 crore, followed by Rs. 1,084 crore from Yes Bank, Rs. 754 crore from Punjab National Bank and Rs. 594 crore from IDBI Bank, among others.

As a resolution professional you are required to advise the company on the above resolution plan and also the ways to address the concerns of operational creditors.

3. Write a critical comment on *Mobilox Innovations Private Ltd v. Kirusa Software Private Ltd.*, Civil Appeal No. 9405 of 2017, Supreme Court of India.
  4. GEP India Ltd., a company registered under the Companies Act, 1956 was ordered to go through the insolvency resolution process by the NCLT. Accordingly, the Resolution Professional was appointed and Resolution Applicants had submitted resolution plans. But the Committee of Creditors did not approve any of the proposed resolution plan. You are required to advise the company as to the other remedies/ any recourse available for the company under the IBC, 2016.
  5. Assume that the IBBI is seeking public opinion as regards treating of government approvals and licenses granted to companies under the insolvency resolution process. Write your opinion as a resolution professional.
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Name :

Register No.:

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**  
**Second Semester, End Semester (Even-Semester) Examinations, May 2022**  
**LAW AND PRACTICE OF SHAREHOLDERS AGREEMENTS**

Time: 3 ¼ Hours

Maximum Marks: 50

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions:**

Please read the press release below:

(Tata) Wins competitive bid for acquiring entire company including wholly-owned subsidiary Air India Express and 50% stake in Air India SATS.

Tata group has emerged as the successful bidder of the divestment process of the national carrier Air India. The Tata group's holding company, Tata Sons through its wholly-owned subsidiary Talace Pvt Ltd., submitted a winning bid of Rs. 18,000 Crore as the Enterprise Value of Air India.

Consequent to the acquisition, the Tatas will own a 100% stake in Air India (a full-service airline operating in domestic and international markets) as also 100% in its subsidiary Air India Express (a low-cost carrier airline that focusses on short-haul international operations especially in the Middle East market) and 50% in the joint venture Air India SATS (airport services on ground and cargo handling). The total permanent and contractual employee strength of Air India & AIXL is 13,500.

Commenting on the development, N. Chandrasekaran, Chairman, Tata Sons Pvt Ltd said, "At the Tata group, we are delighted to be declared as the winner of the bid for AIR INDIA. This is a historic moment, and it will be a rare privilege for our group to own and operate the country's flag bearer airline. It will be our endeavour to build a world-class airline that makes every Indian proud. On this

**occasion, I would like to pay tribute to JRD Tata, pioneer of Indian aviation, whose memory we cherish.”**

The Tatas will get ownership of iconic brands like Air India, Indian Airlines & the Maharajah. Air India has a fleet of 117 wide-body and narrow-body aircraft and AIXL has a fleet of 24 narrow-body aircraft. A significant number of these aircraft are owned by Air India.

Air India provides a unique and attractive international footprint. More than 2/3<sup>rd</sup> of Air India’s consolidated revenues come from the international market. It is the number one player from India in the international market having a strong footprint across geographies like North America, Europe, and the Middle East with attractive slots & bilateral rights. The Air India frequent flyer program has more than 3 million members.

#### **About Talace Private Limited**

Talace Pvt Ltd., is a wholly-owned subsidiary of Tata Sons Pvt Ltd.

#### **About the Tata group**

Founded by Jamshedji Tata in 1868, the Tata group is a global enterprise, headquartered in India, comprising 30 companies across ten verticals. The group operates in more than 100 countries across six continents, with a mission 'To improve the quality of life of the communities we serve globally, through long-term stakeholder value creation based on Leadership with Trust’.

Tata Sons is the principal investment holding company and promoter of Tata companies. Sixty-six percent of the equity share capital of Tata Sons is held by philanthropic trusts, which supports education, health, livelihood generation, and art and culture.

In 2020-21, the revenue of Tata companies, taken together, was \$103 billion (INR 7.7 trillion). These companies collectively employ over 800,000 people. Each Tata company or enterprise operates independently under the guidance and supervision of its own board of directors. There are 29 publicly-listed Tata enterprises with a combined market capitalisation of \$242 billion (INR 17.8 trillion) as on March 31, 2021. Companies include Tata Consultancy Services, Tata Motors, Tata Steel, Tata



Chemicals, Tata Consumer Products, Titan, Tata Capital, Tata Power, Tata Advanced Systems, Indian Hotels and Tata Communications.

News item published in the Financial Express daily regarding the proposed resolution plan of the Jet Airways given below:

The consortium will invest a maximum sum of Rs 600 crore in the equity of the airline which will give them 89.79% stake in the company. Accordingly, the public shareholding will be reduced to about 0.21% after that.

The new owners of Jet Airways have proposed to keep the airline listed and plans to bring a follow-on-public offer (FPO) for restoring minimum public shareholding, as per resolution plan mentioned in the written order of NCLT.

The Murari Lal Jalan and Kalrock Capital consortium has proposed to issue 1 equity share for every 100 shares held by existing public shareholders of Jet Airways. Further, the equity shares held by the former promoters, Etihad, financial institutions and all the preference shares held by the former promoters and Etihad shall stand fully extinguished. However, a fixed sum of Rs. 10,000 will be paid to the existing shareholders of the airline other than public shareholders.

Further read the news item published in Times of India at

<https://timesofindia.indiatimes.com/business/india-business/air-india-to-buy-airasia-india-as-tatas-kick-off-4-airline-consolidation/articleshow/91135912.cms>

**Answer the questions 1 - 4 below:**

1. (a) Identify various stakeholders in the resulting venture. **(2 marks)**  
  
(b) Who amongst the stakeholders of this venture may use Shareholders Agreements to safeguard their concerns and how effectively can it be used? **(8 marks)**
2. Assume that the debt component is convertible in nature. Draft appropriate clause giving right of conversion at the option of Government of India, subject to applicable laws. **(10 marks)**

3. Draft a clause reflecting the arrangement for protecting rights of Singapore Airlines post consolidation to have one director on the board. **(10 marks)**
  
  4. Assume that the post-merger entity will be an incorporated 50:50 joint venture between Tata and Sons and Singapore Airlines. They both agree that the venture may be listed after 5-10 years. You are required to draft clause(s) relating to decision making process in the venture. **(10 marks)**
  
  5. Critically comment on *Ethihad Airways v Prof Lucas Flother*, 2019 EWHC 3107. Suggest a clause in the shareholders agreement which may avoid a dispute of this kind. **(10 marks)**
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Name :

Register No.:

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**

Second Semester, End Semester (Even-Semester) Examinations, May -2022

**LAW OF TRADEMARKS AND GEOGRAPHICAL INDICATIONS**

Time: 3 ¼ Hours

Maximum Marks: 50

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions:**

1. Goodwill was considered as an unusual and peculiar form of property that has value, which is affected by psychological advertising and connects directly with the consumer by increasing the value of Goodwill. In the light of the above statement, analyse Frank Schechter's concept of Goodwill and its relevance to the modern concept of "depreciation of the reputation" as a ground for infringement in India.
2. Javeed and his family were involved in their family hotel business in the name of "Javeed food trucky" in United States from 2001. Within ten years "Javed Food trucky" became a renowned food truck in America and they had more than 500 food trucks which visited almost every nook and corner of the American streets. In 2010 they wanted to expand their business to India, especially in Tamil Nadu. In 2012, they engaged Ms. Fevrona a leading food analyst in Tamil Nadu to conduct the pilot study for setting up their business in Tamil Nadu. But Fevrona resigned and the study was completed by Navod in 2014. Javeed Food Trucky wanted to initially advertise their food truck in Tamil Nadu as the food truck business was not so popular in Tamil Nadu. Their advertisements were telecast on all the TV channels in India from 6<sup>th</sup> December 2014. After which they applied for trademark registration under the name "Javeed Food Trucky" long with a tagline "Food from kitchen on wheels".

On 17<sup>th</sup> January 2010, Mr. Simpson started Javeed Food Truck Business Ltd., in the memory of his father Javeed. Mr. Javeed started a hotel in the name of "Javeed Food Truck" from 30<sup>th</sup> January 2000. Javeed converted the old truck in to a small hotel which was popularly called as lorry hotel. The lorry hotel was located at Amaravati, a small village near Pudukkottai district in Tamil Nadu. This Hotel was famous amongst lorry drivers who used to drive on the NH53. After the death of Javeed, Mr. Simpson started

food truck business in the name of Javeed Food Truck and owns 36 food trucks which is popular all over Tamil Nadu. Mr. Simpson saw the advertisement for “Javeed Food Truck” - “Food from kitchen on wheels” on VJ TV and immediately filed a suit for passing off, claiming that the trademark for “Javeed Food Truck” along with the tagline must not be granted trademark protection in India as it is confusingly similar to their unregistered Trademark.

In the light of the above facts decide

- a) Whether “Javeed food truck” can claim transboundary protection for their mark and claim that “Javeed food truck” is a well-known mark?
  - b) Whether “Javed food truck” can claim passing off remedy against “Javeed food truck”?
3. *“The plausibility of describing the smell and taste by ordinary consumers with normal prudence is difficult and it requires expert opinions to judge the variations in smell and taste. Hence providing Trademarks to smell and taste will be challenging the traditional foundations of trademark law.”* - Critically analyse the validity of the statement from the Indian perspective and analyse why there exists differences amongst the members of Madrid Union in granting protection to smell and taste marks.
4. Franchising Agreements play a pivotal role in quality control and the multinational brands are keen in maintaining the quality of the products across all their stores. In this context,
- (a) State whether the Trademark Act, 1999 explicitly mentions the concept of franchising?
  - (b) Critically analyse the role of franchising agreements in protecting trademark and whether the antitrust activities of the Franchisee will result in cancellation of Trademark?
5. (a) Compare the protection of Appellation of Origin and Geographical Indication before and after the Geneva Act of the Lisbon Agreement.
- (b) State whether the existing Geographical Indication system in India is sufficient to ensure the quality of the G.I. tag products in the international markets and to promote rural sustainable development in India.
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Name :

Register No.:

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**

Second Semester, End Semester (Even-Semester) Examinations, May -2022

**MINES AND MINERALS LAW**

Time: 3 ¼ Hours

Maximum Marks: 50

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions in not more than 1000 words:**

1. *“The Industrial Policy Resolution (IPR), 1956 facilitates in striving to promote the welfare of the people by regulating the major and minor minerals in India”. Do you agree? Evaluate this statement referring to the constitutional scheme of mines and mineral regulations and the mechanism established for the effective realisation of cooperative federalism in India.*
2. *“Mining enterprises are compelled to meet the Sustainable Development Goals (SDG) requirements in the matter of preparation and implementation of mine closure plans”. Critically evaluate this statement referring to the need for Public Participation in Environmental Decision Making for providing compensation to local communities and how far it is effectively implemented in realising Environmental Sustainability in India between generations.*
3. *“Non availability of transparency in the auction process to grant licences for notified minerals under the mines and mineral regulation is one of the defects in the Mines and Mineral Regulation Development Act”. Critically evaluate this statement referring to the power of Central government in auction process and how it is rectified under the Mines and Minerals (Development and Regulation) Amendment Bill 2021.*
4. *“The UNDP Report estimates that the extraction of mines and minerals from the earth presents opportunities, challenges and risks to sustainable livelihood between generations”. Critically examine the role and contribution of NITI AYOOG in realising the benefits and challenges of mining operations in India and suggest the suitable alternatives for implementation and monitoring the better performance and faster achievements with the participation of High-Level Political Forum.*

5. (a) Critically examine the procedure for obtaining prospecting mining lease in respect of land in which the minerals vest with the government and penalties available for contravention of the provisions of the Act. **(5 Marks)**
- (b) Evaluate the challenges posed on Acid Mine Drainage and the role of mechanism to curb the impact of the Acid Mine Drainage. **(5 Marks)**
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Name :

Register No.:

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. Programme

Second Semester, End Semester (Even-Semester) Examinations, May -2022

## ENERGY LAW AND REGULATION

Time: 3 ¼ Hours

Maximum Marks: 50

## PART – A (5 x 10 = 50 Marks)

Answer the following questions:

1. Ravi, the father of a 10 years old child, filed a case before the High Court of the State against the State Electricity Board (SEB) to provide electricity connection to his house. He also claimed that his family fights poverty and the education of his child is ruined due to no electricity post 6 p.m. The SEB defended itself on grounds of increased energy demand and climate change as solid arguments to achieve energy efficiency and energy governance in the State. Moreover, SEB stated that electricity cannot be provided to poor people who reside in *poromboke* (waste) lands. Defend both the parties and having the above hypothetical situation and climate change targets in mind, analyze the environmental and societal costs for a State.
2. *"In a step towards India's goal of achieving a gas-based economy, a proposal is lined up to give complete marketing and pricing freedom to all-natural gas produced in the country, including nominated gas fields. The planning body is batting for selling all-natural gas through the Indian Gas Exchange (IGX), the country's first natural gas exchange, where the buyer and seller can decide on prices transparently"*

- NITI AAYOG

The move, if it gets cleared by the government, will be advantageous to companies like Oil and Natural Gas Corporation (ONGC) and Oil India Limited (OIL), sitting on a majority of nominated fields. Having the statement by NITI Aayog in mind, interpret the oil, petroleum and natural gas infrastructure in India.

3. *'Alarming! Power Crisis in India!'*, headlines of an Indian newspaper warned the people. In a response to the same, the Centre invoked section 11 of the Electricity Act, mandating all imported coal-based projects to generate power at full capacity.

The order will operationalise at least seven gigawatts worth of power plants of Essar Power and Coastal Energen in states such as Gujarat, Andhra Pradesh and Tamil Nadu and will also apply to plants under NCLT. It will also help restart non-operational units of Adani Power and Tata Power. Basically, Section 11 of the Electricity Act gives the government the authority, in extraordinary circumstances, to order any generating company to operate and maintain its stations. If the above-stated facts happen, critically comment on the Electricity policies and plans (Section 3) versus market domination (Section 60) in India.

4. *“The nation would use nuclear energy to help reduce its dependence on Russian energy. Japan, which had shut down most of its nuclear reactors following the 2011 Fukushima disaster, has come to be more reliant on Russian energy imports to compensate. The Japanese government intends to restart many of its reactors to not only counter the ongoing surge in energy prices but also make nuclear energy a part of the nation's efforts to reach carbon neutrality by 2050”,* stated Japanese Prime Minister Fumio Kishida. India having learnt lessons from the other countries on nuclear energy laws, operationalised many nuclear reactors. Create a mind map on the nuclear energy laws and regulations in India having the norms and mechanisms regulating the use of nuclear fuel and energy in mind.
5. Clean energy and alternate sources of energy in India- critically comment on the policies relating to these.



Name :

Register No.:

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**6LL.M. Programme**  
**Second Semester, End Semester (Even-Semester) Examinations, May -2022**  
**INTELLECTUAL PROPERTY RIGHTS AND LITIGATION**

Time: 3 ¼ Hours

Maximum Marks: 50

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions:**

1. Mr. A is selling a patented product as an exclusive licensee of Mr. B. Mr. C also started to sell the same product of Mr. B in some other cities with substandard quality. The product of Mr. B which is sold by Mr. C has to contain the word "patented product". Knowing this, Mr. A approached Mr. C and stated that he is infringing his licensed product and requested him to stop the sale of his product which is sub-standard in nature. But, Mr. C continues to sell the patented product. Hence, Mr. A filed a suit claiming for damages or accounts of profits. Mr. C contended that the suit is not maintainable for want of Mr. B the owner of the patented product. Further, he has also argued that since he is unaware of the patented product, Mr. A is not entitled for any relief whatsoever under the Patent Act, 1970.

In the light of the above facts, frame the appropriate issues and decide the issues referring to the relevant provisions of the Patent Act, 1970.

2. Traditionally, arbitrability of the IP disputes is a contentious issue. As IP rights are granted by national authorities, it was argued that such IP disputes should only be resolved by a public body within the national system. However, it is broadly accepted that disputes relating to IP rights are arbitrable, like the disputes in the rights held privately. In the light of the above statement, critically analyse the feasibility of referring the IP disputes to arbitration in international context and compare the arbitrability of the IP disputes between India and USA referring to decided case laws.
3. (a) Protecting your brand outside India implies acquiring trademarks rights at global level where you wish to protect your goods or services. Trademark rights being territorial in nature and valid only within the territory of a country or group of countries having established a regional trademarks system, how can you take the advantage of an alternative, more attractive,

cost effective and user-friendly route to acquire and manage your trademarks under the Madrid system. *(5 Marks)*

- (b) Critically examine the international registration and the filing procedure under the Patent Cooperation Treaties (PCT) routes. *(5 Marks)*
4. Do you agree with the view that Section 62 (2) of the Copyright Act, 1957 cannot be read as limiting the jurisdiction of the District Court only to cases where the person litigating the suit or other proceeding, or where there are more than one such persons, any of them actually and voluntarily resides or carries on business or personally works for gain? Support your answers by referring to the relevant provisions under the Code of Civil Procedure, 1908 and also state as to whether there is/are any difference/s between Copyright Act, 1957 and Trademarks Act, 1999 with respect to the determination of the territorial jurisdiction of the court for the infringement of Trademarks.
5. (a) Explain the special provisions regarding the copyright in designs registered or capable of being registered under the Designs Act, 2000 and also critically examine the various grounds available for the piracy of the registered design. *(7 marks)*
- (b) What are the remedies available in case of groundless threats of proceedings under the Designs Act, 2000? *(3 marks)*
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Name :

Register No.:

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**  
**Second Semester, End Semester (Even-Semester) Examinations, May -2022**  
**LAW OF SECURITIES AND DERIVATIVES CONTRACTS**

Time: 3 ¼ Hours

Maximum Marks: 50

**Instructions:**

- a. All the questions should be answered by quoting relevant legal provisions and judicial precedents and suitable illustrations/examples.
- b. The problem based questions should be preferably answered in the *Issues, Research, Analysis and Conclusion (IRAC)* method.
- c. You are strictly directed to follow the Question Number as given in the Question Paper.

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions:**

1. Ms. X was a senior partner in *NLSC & Partners*, a boutique law firm based in Chennai. *NLSC & Partners* represented *Grand Trichy Corporation (GTC) Ltd.* in its potential tender offer for the common stock of *Ashirvad Covai Limited (ACL)*. The possibility of the tender offer was material and unpublished, until the offer was formally made by the authorised representatives of GTC.

Even though Ms. X was not directly involved in advising the transaction between *NLSC* and its client *GTC*, she learned about the possible tender by overhearing an informal chat during late evening office party with other partners of the firm who were advising *GTC*. Thus, during the time when the potential tender offer was still confidential and non-public, Ms. X used the information she received through her law firm colleagues to purchase certain stocks in *ACL*. Subsequently, after the information of the tender offer became public, *ACL* stocks skyrocketed and Ms. X sold her shares, making a significant profit of over 10 crore rupees.

- 1.1 If you are the *Adjudicating Officer (AO)* under SEBI and if you are confronted with the above said facts, what kind of issues will be framed by you so as to charge Ms. X for violation of Insider Trading laws in India? Explain in detail the relevant statutes and regulations you will look at and legal interpretation required for determining each issue.
- 1.2 Briefly also explain which Theory on Insider Trading from US jurisprudence will be applicable to the aforesaid facts of the case?

2. SEBI had conducted a probe into the trading activities of *Mr. Dinesh Patel (DP)*, an individual trader and *ThasIndia Investment, a Foreign Institutional Investor (FII)* for the period between January 2016 and March 2017. *Mr. Anand Patel (AP)* was the Portfolio Manager of the FII and was also closely related to Mr. DP and *Mr. Pankaj Patel (PP)*.

The *Adjudicating Officer (AO)* of SEBI noted that Mr. AP provided information to Mr. DP and Mr. PP regarding the forthcoming trading activity of the FII. Taking advantage of the same, Mr. DP used the information from his cousin Mr. AP illegally to front run for those stocks that were to be ordered by the FII and later sold the very same stocks to FII for unjust profits. The AO also found out that trades were executed using a telephone number registered in the name of Mr. PP at the common residential address of Mr. DP and Mr. PP.

Thus, the AO concluded that Mr. DP had placed and executed orders before the orders of the FII and consequently squared off his position when the orders were placed for trading. It was estimated that Mr. DP earned a total profit of Rs. 1.5 crores/- by way of front running over a period of one year. Eventually, SEBI found all three of them guilty of violating the provisions of the *SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003* and imposed a monetary penalty on them.

However, the *Securities Appellate Tribunal (SAT)* has set aside the SEBI order on the ground that the current regulations has prohibited front running only when it is carried out by intermediaries. Now SEBI has moved the Supreme Court challenging the SAT order. As per the SEBI Regulations and judicial precedents, decide whether SEBI has a right to take any action against non-intermediaries for front running activities? Further, highlight the recent regulatory changes brought to the definition of front running in India.

3. Comment on each of the following statement about the working of *Credit Rating Agencies (CRA)* in India, whether they are 'correct' or 'incorrect'. Substantiate your answer with detailed and cogent reasons by quoting relevant legal provisions and precedents:

3.1. Once a rating is assigned by the CRA, the same cannot be downgraded later.

(5 Marks)

3.2. The *SEBI Credit Rating Agencies (CRA) Regulations, 1999* provides for 'Issuer Pays' model of CRAs in India.

(5 Marks)

4. "SEBI is like a Mini Regulatory State within the Indian State, as the Parliament has clothed the capital market regulator with various powers and functions so as to protect the interest of investors and to regulate all kinds of issues arising in the securities market." Critically comment on this statement by quoting at least three provisions each from the *Securities and Exchange Board of India (SEBI) Act, 1992* for administrative,

quasi-legislative and quasi-judicial powers. Explain in detail about the scope and limitations of administrative powers of SEBI with the help of precedents and examples?

**5. Write critical legal comments with specific examples:**

5.1. *'Bullish'* Trading vs. *'Bearish'* Trading. **(5 Marks)**

5.2. To what extent *'mens rea'* is a relevant criterion in proceedings before SEBI?  
**(5 Marks)**

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Name :

Register No.:

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**

**Second Semester, End Semester (Even-Semester) Examinations, May -2022**

**BIODIVERSITY AND BIOLOGICAL RESOURCES**

Time: 3 ¼ Hours

Maximum Marks: 50

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions:**

1. *“Biodiversity is the greatest treasure we have... Its diminishment is to be prevented at all cost.”* - Thomas Eisner

Discuss in brief the international framework for protection, preservation and conservation of Biodiversity and analyse whether it is sufficient to conserve the Biodiversity of the world.

2. Country Azil, a rich biodiverse country, has been strategically strengthening capacity, infrastructure and expertise in regulation and commercialization of biotechnology particularly in the areas where rich bioresources are utilized. The applications of technology, both in pharmaceuticals and agriculture, are finding new vistas of economic growth for developing countries. Potential risks to environment and global contention on the technology has confounded the prevailing confusion on some of the intricate issues linked to the trade and biosafety of GMOs.

Advise Azil as to the mechanism to ensure the safe handling, transport and use of living modified organisms resulting from modern biotechnology that may have adverse effects on biological diversity, taking also into account risks to human health.

3. A tribal community called the Samba lived on the outskirts of a forest rich in flora and fauna. The community had long standing customs which they proudly practised. The forest had a medicinal plant which could be used in treating a skin ailment. The research institute R & R Ltd., were interested in pursuing research and development in this field. Advise both the parties as to how they could proceed in fulfilling their objectives. The legal frame work is similar to that of India.

4. Organisms, genetic material or genes can be sequenced relatively cheaply, and data can be exchanged rapidly between researchers, institutions, countries and databases. - Examine the challenges posed by this on Benefit Sharing in CBD.
5. By conserving the wildlife and forest we are ensuring that all diverse species in an area survive, breed and flourish. Conservation of wildlife and forests is vital for ecological stability. Forests are the habitat for wildlife and they are an important constituent of the various food chains and food webs.

Wildlife plays a vital role in maintaining the balance of our ecosystem. It serves various purposes ranging from protecting our biological diversities to maintaining our cultural ethos. Wildlife is indispensable for striking a crucial balance that enables us to live and grow.

Elucidate the efforts made Internationally and Nationally in protecting and conserving Wildlife.

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Name :

Register No.:

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**  
**Second Semester, End Semester (Even-Semester) Examinations, May -2022**  
**CORPORATE RESTRUCTURING (MERGERS, ACQUISITION ETC.,)**

Time: 3 ¼ Hours

Maximum Marks: 50

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions:**

1. On January 31<sup>st</sup>, 2022, Mr. Machigo started acquiring shares of the Sweeter, a Delaware Corporation, which owns the largest social networking website in the world. On April 4<sup>th</sup>, 2022, the fact that Mr. Machigo owns 9.2 percent of the Sweeter becomes known to the public. The shareholders of the Sweeter went on Poison Pill strategy to dilute Mr. Machigo's stake in the company and create obstacles for his planning. Parallely, negotiations started between the parties. Later on April 25<sup>th</sup>, 2022, the shareholders of the Sweeter agreed to sell their shares to Mr. Machigo.

Answer the two questions below with the presumption that the Sweeter is a company incorporated in India:

- a) Comment on the strategies that may be employed by the shareholders of the Sweeter.
  - b) Comment on the disclosure requirements to be followed by Mr. Machigo.
2. J. J. Irani Committee Report submitted on 31<sup>st</sup> May 2005, stated as follows:  
 "A forward-looking law on mergers and amalgamations needs to also recognize that an Indian company ought to be permitted with a foreign company to merger. Both contract-based mergers between an Indian company and a foreign company and court-based mergers between such entities where the foreign company is the transferee, needs to be recognized in Indian Law."  
 What was the context of the above comment in the report of the J.J. Irani Committee Report, 2005? Explain the approach towards cross border mergers under Companies Act, 2013.
  3. On 1<sup>st</sup> January 2020, Keisenpro Ltd., along with Rainbow Ltd., acquired 24.46% shares of KGX Ltd by way of bulk deals. On 15<sup>th</sup> July 2020, Keisenpro Ltd., and Rainbow Ltd., made a purchase in open market for 0.8% of the shares



of KGX Ltd. Subsequently, an open offer was made for acquiring up to 26% of the shares of KGX Ltd., in terms of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011. Keisenpro filed a notice disclosing details of the First Acquisition and notifying the Second Acquisition within 30 days of the Public Announcement. The shares acquired in Second Acquisition were credited to an escrow account, created specifically to avoid consummation prior to CCI approval. Decide whether Keisenpro Ltd., complied with the CCI requirements for combinations? Explain.

4. Mr. Markus became registered shareholder of ninety percent of the shares (90%) of Halogen Co., i.e., 90,000 shares by way of amalgamation. Mr. Markus offered to purchase the shares held by remaining shareholders for Rs.1000/- per share as determined by a registered valuer.

Mr. Sudheendran and Mr. Ganjendran, holding 4000 shares respectively in Halogen Co., negotiated with Mr. Markus to obtain more value for their shares. Mr. Markus agreed to purchase their shares for Rs.1500/- per share. Ms. Angel and Ms. Anupama, holding 1000 shares each in the Halogen Co., came to know about the additional sum of Rs. 500/- per share Mr. Sudheendran and Mr. Ganjendran are getting. Decide whether Ms. Angel and Ms. Anupama being minority shareholders are entitled for the additional compensation?

5. "*Section 232 of Companies Act, 2013 is not a standalone Section.*" Critically analyse the Section in the light of the above statement and explain different stages for approval of a scheme.

Name :

Register No.: 

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**  
**Repeat (Odd-Semester) Examinations, May 2022**  
**LAW AND JUSTICE IN A GLOBALIZING WORLD**

Time: 3 ¼ Hours

Maximum Marks: 50

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions:**

1. *“Globalization – Something only of concern for international business, trade and diplomacy? OR Something that affects all of us, no matter what our profession or interest?”* – Critically examine the statement by analyzing the 1997 South Asian financial crisis.
2. *“Contemplating Justice on a global scale in today’s world can easily be seen as an almost impossible”* – Critically examine the impact of globalization in any of the conflict zones.
3. *“Global Contestation over the institutions of democracy and state building cannot be meaningful unless considered in relation to constitutionalism”* – Critically examine the relation between constitutional developments and globalization in India.
4. *“Globalization has rendered the world increasingly independent, but international politics is still based on the sovereignty of States.”* - Critically evaluate the impact of political globalization on ‘nation-states’ and their ‘sovereignty’.
5. Trace the judicial approach in cases involving major rights-based challenges before and after LPG in India with decided Supreme Court’s Judgments.

Name :

Register No.:

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. Programme

Repeat (Odd-Semester) Examinations, May 2022

## COPYRIGHT AND ACCESS TO KNOWLEDGE

Time: 3 ¼ Hours

Maximum Marks: 50

## PART – A (5 x 10 = 50 Marks)

Answer the following questions:

1. (a) State whether the International Protection of Copyright in its true sense is in existence after the advent of Berne Convention or TRIPS Agreement.
- (b) Critically analyse the International Copyright Protection system specifically after the advent of WCT and WPPT.
2. The creator has the right to destroy and right to call back the work after publication. Critically analyse the relevance of the two rights to be included under Moral rights ? If so state whether the right to destroy and right to call back the work after publication should be incorporated by amending Section 57 of the Copyright Act, 1957?
3. Arjun Wrote a dialogue in a famous web series "Roopaya" . The following dialogue in episode 15 of "Roopaya" were objected by the Advocates throughout India. *"This is the first city I have seen where even the thieves are rich. But out here, they're called lawyers. Your lawyers are the biggest scoundrels and thieves. These so-called upholders of law will never be brought to justice because they rape you with their pen. People say the law is blind. But I say the law is dirty because every lawyer carries a little stick in his hand."*

Mr. Janardhan from the Madras Advocates Bar Association filed a suit of defamation before the Bombay High Court. The claim was to remove the dialogue as it is defamatory in nature. The production house JETFLIXO

and the OTT platform JRB- BLO were also served with notice to stop the broadcasting of the web series in online platform or to rewrite the dialogue.

Advocate JAMBU a good friend of Janardhan wrote dialogue of 4 lines to replace the original dialogue and sent a notice to Arjun to include the new dialogue in his web series and asked them to alter the work and re-telecast the particular episode.

Arjun filed a suit against Janardhan and Jambu for copyright infringement and violation of Moral right ? Is the claim sustainable? Decide.

4. (a) Analyse the differences between Statutory Licensing and Compulsory Licensing and state whether Compulsory Licensing of Copyright is essential, despite of having the Fair dealing exceptions ?
  - (b) Alsoanalyse whether the cover versions of songs uploaded in YouTube channel without obtaining the Statutory License amounts to copyright infringement in India.
5. Explain whether University Library of RUUU can upload scanned copies of the books in RUUU University website for facilitating students to access reading materials. Also evaluate whether websites providing free download of copyrighted books amount to copyright infringement in India?
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Name :

Register No.: 

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**

**Repeat (Odd-Semester) Examinations, May 2022**

**RESEARCH METHODS AND LEGAL WRITING**

Time: 3 ¼ Hours

Maximum Marks: 50

**PART – A (50 Marks)**

**Answer the following questions:**

1. Synthesize and state the rule regarding participatory democracy in India from the decisions below. Explain how each part of your rule-statement is derived from the decisions. **(10 Marks)**
  - (a) A newspaper criticized a decision by an administrative authority to grant sanction for a public issue by a company. The news article stated that the authority “had not acted properly and legally in granting the sanction to the issue, and that the issue was not a prudent or a reliable venture.” The Court, upon petition by the company, issued an injunction “restraining publication of articles, etc. questioning the legality or validity of any of the consents, approvals or permissions for the public issue.” The Court held that a balance has to be struck between the requirements of free Press and fair trial, and that the injunction would amount to interference with the freedom of Press in the form of preventive injunction. People at large have a right to know in order to be able to take part in a participatory development in the industrial life and democracy. Right to Know is a basic right which citizens of a free country aspire in the broader horizon of the right to live in this age in our land under Article 21 of the Constitution of India. - *Reliance Petrochemicals v. Indian Express*, 1988.
  - (b) A foreign student in India on a valid student visa had been served a Leave India Notice under the Foreigners’ Act, 1946. The student had participated in a few political rallies, including a rally criticizing a recently enacted law of Parliament which was attended by a few political leaders. The Leave India Notice required the student to appear before the authority on a date ten days after the notice was served. The grounds for the notice were that a student visa does not allow a foreign national to get involved or speak publicly in anti- government demonstrations, though these grounds were not mentioned in the notice. The Court held that a valid visa confers valuable rights on the petitioner, not merely to

stay in India but other associated rights, which are assured by the Constitution of India not only to citizens but also to foreigners. The mere activity of participation in a political rally is included within the right to life and personal liberty and freedom of speech and expression in the Constitution and cannot be curtailed.

(c) A petition was filed challenging the grant of an Environmental Clearance for the development of an airport. The airport was required to follow the processes of scoping, public consultation and appraisal. During the public consultation, concerns were raised regarding the presence of perennial springs, the porous nature of the laterite plateau where permeation is a source of drainage for water collection and the existence of cashew plantations on which the livelihood of the local residents depended. These were concealed in the process of appraisal and not brought up in the application for the EC. The Supreme Court of India held that public participation should not be reduced to a mere procedural formality which must be completed before proceeding to the next stage. The Court recognized that the constitutional value underlying public participation is that the decisions which affect the lives of individuals must, in a democracy, account for their concerns. In locating a larger right to public participation within the meaning of Article 21, we must understand the degree to which a particular policy affects the lives of the governed.

2. Explain the role of ethics in research involving human participants and the rules that must be followed in order to ensure an ethical research process. (10 Marks)
3. Describe two research plans, one qualitative and one quantitative to researching the following problem. Each plan must identify and explain the process of identifying the participants, method of collecting data, method of analysis, ethical questions and limitations of the study (2 x 10 = 20 Marks)

**Problem:** In order to increase the effectiveness of the laws protecting unionization in India, the government has decided to make separate provision for the unionization of domestic help. In order to do so, they wish to gauge the willingness of domestic workers to unionize, the problems that domestic workers wish to address through unionization, and existing social barriers to unionization. From initial readings, it is clear that the problems that workers wish to address through unionization are divided into two categories: problems with employers for which they want legal protection and financial and social problems that a union can assist them to address. Similarly, social barriers to unionization can be classified as financial barriers such as union fees and social barriers such as stigma against unionization.

4. (a) The frequency distribution of weights of sorghum ear-heads given in Table 1. Calculate the mean value. (5 Marks)

Table 1: Frequency distribution of weights of 190 sorghum ear-heads

Weight of ear-head (in grams) (X)	No of ear-heads (frequency)
40-60	6
60-80	28
80-100	35
100-120	55
120-140	30
140-160	15
160-180	12
180-200	9

- (b) Calculate the mean deviation for the data given in Table 2. (5 Marks)

Table 2:

State	No of Crimes
Andhra Pradesh	144703
Arunachal Pradesh	2817
Assam	120572
Bihar	262815
Chhattisgarh	98233
Goa	3884
Gujarat	393194
Haryana	191229
Himachal Pradesh	19594
Jharkhand	55664

Name :

Register No.:

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**

**Repeat (Odd-Semester) Examinations, May 2022**

**GENERAL PRINCIPLES OF INTELLECTUAL PROPERTY LAWS**

Time: 3 ¼ Hours

Maximum Marks: 50

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions:**

1. Systematically analyze the evolution and growth of intellectual property at the international level and critically examine the reasons for requiring different standards of creativity for affording legal protection for different categories of Intellectual Property?
2. When two countries are both members of a relevant human rights treaty would they be obliged, based on the human rights treaty, to grant non-discriminatory Intellectual Property protection, in the absence of a specific intellectual property treaty? Critically examine why would there be a need to have particular rules on non-discrimination in the name of 'National Treatment' under the International Intellectual Property Treaties? How Article 27.2 of the UDHR related to human rights perspective of Intellectual Property Rights?
3. *"Very often, more than one set of intellectual property rights might apply to a common subject matter. Despite all the legislative and policy effort that has been expended in recent years, the difficult issue of the relationship between copyright and design laws remains."* In this context critically analyse the overlapping of Copyright and Designs referring to the relevant judicial decisions.
4. A trademark denoting the geographical name associated with a food product popular in the given locality was registered by a trader and has been used in trade since then. Nearly 5 years after the registration of the trademark, a collective society representing the given locality successfully registered the



geographical indication. The proprietor of a registered trademark seeks your legal opinion. Advise.

5. A database was prepared by a law student who interned under the office of an advocate by using the latter's resources, expertise and investment. In this context, answer the following,
    - a. Is a 'database' considered Intellectual Property? Justify the need for its protection.
    - b. Critically examine the existing legal protections available for the database under Indian laws.
    - c. Examine the Intellectual Property Rights that exist in the database created by the intern? Who owns the Intellectual Property Rights? Why?
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Name :

Register No.:

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**TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**  
**LL.M. Programme**

**Repeat (Odd-Semester) Examinations, May 2022**

**COMPARATIVE PUBLIC LAW**

Time: 3 ¼ Hours

Maximum Marks: 50

**Instructions:**

- (a) All questions are compulsory and carry equal marks  
(b) Write complete answers for all questions.

**PART – A (5 x 10 = 50 Marks)**

**Answer the following questions:**

1. Constitutions may be seen as instruments associated with the national values, the identity of the people and the manifestation of power besides social coordination. Do you agree? Explain the statement with the help of suitable illustrations and supporting reasons.
2. Briefly describe the notion of “extra constitutionalism” and its working in the jurisdiction of Pakistan. Also, analyse its influence on the fundamental rights of the citizens of Pakistan.
3. Is it possible to have the notion of “extra constitutionalism” in all the democracies and secular nations? If yes, then in what form?
4. Does the constitutional making process matter? Comment with the help of reasons. Also, explain how to achieve gender neutrality and inclusiveness in the constitutional making process.
5. How do you analyse the value of the principle of ‘consociation’ and the ‘principle of subsidiarity in the working of federalism? Do you see it as a solution to the gaps in the working of federalism? Comment by referring to the jurisdiction of Canada and India.