



TAMILNADU NATIONAL LAW UNIVERSITY

QUESTION PAPERS



END SEMESTER (EVEN-SEMESTER)
EXAMINATIONS, JULY-2021

&

REPEAT (ODD-SEMESTER) EXAMIATIONS,
SEPTEMBER-2021

Name :

Register No.:

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programme
Second Semester, End Semester Examinations (Even-Semester), July 2021

LAW AND PRACTICE OF PATENTS

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 =50 Marks)

Answer the following questions:

1. Januaja, a research scholar pursuing her doctoral research in IIT Madras on quantum mechanics published her research findings in a journal recognized by UGC. This academic journal is exclusively run by professional scientific editors and the submissions made by research scholars are subject to a double-blind peer review policy. The transactions of the journal are accessible to the public for a fee. After the publication of her research findings in the academic journal, she applied for a patent on her invention before the Indian Patent Office. Following which she applied for patent protection in the United States of America (U.S.A) and the United Kingdom (U.K.) through Patent Cooperation Treaty (PCT). But the patent examiner of the Indian Patent Office rejected her patent application on the ground of lack of novelty through anticipation by prior publication whereas the PCT application before the patent offices of the U.S.A., and the U.K. are pending. She seeks your legal opinion in this regard. Analyse the concept of novelty and anticipation under the patent law of the United States, United Kingdom, and India in the light of judicial decisions and advise her accordingly.
2. Meet-Now, a popular social networking website filed a patent application for an invention relating to a method for providing a third party with access to user-profile data maintained by it. The invention generally relates to social networking and more specifically to personalizing a third-party application based on user-specific data from a social network. The third-party applications are run within the social networking website and can extend their functionality by providing users with new and interesting ways to communicate, collaborate and interact with each other. 'Meet-Now' in its patent application claimed as follows

“A method comprising of providing access to user profile data maintained by a social network website to a third-party application server, the method comprising:

- i. Receiving, at the social network website, a request to access an application from a user;
- ii. Identifying the third part application server associated with the request;
- iii. Determining a user profile associated with the user providing request to access the application
- iv. Transmitting the user identifier, user data associated with the user identifier to the third-party application server
- v. Evaluating a privacy setting associated with the user profile i.e. data publicly accessible and not publicly accessible
- vi. Comparing the request for data to the privacy setting associated with the user profile.
- vii. Transmitting a subset of data included in the user profile to the third party”

It also claimed that the present invention was not merely a computer program as the said invention “provides technical improvements and benefits like checking privacy setting associated with the user profile”. It is to be noted, the third-party applications include outside businesses which can collect user profile data on grant of permission through this claimed method for targeted advertising of their products to the relevant user. Decide as to the patentability of the invention created by ‘Meet Now’ under the Indian Patent Act, 1970 and the ‘Computer Related Inventions Guidelines, 2017’ released by the Indian Patent office.

3. Narnia, a developing country in a response to the Covid-19 pandemic and to protect its public health notified mandatory local working requirements for Covid-19 vaccines and medications. The Health Minister of the Government of Narnia during his speech in the parliament indicated that the government won't hesitate in issuing compulsory licenses for Covid-19 vaccines and medications on the ground of providing affordable medical treatment to people of Narnia. It is to be noted that, Narnia is a member of WTO and its patent laws are in compliance with TRIPS Agreement. Further, the laws of Narnia are *in parimateria* to Indian laws. The Association of Global Pharma Industry (AGPI) comprising top pharma companies around the world which controls 90% of the global market related to Covid-19 vaccines and medications, through its Narnian chapter challenges the validity of the notification on mandatory local working requirements issued by the Government of Narnia before its High Court on the ground of violation of TRIPS Agreement. Decide.
4.
 - (a) An Indian student who studies in the U.S.A and also works as a research assistant in the University lab under the guidance of his science professor alleges wrongful obtainment of inventions against his professor who is named as sole inventor in a patent granted by USPTO and a pending PCT application before the Indian Patent Office and prayed for incorporation of his name as a joint inventor. He seeks your

legal opinion as to the pending PCT application before the Indian Patent Office under the Indian Patent Act, 1970. (5 marks)

- (b) Trendz India Limited' (hereinafter Trendz) is a distributor of shoes in India marketed under the brand 'Tricker'. M/s SportsFlex, an international reputed company in manufacturing shoes having its headquarters in Germany is the owner of the brand 'Trickers'. The insole of the 'Tricker' shoe was patented in Germany. Through PCT the said patent application was filed in India and it is pending. Trendz issued a legal notice to 'Beta India Private Limited' an Indian shoe manufacturing company that manufacture shoes under the tradename 'beta' claiming that it infringing the patent of 'Tricker' shoes especially the configuration of 'five pressure points'. Beta states that their shoes are manufactured with 'Six pressure points' of superior quality and points out that the PCT application for 'Tricker' claims only the material and thickness of the insole and doesn't claim anything on the configuration of pressure points. Following this, Trendz has given an advertisement in a newspaper with a general warning to infringers as to their patent over 'Tricker' shoes and mentioned about 'five pressure points'. Aggrieved by the activities of Trendz India Limited, Beta seeks your legal opinion. Advice (5 Marks)

5. *"A patent system not recognizing infringement by equivalence would provide little protection for patented products or processes. But there exists lack of harmony in determining infringement by equivalency between member countries of WTO-TRIPS."* In this context, compare and contrast the application of the doctrine of equivalents in Patent Infringement suits before the courts of the U.S.A., U.K., and India.
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programme
Second Semester, End Semester Examinations (Even-Semester), July 2021
LAW OF SECURITIES AND DERIVATIVE 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.
- 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. From 1992 to 2015, the concept of '*unpublished price sensitive information (UPSI)*' with respect to insider trading has undergone multiple regulatory changes in India. Comment on this statement by analysing the decisions of SEBI, SAT and Supreme Court since 1992 onwards on interpretation of the phrase '*upsi*'. Further, explain with cogent reasons whether the following information's are price sensitive in nature?
 - 1.1 Suspension of Chief Financial Officer (CFO) of Reliance Industries Limited.
 - 1.2 Talks of a joint venture deal between Domino's Pizza, Inc. & Pizza Hut and speculative reports about the same in social media.
 - 1.3 Tata Consultancy Services Limited designing a software for conducting online proctored exams for Government Schools in Tamil Nadu.
2. Whether the provisions of the *SEBI Credit Rating Agencies (CRA) Regulations, 1999* are restrictive in nature, in as much they do not give an option to an Issuer Company to change the CRA, if it is dissatisfied with the services offered by a CRA. Advise how an

Issuer Company can terminate its agreement with a CRA. Explain your opinion by highlighting the relevant provisions and case laws.

3. SEBI had conducted a probe into the trading activities of Mr. Dipak Patel (DP), an individual trader and Kratos India Investment, a Foreign Institutional Investor (FII) for the period between January 2017 and March 2019. Mr. Arun Patel (AP) was the Portfolio Manager of the FII and was also closely related to Mr. DP and Mr. Parthiv 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. 1.57 crores by way of front running over a period of two years. 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 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?

4. *“SEBI is like a Mini-State, as the Indian Parliament has clothed the capital market regulator with multifarious 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 mentioning atleast two provision each from the SEBI Act, 1992 for quasi-legislative, quasi-executive and quasi-judicial powers. Explain in detail about the quasi-legislative powers of SEBI?
5. (a) Choose the most suitable answer from the given options for the following question and substantiate your choice with detailed and cogent reasons: **(5 Marks)**

The Capital Market consists of the Primary Market and the Secondary Market. Which of the following statement(s) is/are “TRUE” regarding the differences between these two markets?

- (i) Existing securities are distributed to the investors in the Primary Market, while new issues are traded in the Secondary Market.
- (ii) New issues are distributed to the investors in the Primary Market, while existing securities are traded in the Secondary Market.
- (iii) Secondary Market is also known as New Issues Market.
- (iv) Stocks are traded for the first time in the Secondary Market, while already traded stocks are subject to further trading in the Primary Market.

(b) Whether SEBI Act, 1992 is a civil legislation or penal legislation or a combination of both. Explain with examples and case laws. (5 Marks)

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

Second Semester, End Semester Examinations (Even-Semester), July 2021

LAW RELATING TO WATER

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 = 50 Marks)

Answer the following questions:

1. Although the right to water is not a fundamental right, the Supreme Court has over the years creatively read in the right to water through the right to life. Despite this, millions of Indians do not have adequate access to water. In light of the above scenario, interpret our Constitutional mandate and international obligations to voice for better State commitment towards making access to water a fundamental right.
2. Has the common law riparian doctrine failed needing legislative intervention? Examine the evolution of legislation conferring power on governments to control surface waters internationally. Examine its effect on common law water rights.
3. Existing groundwater regulation is focused mainly on allocation. Further, rules concerning allocation are linked to land giving it a strong nexus with property rights. With the growing use and importance of groundwater, current framework is lacking at various levels. Critically examine.
4. In the *Kishenganga case*, the arbitration tribunal linked the obligation to prevent transboundary harm to the need to manage natural resources in a sustainable manner. Discuss the role of international case law in fulfilling the obligation.
5. What do you mean by greening of water law? Apply the principle to current body of Indian law regulating water resources. What would be the major changes you would incorporate to our existing body of laws to implement the principle?. Evaluate.

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

Second Semester, End Semester Examinations (Even-Semester), July 2021

LAW RELATING TO WATER

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 = 50 Marks)

Answer the following questions:

1. Although the right to water is not a fundamental right, the Supreme Court has over the years creatively read in the right to water through the right to life. Despite this, millions of Indians do not have adequate access to water. In light of the above scenario, interpret our Constitutional mandate and international obligations to voice for better State commitment towards making access to water a fundamental right.
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4. In the *Kishenganga case*, the arbitration tribunal linked the obligation to prevent transboundary harm to the need to manage natural resources in a sustainable manner. Discuss the role of international case law in fulfilling the obligation.
5. What do you mean by greening of water law? Apply the principle to current body of Indian law regulating water resources. What would be the major changes you would incorporate to our existing body of laws to implement the principle?. Evaluate.

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programme
 Second Semester, End Semester Examinations (Even-Semester), July 2021

CORPORATE RESTRUCTURING
(MERGERS, ACQUISITIONS ETC)

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 =50 Marks)

Answer the following questions:

1. M/s. Creations Technologies LLP proposed to be amalgamated with M/s. Crayons Designers Pvt. Ltd., M/s. Creations Technologies LLP has been incorporated under the provisions of Limited Liability Partnership Act, 2008 having its registered office at Tiruchirappalli. M/s. Crayons Designers Pvt. Ltd., is a private limited company which is also having registered office in Tiruchirappalli. Both the incorporated bodies are engaged in the business of establishing and or acquiring Audio and Video Laboratories for Recording, Re- recording, Mixing, Editing, Computer Graphics and special effects for Film, Television Video and Radio Productions etc.,

The Management approached a lawyer and he advised that “it would be wrong to presume that the Companies Act, 2013 prohibits of a merger of an Indian LLP with an Indian company...the principle of *Casus Omissus* shall be applicable in such situation.”

- a) What will be your advice in this case if the management would have approached you? Explain with the support of recent judgment
 - b) What might be the rationale behind the lawyer’s advice received by the management?
2. The scheme of arrangement of Quality Pharmaceutical Ltd., a listed public limited company in India, is in the nature of demerger and transfer of their two specified investment undertakings to two overseas Resulting Companies viz., Quality Investments (Netherlands) B.V., and Quality Holdings USA Inc. Both Quality Investments

(Netherlands) B.V and Quality Holdings USA Inc. are directly or indirectly wholly owned subsidiaries of Quality Pharmaceutical Ltd., Quality Investments (Netherlands) B.V. and Quality Holdings USA Inc. are incorporated respectively under the provisions of laws of Netherlands and United States of America.

The Quality Pharmaceutical Ltd., having its shares listed at Bombay Stock Exchange and National Stock Exchange of India Limited. The management is approaching you to seek advice on scheme of arrangement.

- a) Provide your advice with the support of legal provisions and judgement(s).
 - b) Explain any five subject matters which can be mentioned in the draft scheme of arrangement?
3. Lotus Company is undergoing Insolvency and Bankruptcy proceedings. Beauty & Co proposed to purchase majority shares of the Lotus Company upon a resolution plan initiated by creditors. Comment and decide based on the below facts and on the provisions of Competition Act, 2002
- a) Lotus is a company producing cosmetic products. Its relevant geographical market is Bengaluru and Chennai.
 - b) Beauty & company is producing fairness cream and their main market is Bengaluru and Hyderabad.
 - c) The proposed combination can cause acquisition of control, shares, voting rights and assets.
 - d) It is assumed that post combination; acquirer may gain 75% of the market shares in Bengaluru, Chennai and Hyderabad for the relevant product.
4. Revathy Co. Ltd., engaged in various types of businesses such as management of restaurants, making and selling of bakery products, outdoor catering services, etc. Since they are well known for chain of restaurants, the management decided to focus on the activity of management of restaurants hiving off other businesses. They decided to demerge their non-core businesses with an associate company, Katrin Ltd.,

Advise the management of Revathy Co Ltd., the steps and procedures with reference to legal provisions to give effect the demerger?

5. Camelin Ltd., made an offer to acquire all the equity shares of Buerer & Co Ltd., at a certain price. Members of the company holding 90% of the shares of Buerer & Co Ltd., have accepted the offer. The remaining shares are held by two (2) individuals who do not agree to the deal.

Explaining the procedure to finalise the deal, state the steps to be taken by the offer or company to acquire share of dissenting shareholders.

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**TAMIL NADU NATIONAL LAW UNIVERSITY,
TIRUCHIRAPPALLI
LL. M. Degree Programme
End Semester Examinations (Even-Semester), July 2021
ENERGY LAW AND REGULATION**

Time: 3 Hours 15 Minutes

Maximum Marks: 50

PART – A (5 x 10 = 50 marks)

Answer the following questions:

1. *States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command. In the light of the above, answer the following*
 - a. Write a note on Nationally Determined Contributions. **(2 Marks)**
 - b. Trace the legal status of Common But Differentiated Responsibility in achieving climate justice between generations. **(3 Marks)**
 - c. Analyse the initiatives of NITI AYOG in fulfilling India's intended Nationally Determined Contributions. **(3 Marks)**
 - d. Evaluate the remedies available for non-compliance of Nationally Determined Contributions. **(2 Marks)**
2. Nuclear safeguards are measures to verify the usage of nuclear materials for civilian purposes subject to the verification by Central Government and Public Sector Undertakings. Critically evaluate the statement referring to the Liability of the Operation and when the operator is not liable and the limits of liability referring to the relevant provisions of Civil Nuclear Liability Act, 2009.
3. *The Electricity Act is the principal legislation on generation, transmission, distribution and taking measures promoting competition including rationalisation of electricity tariff and punishing the offender under the Act.*

Do you agree? Evaluate this statement referring to the provisions relating to the power to issue licence, fixation of tariff and provisions for subsidy by State Government.

4. The creation of functioning energy markets will ensure economic efficiency in the management of the coal, gas and power sectors, which is critical to achieving energy security and supporting the country's economic growth. Government interface in the decision-making process seems to be more closely related to the degree of the economic or strategic relevance of the petroleum sector to the specific country. Critically evaluate the pros and cons of privatization of exploration of oil resources in India and principle followed for Petroleum Exploration Licence and Petroleum Mining Lease under the provisions of Petroleum and Natural Gas Rules, 1959.
5. Access to sustainable and modern energy implies the provision of energy services in a way that preserves natural resources and biodiversity, and protects habitats and ecosystems in an integrated manner. Evaluate this statement referring to the role and effectiveness of the legal elements of the concept of sustainable development in achieving Sustainable Development Goals (SDG) targets.

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

Second Semester, End Semester Examinations (Even-Semester), July 2021

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., a registered MSME, 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 eight only)** with applicable service tax, **monthly** in advance to the Lessor on or before the 7th 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. As a resolution professional, you are required to advise the Jet Airways Ltd. and the Resolution Applicant on the grounds of appeal, if any, to be presented regarding deprivation of historical rights on slots available to the Jet Airways.
3. 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 an Insolvency Professional (please note that you are not asked to assume as a resolution professional), can you give an independent opinion to the creditors if the above deal is the best one or is there any better alternative?

4. Panjuvannam Ltd., a registered MSME, 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 7th 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. The said petition is pending for admission. In the meanwhile, LIL has issued eviction notice to Panjuvannam Ltd. You are required to prepare a brief for and on behalf of Panjuvannam Ltd. in order to avoid eviction.

5. Ms. Hebha is a personal guarantor to M/s. Trichy Produce Co. Ltd. (TPCL). TPCL has defaulted in repayment of 27 lakhs, borrowed for working capital purposes. Due to Covid19 lockdowns actions could not be taken against TPCL for recovery of the said sum. But a suit has been filed against Ms. Hebha. She requests your advice to file a written statement in the suit proceedings.
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programme

Second Semester, End Semester Examinations (Even-Semester), July 2021

INTELLECTUAL PROPERTY RIGHTS AND LITIGATION

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 = 50 Marks)

Answer the following questions:

1. How do the provisions under Section 62(2) of the Copyright Act and Section 134(2) of the Trade Marks Act governing territorial jurisdiction of infringement claims differ from the rules of jurisdiction prescribed by Section 20 of the Code of Civil Procedure? Are these differences desirable or should territorial jurisdiction for all categories of intellectual property claims be governed by a uniform set of rules?
2. What are the core ingredients of academic fair use as a defence to copyright infringement under the Copyright Act? Have Indian courts applied this defence conservatively or liberally? Critically evaluate with reference to Indian case laws.
3. What are the key factors evaluated under Indian law when assessing damages to be granted to Plaintiffs in trade mark cases? Do some of these factors deserve greater prominence than Indian courts have offered them thus far and, if so, which ones?
4. What are the key elements of the exception to patent infringement set out in Section 104 A of the Patents Act? Should this provision be interpreted narrowly or widely by Indian courts?
5. Why have Indian courts moved towards recognising the remedies of website/URL blocking and dynamic injunctions in cases of online infringement of intellectual property rights? What cautionary principles need to be kept in mind to ensure that these remedies do not grant over broad protection to Plaintiffs?

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

Second Semester, End Semester Examinations (Even-Semester), July 2021

MINES AND MINERALS LAW

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 = 50 Marks)

Answer the following questions:

1. Evaluate the Resource Curse Theory and its implications for the mining sector.
2. Evaluate the utility of the Social License to Operate in building legitimacy for the mining industry.
3. Critically analyse the key changes (any five) brought about by the MMDRA 2015 Amendment.
4. The challenges posed by Acid Mine Drainage and their remediation measures are vital to protect the environment. Critically analyze the legal framework in India with regard to AMD.
5. “Amidst the cacophony of the multiple and complex contestations over land and its resources, how do we make sense of the claims and counter-claims made by local communities in various contexts? For this, we need to investigate how the law interacts with a society to reach beyond state law in order to consider other forms of normative orderings.” – Kunatala Lahiri- Dutta.

Analyse this statement on legal pluralism in the Indian context with a particular focus on the Fifth and the Sixth Schedule Areas.

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**LL.M. Programme****Second Semester, End Semester Examinations (Even-Semester), July 2021****BIODIVERSITY AND BIOLOGICAL RESOURCES**

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (5 x 10 = 50 Marks)**Answer the following questions:**

1. On average, we lose about 150 species a day – that's around 55,000 every year! Many species will be extinct due to human encroachment on their habitats, long before we have discovered the true wealth of biodiversity we are destroying. Once a species is lost, it is gone forever. We will never again be able to experience a Steller's Sea Cow – a marine mammal related to the Dugong and Manatee. Sea Cows were hunted to extinction by our ancestors in 1768 – only 27 years after they were discovered by the Europeans. Considering the above context, discuss the various aspects of Ex-Situ and In-Situ conservation of Biodiversity. How effectively is this process helping India in the conservation of endangered species? Support your answer with relevant examples.
2. Explain the range of justifications advanced for the conservation and sustainable use of biological diversity and identify the role played by various international treaties, agreements, conventions with specific reference to the protection and conservation of marine biodiversity.
3. The Indian Biodiversity Act, 2002 is primarily seeks to achieve various objectives, such as conservation and sustainable use of the country's biological resources; access to genetic resources and associated knowledge and fair and equitable sharing of benefits arising from utilization of biological resources to the country and its people. Considering the brief journey of almost two decades of IBA 2002, critically examine

and highlight achievements, shortcomings, and future challenges to The Indian Biodiversity Act, 2002.

4. Moral values that are inherent in society create a distinction between right and wrong. In this way, social fairness is believed (by most) to be in the "right", but more frequently than not this "fairness" is absent. Every individual has a responsibility to act in manner that is beneficial to society and not solely to the individual. Moral and ethical responsibility is a theory in which individuals are accountable for fulfilling their civic duty, and the actions of an individual must benefit the society as a whole. In this way, there must be a balance between economic growth and the welfare of society and the biodiversity. Considering this aspect, kindly express your opinion on social, ethical and economic issues involved in conservation of biodiversity.
 5. As one of the earliest signatories to the Cartagena Protocol on Bio-safety, elucidate the current Indian position regarding bio safety regulations and its implementation.
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programme
Second Semester, End Semester Examinations (Even-Semester), July 2021
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 consider the 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.

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.

However, the new owners will ensure that the public shareholding is restored to at least of 10% within a maximum period of 18 months and subsequently to 25% within a maximum period of three years. In December 2020, Sebi had amended norms for listed companies going through insolvency process and prescribed 12 months to achieve public shareholding of 10% and 36 months to achieve public shareholding of 25%.

“The successful resolution applicant proposes to restore the public shareholding in the corporate debtor through the issuance of fresh shares of the corporate debtor to the public, at market price, by way of a FPO, which process shall be carried out in compliance with applicable laws,” NCLT order said.

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.

The National Company Law Tribunal (NCLT) on June 22 had approved resolution plan of Murari Lal Jalan-Kalrock Capital consortium with a few riders. The consortium will have to get approval of slots for Jet Airways from the Directorate General of Civil Aviation (DGCA) within 90 days.

In its order, the tribunal has pointed out that Jet Airways ceased operations prior to initiation of insolvency. The legal protection under insolvency law that disallows cancellation of existing government licensees, concessions will not be applicable to it.

The shares of Jet Airways remained locked in the lower circuit on Thursday to close 5% down at Rs 126.45 per share on BSE.

Summary of additional considerations of the stakeholders of the above deal:

Resolution applicants will have right to nominate one director each. Some of the existing public shareholders are keen to increase their holding in the venture to make up the reduction of their holding. Staff and employees are keen to have their representation in the board.

Answer the questions below:

1. Do the existing public shareholders, staff and employees have any scope for use of Shareholders Agreements to safeguard their concerns? (10 marks)

2. Consider that Murari Lal Jalan is holding 63% of the stake and the remaining stake of their investment held by Karlock capital. Draft a clause of shareholders agreement providing anti-dilution rights to both the parties. (10 marks)
 3. Draft a clause reflecting the arrangement for nomination to the board of directors. (10 marks)
 4. Consider that the consortium will be 50:50 joint venture. 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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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programme
Repeat (Odd-Semester) Examinations, September 2021
RESEARCH METHODS AND LEGAL WRITING

Time: 3 ¼ Hours

Maximum Marks: 50

PART – A (50 Marks)

Answer the following questions:

1. The following are excerpts from three important cases decided by the Supreme Court of India. Simplify the language used in each and rewrite the passages using the principles of good legal writing. (3x5=15 Marks)
 - (a) The signification of a word of plural semantic shades may, in a given text, depend on the pressure of the context or other indicia. Absent such compelling mutation of sense, the speech of the lay is also the language of the law.
 - (b) The conclusion is impeccable that if the corporate body is but an 'instrumentality or agency' of Government, then Part III will trammel its operations. It is a case of quasi- governmental beings, not of non-State entities. We have no hesitation to hold that where the chemistry of the corporate body answers the test of 'State' above outlined it comes within the definition in Art. 12. In our constitutional scheme where the commanding heights belong to the public sector of the national economy, to grant absolution to government companies and their ilk from Part III may be perilous. The court cannot connive at a process which eventually makes fundamental rights as rare as 'roses in December, ice in June'.
 - (c) Contemporary profusion of prison torture reports makes it necessary to drive home the obvious, to shake prison top brass from the callous complacency of unaccountable autonomy within that walled-off world of human held incommunicado. Whenever fundamental rights are flouted or legislative protection ignored, to any prisoner's prejudice, this Court's writ will run, breaking through stone walls and iron bars, to right the wrong and restore the rule of law. Then the parrot-cry of discipline will not deter, of security will not scare, of discretion will not dissuade, the judicial process

2. The passages below are excerpted with alterations from Hammarberg, Kirkman, Lacey, "Qualitative research methods: when to use them and how to judge them", <https://doi.org/10.1093/humrep/dev334>. In each passage, the underlined portions are ideas borrowed from other authors, and the rest of the passage is the author's own ideas. State which of the passages constitute plagiarism, and explain why. (3x5=15 Marks)
- (a) The peer-review process is a pillar of scientific publishing. One of the important roles of reviewers is to assess the scientific rigour of the studies from which authors draw their conclusions. If rigour is lacking, the paper should not be published. As with research using quantitative methods, research using qualitative methods is home to the good, the bad and the ugly but it is essential that reviewers know the difference.
- (b) The peer-review process is a pillar of scientific publishing. One of the important roles of reviewers is to assess the scientific rigour of the studies from which authors draw their conclusions(Barry, 2001). If rigour is lacking, the paper should not be published. As with research using quantitative methods, research using qualitative methods is home to the good, the bad and the ugly(Day, 2008), but it is essential that reviewers know the difference.
- (c) The peer-review process is a pillar of scientific publishing. One of the important roles of reviewers is to assess the scientific rigour of the studies from which authors draw their conclusions. If rigour is lacking, the paper should not be published. As with research using quantitative methods, research using qualitative methods is home to the good, the bad and the ugly, but it is essential that reviewers know the difference(Barry, 2001; Day, 2008).
3. In each of the following examples, state whether quantitative, qualitative or mixed methods research would be most effective and explain why. (2x5 =10Marks)
- (a) A student at TNNLU wishes to research how online classes during the pandemic have affected the TNNLU community. She narrows her area of research to the pedagogic practices used in online teaching in the academic year 2020-21 and frames the research question "What was the impact of the Covid pandemic on pedagogic practices used at TNNLU in 2020-21?" She will be conducting this research in the first semester of academic year 2021-22, as part of a required social science course.
- (b) A student at TNNLU wishes to research how online classes during the pandemic have affected the TNNLU community. His focus is on student outcomes of online teaching in 2020-21. He hypothesizes that student outcomes have declined across all subjects for undergraduate classes. He plans to conduct his research in the first semester of 2021-22, as a project in a social science course.
4. Identify the *ratio decidendi* of the following judgement. State the method by which the *ratio* can be determined, how it has been applied to this judgement, and what the *ratio* is in this case. (10 Marks)

Judgement:

This case raises the familiar question: Was entire performance a condition precedent to payment? That depends on the true construction of the contract.

In this case the contract was made over a period of time and was partly oral and partly in writing, but I agree with the Official Referee that the essential terms were set down in the letter of 25th April, 1950. It describes the work which was to be done and concludes with these words: "The foregoing, complete, for the sum of £750 nett. Terms of payment are nett cash, as the work proceeds; and balance on completion."

The defendant paid £150 on 12th April, 1950, and another £150 on the 19th April, 1950. On 8th August, 1950, the plaintiffs said that they had carried out the work in absolute compliance with the contract and demanded payment of the balance of £450. On the 30th August, 1950, the defendant paid £100, but said that there were defects and omissions in the work and that he would call in someone else to make them good and deduct the cost from the plaintiffs' bill. He did not do this but entered into occupation of the flat and used the furniture. The plaintiffs then brought this action for the balance of £350. They denied that there were any defects at all. The Official Referee found that there were defects in three of the items of furniture and that the cost of remedying them was £55.18s.2d. He deducted that sum from the £350 and gave judgment for the plaintiffs for £294.1s.10d.

The question of law that was debated before us was whether the plaintiffs were entitled in this action to sue for the £350 balance of the contract price as they had done. The defendant said that they were only entitled to sue on a quantum meruit. The defendant was anxious to insist upon a quantum meruit, because he said that the contract price was unreasonably high. He wished therefore to reject that price altogether and to pay simply a reasonable price for all the work that was done. This would obviously mean an inquiry into the value of every item, including all the many items which were in compliance with the contract as well as the three which fell short of it. That is what the defendant wanted. The plaintiffs resisted this course and refused therefore to claim on a quantum meruit. They said that they were entitled to the balance of £350 less a deduction for the defects.

In determining this issue the first question is whether, on the true construction of the contract, entire performance was a condition precedent to payment. It was a lump sum contract, but that does not mean that entire performance was a condition precedent to payment.

When a contract provides for a specific sum to be paid on completion of specified work, the Courts lean against a construction of the contract which would deprive the contractor of any payment at all simply because there are some defects or omissions. The promise to complete the work is therefore construed as a term of the contract, but not as a condition. It is not every breach of that term which absolves the employer from his promise to pay the price, but only a breach which goes to the root of the contract, such as an abandonment of the work when it is only half done. Unless the breach does go to the root of the matter, the employer cannot resist payment of the price. He must pay it and bring a cross-claim for the defects and omissions, or alternatively set them up in diminution of

the price. The measure is the amount which the work is worth less by reason of the defects and omissions, and is usually calculated by the cost of making them good; see Mondel v. Steel ((1841) 8 Meeson & Welsby, page 858); H. Dakin & Co. Ltd. v. Lee (1916, 1 King's Bench, page 566), and the notes to Cutter v. Powell in the 13th Edition of Smith's Leading Cases II., 19-21.

...

Even if entire performance was a condition precedent, nevertheless the result would be the same; because I think the condition was waived. It is always open to a party to waive a condition which is inserted for his benefit. What amounts to a waiver depends on the circumstances. If this was an entire contract, then when the plaintiff tendered the work to the defendant as being a fulfilment of the contract, the defendant could have refused to accept it until the defects were made good, in which case he would not have been liable for the balance of the price until they were made good. But he did not refuse to accept the work. On the contrary, he entered into possession of the flat and used the furniture as his own, including the defective items. That was a clear waiver of the condition precedent. Just as in a sale of goods, the buyer, who accepts the goods, can no longer treat a breach of condition as giving a right to reject but only a right to damages: so also in a contract for work and labour, an employer who takes the benefit of the work can no longer treat entire performance as a condition precedent, but only as a term giving rise to damages. The case becomes then an ordinary lump sum contract governed by the principles laid down in Mondel v. Steel and Dakin v. Lee. The employer must therefore pay the contract price subject to a deduction for defects or omissions.

I would point out that in these cases the question of quantum meruit only arises when there is a breach or failure of performance which goes to the very root of the matter. On any lump sum contract, if the work is not substantially performed and there has been a failure of performance which goes to the root of it, as, for instance, when the work has only been half done, or is entirely different in kind from that contracted for, then no action will lie for the lump sum. The contractor can then only succeed in getting paid for what he has done if it was the employer's fault that the work was incomplete; or there is something to justify the conclusion that the parties have entered into a fresh contract: or the failure of performance is due to impossibility or frustration, see Appleby v. Myers. (Law Reports, 2 Common Pleas, page 651, at page 660) and Sumpter v. Hedges (1898, 1 Queen's Bench, page 673), and section 1 (3) of the Frustrated Contracts Act, 1943. In such cases the contractor can recover in an action for restitution such sum as he deserves, or in the words of the Act, "such sum as the Court considers just." Those cases do not, however, apply in this case, because in this case the work has been substantially performed.

In my opinion the Official Referee was right and this appeal should be dismissed.