



TAMILNADU NATIONAL LAW UNIVERSITY



QUESTION PAPERS



LL.M. PROGRAMME

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END SEMESTER (ODD-SEMESTER)
EXAMINATIONS,
MARCH -2021

Name :

Register No.:

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. Programme

First Semester, End Semester Examinations (Odd-Semester), March 2021

COMPARATIVE PUBLIC LAW

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 = 50 Marks)

Answer the following questions:

1. How do you evaluate the relevance of 'Constituent power' in choosing the appropriate federalism model for the nation? Also, examine the role-play for 'rule of law' and 'constitutionalism' in respecting the constituent power besides ensuring efficient working of a federal scheme of governance.
2. (a) What do you think has been the contribution of 'judicial review' and 'precedents' in sustaining the *sui generis* feature of Indian federalism?
(b) In your view, are there concerns that require any further judicial intervention concerning the working of federalism in our country? Explain with the help of reasons and decided cases.
3. Federalism is purposive and therefore it shall strive to achieve efficiency in ensuring welfare, security and justice for all sections of the society without discrimination. Do you agree with this statement? Comment with reasons.
4. Critically examine the influence of "feminism" ideology on the working of Indian federalism and also by using examples analyse whether the introduction of local self-governments has aided the administration in efficiently addressing the gender specific issues in India.
5. How do you define the importance of the 'subsidiarity' principle and 'consociation' in the working of a federal model of governance? Are these principles European centric and inconsistent with the idea of centralised federalism? Explain with reasons.

Name :

Register No.:

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

First Semester, End Semester Examinations (Odd-Semester), March 2021

LAW AND JUSTICE IN A GLOBALIZING WORLD

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (45 Marks)

Answer the following questions:

1. Atlantis gained independence in 2020 after 120 years of colonial rule under the sovereign state Solaris. The people of Atlantis belong to the same race and ethnicity as those of Solaris but are a distinct linguistic group. Atlantis is rich in natural resources including mines, minerals and forests. Private companies incorporated in Solaris exploited mines and minerals in Atlantis to extract natural resources.

Amoeba Ltd is a public limited company incorporated in Solaris. In the year 2000, Amoeba Ltd was granted mining lease for 70 years and was given exclusive rights to operate 12 mines in Atlantis. Profits from these mining operations constitute 95% of the company's total revenue. Amoeba Ltd employed 50,000 workers from Atlantis to operate the mines. The workers were paid them less than the minimum wage and had to work for 12-14 hours a day. They were not allowed to leave employment without paying a huge penalty and were forced to live in cramped quarters.

Atlantis is economically backward and a third world country. Solaris is one of the wealthiest countries in the world and is regarded as a superpower. Solaris has a highly developed legal system following common law method and is a permanent member of the Security Council. It is also a signatory to international human rights covenants.

- a. The government of Atlantis is desirous of taking action against Amoeba Ltd for exploitation of its citizens and natural resources. Suggest remedies under international law and in the courts of Solaris. **(5 marks)**

- b. Atlantis is undertaking a review of traditional sources of international law from the perspective of decolonized states. Critique Article 38 Statute of ICJ and propose new sources of international law. (10 marks)
2. Do you agree with the cultural relativist critique of international human rights? Why or why not? (10 marks)
3. What does Boaventura de Sousa Santos mean by the phrase “Epistemologies of the South”? Why does he call for “occupying epistemology”? (5 marks)
4. Is WTO an ideal international economic institution? Discuss in the context of ‘development’ concerns. (10 marks)
5. Critique the growing influence of “common but differentiated responsibilities with respective capabilities” as an international norm. (5 marks)

PART – A (5 Marks)

6. Short note on any ONE of the following:

- Critical analysis of the indicators of rule of law and methodology adopted in the WJP index.
- Humanitarian Intervention.
- Through an example explain any ‘unfairness’ perpetuated by international trade and economic globalization.

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

First Semester, End Semester Examinations (Odd-Semester), March 2021

RESEARCH METHODS AND LEGAL WRITING

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (50 Marks)

Answer the following questions:

- For the research question “What is the role of legal writing in the practice of law in the USA?” research was conducted by interviewing the most senior judges at various levels of the judiciary and lawyers with the most experience practicing in 25 courts in the United States. The following is the transcript of the interview with Justice John G. Roberts (JGR), the Chief Justice of the Supreme Court. Based on this interview transcript, identify five tags that can be used to code the interview and list them on your answer sheet. (5 Marks)

BAG: Chief Justice Roberts, thank you very much for taking sometime today to talk about legal writing.

JGR: Happy to be here.

BAG: I wanted to ask you, first of all: Why should lawyers be fastidious with their use of language?

JGR: Language is the central tool of our trade. You know, when we’re looking at a statute, trying to figure out what it means, we’re relying on the language. When we’re construing the Constitution, we’re looking at words. Those are the building blocks of the law. And so if we’re not fastidious, as you put it, with language, it dilutes the effectiveness and clarity of the law. And so I think it’s vitally important — whether it’s a lawyer arguing a case and trying to explain his position, whether it’s a legislator writing a law, whether it’s a judge trying to construe it. At every stage, the more careful they are with their language, I think, the better job they’re going to do in capturing in those words exactly what they want the law to do; in persuading a judge how to interpret it; and as a judge, in giving a good, clear explanation of what the law is.

BAG: Do you think the profession could do better on that score?

JGR: Yes, I think we all can do better. We read hundreds, thousands, thousands of briefs in the course of a year at the Supreme Court, and some are more effective than others. And it's just a different experience when you pick up a well-written brief: you kind of get a little bit swept along with the argument, and you can deal with it more clearly, rather than trying to hack through . . . it's almost like hacking through a jungle with a machete to try to get to the point. You expend all your energy trying to figure out what the argument is, as opposed to putting your arms around it and seeing if it works.

BAG: In society in general, why does it matter how well judges write?

JGR: The opinions are going to be used by lawyers, by other judges — to tell them what the law is. It's an explanation of what the law is. And just like a judge doesn't want to expend all his or her energy trying to figure out what the lawyer is trying to say in a badly written brief, you don't want a trial judge to miss the point of an opinion or to not understand it because it was poorly written. You certainly don't want lawyers, if they're trying to advise clients on how to conform to the law or what the law is . . . you want them to be able to look at an opinion and leave it with some understanding and not just more confusion. And certainly for the future as well. We pick up the books in our chambers, and you get a case from 1872 or whenever it is, and you want to read it and understand what their view of the law was and what the precedent means. And if it is poorly written, sometimes you just kind of throw your hands up and look for something else. That's not good.

2. Identify the *ratio decidendi*. State it on answer sheet:

(10 Marks)

The case concerns the right of prisoners, both those awaiting trial and those already convicted, to vote in national elections. The applicants, a convicted prisoner and an awaiting-trial prisoner, failed to get assurance from the Election Commission that they would be able to vote in the impending national elections. They then jointly applied to the High Court for the appropriate relief. The court dismissed the application on the ground that failure on the part of the Commission to make arrangements for applicants to vote was not an undue limitation of the applicant's constitutional right to vote. The Electoral Act 73 of 1998 required that to be able to vote a person amongst other things must have registered in a "voting district in which that person is ordinarily resident". The prisoners had not been able to register in the districts where they were ordinarily resident as they were in prison. The court held that if a person did something which deprived him or her of the opportunity to register as a voter or to vote he or she had only himself or herself to blame. The applicants

had deprived themselves of the opportunity to register and vote and it was not the fault of the respondents. The applicants filed an application in the Supreme Court for leave to appeal to that court against dismissal of their application on the basis of the right to vote (A.326), the right to equality (A.14) and the right to life and dignity (A.21). They sought a declaration that they and all other prisoners were entitled to register and vote in the forthcoming elections and an order directing the respondents to make all necessary arrangements for them and all prisoners to be able to vote.

The respondents argued that nothing had been done by them to limit the applicants' right to register or vote. They contended that there was difficulty in determining the ordinary residence of a prisoner, whether it was the place of residence before incarceration or the prison. They further argued that if either interpretation would pose immense logistical, financial and administrative difficulties.

The Supreme Court, however, said it was not persuaded about the existence of any insuperable problems that would arise if it was determined that ordinary residence for prisoners meant prison. Further, it was said that even in the case of an interpretation that the last residence prior to incarceration was the place of residence for prisoners, no explanation had been given why provision of special votes for prisoners could not be provided just like for those in hospitals or in diplomatic missions abroad. The court affirmed that the constitutional right to vote imposed positive duties on the legislature and the executive. The first respondent had the obligation to take reasonable steps to ensure that eligible voters were registered. Universal adult suffrage on a common voters role was one of the foundational values of the entire constitutional order.

3. Rewrite the following paragraphs (A and B) using the principles of effective writing as discussed in class. Write on answer sheet : (10 Marks)

A. If law is language (less facetiously than overly fastidiously-not jurisprudentially) then law students have made a determinative choice, upon entering law school, to undertake the requisite measure of professional responsibility, and to become artisans dealing with a fine (probably the finest) but delicate communicative technique. Consummate skill as expositors and rhetoricians must be developed in the explication of legal materials, and the written expression of private arrangements, court advocacy, and public will.... The law schools have recognized the responsibility of the lawyer to be capable of clear exposition and employing rhetorical techniques in an effective manner to accomplish particular objectives in specific situations, and some have undertaken various forms of programs to teach and to accomplish this.

B. Irrespective of whether the district court had the power it exercised with regard to these funds, and I generally entertain the idea that a federal court acting in equity inherently must and does possess the power to fashion a remedy appropriate to the accomplishment of proper ends, it appears to me from a review of the reported proceedings that the district court, assuming for the sake of the argument that it possessed the power it exercised, prematurely and improvidently exercised it.

4. The following are answers given by different judges to the same question. Synthesise them into one paragraph about the characteristics of a good statement of facts:

(10 Marks)

BAG: What are the characteristics of a first-rate statement of facts?

John Roberts: It's got to be a good story. Every lawsuit is a story. I don't care if it's about a dry contract interpretation; you've got two people who want to accomplish something, and they're coming together — that's a story. And you've got to tell a good story. Believe it or not, no matter how dry it is, something's going on that got you to this point, and you want it to be a little bit of a page-turner, to have some sense of drama, some building up to the legal arguments. I also think — again, it varies on your forum — but certainly here at the Supreme Court and in the Courts of Appeals, you're looking for a couple of hooks in the facts that hopefully are going to be repeated in one form or another later on in the legal argument but also are going to catch somebody's interest. It may not have that much to do with the substantive legal arguments, but you want it to catch their eyes. Certainly here in the Supreme Court, in writing cert petitions, for example, if you're going to be looking at 9,000 of them over the course of a year, you've got to stand out from the crowd a little bit. So you want to put something in there to give them the hooks. And I've seen that with judges when you start talking to them about cases from five or ten years ago. Most of us remember *Marbury v. Madison* and everything else, but otherwise, it's going to be that case about whatever — that case about the coal mine where this happened, or that case about the prescription. But give them some hook, and it kind of helps draw them into the brief and carries them along a little bit.

Antonin Scalia: Well, you have to get across all the elements of the case that would make a judge sympathetic to your cause, without being obvious about it. But there are ways of getting it in there, and that's certainly one thing that's important. Most important is citations to the portions of the record that support what you've said, and be rigorously accurate about what you say. A mistake in that portion is readily identifiable and will really undermine your credibility.

Anthony Kennedy: It's a little hard for me to tell brief-writers and lawyers how to argue or write their cases because in part — and this may sound like it's immediately contradicting what I've just said — the personality of the lawyer and of the advocate have a role. You can't wholly suppress your own personality. I don't think you should. I think you should as a judge; I don't think you should as an advocate. So what might be my style might not be yours. But the most important thing in a brief when you state the facts is you must be fair. Now, we know that the plaintiff's brief is going to be slanted for what the plaintiff wants to emphasize, and the defendant's too. We expect that. But I think the reader has to have confidence you're being fair. And one way to do this is to say, "The appellant (if that's who you're representing) is convinced that the district court erred because it did not give sufficient weight to some of the very important facts in the plaintiff's case, and they are these." Now, that's immediately fair because you are acknowledging that what you're doing is you're talking about the plaintiff's side. And of course that should be up in front, and that's very important to get the judge interested in your case. But you can't conclude by allowing a loophole or an opening for your learned friend on the other side to say that you have been selective with the facts. And you say, "These facts are so important that in our respectful submission they wholly overcome what the appellee is going to tell you, which is that . . ." And then you state the appellee's and try to take the wind out of his or her sails in that respect.

5. Use the data in the following table (NCRB, *Crime in India 2019*) to draw three conclusions. Each conclusion should be the result of analyzing at least two data points. (15 Marks)

TABLE 5A.6											
Education & Family Background of Juveniles Apprehended - 2019											
S. No	State/UT	Education						Family Background			
		Illite- rate	Upto Primary	Above Primary to Matric	Above Matric to Higher Secondary	Above Higher Sec- ondary	Total	Living with Parents	Living with guard- ian	Home- less	Total
1	2	3	4	5	6	7	8	9	10	11	12
STATES:											
1	Andhra Pradesh	149	454	342	104	23	1072	897	53	122	1072
2	Arunachal Pradesh	0	9	27	3	0	39	25	12	2	39
3	Assam	13	30	91	2	0	136	125	11	0	136

4	Bihar	385	390	518	279	48	1620	937	454	229
5	Chhattisgarh	130	779	817	262	43	2031	1577	243	211
6	Goa	1	9	19	4	0	33	32	0	1
7	Gujarat	124	1108	964	176	12	2384	2326	34	24
8	Haryana	256	446	601	249	44	1596	1301	171	124
9	Himachal Pradesh	5	59	123	36	3	226	214	11	1
10	Jammu & Kashmir	21	53	255	74	4	407	399	3	5
11	Jharkhand	0	20	57	0	0	77	72	5	0
12	Karnataka	27	163	313	65	18	586	473	27	86
13	Kerala	0	36	302	267	73	678	577	88	13
14	Madhya Pradesh	774	1877	2565	756	214	6186	4816	1022	348
15	Maharashtra	283	1514	3360	1125	172	6454	5834	416	204
16	Manipur	0	0	6	2	0	8	8	0	0
17	Meghalaya	7	40	41	1	0	89	87	1	1
18	Mizoram	6	13	4	2	0	25	22	3	0
19	Nagaland	2	3	1	0	0	6	4	2	0
20	Odisha	126	411	848	27	0	1412	1299	2	111
21	Punjab	21	67	150	47	8	293	267	12	14
22	Rajasthan	181	751	1267	638	185	3022	2581	372	69
23	Sikkim	0	0	4	0	0	4	4	0	0
24	Tamil Nadu	97	658	1812	636	101	3304	2899	302	103
25	Telangana	266	140	488	663	29	1586	1274	87	225
26	Tripura	0	27	21	0	0	48	48	0	0
27	Uttar Pradesh	139	209	458	282	41	1129	923	74	132
28	Uttarakhand	18	30	29	13	11	101	40	17	44
29	West Bengal	41	169	320	60	1	591	447	70	74
	TOTAL STATE(S)	3072	9465	15803	5773	1030	35143	29508	3492	2143
UNION TERRITORIES:										
30	A&N Islands	1	9	10	4	0	24	19	5	0
31	Chandigarh	0	22	178	5	3	208	191	9	8
32	D&N Haveli	0	4	8	8	0	20	7	13	0
33	Daman & Diu	1	3	10	5	0	19	16	2	1
34	Delhi	646	826	1623	152	9	3256	2616	203	437

35	Lakshadweep	0	0	0	0	0	0	0	0	0
36	Puducherry	3	8	0	0	4	15	2	0	13
	TOTAL UT(S)	651	872	1829	174	16	3542	2851	232	459
	TOTAL ALL INDIA	3723	10337	17632	5947	1046	38685	32359	3724	2602

• As per data provided by States/UTs TABLE SA.6 Page 1 of 1

• Due to non-receipt of data from West Bengal in time for 2019, Data furnished for 2018 has been used

Name :

Register No.:

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. Programme

First Semester, End Semester Examinations (Odd-Semester), March 2021

CORPORATE LAW AND CORPORATE GOVERNANCE

Time: 3 ¼ Hours

Maximum Marks: 50

Instructions:

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

PART – A (45 Marks)**Answer the following questions**

- A Writ Petition was filed before the Madras High Court by a multinational auditing firm *DWC Professionals (DWC)* challenging a 'show cause notice' issued to them by the *Securities and Exchange Board of India (SEBI)*. This pertains to *DWC's* audit of an Indian company called *Beepa Computers Services Ltd. (Beepa Computers)* and their alleged failure to detect financial wrongdoing within the company of significant magnitude that in turn resulted in severe losses to the various classes of shareholders of *Beepa Computers*. The financial wrongdoing which was publicly known as '*Beepa Scandal*' included overstatement of cash and bank balances, non-existent accrued interest, overstated debtor position *et.al*.

SEBI's show cause notice sought to initiate action against *DWC* under the relevant provisions of the *SEBI Act, 1992* and other *SEBI Regulations*. *SEBI* was of the considered opinion that *DWC* has violated its fiduciary obligations owed towards the shareholders and other stakeholders of *Beepa Computers* and they have acted as a party to the fraud committed by *Beepa Computers*.

DWC contends that SEBI does not have the requisite jurisdiction and powers to initiate action against their auditors who are discharging their duties as professionals. According to DWC, any action against auditors for their alleged role in the scandal can only be taken by the *Institute of Chartered Accountants of India (ICAI)*. While the matter was pending adjudication before the Court, ICAI impleaded themselves in the case and argued that they are the sole regulator of auditing professionals in India and questioned SEBI's authority over the actions of auditing bodies.

DWC further argued that its failure to detect the scandal while auditing the books and accounts of Beepa Computers can at best be considered as mere omissions. They also contended that they do not owe any fiduciary responsibilities towards any stakeholders of Beepa Computers. Decide the case by quoting relevant legal provisions and judicial precedents as well as by applying any relevant theories of Corporate Governance.

(15 Marks)

2 Does India currently have a robust legal regime for protection of whistle-blowers? Do you think '*whistle blower protection policy*' can succeed in the context of Indian Corporate environment? If so what can be the scope of such a policy? How is a whistle-blower policy connected with principles of Corporate Governance? Draft a comprehensive whistle-blower policy for an Indian Company with adequate checks and balances so as to make it an effective tool in Corporate Governance.

(10 Marks)

3 According to the '*Agency Theory*' of Corporate Governance, who are the principal(s) and agent(s) in a corporation? Is there a conflict of interest between them with respect to the management of the corporation? If yes, elucidate the various ways in which the conflict of interest between the agent and the principal can be resolved. How do the proponents of '*Team Production Theory*' of Corporate Governance differentiate it from Agency Theory?

(10 Marks)

4 "*Not all provisions of Corporate Laws in India directly involved issues of Corporate Governance prior to 2013.*" Whether you agree with this statement? Critically comment on this statement by making a comparative analysis between the provisions of the 1956 Companies Act and 2013 Companies Act that dealt with corporate governance principles and policies.

(10 Marks)

PART – B (1 x 5 = 5 Marks)

Answer the following questions

Choose the most suitable answer from the given options for the following question and substantiate your choice with detailed and cogent reasons

5 The structure of Securities Markets in India consists of the following category(ies) of participant(s):

- a) Regulatory Bodies
- b) Investors in Securities
- c) Issuers of Securities
- d) Intermediaries
- e) All of the above

Name :

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. Programme

First Semester, End Semester Examinations (Odd-Semester), March 2021

GENERAL PRINCIPLES OF INTELLECTUAL PROPERTY LAWS

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (3 x 12 =36 Marks)

Answer the following questions in not more than 900 words:

- Where two countries are both members of a relevant human rights treaty and a relevant intellectual property law treaty, would they be obliged, based on the human rights treaty, to grant non-discriminatory intellectual property protection, even if such obligation does not exist, in a particular case, under the intellectual property treaty?
- An educational institution adopts an open access policy which requires their academic staff to save a copy of their work including their publications in an online repository that is run by the institution. A professor who carried out his research in the lab of the educational institution wishes to publish his research paper in a reputed journal wherein the terms and conditions state that the publisher is the owner of the copyright. In this context, answer the following
 - Whether copyright and open access co-exist?
 - Is there any difference between open access and public domain? State the difference between commons, semi-commons, and anti-commons.
 - Advise the Professor on publication of his research.
- 'Wellness & Goodness' [W&G] is a pioneering company manufacturing Ayurveda and Siddha formulations in India. It has developed a new herbal powder for weight loss and to control obesity. The herbal powder is a new combination of known herbs found in the Western Ghats region of Tamilnadu along with some secret ingredients. The company planned to market the herbal powder in the name of 'Slim N Trim' globally. The herbal powder is contained in a box with artwork, slogans, and instructions for use on the outside. A guide on various diet plans for

'weight loss' using 'Slim N Trim' is planned to be provided free of cost along with the purchase of the herbal powder. Advise them on the intellectual property rights which may subsist concurrently in a packet of the company's new powder which they plan to market along with the guide.

PART – B (2 x 7 = 14 Marks)

Answer the following questions in not more than 500 words:

4. 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 as an 'intellectual property'? Critically examine the existing legal protections available for the database under Indian laws.
 - b. Examine the intellectual property rights that exist in the database created by the intern? Who owns them? Why?
5. How distinctive a sign must be in order to be registrable, regardless of its possible use? Whether a registered trademark can be cancelled upon losing distinctiveness due to genericide under the Indian Trademark Act, 1999?

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Name :

Register No.:

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. Programme

First Semester, End Semester Examinations (Odd-Semester), March 2021

GENERAL PRINCIPLES OF INTELLECTUAL PROPERTY LAWS

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (3 x 12 =36 Marks)

Answer the following questions in not more than 900 words:

1. Where two countries are both members of a relevant human rights treaty and a relevant intellectual property law treaty, would they be obliged, based on the human rights treaty, to grant non-discriminatory intellectual property protection, even if such obligation does not exist, in a particular case, under the intellectual property treaty?
2. An educational institution adopts an open access policy which requires their academic staff to save a copy of their work including their publications in an online repository that is run by the institution. A professor who carried out his research in the lab of the educational institution wishes to publish his research paper in a reputed journal wherein the terms and conditions state that the publisher is the owner of the copyright. In this context, answer the following
 - a. Whether copyright and open access co-exist?
 - b. Is there any difference between open access and public domain? State the difference between commons, semi-commons, and anti-commons.
 - c. Advise the Professor on publication of his research.
3. 'Wellness & Goodness' [W&G] is a pioneering company manufacturing Ayurveda and Siddha formulations in India. It has developed a new herbal powder for weight loss and to control obesity. The herbal powder is a new combination of known herbs found in the Western Ghats region of Tamilnadu along with some secret ingredients. The company planned to market the herbal powder in the name of 'Slim N Trim' globally. The herbal powder is contained in a box with artwork, slogans, and instructions for use on the outside. A guide on various diet plans for

'weight loss' using 'Slim N Trim' is planned to be provided free of cost along with the purchase of the herbal powder. Advise them on the intellectual property rights which may subsist concurrently in a packet of the company's new powder which they plan to market along with the guide.

PART – B (2 x 7 = 14 Marks)

Answer the following questions in not more than 500 words:

4. 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 as an 'intellectual property'? Critically examine the existing legal protections available for the database under Indian laws.
 - b. Examine the intellectual property rights that exist in the database created by the intern? Who owns them? Why?
5. How distinctive a sign must be in order to be registrable, regardless of its possible use? Whether a registered trademark can be cancelled upon losing distinctiveness due to genericide under the Indian Trademark Act, 1999?



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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. Programme

First Semester, End Semester Examinations (Odd-Semester), March 2021

LEGAL REGULATION OF FOREST AND WILDLIFE

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 = 50 Marks)

Answer the following questions in not exceeding 1000 words:

1. The principle of intergenerational equity states that every generation holds the Earth in common with members of the present generation and with other generations, past and future. Edith Brown Weiss

Critically evaluate the measure adopted by the United Nations ensure sustainable livelihood between generations through effective conservation of marine living resources.

2. "The Forest Principles of the United Nations Convention of Environment and Development encourages the parties to the Convention to adopt sound management and conservation which they belong and are of value to local communities for ensuring sustainable livelihood between generations" Evaluate this statement referring the purpose and objectives of the UNCED and the measures adopted by the government of India in ensuring sustainable livelihood between generations.
3. Define Forest Produce and Animal Article referring to the wildlife laws in India. Do you think the wildlife tree in India is absolutely free? Critically evaluate how far the forfeiture of property derived from illegal hunting and trade referring to the relevant provisions of the Act.

4. The primary objective of Forest Act, 1927 is to expedient to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce. Examine this statement by referring to various policy formulations and judicial contribution on forest conservation and protection.

5. "Wildlife crime refers to acts committed contrary to laws and regulations intended to protect natural resources and to manage their sustainable use". Critically examine the relevant legal provisions and institutional mechanisms in regulating wildlife crime in India.

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Name :

Register No.:

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

First Semester, End Semester Examinations (Odd-Semester), March 2021

COPYRIGHT AND ACCESS TO KNOWLEDGE

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 =50 Marks)

Answer the following questions in not less than 400 words and not more than 700 words:

1. "Ideas are free. But while the author confines them to his study, they are like birds in a cage, which none but he can have the right to let fly for, till he thinks proper to emancipate them, they are under his own dominion" -Justice Yates

"This fundamental distinction [of "expression" and "idea"... constitutes not so much a limitation on the copyright ability of works, as it is a measure of the degree of similarity which must exist as between a copyrightable work and an unauthorized copy, in order to constitute the latter an infringement."- Melville Nimmer.

Critically comment on the concept of idea put forth by Justice Yates and Professor Nimmer and discuss on the possibility of 'Idea less expression' and 'Expressionless idea' as put forth by Richard H.Jones.

2. "Considering that, to avert these dangers, it is essential for every State to become increasingly alive to the moral obligations to respect its own cultural heritage and that of all nations, considering that as cultural institutions, museums, libraries and archives should ensure that their collections are built up in accordance with universally recognized moral principles' - critically analyse the rationality of the statement and comment on the role of moral rights in protecting the cultural heritage in India.

3. "Ideas per se fall on the free speech side of the line, while the statement of an idea in specific form, as well as the selection and arrangement of ideas fall on the copyright side of the line." Melville Nimmer.

Critically analyse the statement of Melville Nimmer and state

a) Whether Nimmer's perception of ideas and free speech is restricted only to First Amendment of the U.S Constitution and unique to the U.S copyright law.

- b) Whether the systems of copyright restrict Free speech in India?
- (i) If yes, state whether all copyrighted works violate the freedom of speech and expression guaranteed by the Constitution under Art.19 (1) (a).
- (ii) If no, state how copyright system promotes free speech and protects freedom of speech and expression.
4. Draft Information Technology Intermediaries Guidelines (Amendment) Rules 2018, wherein Rule 3(9) states as follows:

"The Intermediary shall deploy technology based automated tools or appropriate mechanisms, with appropriate controls, for proactively identifying and removing or disabling public access to unlawful information or content."

Elucidate the reasonableness in according safe haven to intermediaries in case of online copyright infringements and discuss whether the removal of the safe haven will be a boon to online content providers who are not intermediaries.

5. (i) Test of 'Substantial similarity', 'Look and feel' are commonly used by the courts to identify the copyright infringement in derivative works'
- (ii) The 'Lay observers' test is solely used to determine copyright infringement in cinematographic works.

Analyse whether the above two statements are conceptually correct and incorrect with regard to India.

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. Programme

First Semester, End Semester Examinations (Odd-Semester), March 2021

RIGHTS RELATING TO NATURAL RESOURCES 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 state is the trustee of all natural resources including streams, lakes, marsh lands, tidelands, flora and fauna which are by nature meant for public use and enjoyment. Public at large are the beneficiary of the seashore, running water, air, forests and ecologically fragile lands. It therefore mandates the state to protect the people's natural resources and take that into account in the planning and allocation of resources whenever feasible. Comment upon the above by referring to *M.C. Metha v. Kamal Nath*, (1997) 1 SCC 388.
2. Consumption patterns also remain highly differentiated in India, with an urgent need to reconcile the oversupply and materials to the upper and middle classes and an undersupply along with severe lack of access of basic minimum resources to the poor. Critically evaluate theoretical justification of private property and point out how far it could be used to claim rights over natural resources.
3. "Common Property includes any property owned by an identified group of people who have the right to enjoy the benefit of exploiting the resources to its maximum, while the cost of this increased utilization is spread out over all users". Garrett Hardin. Critically evaluate the emergence and development of norms governing Common Property in International law and legal measures adopted in India for the effective conservation of common pool resources.
4. The concept of Sustainable Development also facilitates blue economy and conservation of marine living resources for better sustainable livelihood between generations. Evaluate this statement referring to the international legal instruments to ensure common heritage of mankind as intergenerational equity.

5. "Promoting peace by providing justice for all and build effective, accountable and inclusive institutions at all levels in achieving environmental sustainability between generations is one of the chief objectives of Sustainable Development". Evaluate this statement referring to the legal measures adopted and role and contribution of the NITI AYOOG providing participative justice between generations in India.
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programme

First Semester, End Semester Examinations (Odd-Semester), March 2021

CORPORATE FINANCE LAW

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 =50 Marks)

Answer the following questions

1. AGP India Ltd issued convertible securities of INR 70 crores during the month of March 2020 on private placement basis (March issue) to Mapfra Ltd. In December 2020, 50% of those securities were converted to equity shares at the option of the AGP. AGP proposes an IPO with an intention to raise a further sum of 250 crores as additional capital to expand the production capacity of the existing projects. As per the terms of the March issue, the AGP is bound to facilitate the exit of the Mapfra Ltd. in the event of its disagreement for issue of additional capital. In view of the need for additional capital, AGP approached Mapfra for its approval to issue additional capital. Mapfra did not grant the necessary approval. Mapfra expressed its willingness to exit in terms of the March issue. AGP filed a draft offer document with SEBI on 20.03.2021. Assume yourself as an officer of SEBI and find out if the additional conditions for offer of sale has been fulfilled by AGP? Further, state the minimum promoters' contribution required for this IPO to be vetted by the Board.
2. Preferential issue was proposed and invitation to offer on private placement basis was sent to 300 persons including individuals and a group comprising of holding and subsidiary companies. Subsequently, allotments were made to all 300 applicants.

The SEBI, contending that the issuer had violated the ICDR Regulations, 2018, has approached the SAT with a prayer to nullify the issue and to order the refund of monies received.

Company maintains that the allotment is valid and that SAT has no jurisdiction to intervene at this stage. Do you agree?
3. Critically comment on *Ethihad Airways v Prof Lucas Flother*, 2019 EWHC 3107.

