



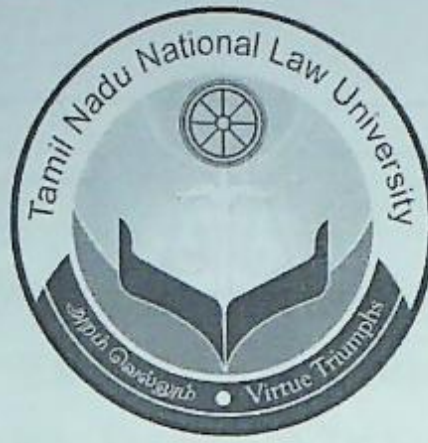
TAMIL NADU NATIONAL LAW UNIVERSITY

QUESTION PAPERS

END - SEMESTER EXAMINATION (ODD – SEMESTER)

NOVEMBER -2018

LLM



**TAMIL NADU NATIONAL LAW UNIVERSITY
TIRUCHIRAPPALLI**



**LL.M. PROGRAMME
QUESTION PAPERS**


FACULTY-IN-CHARGE OF EXAMINATIONS
TAMIL NADU NATIONAL LAW UNIVERSITY
TIRUCHIRAPPALLI - 27

ACADEMIC YEAR:

2018-2019 (Odd and Even Semesters)

Name : Register No. :

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

First Semester, End-Semester Examinations (Odd-Semester), November 2018

LAW AND JUSTICE IN GLOBALIZING WORLD

Time: 2½ Hours

Maximum Marks: 50

PART – A (5 X 10 = 50 Marks)**Answer any FIVE of the following Questions:**

1. At the Paris Peace Conference in 1919, the British government succeeded in gaining separate representation for its dominions, including India. This created a rather anomalous situation, since a dependency of a foreign power, a colony which could not control its internal affairs, was accepted as a sovereign state by an international treaty. What challenges does this development pose to the doctrine of *legal equality of states* in international law? Can dominions like India claim to have achieved *quasi-independence* back in 1919 as they began to function as a separate entity in their external relations?
2. Discuss the evolution of UN peace operations. What are the three basic principles of UN peacekeeping? What is the legal basis for UN peace operations? What are the new mandates provided to peacekeeping operations in the post-Cold War era? Discuss with reference to at least two UN peacekeeping operations.
3. Is the International Criminal Court (ICC) world's supreme criminal adjudicatory body? If yes, why is the ICC facing a legitimacy crisis? What challenges do the third generation courts and tribunals pose to the ICC? Which of the two models of criminal adjudicatory mechanism do you find more effective in dispensing transitional justice?
4. Treaty making power of a state is an aspect of external sovereignty. Discuss this power of Indian state with special reference to Article 253 of the Constitution. What challenge does Article 73 of the Indian Constitution pose to the treaty making power of Indian state?

5. Access to justice is a basic principle of the rule of law. In the absence of access to justice, people are unable to have their voices heard, exercise their rights, challenge discrimination or hold decision-makers accountable. Discuss the framework of access to justice provided in the Indian Constitution and the UN Charter with real life examples.
 6. With the advent of globalization, third world states have seen rapid increase in their exports; however, the share of poverty in most third world states has not witnessed any noticeable decrease and the gap between the rich and the poor has increased phenomenally in successive decades. Is the present architecture of international law designed in a manner that is prejudicial to the interest of the third world states? Do you think there is any direct connection between poverty and international legal framework designed to combat the same?
 7. International law and domestic law, both have the onus to protect the interest of marginalized communities across the globe. However, a lot of these communities have faced rampant discrimination and none of the two have come to their rescue. Discuss the plight of indigenous people as a marginalized community with special reference to Sámi people in Scandinavia and Māori people in New Zealand.
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. PROGRAMME

First Semester, End-Semester Examinations (Odd-Semester), January 2019

COMPARATIVE PUBLIC LAW

Time: 2½ Hours

Maximum Marks: 50

PART – A (25 Marks)

Answer any ONE of the following Questions:

1. One and perhaps the most dominant approach to comparative constitutional law is functional, which defines the constitutional domain by reference to the role of constitutions in both 'checking' and 'creating' government's power.
 - i. Examine the approaches to comparative constitutional law with specific focus on functional approach in the light of the above statement.
 - ii. Explain the role of constitution as checking and creating government's power, applying the functional approach.

[25 Marks]

[OR]

2. Ran Hirschl claims that there is a global convergence toward constitutional supremacy and the establishment of judicial review. Explain this idea and establish how comparative jurisprudence is taking a center stage in constitutional adjudication.

[25 Marks]

PART – B (25 Marks)

Answer any ONE of the following Questions:

3. 'Subsidiarity largely works as a dynamic criterion for the allocation of powers among alternative sphere of jurisdictions, which ought to exercise competences on the basis of their capacity to deal with specific problems.'
 - i. Respond to this statement by comparing the experiences of at least two jurisdictions.

ii. What are the common structural characteristics of federations? Locate these features in Indian, Canadian and Australian constitutions.

[25 Marks]

[OR]

4. 'Separation of power is not mere constitutional engineering but it will be if talked without any substantial ends.' Critically analyze this statement. Do use the notions of classical horizontal division of powers and other such possible dimensions while analyzing.

[25 Marks]

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

First Semester, End-Semester Examinations (Odd-Semester), January 2019

RESEARCH METHODS AND LEGAL WRITING

Time: 2½ Hours

Maximum Marks: 50

Answer the following Questions:

1. State the significance of the 'Legal Research' and the role of legal researcher in India. (6 Marks)
2. The formulation of the research problem is considered to be the first step of legal research. Discuss the characteristics of Research Problem and also the steps involved in the formulation of research problem. (6 Marks)
3. **Kindly read the facts and answer accordingly:**

Factual Matrix

On 15th April 2014, a Division Bench comprising Justice K.S. Radhakrishnan and Justice A.K. Sikri in a landmark decision *National Legal Services Authority Vs Union of India*, set a milestone in the area of gender justice in the country which affirmed the rights of individuals to decide their self-identified gender and ensure the enjoyment of all fundamental rights enshrined in the Constitution of India to the transgender. Despite the legal recognition, the access to education, employment, health and medical care were denied as reported and the criminalisation of transgender people continues to be effective by the states in India. The Supreme Court came with the following recommendations to the Central and State Governments to establish HIV sentinel serosurveillance sites at strategic locations; conduct operations research to design and fine-tune culturally-relevant package of HIV prevention and care interventions; to train health care providers to be competent and sensitive in providing health care services related to gender transition and sex reassignment surgery; implement stigma and discrimination reduction measures at various setting through various ways; open up the existing Social Welfare Schemes for the needy and create specific welfare schemes to address the basic needs including housing and employment needs,

to ensure greater involvement of vulnerable communities in policy formulation and program development. Now, the Government of India expressed its interest to implement those guidelines recommended by the Supreme Court.

Directions to Students: Now, imagine that with this objective, the Ministry of Social Justice, Government of India is willing to sponsor you a research project to identify the problems of transgender and to frame a policy/legislation despite the bill was already place in the parliament for discussions.

On the basis of above information, answer the following: (8 Marks)

- (a) Which Research Methodology would be appropriate to conduct this research and Why?
 - (b) Explain the essential characteristics of that methodology; which you recommend to conduct this research.
4. It is a rule of thumb, that if you are not familiar enough with the research area or with a particular sample to predict the range of possible responses, and especially for the details not available in the literature, the researcher often decide to use a questionnaire. State the importance of Questionnaire, its kinds and also the merits and demerits in conducting interview with questionnaire.

(6 Marks)

5. Answer any FIVE of the following :- (5 x 4 = 20 Marks)

- (a) State the differences of research methods and research methodology
 - (b) Doctrinal and Non-Doctrinal legal research – merits and limitations
 - (c) Define 'Hypothesis' and explain its relevance in research with illustrations
 - (d) Explain the importance of socio-legal research
 - (e) Define 'Sampling' in legal research. Explain its various kinds with examples.
 - (f) Explain the significance of legislation and judicial precedents in legal research
 - (g) Ethics in legal research
6. Bring out the significance of seminars, symposia, workshops and conferences as a part of law school program. How the outcome of these activities does benefit the legal system? **(4 Marks)**

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

First Semester, End-Semester Examinations (Odd-Semester), January 2019
CORPORATE FINANCE LAW (Law relating to Primary Market including Foreign Direct Investment)

Time: 2½ Hours

Maximum Marks: 50

Instructions:

1. This is a closed book examination. Only the Corporate Laws and SEBI Manuals, without printed notes as well as case laws added by publisher, may be carried to the examination hall.
2. Answer ANY FIVE questions.
3. All questions carry equal marks. All sub-questions within a question carry equal marks amongst sub-questions.

Answer the following Questions:

1. Critically comment on the nature and scope of regulation of primary market transactions in India. Do you think the investors rely on regulations for their investment decisions?
2. Identify various market instruments companies may issue to raise finance and the specific regulations of SEBI relating to each of the instrument. Do specify names of instruments or a class of them, if any, not being regulated by SEBI. Add reasons why SEBI's jurisdiction was excluded as regards the names of instruments or a class of them, if any.
3. A manufacturing facility of a company having its registered office in Tiruchirappalli recently got shutdown due to public protests and consequent firing. The protests were triggered due to the fact that the company, instead of addressing pollution related complaints against it, began process for expansion of its manufacturing facility. There are allegations and counter allegations about the environmental damage due to the activities of the company. Some media reports have stated that the company was fined by the judiciary. The amount of fine was stated to be INR 100 crores. Cases filed against the alleged protestors are pending in various stages. The company challenged the order of closure of

facility before the appropriate court/tribunal. The company was allowed to reopen its facility. The State preferred an appeal. However, appellate court has upheld the original order allowing the company reopening its facility. However, the appellate court fined the company INR 500 crores for pollution and sufferings of the victims. Review petition was filed by public spirited citizens and the State.

The said company now proposes to issue securities to the public by issuing a red-herring prospectus.

Based on the facts stated above answer the following questions:

- 3.1. Draft content relating to above facts and circumstances, if any, to be included in the red-herring prospectus. Please bear that the draft must be compliant with the regulations, if any, applicable to the facts and circumstances mentioned above.
- 3.2. Can SEBI stop the company from accessing the capital market permanently for involvement of the company in polluting the environment or till the court decides on the review petition?
4. Briefly describe the steps to be taken by a company for issuing fresh shares to the existing members? Can the company compel each of the members to subscribe in such fresh issue of shares? Prepare format of application, as may be applicable under the extent Rules/Regulations, to be used by such members while subscribing for the shares.
5. Write an essay on the changes introduced in the law applicable to FDI. Specify the role of RBI in case of FDI. How the role of RBI differs from the role of SEBI as a regulator?

(OR)

Write an essay on automatic crystallization of floating charge. Is contract useful in ensuring better protection of creditors?

6. Write short notes on the following:

1. Role of merchant bankers in IPO

(OR)

Use of ASBA process to the issuer company

2. Power of SEBI to regulate the issue of Global Depository Receipt by Indian companies

(OR)

Foreign Currency Exchangeable Bonds

Name :

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

First Semester, End-Semester Examinations (Odd-Semester), January 2019
GENERAL PRINCIPLES OF INTELLECTUAL PROPERTY LAWS

Time: 2½ Hours

Maximum Marks: 50

PART-A (3 Questions X 10 Marks = 30 Marks)

Answer any THREE of the following in not less than 1000 words:

1. *“Intellectual Property (IP) is a generic term that probably came into regular use during the twentieth century. This generic label is used to refer to a group of legal regimes, each of which, to different degrees, confers rights of ownership in a particular subject matter.....One striking feature of the intellectual property is that despite its early historical links to the idea of monopoly and privilege, the scope of its subject matter continues to expand. The twentieth century has seen new or existing subject matter added to present intellectual property systems and new systems created to protect existing or new subject matter. The strongly expansionary nature of intellectual property systems shows no sign of changing.”* In this context, critically comment on the concept of intellectual property, its origin and development. Do you agree with the statement that intellectual property rights are universally recognized and are not a Universal Right? Why?
2. Examine the concept of Commons and Anti-commons. Is ‘Intellectual Property’ an ‘Anti-commons’? Critically analyse the various philosophical justifications for the protection of intellectual property.
3. Compare and contrast the concept of novelty in Patent Act, 1970 and Design Act, 2000. Why is discovery excluded under the concept of novelty in India? How does anticipation through prior publication affect novelty in patent and design applications?
4. *“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 designs laws remains.” In this context, explain the term ‘artistic work’ in the light of the Delhi High Court judgment in *Microfibres Inc v. Girdhar & Co* and critically analyse the overlapping of Copyright and Designs in India?

5. Explain in detail the global minimum standards of TRIPS Agreement and critically analyse the impact of TRIPS Agreement in Indian Intellectual Property Laws.

PART – B (4 Questions X 5 Marks = 20 Marks)

Answer any FOUR of the following in not less than 400 words:

6. Explain the Classic Traits of Intellectual Property Rights.
7. Examine the Indian Constitutional dimensions on Private Property and Intellectual Property.
8. Examine the concept of Distinctiveness in Trademark.
9. How are ‘Moral Rights’ of an author protected under Copyright Act, 1957?
10. Is Intellectual Property an Investment? Critically comment on the nexus between bilateral agreements and TRIPS Plus Protection?
11. Write a short note on protection of Traditional Knowledge in India?

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

First Semester, End-Semester Examinations (Odd-Semester), January 2019
CORPORATE LAW AND CORPORATE GOVERNANCE

Time: 2½ Hours

Maximum Marks: 50

Instructions:

1. Students are allowed to use the Companies Act, 2013 Manual for this examination. No other material is allowed.
2. Students will not be allowed to borrow the Manual from any other student.

PART- A (15 Marks)

1. **Read the facts carefully and answer the questions that follow in not more than 500 words:**

ATTA Group presently operates in more than hundred countries, across 6 continents, collectively employing over 6,60,000 people, 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', In 2015-16, the revenue of ATTA Group, taken together, was \$103.51 billion. There are 29 public-listed companies in the ATTA Group, with a combined market capitalization of about \$116.41 billion (as on 31 March 2017). The company is the principal investment company and the promoter to almost all ATTA Group companies. Above 660l of the issued ordinary share capital of the company is held by philanthropic trusts, which support education, health, livelihood generation and art and culture (collectively, the "ATTA Trusts").

As the Trust got formed and the trustees deliberated on the policy aspects and finalized them, it decided to adopt a broad framework-that it should undertake such projects, which are too large for individuals to handle and that each of these projects should have a genuine relevance to the welfare of the country. The Trust is mandated to:

- Maintain and support schools, educational institutions and hospitals.
- Provide relief in distress caused by the elements of nature such as famine, pestilence, fire, tempest, flood, earthquake or any other calamity.

- Help advancement of learning in all its branches especially research work in medical and industrial problems, etc.

Now this Trust has 27.99% shareholding in the company doing various philanthropic works as mentioned above. In more than 100 years' history of the company, change of guard happened only six times who are as follows:

Jamsetji ATTA (1868-1904)	Sir Dorab ATTA (1904-1932)	Nowroji Saklatwala (1932-1938)
JRD ATTA (1938-1991)	Attan ATTA (1991-2012)	Series Mystry (2012-2015)

Mr. ATTA was the Chairman of the company from 1991 and was also Chairman of major ATTA Companies including ATTA Motors, ATTA Steel, ATTA Consultancy Services, ATTA Power, ATTA Global Beverages, ATTA Chemicals, Indian Hotels and ATTA Teleservices. He is also associated with various organizations in India and overseas. Mr. ATTA serves on the board of directors of Alcoa and is also on the international advisory boards of Mitsubishi Corporation, JP Morgan Chase, Rolls-Royce and the Monetary Authority of Singapore. He is the Chairman of the Council of Management of the ATTA Institute of Fundamental Research. In 1981, he was named as Chairman of ATTA Industries; the group's other holding company, where he was responsible for transforming it into a group strategy think tank and a promoter of new ventures in high-technology businesses. The Government of India honored Mr. ATTA with its second-highest civilian award, the Padma Vibhushan, in 2008. He has also received honorary doctorates from several universities in India and overseas. During his tenure, the group's revenues grew manifold, totaling over \$100 billion in 2011-12. Through his aggressive acquisition that sought to expand ATTA Group.

In 2012, Mr. ATTA retired as chairman and was succeeded by Mr. Series. After retirement, Mr. ATTA has been conferred the honorary title of Chairman Emeritus of the company, ATTA Industries, ATTA Motors, ATTA Steel and ATTA Chemicals. Mr. Atta's retirement as the chairperson, the company's articles of association were amended wherein the majority of the directors nominated by the Atta Trusts were vested with the authority of 'affirmative voting' in relation to the appointment and removal of Atta Sons chairman

Mr. Series Pallanji Mystry, aged 48, was made the Chairman of the company in December 2012 after its previous Chairman, Attan ATTA, formally retired. He was the sixth chairman of the group and the only the second chairman who did not carry the ATTA name, after Nowroji Saklatwala. Before this, he was the Managing Director of the Series Pallanji Group (SPG). He was also on the board of ATTA Sons. He is the youngest son of construction tycoon Pallanji Mystry, who also owns a significant stake in the group. He is a graduate of civil

engineering from Imperial College of London, and has a Master of Science in Management from the London Business School.

On 24.10.2017, ATTA Sons Ltd. held Board Meeting with several agenda items including agenda of "any other item", where under, Chairman of the Company, Mr. Series Pallanji Mystry (hereafter called "Mr. Series") was removed from the position of Chairman of the company under the head of "any other item", without being given 15 days prescribed notice to Mr. Series, which propelled "The Series Pallanji Group (SPG)". On October 26, 2017, Mr. Series was dismissed before completion of his term, and then Mr. ATTA took over as interim chairman. In the process of handing over the reins of the company to new chairman, in January 2017 Nataraju Chandrasekaran was appointed as the new chairman of the ATTA Group.

Series Pallanji Group (SPG), is also one of the oldest business groups in India to be in construction business for about a century, over a period, this group developed into several companies holding various businesses. They have become shareholders in the company in the year 1965 buying shares from Dinshaw group, though SPG is not known to the Public like ATTAs, they have been consistently sailing along with the company for more than half a century without any hitch. Despite no position in the Board has been provided to them in the Articles, they continued on Board since 1980 to 2004, then 2006 - 2017 without any provision in the Articles. All was well to this group until before Mr. Series was removed as Executive Chairman of the company. No one has ever come across single Board Meeting or shareholders' meeting where the SPG differs with Trusts in any respect. However, SPG today claims that mis-governance at Tata trusts had put the corporate governance in the Atta Group in jeopardy.

Companies of SPG are today having above 18% equity of the company and wants to file approach NCLT against the company, Mr. Attan ATTA (Chairman Emeritus of the Company), Mr. Noshir, the Trustees of ATTA Trusts and various other persons on 19.12.2017 alleging that the persons running the company other than Mr.Series, conducted/conducting the affairs of the company in oppressive manner and prejudicial against the interest of the SPG, the company and the public, hence would like to seek relief if any under Companies Act,2013.

SPG ALLEGES THE FOLLOWING:

- **Removal of Mr. Series as Executive Chairman of the company**

The SPG submit that Mr. Series was removed as Executive Chairman of the company in the board meeting held on 24.10.2017 without putting him to prior notice despite his tenure would allow him to continue as Executive Chairman until 31.03.2017. As it was mentioned above, whenever executive chairman is to be removed, as per Article 118 of AOA, selection committee shall be constituted as

is done for appointment of executive chairman and then to recommend the board for removal of executive chairman, but for his removal, no selection committee was constituted for recommending the removal of Mr. Series and not even proposal for removal was shown as one of the agenda items in the notice given for board meeting to be held on 24.10.2017 except Mr. ATTA and Mr. Tintin Nohria, some minutes before the board meeting, asking him to step down as executive chairman, however when he refused to resign as the executive chairman, Mr. Tintin Nohria informed him that he would be sacked by the Board of Directors of the company, in pursuit of it, the board of directors without even asking any explanation from him, removed him as executive chairman.

- **Applause by Nomination and Remuneration Committee-** The purported reason for such removal was, the board of directors had "lost the confidence" in the leadership of Mr. Series. Incidentally, Mr. Series as recently as 28.6.2017 was applauded by the Nomination and Remuneration Committee and recommended for hike to his remuneration.
- **Trust Nominee Directors-** These nominee directors on the board, instead of discharging their fiduciary duty towards the company and its stakeholders, every time keep projecting the interest of the Trusts and carrying the commands of its Trustee Chairman Mr. ATTA and Mr. Soonawala despite knowing that by doing so, they have been flouting the provisions of the Companies Act 2013. In addition to illegal removal of Mr. Series as the executive chairman, so as to facilitate Mr. ATTA to come as executive chairman, in the same meeting, age restriction for director was removed.
- **Independent Directors-**
 - ❖ As to the three newly appointed independent directors in the month of August 2017, they have not undergone any orientation programme to get themselves familiarized with functioning of the company and its group companies, But they were as tools to ensure Mr. Series removed as Executive Chairman.
 - ❖ Initially after removal of Mr. Series, he was supported by many independent directors of ATTA Group companies refusing to agree with the unexplained and inexplicable removal of Mr. Series and they stood behind him on his continuing as non-executive Chairman of seven listed ATTA Group companies i.e. ATTA Hotels Co. Ltd.(AHCL), ATTA Chemicals Ltd, (ACL), ATTA Steel Ltd. (ASL), ATTA Motors Ltd. (ATTA Motors/AML), ATTA Global Beverage Ltd.(AGBL), ATTA Consultancy Services Ltd. (ACS), and ATTA Power Co. Ltd. (APCL),

but subsequently, all of them turned their loyalty to Mr. ATTA succumbing to the pressure.

- ❖ In the pressure tactics, one independent director, Mr. Neil Walia did not budge to Mr. ATTA, therefore he was removed as director of ATTA Steel Ltd., ATTA Chemicals Ltd. and ATTA Motors Ltd. Being Mr. ATTA mind obliterated with the idea of decimating Mr. Series to zero in group companies as well, he had gone to an extent of saying that if Mr. Series was permitted to continue as chairman of any of the group companies, then the company would withdraw the corporate guarantees issued to the group companies.
- **Role of Directors-** The directors of the company have not exercised their fiduciary responsibilities for and on behalf of the shareholders; the directors have become mere puppets in the hands of Mr. ATTA and other trustees of ATTA Trusts. The power contained in the Articles of Association of the company is being exercised in malafide manner prejudicial to their interest and public interest considering that several lakhs of shareholders of various ATTA operating companies owned and controlled by the company. Various operating decisions have been taken by the company just to pamper the ego of Mr. ATTA, attempts are being made to shield the persons responsible for authorizing fraudulent transactions at Air Asia, and attempts are being made to ensure that no legal action is initiated against Siva, who is obliged to pay 694 Crores to ATTAs. Despite all this, the present directors are incapable of protecting the interest of the company and the public shareholders of various ATTA group companies.

A) Identify the Corporate Governance issues and suggest measures to counter it. (7½ Marks)

B) Identify and explain relevant provisions of law under which SPG can seek relief. (7½ Marks)

PART – B (2 Questions X 10 Marks = 20 Marks)

Answer any TWO from the following in not more than 750 words:

2. *"Corporate governance is needed to create a corporate culture of transparency, accountability and disclosure. It refers to compliance with all the moral and ethical values, legal framework and voluntarily adopted practices."*
Comment on this statement and explain the need and significance for corporate governance in India.

3. In each country, the corporate governance structure has certain characteristics or constituent elements, which distinguish it from structures in other countries. There are the forces that shape corporate laws in any particular jurisdiction and the corporate governance structure in each country develops in response to country-specific factors and conditions. What are all the forces that shape corporate law and elucidate on different models on corporate governance.
4. *"Gatekeeper control involves the conscription of non-corporate actors in policing the conduct of corporate actors. This conscription generally involves exposing the gatekeepers to the threat of sanction for participation in corporate misbehavior, or for failure to prevent or disclose misbehavior."* Who are the Gatekeepers referred to here? Elucidate their roles and responsibilities. What are the ways in which the Company can keep a check on them?

PART – C (3 Questions X 5 Marks = 15 Marks)

Answer any THREE from the following in not more than 300 words:

5. Changing role of Boards
 6. Law versus Contract in Corporate Affairs
 7. Board Diversity
 8. Corporate Social Responsibility
 9. Independent Director
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. PROGRAMME

First Semester, End-Semester Examinations (Odd-Semester), January 2019

LEGAL REGULATION OF FOREST AND WILDLIFE

Time: 2½ Hours

Maximum Marks: 50

PART-A (1 Question X 10 Marks = 10 Marks)

[Compulsory Part]

Answer the following question in not exceeding 1000 words:

1. The state is the trustee of all natural resources including streams, lakes, marsh lands and tidelands and flora and fauna which are by nature meant for public use and enjoyment. Public at large is the beneficiary of the seashore, running water, air, forests and ecologically fragile lands. It mandates that state to protect the peoples natural resources into account in the planning and allocation of resources wherever feasible. Comment upon by referring *M.C. Metha v. Kamal Nath*, (1997) 1 SCC 388.

PART – B (3 Questions X 8 Marks = 24 Marks)

Answer any THREE of the following question in not exceeding 1000 words.

2. Constitution of India mandates the State and Citizen to protect the natural resources between generations. Analyse this statement by referring to the relevant provisions of the Indian Constitution.
3. Define Animal Article and Forest Produce. Explain the authorities constituted under the Wildlife (Protection) Act, 1972 and discuss their powers and functions to protect and regulate trade and commerce in wild animals, animal articles and trophies.
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 before the enactment of the Act to regulate timber usage in India.

5. United Nations has a primary mandate for protecting and conserving resources for determining better sustainable livelihood between generations. Examine this statement by referring to measures that are adopted to ensure sustainable livelihood to tribal and indigenous people.

PART – C (4 Questions X 4 Marks = 16 Marks)

Answer any FOUR of the following questions in not exceeding 300 words.

6. Distinguish between Reserved Forest and Protected Forest.
 7. *Samatha v. State of A.P.* (1998) 8 SCC 191.
 8. Chipko Movement.
 9. Analyse the importance of Public Participation in Environmental Decision Making.
 10. Comment upon the working of International Union for Conservation of Nature (IUCN).
 11. Explain the importance of Convention on International Trade and Endangered Species (CITES).
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. PROGRAMME

First Semester, End-Semester Examinations (Odd-Semester), January 2019

RIGHTS RELATING TO NATURAL RESOURCES LAW

Time: 2½ Hours

Maximum Marks: 50

Answer the following questions:

1. Critically evaluate theoretical justification of private property and point out how far it could be used to claim rights over natural resources. (10 Marks)

(OR)

Write an essay on the constitutional scheme for the protection of Tribal autonomy in management of natural resources. (10 Marks)

2. Write an essay on the legal control of common pool resources in India.

(15 Marks)

(OR)

Critically evaluate the emergence and development of norms governing natural resources in International law. (15 Marks)

3. Write note on any FIVE of the following: (5 Questions X 5 Marks = 25 Marks)

- Right of piscary
- Easement & *Profits a Prendre*
- Animals feraenaturae*
- Rights of forest dwellers
- Rights over water
- Inland fisheries
- Village forest

Name :

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. PROGRAMME

First Semester, End-Semester Examinations (Odd-Semester), January 2019

COPY RIGHTS AND ACCESS TO KNOWLEDGE

Time: 2½ Hours

Maximum Marks: 50

PART-A (4 Questions X 5 Marks = 20 Marks)

Answer ALL the following questions:

1. "The Sweat of the Brow Doctrine and the doctrine of Modicum of creativity does not help in identifying whether a work is an original work or a derivative work" – Explain.
2. "The statute of Anne and the Fine arts Copyright Act can be considered as the principal legislations responsible for establishing a new copyright regime" – State whether the statement is False or True with suitable reasons.
3. "Berne Union is an all-encompassing Union and assures Universal Copy right Protection but in reality it is not possible to establish a Uniform copyright regime" – Elucidate.
4. "Overlap of copy right and designs is a myth. In reality when all copyrightable works are created in more than 50 copies the copyright automatically extinguishes." – Explain

PART-B (3 Questions X 10 Marks = 30 Marks)

Answer any THREE of the following questions:

5. "Ideless expression and Expression less Idea" put forth by Richard.H.Jones is in reality an impossibility. If the statement is correct Copyright must protect both Idea and Expression But the copy right regime protects only Expression and excludes Idea from its Domain. Critically analyse and write your opinion on the existing peculiarity.

6. Compare the provisions of TRIPS agreement with Berne and Rome Conventions and state why TRIPS agreement excluded certain provisions which were sine quo non for protecting the copyrights of the creator.
 7. Technological protection measures are not sufficient enough to prevent online copy right Infringement because of various circumvention technologies. Is circumvention of technology universally considered as a copy right infringement?
 8. The Delhi High court's interpretation of section 52 (i) in DU Photocopy case is very wide. The interpretation of the term "activities of educational institution" and "in the course of Instruction" between Pupil and teacher must be given a literal interpretation and not an all encompassed interpretation. Do you think that the court's interpretation is detrimental and hence there is an urgent need to amend the fair use exception relating to educational institutions?
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI**LL.M. PROGRAMME**

Second Semester, End-Semester Examinations (Even-Semester), May 2019

MINES AND MINERAL LAWS

Time: 2½ Hours

Maximum Marks: 50

Answer any FIVE of the following Questions (5 X 10 = 50 Marks):

1. Critically evaluate the legal framework of mining leases in India.
 2. Write an essay on the legal regulation of radioactive minerals in India.
 3. Critically evaluate the legal issues relating to ownership of minerals in India with the help of case law.
 4. Write an essay on social impact assessment of Mining projects.
 5. Examine the law governing safety and welfare measures to be adopted in mines.
 6. Critically evaluate the legal provisions governing employment of women in mines.
 7. Write an essay on Environmental Impact Assessment of mining projects.
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. PROGRAMME

Second Semester, End-Semester Examinations (Even-Semester), May 2019

LAW AND PRACTICE OF SHAREHOLDER'S AGREEMENT

Time: 2½ Hours

Maximum Marks: 50

Notes:

1. This is an open book examination. The Corporate Laws and SEBI Manuals, without any printed notes or case laws with short notes added by publisher, may be carried to the examination hall. Bare Acts, Rules, Regulations, Circulars, Notifications, Law Review Articles as well as Full Judgments may be carried to the exam hall. Class notes in handwritten or photocopy format and text or reference books are not allowed.
2. Answer all the questions; Marks for each of the question are mentioned against the question.

Answer ALL the Questions:

1. In view of the provisions of the Companies Act, 2013, critically comment on V.B. Rangaraj vs V.B. Gopalakrishnan And Others, (1992) 1 SCC 160. (10 Marks)
2. Write an essay on the meaning and scope of Shareholders Agreement? Who all could become parties to such an agreement? Is the registration of these agreement(s) with the Registrar of Companies mandatory? (10 Marks)
3. Critically comment on the use, if any, of the shareholders agreements in protecting the rights of shareholders as a stakeholder. (10 Marks)
4. Briefly explain the critical clauses in a joint venture agreement. (10 Marks)
5. Write a note on validity of put/call option in India. (5 Marks)
6. Are corporate disputes arbitrable? (5 Marks)

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

Second Semester, End-Semester Examinations (Even-Semester), May 2019

LAW OF TRADEMARKS AND GEOGRAPHICAL INDICATIONS

Time: 2½ Hours

Maximum Marks: 50

PART-A (4 X 10 = 40 Marks)

Answer any FOUR of the following Questions:

1. In the Columbia de café case and the Darjeeling tea case, South America and India emphasized on the need for a global protection of Geographical Indication; analyse the possibility of granting Famous Geographical Indication Marks similar to that of Famous Marks concept in Trademarks.
2. State whether every owner of a Trade mark has merchandising right towards his mark in all the circumstances and analyse whether the celebrity rights towards a mark supersedes the merchandising rights of the Trade mark owner.
3. Do you think that the absolute grounds for refusal and the relative grounds for refusal are sufficient enough to protect the rights and the interest of the Trademark owner in the cyber space?
4. What are considered as well-known marks? State the reasons for granting special privilege to Well-known marks? Do you think that the Granting of Well Known mark status in India is a good initiative taken by India?
5. Explain the concept of Deceptive similarity and state whether deceptive similarity should be considered as the sole criterion in order to decide trademark infringement. Should Dilution of Trademark be considered as Deceptive similarity?

PART-B (4 X 2½ = 10 Marks)

Answer any FOUR of the following Questions:

6. All Geographical Indications after obtaining certification marks can be considered as Trademarks - elucidate.
7. State whether there is need for recognition of Non – Conventional Trademarks like Taste marks and smell marks.
8. Analyse the difference between Descriptiveness and Distinctiveness.
9. State whether there is a possibility of interface between Designs and Trademarks? If so, what is the remedy available in India?
10. State whether comparative advertising is legal or illegal in India?

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

Second Semester, End-Semester Examinations (Even-Semester), May 2019

LAW OF SECURITIES AND DERIVATIVE CONTRACTS

Time: 2½ Hours

Maximum Marks: 50

Instruction:

- All the questions should be answered by quoting relevant legal provisions and at least two relevant judicial precedents and suitable illustrations.
- The problem based questions should be preferably answered in the *IRAC Method*.

PART-A (4 X 9 = 36 Marks)
[Essay and Problem Solving Questions]

Answer any FOUR of the following Questions:

- “SEBI has been established with the objective of protecting the interest of investors and to promote the development of and to regulate the securities market.” Comment on this statement by discussing the objectives and scope of the following two initiatives taken by SEBI for development and regulation of securities market:
 - SEBI (Alternative Investment Funds) Regulations, 2012.
 - SEBI (Mutual Funds) Regulations, 1996.
- How does the *Depositories Act, 1996* facilitate electronic trading in India? Who are the parties in a Depository system of trading? Further, define the terms ‘immobilisation’, ‘dematerialisation’ and ‘rematerialisation’ of securities.
- 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 (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?

4. The concept of 'price sensitive information' has undergone significant changes with the passing of the *SEBI (Prohibition of Insider Trading) Regulations, 2015*. Comment on this statement by analysing the judicial trends of SEBI/SAT/SC since 1992 on interpretation of the phrase 'price sensitive information'. Further, explain with cogent reasons whether the following information's are price sensitive in nature?
 - 4.1. Merger talks between KFC & Subway and speculative reports about the same in newspapers.
 - 4.2. The Reserve Bank of India (RBI) cuts Statutory Liquidity Ratio (SLR) by 50 basis points to provide liquidity.
 - 4.3. Resignation of the Chief Executive Officer (CEO) of Tata Consultancy Services Limited.
5. Write critical legal comments:
 - 5.1. Demutualisation of Stock Exchanges. (4½ Marks)
 - 5.2. Algorithmic Self Trading. (4½ Marks)

PART-B (1 X 2 = 2 Marks)

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

6. The Authority which used to regulate the dealings in stock markets in India before 1992 was the
 - a. Ministry of Corporate Affairs
 - b. MRTP Commission
 - c. Controller of Capital Issues
 - d. Securities Exchange Board of India.

PART-C (3 X 4 = 12 Marks)

Write Short Notes on any "THREE" of the following Questions:

7. Delisting of Securities.
 8. *Ketan Parekh vs. SEBI.*
 9. 'Issuer Pays' Model vs. 'Investor Pays' Model.
 10. Classical Theory of Insider Trading.
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI

LL.M. PROGRAMME

Second Semester, End-Semester Examinations (Even-Semester), May 2019

BIO-DIVERSITY AND BIOLOGICAL RESOURCES

Time: 2½ Hours

Maximum Marks: 50

Instruction:

Students are allowed to use the following Bare Acts of

- a. Biological Diversity Act, 2002.
- b. Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulation, 2014.
- c. Draft Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing, 2019.
- d. Protection of Plant Variety and Farmers Rights Act, 2001.

PART-A (20 Marks)

1. The National Biodiversity Authority is seeking public comments on the Draft Guidelines for Access and Benefit Sharing Regulation, 2019.
 - (a) By identifying the major stakeholders in Access and Benefit Sharing, comment whether the Draft ABS Guidelines Regulations, 2019 satisfactorily clarifies the roles and rights of all stakeholders (5 Marks)
 - (b) Analyse the Draft Guidelines using the reasoning of the Uttarakhand High Court in *Divya Pharmacy v. Union of India* and suggest modifications to relevant draft provisions (5 Marks)
 - (c) Using the definition of commercial utilisation, comment whether traders should be sharing any benefit as envisaged in the 2014 ABS Guidelines. Do you agree that the Draft Guidelines gives any exemption to traders and normally traded commodities? (5 Marks)
 - (d) Express your reasoned opinion on whether access regulation and benefit sharing obligation should be made applicable to research on biological resources and/or associated knowledge? (5 Marks)

PART-B (2 X 15 = 30 Marks)

Answer the following questions:

2. In 2016 Siso International obtained plant variety protection for its PO 2027 potato variety under the category of extant plant varieties. The company has been selling the potato variety since 2007 to the farmers of Gujarat. On the basis of a private investigation, the company files a complaint before the Courts of competent jurisdiction in India alleging misappropriation of its proprietary potato variety. The company claims that farmers and traders with their extensive network is using and selling PO 2027 without company's permission.
- Write a memo of arguments for Siso Company using relevant international and national legal framework. **(5 Marks)**
 - Write a memo of arguments for farmers using relevant international and national legal framework. **(5 Marks)**
 - Write the judgment deciding the dispute. **(5 Marks)**
3. **Write short notes on any THREE of the following Questions (3 X 5 = 15 Marks):**
- Common heritage of mankind and National Sovereignty over Resources.
 - Ecosystem Approach.
 - Precautionary Principle and Biosafety.
 - Other Effective Areas Based Conservation Measures.
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. PROGRAMME

Second Semester, End-Semester Examinations (Even-Semester), May 2019

LAW RELATING TO WATER

Time: 2½ Hours

Maximum Marks: 50

Answer the following questions:

1. Define and explain any **FIVE** of the following legal concepts and principles:
(5 X 3 = 15 Marks)
 - (a) Riparian Rights
 - (b) Public Trust Doctrine
 - (c) Harmon Doctrine
 - (d) Polluter Pays Principle
 - (e) Doctrine of Eminent Domain
 - (f) Equitable Apportionment Principle

2. Write short notes on any **FIVE** of the following questions:
(5 X 5 = 25 Marks)
 - (a) A brief comment on Women and Water Rights.
 - (b) Outline three key innovations in the Model Groundwater Bill 2011.
 - (c) Identify three key issues with the Interstate River Water Disputes Act, 1956.
 - (d) A brief critique of the Ganga Action Plan.
 - (e) A brief critique of the *Vellore Citizen's Welfare Forum v. Union of India*.
 - (f) Customary Rights over Water.

3. Answer any **ONE** of the following (please ensure that your answer does not exceed 2 pages): **(10 Marks)**
 - (a) If you are asked to draft a Bill on the Right to Drinking Water, outline five key components of such a draft Bill.

[OR]

- (b) What are the contours of the Right to Water in India?

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

Second Semester, End-Semester Examinations (Even-Semester), May 2019

INTELLECTUAL PROPERTY AND COMPETITION LAW

Time: 2½ Hours

Maximum Marks: 50

PART-A (4 X 5 = 20 Marks)

Write a short note on any FOUR questions:

1. IP Licencing and Competition.
2. Competition Rules in TRIPs Agreement.
3. Intellectual Property and Market Regulation.
4. Tie in arrangement and Competition.
5. Standard Essential Patent and Competition.

PART-B (3 X 10 = 30 Marks)

Answer the following questions. All the questions are mandatory:

6. IP law should concern itself with assigning and defending intellectual property rights, while Competition Law should concern itself with the use of those rights. The IP/Competition Law interface has some specificity due to the types of behaviours that tend to arise more frequently where IP is concerned.

Explain economic rationality of interface between IP and Competition. Whether IP has being treated differently as compared to other market forces by competition regime? Discuss the approaches in the other jurisdictions as well.

7. Fair and Reasonable and Non Discriminatory (FRAND) is the basis of determination of terms for licencing for Standard Essential Patent. There are various standard setting organisations which set particular technology as standard which to be followed by other companies. Different jurisdiction are adopting the different approach in determining FRAND term.

Explain Standard Essential Patents affect the competition in the market and how the judiciary and Competition Commission of India has responded to it and how the other jurisdictions have responded to it.

8. Recent times have witnessed growing interface between IP and Competition in India in many areas. New issues are coming before the Courts and Competition Commission of India. Many a times these bodies have conflicting decisions over the issues due to the different approaches adopted by the Courts and the Competition Commission of India.

In the light of above, critically analyse the evolving jurisprudence of IP and Competition within India.

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

Second Semester, End-Semester Examinations (Even-Semester), May 2019

CORPORATE INSOLVENCY AND BANKRUPTCY LAW
INCLUDING REVIVAL OF SICK COMPANIES

Time: 2½ Hours

Maximum Marks: 50

PART-A (1 X 15 = 15 Marks)
COMPULSORY QUESTION

1. Read the following passage and answer the questions that follow:

Super Star Ltd (hereinafter referred to as Corporate Debtor or SS Ltd) is a company incorporated under the Companies Act, 2013. It is a multi-product company having 8 subsidiary companies and 2 joint ventures. Owing to a lot of factors, the Company couldn't meet its payment obligations to the tune of Rs 1200/- Crores. Below given is the timeline of events happened thereafter.

An application was made by one of the depositor Ms.Neelambari under Section 7 of the Code which was rejected for ineligibility. However, subsequently another application was filed on 7th December 2018 was filed by IBIBI Bank which it was stated that the appellant being a defaulter within the meaning of the Code, the insolvency resolution process ought to be set in motion.

The National Company Law Tribunal (hereinafter referred to as NCLT) admitted this petition on 18th December 2018 and gave an order for appointment of Interim Resolution Professional (IRP) and moratorium. This admission was objected by the Super Star Ltd- Workmen Association on the ground that it is affecting all other stakeholders. Meanwhile, IBIBI Bank sought to enforce its guarantee given by its director Mr.Padayappa, who also claims relief during moratorium period.

During the collation of claims of creditors, the IRP categorized the "depositors" as Operational Creditor which was objected at NCLT. Similarly, the Corporate Debtor SS Ltd has also issued corporate guarantee to another company, the creditors of which have a claim for the same, which upon rejection by IRP is challenged at NCLT on 18th January 2019.

After the Committee of Creditors was constituted on 25th January 2019, the notice was sent for its first meeting to all the financial creditors to be held on 17th February 2019. One of the agendas being Appointment of Resolution

Professional, where IRP faced with a deadlock. 56% of the Creditors part of CoC have agreed to continue with the existing IRP as RP which is way below the threshold set under the Code. The IRP therefore now moved an application at NCLT in this regard. As the case stands pending till date, the IRP although unsure as to whether should he act or not, still chooses to act as IRP till orders are passed by NCLT. This is again challenged by the Creditors.

In its second meeting, the CoC resolved to invite expression of interest. Consequently, the Resolution Professional published an advertisement dated 18.02.2019, seeking expression of interest from potential resolution applicants who wished to submit resolution plans for the revival of the Corporate Debtor and the last date was set at 10.03.2019. Three applicants- AMIPL Ltd submitted a proposal on 01.03.2019, NML Ltd submitted on 08.03.2019. On 31.03.2019, the Resolution Professional published a 'request for proposal', in which it was stated that the last date for submission of resolution plans would be 29.04.2019.

On 30.04.2019, the RP found that NML Ltd to be ineligible as they belong to promoter group and did not submit the proposal to CoC. The AMIPL Ltd was the only applicant who was eligible, and their proposal involved offer to buy selective assets/ undertaking rather than whole business. The proposal of AMIPL Ltd was voted for by 66% and against by 22%. The remaining 12% abstained from voting. The RP is now unable to decide whether such abstinence amounted to dissent. The minority 22% state that the majority have a malafide intention in disapproving the same and therefore the majority should explain the reasons why they disagree with the proposal. The date today is 27.05.2019. IBIBI Bank now wants to withdraw its petition as the Company has agreed to satisfy the debt by way of settlement.

- A. Identify at least ten anomaly/ irregularities by justifying/clarifying the same by citing relevant legal principles/provisions. (10 Marks)
- B. State as to what will be the outcome of this entire process. Is it a success or a failure? (2½ Marks)
- C. Discuss in detail the Role of Resolution Professional in Corporate Insolvency Resolution Process. (2½ Marks)

PART-B (2 X 10 = 20 Marks)

Answer any TWO questions from this part in not more than 750 words:

2. "Control of a company is not divine right. When a firm makes default on its debt, control of the company should shift to the creditors." But did it really work that way here in India? Discuss in detail the development and significance of corporate insolvency law regime in India. Also highlight the challenges in enforcing the regime. (10 Marks)

3. The visions or approaches to insolvency emphasize different facets of corporate insolvency law's role. Discuss the tasks of Corporate Insolvency Law and theories that help in achieving the same. (10 Marks)
4. "There has been paradigm shift in law from *inability to pay debt* to *default*." Critically examine the issue surrounding Debt, Dispute, and Default as provided under the Code and that earlier under Companies Act, 2013. (10 Marks)

PART-C (3 X 5 = 15 Marks)

5. Answer any **THREE** short notes from this part in not more than 350 words:
 - a. Role of the Insolvency and Bankruptcy Board of India
 - b. Rights of FI's under SARFAESI and under IBC
 - c. CVA as a mode of workout
 - d. Powers of NCLT under Companies Act, 2013 and IBC, 2016
 - e. Cross Border Insolvency
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. PROGRAMME

Second Semester, End-Semester Examinations (Even-Semester), May 2019

LAW AND PRACTICE OF PATENTS

Time: 2½ Hours

Maximum Marks: 50

Answer any FIVE of the following in not less than 1000 words:

(5 X 10 = 50 Marks)

1. Explain in detail about the changes brought into the Indian Patent Act, 1970 after the TRIPS Agreement, 1994.
2. *"Foreign Patents grant no monopolies in India, nor do Indian patents grant any monopolies in foreign countries. A patent is granted by a sovereign power and its rights, privileges and obligations begin and end with the country that issues it."* In this context, critically analyse the territorial character of patents and comment on the harmonization of patent law through international conventions and agreements.
3. Critically analyse the term 'efficacy' under section 3(d) of the Indian Patents Act, 1970 in the light of decided cases.
4. *"Computer programs have a number of important characteristics that have been difficult for legal commentators and decision makers to perceive. The copyright law can provide appropriate protection for some aspects of computer programme whereas the other valuable aspects of programs remain vulnerable to rapid imitation and thus undermine incentives to invest in software development"* In this context, answer the following questions
 - a. Explain the important characteristics of computer programs?
 - b. Do you think patent protection to software is preferable over existing copyright protection? Why?
 - c. Examine the patentability of 'software *per se*' and 'embedded software' under the Indian Patent Act, 1970?
5. Do morality and public policy have a role to play in the patent system? Critically examine the issue of morality in patenting biotechnological inventions under the relevant U.K., E.U., and Indian laws.

6. What acts constitute an infringement of patent? How are suits concerning infringement of patents instituted? Examine the different modes of determination of infringement of the patent in the light of decided cases.
7. *“Increased patent protection leads to higher drug prices. The number of new essential drugs under patent protection will increase but the drugs will remain out of reach to people in developing countries because of high prices. As a result, the access gap between developed and developing countries will widen”*. In this context critically examine the TRIPS flexibilities on access to affordable medicines under the Indian Patent Act, 1970.
8. (a) Akhilesh, an Indian citizen invents a medicine which is a combination of three components. Of which one of the components is a powder of herb which is found in the hilly terrain of Assam and adjoining areas. Advise Malhotra regarding the essential procedural and substantial aspects of patenting of such combinations as per the existing Indian laws.
- (b) Donald, a U.S.A. Citizen invented a medicine based on herbs locally found in Tribal areas of Kollimalai forests in Tamil Nadu. He collected the samples of the herbs from kollimalai during his last tour to India. He patented the medicine in the United States, Japan and Russia. Now, he files a patent application in India through PCT. Advise Donald regarding the essential procedural and substantial aspects of patenting his medicine as per the existing Indian laws.
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. PROGRAMME

Repeat Examinations (Odd-Semester), May 2019

LAW AND JUSTICE IN A GLOBALIZING WORLD

Time: 2½ Hours

Maximum Marks: 50

All the following questions are mandatory (5 X 10 = 50 Marks):

1. How the UN did come up with the idea for peace operations when it was not discussed in the San Francisco Conference and nowhere mentioned in the UN Charter Discuss the evolution of UN peace operations. What are the three basic principles of UN peacekeeping? From where does UN derive the authority to mandate peacekeeping operations? Briefly discuss the new mandates provided to peacekeeping operations in the post-Cold War era?
2. How do you think will the future of international criminal justice system look like one or two decades down the line? What role does ICC has to play in the future of international criminal law given the fact that the Global North remains committed to not become a party to the Rome Statute and the African states have increasingly been withdrawing from the body.
3. Access to justice is a basic principle of the rule of law. In the absence of access to justice, people are unable to have their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable. Discuss the framework of access to justice provided in Indian Constitution and the UN Charter with suitable examples.
4. With the advent of globalization, third world states have seen rapid increase in their exports; however, the share of poverty in most third world states has not witnessed any noticeable decrease and the gap between the rich and the poor has increased phenomenally in successive decades. Is the present architecture of international law designed in a manner that is prejudicial to the interest of the third world states? Do you think there is any direct connection between poverty and international legal framework designed to combat the same?
5. International law and domestic law, both have the onus to protect the interest of marginalized communities across the globe. However, a lot of these communities have faced rampant discrimination and none of the two have come to their rescue. Discuss the plight of indigenous people as a marginalized community with special reference to Sámi people in Scandinavia and Māori people in New Zealand.

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

Repeat Examinations (Odd-Semester), May 2019

COMPARATIVE PUBLIC LAW

Time: 2½ Hours

Maximum Marks: 50

Answer any FOUR of the following Questions (4 X 12½ = 50 Marks):

1. The functional method is the most common approach to comparative legal research, it has generated a lively debate in the field of comparative law. Criticisms of the method generally falls into two camps. First, the functional method is said to over-emphasize similarity and to ignore context and cultural particularity. The second criticism of the functional method is that it focuses on the formal rules of the law rather than their actual operation in society. Critically comment on the above positions.
2. Explain constitutionalism using ideas of Ran Hirschl and Sujit Choudhury. Identify elements of Constitutionalism in India.
3. Explain the thick and thin notions of rule of law using the context and experience of two sample nations.
4. Federalism as a concept has developed into multiple facets, cooperative federalism being one. What do you mean by cooperative federalism? Contrast it with competitive federalism. With the help of at least two jurisdictions, explain the functioning of federalism in the context of Constitution.
5. "Courts and lawyers in different countries have approached transformative constitutionalism differently: while some have taken a more "traditional" law-focused approach, others have opted for a more collaborative one. Within the traditional legal model, exemplified by the German case, courts seek to preserve those features typically associated with judicial rather than political processes, for example the individualized nature of proceedings. In contrast, the Indian collaborative approach often involves negotiation between different stakeholders and emphasizes legal flexibility. Each model comes with a different approach to judicial legitimacy and its own downsides and advantages." Michaela Hailbronner.

Explain and critically examine these models.

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

Repeat Examinations (Odd-Semester), May 2019

CORPORATE GOVERNANCE

Time: 2½ Hours

Maximum Marks: 50

Instructions:

1. You are allowed to use the Companies Act, 2013 Manual for this examination. No other material is allowed.
2. You will not be allowed to borrow the Manual from any other student.

PART- A (15 Marks)

1. **This Part is compulsory. Read the facts carefully and answer the questions that follow:**

In an unprecedented move, Unity Capital (Unity), a significant minority shareholder in AL Ltd (AL), moved an application under the Companies Act, 2013 (Companies Act) to appoint Mr. Ram on the board of AL as a “small shareholders’ director

However, in a filing to the Madras Stock Exchange late on Friday, the AL board poured cold water over Unity’s application citing, amongst other things,

- “nexus and direct conflict” between Mr. Ram, an employee of Unity, its group companies and 914 small shareholder applicants who together hold 3.75 lakh shares in AL. This was alleged to have created “a clear case of direct conflict of interest in this role as a representative of small shareholders”.
- In the opinion of the AL Board, is not a person of integrity and possesses relevant expertise and experience, and want to reject this proposed candidate.
- The board also questions the genuineness of 320 out of the 914 small shareholders since these shareholders had only been “created” in the last 5 days prior to the application.
- AL accuses Unity of having misused provisions of Companies Act, 2013 by manufacturing small shareholders to support their application and noted that the provisions are meant for “genuine” small shareholders.

- Finally, since the existing independent directors on the board of AL are reputable persons who are taking “adequate steps to protect the interests of all the shareholders including the small shareholders”, AL felt there is “no justification to appoint a small shareholders’ independent director”.
 - a. Who is a small shareholder director? Is it mandatory to appoint a small shareholder director in the board? **(3 Marks)**
 - b. Do you think AL Board is right in its views? Identify and address the issue by having a closer look at the finer nuances of this special minority right in the context of the paradigmatic Indian corporation with concentrated shareholdings. **(6 Marks)**
 - c. Do you really think the addresses the minority and majority shareholder conflicts effectively? Also suggest any alternatives to Unity Capital **(6 Marks)**

PART- B (2 X 10 = 20 Marks)

Answer any TWO from the following in not more than 750 words:

2. The State of Kratos has proposed a bill to repeal all Corporate Governance rules/ laws arising out of/ including within itself regulatory strategies of Corporate Law. Advise on the theoretical and practical viability of this proposal.
3. “*An Auditor is a watchdog and not a blood hound.*” Discuss the role of Auditors in a Company and that of Audit Committee in appointment of Auditors. What are all the important parameters determining his independence?
4. The contractual theory of the corporation is in stark contrast to the legal concept of the corporation as an entity created by the state. Do you agree? Discuss in brief some theories which are developed to show the nature of corporate personality.

PART-C (3 X 5 = 15 Marks)

5. Answer any THREE from the following in not more than 300 words:

- a. Creditor as a key participant in Corporate Governance
- b. Rule versus Standards in Corporate Laws
- c. Woman on Corporate Boards
- d. Corporate Social Responsibility
- e. Corporate Succession Planning