

Examinations Roll No.

HPNLU/\_\_\_/\_\_\_/\_\_\_



**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

*End-Term Examinations, June 2024*

**Paper Code: LM-204**

**Subject: Service Law**

**LL.M. 2<sup>nd</sup> Semester**

**27<sup>th</sup> June, 2024**

**Time: 3 Hour**

**Maximum Marks: 50**

*Instructions:*

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
- 2. This Question Paper contains total of four printed pages.*
- 3. Candidates are required to write their Roll No. on the question paper in the given space above. Do not write anything except Roll No. on the question paper.*

**SECTION-A (Short-Answer Type)**

**(6x03=18Marks)**

**Q.1 Short Answer Type Questions:**

- India probably leads the world in the field of civil service law, and nowhere else, there is so much litigation by public servants against their masters. Comment.
- A writ petition was filed by candidates who applied for a medical entrance examination of a state medical college.

They alleged that the qualification procedure for written and *viva-voce* was arbitrary and marks of both examinations were disproportional. The petitioners contended that collage is a state instrumentality, and, therefore, such distribution of marks is violative of principles of equality. The said college was registered as a society under state legislation and it was contended by college authorities that it was not state or its instrumentality. Decide with the help of relevant case law.

- c) Rule 56(J) of Central Civil Services (Classification Control, and Appeal) Rules 1965 provides that the government has the absolute right to retire government officials prematurely on the ground of lack of integrity and ineffectiveness, in public interest. It is generally argued “dead wood” is to be removed. While commenting on the proposition, discuss whether said provision is arbitrary and against the principle of fairness.
- d) Mr. Prabhakar was working on a clerical position in University Q. He joined the institution in the year of 2019 and was on probation for the period of one year, which could be extended till two years. He was a hard-working and honest employee. At the time of completion of his probation period, Prabhakar had an argument with his head officer on the matter related to some file. On the said argument, he was warned by the officer, “Just wait and watch, your ACR is still pending”. Thus, Prabhakar has an apprehension that concerned officer may write a negative report about him. Discuss the rights of Prabhakar available under service law.
- e) What are the rules relating to deputation? Discuss whether an employee on deputation is entitled to service benefits including annual increments and promotion.

- f) What is the procedure for writing an inquiry report? What are the primary requirements while writing such a report?

**SECTION-B (Long-Answer/Descriptive/Analytical Type)**

***(4x08=32Marks)***

**Q.2** Considering the dynamic nature of service law and its evolving legal landscape, how does the concept of service law intersect with equality jurisprudence, and what challenges and opportunities does this convergence present for legal frameworks, regulatory bodies, and service providers? Further, discuss the relevant theoretical basis for service Law. Do you think service law is interdisciplinary in nature?

**Q.3** Mr. Rao, a government servant, has been working in the administrative services for the past 15 years. Recently, he was accused of gross misconduct regarding finance matters. The employer, citing prima facie evidence, decides to initiate disciplinary proceedings against him and considers dismissing him from service. Mr. Rao, however, claims that he is protected by the constitutional safeguards provided under Article 311 of the Indian Constitution and argues that he cannot be dismissed without a fair inquiry and an opportunity to defend himself. The employer argues that given the seriousness of the allegations and the evidence available, it has the authority to take immediate action. Discuss the constitutional safeguards provided to civil servants under Article 311 of the Indian Constitution. Analyze whether the employer's decision to initiate disciplinary proceedings against Mr. Rao without providing him with an opportunity to defend himself is in line with the constitutional provisions. What options are available to Mr. Rao to challenge the said decision? Support your answer in light of the relevant case illustration on the matter.

- Q.4** In a government department, Mr. Patel, a senior officer, was suspended from his duties pending an investigation into allegations of misconduct. The allegations include misuse of office resources for personal gain and favoritism in awarding contracts. Discuss the legal principles and procedural safeguards surrounding suspension under service law. Analyze whether the department's decision to suspend Mr. Patel is justified in the given circumstances. Furthermore, consider the implications of suspension on Mr. Patel's employment rights and reputation.
- Q.5** The "Quota Rota Rule" is a principle often employed in administrative and bureaucratic settings to ensure equitable distribution of resources, opportunities, or responsibilities among various groups or individuals. The idea is to bring, promote inclusivity and diversity in an employment setting. Discuss the concept of the "Quota Rota Rule", its underlying principles, and its application in matters of seniority.
- Q.6** The imposition of major penalties under the Central Civil Services (Classification, Control, and Appeal) Rules, 1965 is a significant aspect of disciplinary proceedings in the Indian service system. Discuss the major penalties prescribed under the CCS (CCA) Rules, 1965. Explain the circumstances under which these major penalties can be imposed on a government employee. Analyze the procedural safeguards and due process requirements that must be adhered to during disciplinary proceedings leading to the imposition of major penalties.
- Q.7** Disciplinary inquiries are a crucial aspect of maintaining discipline and integrity within the framework of service law. Discuss the procedure involved in conducting a disciplinary inquiry against a government employee accused of misconduct or wrongdoing. Outline the key steps and stages of a disciplinary inquiry. Support your answer with relevant case illustrations.

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**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

*End-Term Examinations, June 2024*

**Paper Code: LM-201**

**Subject: Comparative Public Law**

**LL.M. 2<sup>nd</sup> Semester**

**20<sup>th</sup> June, 2024**

**Time: 3 Hours**

**Maximum Marks: 50**

*Instructions:*

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
- 2. This Question Paper contains total of four printed pages.*
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**SECTION-A (Short-Answer Type)**

**(6x03=18Marks)**

**Q.1 Short Answer Type Questions:**

*Write short comments on the following:*

- Compare the development of the Legal conception of equality in the U.S. and India.
- The close connection between legal pluralism and history of the people.

- c) Distinction between implied limitations, counter majoritarian, and constituent power.
- d) Conceptions of the 'social state' in India and the Europe.
- e) K.C. Bhattacharya's idea of cultural subjection and comparative studies.
- f) Theoretical justifications of the doctrine of proportionality.

### **SECTION-B (Long-Answer/Descriptive/Analytical Type)**

***(4x08=32Marks)***

**Q.2** 'The fundamental law was regarded as an expression of natural law, the challenges that led to the emergence of the autonomous concept of public law might be said to be a consequence of the processes of secularisation, rationalisation, and positivisation of fundamental law'. Elaborate. Critically discuss the role of rationalisation for acceptance and legitimacy of the expanding positive character of the public law.

**Q.3** There are several emergent issues which pose challenge to public law for all contemporary legal systems in the world. For example, demands arising out of individual autonomy and agency such as LGBTQIA+ movements appear have to challenged established notions of individuality, rights, privacy and family, etc. Further, requirements of technological innovations and advancements such as cryptocurrency, Artificial Intelligence (AI), DNA, genome technology, to name a few, invites development of new concepts and categories in law for regulation of such innovations and

advancements. In this context, the established methods and methodology of comparative inquiry may not prove to be sufficient. Critically discuss the appropriateness of any two of the methods suggested by Ran Hirschl which may be most appropriate for above kind of studies.

**Q.4** ‘Constitution as a fundamental law in the absolute sense precedes the meaning of Constitution as normative or relative concepts. The relative or the normative conceptualization of the Constitution abstracts (take away) it from social and political facts preceding an existent in the land and amongst the people’. Carl Schmitt’s conceptualizations of Constitution as fundamental law presents a more legible account than that of Hans J. Kelson’s theory of law. Critically discuss the meaning and merits of absolute conceptions of Constitution.

**Q.5** “*Thou shalt not kill, but needest not strive/officiously to keep alive,* may be good enough when it comes to deprivation of life liberty or property, but it seems to me not merely good enough when it comes to denial of equal protection of laws. Inaction is the classic and often the most efficient way of denying protection’. In light of the statement critically compare the State Action doctrine developed by the U.S. Supreme Court and the Theory of State Agency and Instrumentality practiced under the Indian Constitution. Support your answer with decided case laws from both the jurisdictions.

**Q.6** “The arguments for inclusion of socio-economic rights in the constitution and their enforcement raises fundamental questions. Some argue, the issue from moral point of view, that a constitution which does not include socio-economic rights, as part of its bill of

rights, is morally defective. Whereas, others put socio-economic rights on the same footing, that is ‘dignity’, on which basic civil and political rights are based”. Elaborate. Critically discuss the status of socio-economic rights under the constitutional laws on India and the South Africa. Refer to decided cases by the respective Supreme Courts.

**Q.7** Discuss the theory of constitutional amendments by D. Conrad. Give a critical assessment of practice of constitutional amendments in India, Australia, and the U.S.

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**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

*End-Term Examinations, June 2024*

**Paper Code: LM-215**

**Subject: Competition Law**

**LL.M. 2<sup>nd</sup> Semester**

**29<sup>th</sup> June, 2024**

**Time: 3 Hour**

**Maximum Marks: 50**

*Instructions:*

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
- 2. This Question Paper contains total of three printed pages.*
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**SECTION-A (Short-Answer Type)**

**(6x03=18Marks)**

**Q.1 Short Answer Type Questions:**

- Elucidate the term consumer concerning the relevant market under Competition Law.
- Elucidate the concept of *Bid Rigging* with the help of relevant cases and provisions.

- c) Elucidate the concept of the *Creation of barriers* and its significance under Competition Law.
- d) Explain the concept of *Small but non-transitory relative price* rise with the help of relevant case studies.
- e) Elaborate and differentiate between lesser penalty and lesser penalty plus.
- f) Elucidate the concept of dumping predatory pricing with the help of relevant case and illustrations.

### **SECTION-B (Long-Answer/Descriptive/Analytical Type)**

**(4x08=32Marks)**

**Q.2** Some rules and concepts under India's competition statute protect and promote consumer welfare and fair competition in the market, violation of which leads to appreciable adverse effects on the Indian competition market. However, the relevant market also play an important role. Critically examine the appreciable adverse effects and relevant market under Competition law in India and their interdependence.

**Q.3** *Tie-in-Arrangements, Exclusive Supply Agreements, and Exclusive Distribution Agreements* are forms of anti-competitive agreements as stipulated by the Competition Act, 2002. Despite their classification as vertical agreements, scholars often draw connections between these agreements and the principle of the Rule of Reason. An in-depth analysis of the interplay between these agreements and the rule is warranted. Furthermore, exploring the distinctions among the agreements above is also warranted. Discuss

and distinguish the nature of their arrangements and the interplay between them.

**Q.4** Predatory pricing is a practice of abusing the dominant position in the relevant market. However, some scholars still look for the essentials/factors of the dominant position under section 19 of the Competition Act, 2002. Elucidate the concept of predatory pricing and test/ experiments followed in the United States and the European Union. Also, critically suggest a test to establish predatory pricing in India.

**Q.5** While considering the new dimensions of competition law, Government of India brought an important amendment under the Competition Act 2002 in 2023. Critically evaluate the new challenges and issues due to the emergence of new dimension under the competition law in India.

**Q.6** "The director general assists the commission in competition-related matters. However, many scholars believe he is crucial in penalizing the enterprise." Discuss the statement with the help of relevant provisions.

**Q.7** Elaborate on the following with the help of a short note:

- (i) Using the dominant position in one relevant market to enter, or protect, other relevant markets.
- (ii) Dominant Position.

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**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

*End-Term Examinations, June 2024*

**Paper Code: LM-209**

**Subject: Banking and Insurance Law**

**LL.M. 2<sup>nd</sup> Semester**

**25<sup>th</sup> June, 2024**

**Time: 3 Hour**

**Maximum Marks: 50**

*Instructions:*

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
- 2. This Question Paper contains total of four printed pages.*
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**SECTION-A (Short-Answer Type)**

**(6x03=18Marks)**

**Q.1 Short Answer Type Questions:**

- a) How is the negotiation distinguished from the assignment?
- b) What are the essential requirements of Core Banking Solutions?
- c) What are the functions of Composite Brokers?

- d) Mr. Harshit and Mr. Nilesh both are practicing as insurance brokers for last 7 years. In march 2024, they decided to get registered with IRDA (Insurance Regulatory Development Authority) as insurance and re-insurance broker. But, Mr. Nilesh did not registered himself with IRDA. Mr. Narinder (NRI) from the U.S., approached to Mr. Nilesh on behalf of his firm (HQ based in U.S.) to buy a re-insurance. Discuss, the concept of re-insurance with the help of relevant provisions. Also discuss the competency of Mr. Nilesh to provide a re-insurance to Mr. Narinder for his firm.
- e) “Oriental life insurance played an important role in the evolution of life insurance in India. Further year 1914 and 1956 played their part.” Justify the statement by elaborating on the historical development and evolution of life insurance in India.
- f) Mr. X, found a cheque in a park while jogging. He tried to found the owner of the same with the help of park administration. After 15 days, when no one claimed the lost cheque, Mr. Aman paid his debt pending towards Mr. Vyom of Rs. 45000/-. Before giving the check to Mr. Vyom, Mr. Aman crossed the cheque as account payee. Discuss the liability of Mr. Aman and Mr. Vyom. Also, explain the concept of cross cheque in the above said problem and how it is different from Endorsement.

## **SECTION-B (Long-Answer/Descriptive/Analytical Type)**

***(4x08=32Marks)***

- Q.2** “The relationship between a banker and his customer depends upon the nature of the service provided by the banker.” In light of this statement, discuss the services rendered by commercial banks and explain the relationship between banker and customer.
- Q.3** The Indian economic climate has changed dramatically in recent years due to bank reforms and policies. The most significant shift is in the financial sector, with the banking industry being the most affected. As a result, these financial developments have been quite noticeable in recent years. Elaborate the recent trends of the banking system in India.
- Q.4** Every business organization is exposed to many risks while doing business. Banks, too, face several financial and non-financial risks. Based on guidelines issued by RBI, banks assess the magnitude of risks they face and adopt proper strategies to manage the same. In the light of banks adopting BASEL I, II and III norms. RBI also monitors compliance of banks' risk management practices through its on-site and off-site surveillance to prevent crises in the banking sector. Discuss in detail.
- Q.5** Life Insurance is a contract between the policyholder and the insurance company, where the insurance company pays a specific sum to the insured family upon his death. The life insurance sum is paid in exchange for a specific premium amount. In light of the above statement, discuss the features and nature of Life Insurance and how it differs from other forms of insurance.

**Q.6** Depending on the regulatory standards governing insurance, an insurance firm that specializes in life insurance or general insurance would have different compliances. IRDA compliance is necessary for insurance businesses to function in the insurance industry. Why are insurance companies required to comply with IRDA? also, discuss the procedure for IRDA Compliance for Insurance Companies.

**Q.7** Explain the Concept of Marketing and Distribution Channels of Insurance Products. How does the individual or corporate agency play an important role in the distribution channel of Insurance Products?

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**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

*End-Term Examinations, June 2024*

**Paper Code: LM-203**

**Subject: Constitutional Rights & Theory**

**LL.M. 2<sup>nd</sup> Semester**

**25<sup>th</sup> June, 2024**

**Time: 3 Hour**

**Maximum Marks: 50**

*Instructions:*

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
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**SECTION-A (Short-Answer Type)**

**(6x03=18Marks)**

**Q.1 Short Answer Type Questions:**

- a) ‘Constitution and Constitutionalism.’ Comment.**
- b) In what ways do constitutional protections against discrimination promote equality, and what are the challenges in enforcing these protections?**



- c) How do different countries balance the right to freedom of speech with the need to prevent hate speech and misinformation?
- d) In what ways has the right to life been interpreted to include the right to health and healthcare in India?
- e) Comment on *Shreya Singhal v. Union of India* (2013).
- f) What is strict scrutiny of judicial review under the Constitution of India?

### **SECTION-B (Long-Answer/Descriptive/Analytical Type)**

**(4x08=32Marks)**

- Q.2** How has the right to privacy been interpreted in the digital age, and what are the implications for personal freedoms and government surveillance? How does the Digital Personal Data Protection Act 2023 ensure the privacy issues discussed in *Justice K. S. Puttaswamy's* case, in 2017?
- Q.3** How has the reservation policy impacted the socio-economic status of Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC) over the years? Discuss in light of landmark judgments till date.
- Q.4** What are the implications of landmark Supreme Court cases for the development of Constitutional Law on the Rule of Law? How have they shaped contemporary legal debates?

**Q.5** How does the rise of populism challenge traditional constitutional frameworks, and what measures can be taken to safeguard democratic institutions? How do you see the challenges faced by the Constitutional courts to judicial review to ensure the Constitution should remain relevant?

**Q.6** How is the right to healthcare addressed in various Constitutions, and what are the implications for social justice and public policy?

**Q.7** What are the constitutional implications of climate change, and how are environmental rights being integrated into legal frameworks?

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**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

***End-Term Examinations, June 2024***

**Paper Code: LM-217**

**Subject: Copyright, Neighboring Rights and Design Law**

**LL.M. 2<sup>nd</sup> Semester**

**25<sup>th</sup> June, 2024**

**Time: 3 Hour**

**Maximum Marks: 50**

**Instructions:**

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
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**SECTION-A (Short-Answer Type)**

***(6x03=18Marks)***

**Q.1 Short Answer Type Questions:**

- a) What are the basic principles of Berne Convention for the Protection of Literary and Artistic Works (1886)?**
- b) What subject matter of copyright, in your opinion, exists in perpetuity? Substantiate with example.**

- c) Section 52, Copyright Act, 1957 provides for certain exemptions from copyright infringement. What are some of such exemptions?
- d) What should be the basic constituents of a copyright licence agreement?
- e) How is the Agreement on Trade Related Aspects of Intellectual Property Rights, 1995 different from Berne Convention for the Protection of Literary and Artistic Works, 1886 in relation to International Copyright protection?
- f) What are 'layout-designs' used in semiconductor integrated circuits as per The Semiconductor Integrated Circuits Layout Design Act, 2000.

**SECTION-B (Long-Answer/Descriptive/Analytical Type)**

**(4x08=32Marks)**

**Q.2** The roots of copyright law in India can be traced back to ancient times when manuscripts were copied and preserved by scribes in palm-leaf manuscripts. The history of copyright law in India dates back to the British colonial era. However, even before the British introduced the copyright law in India, the Bombay High Court pronounced the Copyright Act of the United Kingdom to be applicable in India in the case of *McMillan v. Khan Bahadur Shamsul Ulama Zaka* (1895-ILR Bom 557). From the said case, trace the evolution of copyright law in India.

- Q.3** In the case of *The Institute of Chartered Accountants of India v. Shaunak H. Satya* AIR 2011 SC 3336, a detailed view on licencing of copyright has been stated by the Hon'ble Supreme Court. In the light of this case, explain licencing in copyright.
- Q.4** Section 9 of the Copyright Act requires for establishment of an office to be called the Copyright Office for the purpose of the Act. The Copyright Office is to be under the immediate control of a Registrar of Copyrights to be appointed by the Central Government, who would act under the superintendence and directions of the Central Government. What is the process of registration of Copyright in the above-mentioned office?
- Q.5** As per the Copyright Act, 1957, the use of a copyrighted work without the permission of the owner results in copyright infringement. Infringement occurs when a third person unintentionally or intentionally uses/copies the work of another without giving credit. It is usually classified into two categories, i.e. primary and secondary infringement. Elaborate on infringement of copyright with help of case laws.
- Q.6** A registered proprietor of the design is entitled for protection of his intellectual property. He can take step against infringement, if his right is infringed by any person. He can license or sell his design as legal property for a consideration or royalty. Registration initially confers this right for ten years from the date of registration. It is renewable for a further period of five years. What are the essential requirements of registration of an Industrial Design? State in detail with help of case laws.

**Q.7** Integrated circuits are critical components in a wide range of electrical products in modern technology, including common items like watches, television sets, washing machines, and cars, as well as sophisticated computers, smart phones, and other digital gadgets. The development of innovative integrated circuit layout designs is critical for the creation of ever smaller digital devices with greater functions. Throw light on the provisions preventing infringement of integrated circuit layout designs.

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**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

*End-Term Examinations, June 2024*

**Paper Code: LM-213**

**Subject: Cyber Crimes and Cyber Security**

**LL.M. 2<sup>nd</sup> Semester**

**29<sup>th</sup> June, 2024**

**Time: 3 Hour**

**Maximum Marks: 50**

*Instructions:*

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
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**SECTION-A (Short-Answer Type)**

**(6x03=18Marks)**

**Q.1 Short Answer Type Questions:**

- a) The internet is known to have no physical borders or territorial boundaries. This presents a practical difficulty in framing laws to regulate it. Discuss how we can regulate the internet.
- b) Write a note on power to adjudicate under I.T Act, 2000 in the matters of cyber crimes.

- c) Write a note on Hague Choice of Court Convention and also discuss whether India is a signatory to it.
- d) Explain the key differences between symmetric and asymmetric encryption methods.
- e) How does cyber terrorism differ from other forms of cyber crimes?
- f) What measures have been taken for regulation of e-governance?

**SECTION-B (Long-Answer/Descriptive/Analytical Type)**

***(4x08=32Marks)***

**Q.2** Conventional crimes generally entail tangible behaviors and direct engagement with victims or tangible properties, like robbery, physical assault, or trespassing. Conversely, cybercrimes are carried out through the utilization of computers, networks, and the internet, focusing on digital properties, information, or persons within the virtual realm. The complexity escalates notably while addressing cyber stalking. Discuss the statement in the context of legal remedies and judicial precedents on cyber stalking in India.

**Q.3** “The conventional method of determining jurisdiction prompts a court to inquire about its territorial, pecuniary, or subject matter jurisdiction in adjudicating the presented case. In the era of the internet, the issue of 'territorial' jurisdiction becomes intricate mainly due to the borderless nature of the internet. Consequently, although there are no physical borders between different regions within a nation, there are also no boundaries between countries.” In the light of this statement, discuss the issues relating to jurisdiction in cyber crimes.



**Q.4** Intermediaries must ensure compliance with rules and regulations, privacy policy, and user agreement, and make reasonable efforts to cause users to not create, upload, or share prohibited content. They must also respect the Constitutional rights of users. How have the Intermediary Guidelines 2021, impacted the regulation of digital platforms and social media in India? Also, discuss what are the key responsibilities and compliance requirements for these platforms under these new rules.

**Q.5** The National Cyber Security Policy 2013 aims to safeguard information and information infrastructure in cyberspace, enhance abilities to prevent and address cyber threats, decrease vulnerabilities, and boost national security in the digital realm. In light of the statement write a detailed note on the same.

**Q.6** The Supreme Court in Justice *K.S. Puttaswamy and Anr. v. Union of India and Ors.* declared that the right to privacy is part of the fundamental right to life in India and that the right to informational privacy is part of this right. The judgment neither described the specific contours of the right to informational privacy nor laid down specific mechanisms through which this right was to be protected. But the India Digital Personal Data Protection Act 2023 (DPDPA) is a landmark legislation that aims to safeguard the privacy of individuals in the digital age. Elaborate your answer in the light of relevant provisions of the Act.

**Q.7** Online dispute resolution can serve as an efficient means of dispute resolution in cyberspace. It holds a promising role in creating an efficient regime for dispute resolution. But this mechanism faces lot of challenges in the cyber world. Discuss in detail.

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**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

***End-Term Examinations, June 2024***

**Paper Code: LM-214**

**Subject: Environmental Law**

**LL.M. 2<sup>nd</sup> Semester**

**29<sup>th</sup> June, 2024**

**Time: 3 Hour**

**Maximum Marks: 50**

**Instructions:**

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
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**SECTION-A (Short-Answer Type)**

***(6x03=18Marks)***

**Q.1 Short Answer Type Questions:**

- a) X and Co. established a hotel in a residential area which was emitting smoke from its chimney, which affected the residents residing in that locality. Explain whether the emission of smoke from chimney could be legally challenged. Cite relevant case law (if any) to support your answer.

- b)** In a newly Smart City Development plan a land was reserved for park in the residential area. However, later the same land was allotted for the construction of gym. The people objected to the construction of gym on the ground that to live in a healthy environment is their fundamental right. To this, the gym owner pleaded that setting up of a gym will also be a part of providing a healthy lifestyle to the people of the area. Advise keeping in mind the constitutional provisions.
- c)** A notice was given to about 165 dyeing factories to close down the business as they are polluting water and causing damage to public health. However, they claimed that they were doing business for the last 25 years and providing employment to approximately 20,000 families and that order is liable to be set aside. Is the argument justifiable? Discuss while keeping in mind the relevant provision of Water (Prevention and Control of Pollution) Act, 1974.
- d)** A filed a complaint in the State Pollution Control Board (SPCB) claiming that an industry X was discharging untreated effluents in the river. The SPCB directed industry X to establish an effluent treatment plant within two months. After a lapse of two months, the SPCB ordered the closure of industry X on the ground that industry X did not comply with the directions of the Board. Discuss the validity of the order in the light of the provisions of Water (Prevention and Control of Pollution) Act, 1974.
- e)** A government zoological park was situated in the heart of the city and near to the zoological park was lying vacant 20 acres of land. A leading five star hotel group intended to construct a luxurious hotel and obtained lease rights from government. Explain whether construction of hotel could be legally challenged under Wild Life (Protection) Act, 1972.

- f) “The Kigali amendment amends the 1987 Montreal Protocol”. What are these main amendments included by the Kigali agreement?

**SECTION-B (Long-Answer/Descriptive/Analytical Type)**

***(4x08=32Marks)***

- Q.2** “Right to life is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life”. Analyse the above statement with reference to decided case laws.
- Q.3** Critically examine the power of the central government to take steps for protecting and improving the quality of environment and preventing environmental pollution under the Environment (Protection) Act, 1986.
- Q.4** Discuss the constitution and jurisdiction of the National Green Tribunal under the National Green Tribunal Act, 2010. Do you think that the objects for which the tribunal was created have been achieved by it? Discuss with reference to case laws on the point.
- Q.5** Explain the provisions on the restrictions on dereservation of forests or use of forest for “non forest” purposes under the Forest (Conservation) Act, 1980. How has judiciary while applying these provisions contributed to the conservation of forests?

**Q.6** “The history of international environmental dialogue is a history of attempts to bridge contradictory ideological premises and divergent realities to further a common environmental agenda.” Elucidate the above in the light of the international environmental dialogue from Stockholm to Rio plus 20.

**Q.7** Discuss the nature and development of International Environmental Law.

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**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

***End-Term Examinations, June 2024***

**Paper Code: LM-206**

**Subject: Forensic Science, Techniques and Investigation**

**LL.M. 2<sup>nd</sup> Semester**

**27<sup>th</sup> June, 2024**

**Time: 3 Hour**

**Maximum Marks: 50**

**Instructions:**

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
- 2. This Question Paper contains total of four printed pages.*
- 3. Candidates are required to write their Roll No. on the question paper in the given space above. Do not write anything except Roll No. on the question paper.*

**SECTION-A (Short-Answer Type)**

***(6x03=18Marks)***

**Q.1 Short Answer Type Questions:**

- a) What is the role of toxicology division and narcotics division of Forensic Science Laboratory in crime investigation?
- b) Examine the efficacy of techniques used by a document expert in Questioned Document and their identification.

- c) If 'X' is accused of committing rape, what are the various biological samples that can be analysed for DNA fingerprinting in investigating the guilt of 'X'?
- d) 'X' was convicted for the murder of an Italian national during her visit to Varanasi. The digital evidence such as CCTV footage, SIM card details, and a broken mobile phone were recovered by the police. Which division of forensic science can contribute to analyzing the evidence and how?
- e) What are the limitations of Voice Identification Techniques and how these limitations are considered while deciding the admissibility of evidence collected through Voice Identification Techniques?
- f) What is the role of Forensic Expert and Serology Division in the investigation and trial of rape cases?

**SECTION-B (Long-Answer/Descriptive/Analytical Type)**

***(4x08=32Marks)***

**Q.2** Forensic science operates at the crossroads of law and science. While its historical association has been primarily with criminal justice, contemporary forensic scientists are also contributing to civil matters and regulatory domains. Discuss with the help of legal provisions and case laws, how the dynamic field of Forensic Science has emerged as a new horizon within the legal landscape, charting new avenues of investigation of crimes and civil matters.

**Q.3** The crime scene investigation unit handles the division between field work and lab work differently. Crime scene investigators are not typically forensic scientists. Most of the crime scene

investigators work in the field when they collect the evidence and pass it to the forensic science laboratory for further examination and report. What are the precautions needed to be taken by them to help forensic, and law enforcement professionals to deal with crime scene evidence to avoid contamination, degradation, broken chain of custody, and loss of the value of the evidence? Discuss with relevant case laws.

**Q.4** The new avenue in criminal investigation has emerged to take help from forensic anthropology to aid the investigation. Cases in various countries including India, have used this science but the number is comparatively low to the use of other forensic science techniques. Discuss the scope and the possibility of using forensic anthropology and role of anthropologist as expert witness in criminal investigation and discuss its limitations with the help of relevant examples and cases.

**Q.5** ‘A’ was alleged of murdering his wife. Due to the lack of sufficient direct evidence the investigating agencies were of opinion to conduct Narco-Analysis, Brain Mapping and Polygraph, on ‘A’ but he refused to consent. Discuss the legal implications, admissibility, constitutionality, and evidentiary value of these tests if the tests are conducted without the consent of ‘A.’

**Q.6** Tim was an American serial killer who kidnapped, raped, and murdered dozens of young women and girls during the 1970s. Discuss the role of forensic psychology in criminal profiling and crime investigation in the case study of Tim.



**Q.7** 'A' had been murdered by shooting with a country-made pistol. The circumstantial evidence established against 'X' was:

- (i) He had a motive for the murder,
- (ii) Three days before the murder the 'X' had held out a threat to murder the deceased,
- (iii) A cartridge was found near the cot of the deceased, and
- (iv) The 'X' produced a country-made pistol from his house in circumstances which clearly showed that he alone could have known of its existence there.

The fire-arms expert examined the recovered pistol and the cartridge and after making scientific tests was of the definite opinion that the cartridge had been fired from the same recovered pistol. Discuss the role of the forensic expert; admissibility, the evidentiary value of his opinion, and the criminal liability of the 'X' in the context of *Kalua v. State of U.P* 1958 AIR 180.

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**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

*End-Term Examinations, June 2024*

**Paper Code: LM-205**

**Subject: International Criminal Law**

**LL.M. 2<sup>nd</sup> Semester**

**25<sup>th</sup> June, 2024**

**Time: 3 Hour**

**Maximum Marks: 50**

*Instructions:*

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
- 2. This Question Paper contains total of three printed pages.*
- 3. Candidates are required to write their Roll No. on the question paper in the given space above. Do not write anything except Roll No. on the question paper.*

**SECTION-A (Short-Answer Type)**

**(6x03=18Marks)**

**Q.1 Short Answer Type Questions:**

- a) Critically examine the major grey areas in ILC Draft Code of Crimes Against the Peace and Security of Mankind.**
- b) What is the role of UN Security Council in the International Criminal Court's jurisdiction and functioning?**

- c) Do you agree that the sovereign immunity is defeated when the violations amount to the breach of a peremptory norm of international law, or “*jus cogens*”?
- d) Whether the International Criminal Court can only prosecute an individual, or a group of individuals or states can also be prosecuted by the ICC? Discuss in the light of the principle of individual criminal responsibility.
- e) What are the grounds on which the intoxication and mental incapacity can be rejected as defence against international crimes?
- f) Discuss the extent and applicability of the right of self-defence to be taken as a defence in ICC under Rome Statute.

### **SECTION-B (Long-Answer/Descriptive/Analytical Type)**

**(4x08=32Marks)**

**Q.2** In the history of International Criminal Law, the crimes committed against humanity have been ignored by states either due to ‘military necessity’ or under the veil of ‘national sovereignty’ and territorial integrity clause. Do you think that state sovereignty is a major impediment in the implementation of international criminal law and in the prosecution of people committing crimes against humanity? Elaborate with the case laws.

**Q.3** Do you agree that the process of international criminalization involves the development of an international social consensus on international criminality, which takes hold in international society following diplomatic negotiations? Critically analyze the applicability of the general principles of international criminal law in the case of *Prosecutor v. Akayesu*.

- Q.4** The power of the Security Council to refer a situation to the ICC prosecutor includes a situation that involves nationals of a state that is not a party to the Rome Statute. Why does a council referral not violate the consensual nature of the jurisdiction of the ICC? Also discuss the jurisdiction, procedure, and powers of ICC in this context.
- Q.5** What are the key areas of difference in the International Criminal Court from the *ad hoc* Tribunals for the Former Yugoslavia and Rwanda? Discuss the functioning of the chambers of ICC and comment that how far the adequacy of evidence is significant to initiate the proceedings in international criminal court.
- Q.6** How an investigation is conducted in the International Criminal Court and what is the next judicial stage following an investigation? Once the sufficient evidence has been collected to establish reasonable grounds to believe that an individual bears criminal responsibility, what will be the role of a prosecutor in arrest and prosecution of the suspects?
- Q.7** “The Belgium’s 1993 Universal Declaration aimed to address the repression of grave breaches of the Geneva Conventions and its Additional Protocols, however, it was criticised by various critics for circumventing the sovereignty of other states and was termed as a partisan show trials of propaganda value but no legal consequence.” In the light of the above statement, examine the efficacy of the Belgium’s 1993 Universal Declaration.

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**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

***End-Term Examinations, June 2024***

**Paper Code: LM-218 Subject: Patent Law, Trade Secrets and Plant Variety Protection Act**

**LL.M. 2<sup>nd</sup> Semester**

**27<sup>th</sup> June, 2024**

**Time: 3 Hour**

**Maximum Marks: 50**

**Instructions:**

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
- 2. This Question Paper contains total of four printed pages.*
- 3. Candidates are required to write their Roll No. on the question paper in the given space above. Do not write anything except Roll No. on the question paper.*

**SECTION-A (Short-Answer Type)**

***(6x03=18Marks)***

**Q.1 Short Answer Type Questions:**

- a) How have international agreements influenced the development of national patent laws, particularly with respect to harmonizing standards and protecting intellectual property rights globally?
- b) What are the legal and practical challenges associated with the patentability of computer programs?

- c) Briefly highlight the legal mechanisms that have been employed in patent law to combat biopiracy.
- d) In what ways have various international agreements impacted the balance between protecting the rights of plant breeders (PBRs) and ensuring access to plant genetic resources for farmers and researchers?
- e) Briefly discuss the underlying reasons for establishing distinct legal frameworks for plant protection, rather than incorporating them within patent law, and how do these separate laws address the unique challenges and requirements of agricultural innovation and biodiversity conservation.
- f) Briefly explain:
  - (i) Non-Disclosure Agreement
  - (ii) Third Party Liability
  - (iii) Licensing

## **SECTION-B (Long-Answer/Descriptive/Analytical Type)**

***(4x08=32Marks)***

**Q.2** A pharmaceutical company holds a patent for a widely-used medication for cancer treatment which is due to expire soon. However, they have made minor modifications to the formulation, claiming these changes warrant a new patent, effectively extending their market exclusivity. Discuss the legal implications of this practice called as ‘evergreening of patents’ on access to affordable medication, healthcare costs, and innovation incentives within the pharmaceutical industry. Additionally, analyze the efforts taken by the judiciary to address concerns related to evergreening while balancing the interests of both inventors, researchers and a diverse array of consumers.

- Q.3** A generic pharmaceutical company named as 'Fanbaxy' is conducting research and development on a generic version of a patented medication that is due to expire soon. However, they receive a notice from the patent holder alleging infringement of their patent rights. 'Fanbaxy' asserts that they are protected under the Bolar exemption as they are conducting pre-market testing for regulatory approval. Discuss the provision under the Indian patent regime and analyse the legal implications of the Bolar exemption in this scenario, including the scope of activities covered.
- Q.4** A software development company, 'XimShim' has created a revolutionary algorithm named 'P54' that powers their flagship product. They are deliberating whether to protect the algorithm as a trade secret or pursue patent protection. Analyze the factors the company should consider in making this decision, including the duration of protection, the level of disclosure required, enforceability, and potential costs and benefits. Recommend a course of action based on the company's long-term objectives and risk tolerance.
- Q.5** An employee of a technology firm 'Picaso' has unlawfully disclosed confidential trade secrets to a competitor, resulting in substantial financial losses and damage to the company's reputation. Analyze the legal recourse available to the company under Indian trade secret law, including potential civil remedies, injunctive relief, and criminal prosecution against the employee and the competitor. Evaluate the burden of proof and evidentiary requirements in establishing a breach of trade secrets, as well as the challenges associated with enforcing trade secret protection in practice.

**Q.6** A group of Nagaland's farmers unknowingly planted seeds of a 'bhutani chilli' a protected plant variety without obtaining proper authorization from the breeder. Upon discovery, they faced with legal action for infringement of plant breeder's rights under the Protection of Plant Varieties and Farmers Rights Act, of 2001. Analyze the legal defenses available to the farmers, including the concept of innocent infringement, bonafide farmer exemptions, and the burden of proof in demonstrating innocence.

**Q.7** Critically analyze the effectiveness of the legal framework, enforcement mechanisms, and institutional support structures under the Protection of Plant Varieties and Farmers Rights Act, 2001. Assess the impact of the Protection of plant variety system on agricultural productivity, food security, and socio-economic development in India.

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**HIMACHAL PRADESH NATIONAL LAW UNIVERSITY  
SHIMLA**

***End-Term Examinations, June 2024***

**Paper Code: LM-210**

**Subject: Taxation Laws**

**LL.M. 2<sup>nd</sup> Semester**

**27<sup>th</sup> June, 2024**

**Time: 3 Hour**

**Maximum Marks: 50**

**Instructions:**

- 1. Section-A is compulsory consisting of Six short questions carrying three marks each. Attempt any Four Questions from Section-B. Each question in Section-B carries eight marks.*
- 2. This Question Paper contains total of three printed pages.*
- 3. Candidates are required to write their Roll No. on the question paper in the given space above. Do not write anything except Roll No. on the question paper.*

**SECTION-A (Short-Answer Type)**

***(6x03=18Marks)***

**Q.1 Short Answer Type Questions:**

- a) Distinguish between tax and fee. Substantiate your answer with the help of relevant judicial decisions.**
- b) Financial federalism and the residuary power of taxation.**
- c) Taxation and freedom of trade.**

- d) Double Taxation Avoidance Agreement (DTAA).
- e) Foreign Tax Credit.
- f) Challenges in enforcing tax reforms.

**SECTION-B (Long-Answer/Descriptive/Analytical Type)**

**(4x08=32Marks)**

**Q.2** “Graduated tax system with permissible exemptions and rebates makes the system more progressive.” In light of the statement discuss the concept of progressive taxation. Substantiate your answer with the help of the suitable provisions of Income Tax Act, 1961.

**Q.3** “Whereas Marx and Engels clearly perceive income inequality as irremediably inevitable under capitalism, reducing tax inequality, in contrast, is regarded as perfectly achievable while capitalism persists.” With the help of the provisions of Income Tax Act, 1961, discuss the role of taxation in countering the problem of socio-economic inequality in India.

**Q.4** With the help of the ratio and observations laid down in the *Municipal Corporation of Delhi v. Birla Cotton, Spinning and Weaving Mills* (1968), discuss the limits on delegation of tax legislative powers to the executives in India.

**Q.5** What are the methodologies opted by tax authorities to explore the transfer pricing in international transactions. Explain with the help of suitable examples.

**Q.6** What do you understand by Base Erosion and Profit Shifting (BEPS)? With respect to growing e-commerce, what are the general principles and procedure advanced by the Organisation for Economic Co-operation and Development (OECD)?

**Q.7** Discuss the cascading effect of taxation? Illustrate with suitable examples with the help of the provisions contained in the Goods and Services Tax (GST) and attempted to minimise the cascading effect of taxation?

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