



HIMACHAL PRADESH NATIONAL LAW UNIVERSITY SHIMLA

End-Term Examination

Paper Code: LM-201

Subject: Comparative Public Law

LL.M. 2nd Semester23rd July, 2019

Time: 2hrs. 30minutes (for writing exam- 10:30 am -12:30 pm and for scanning & uploading answer-sheet- 12:30 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt all questions. Section-A is compulsory consisting of four short questions carrying five marks each. Attempt any two questions from Section-B. Each question in Section-B carries 15 marks.

SECTION-A (Short-Answer Type)**(4x5=20 Marks)****Q.1 Short Answer Type Questions:**

- (A) “The boundary between Public-Private law is drawn for academic/administrative convenience”. Illustrate with contemporary examples.
- (B) Discuss the constitutional Idea of State with a comparative comment on ‘state agency and instrumentality’ and ‘state action/responsibility doctrine’.
- (C) Comment on Constitutional Rights as a basis for ‘Rule of law concept/discourse’?
- (D) Comment on the Indian Judicial approach to justiciability of fundamental rights and doctrine of Proportionality.

SECTION-B (Long-Answer/Descriptive/Analytical Type) (2x15=30 Marks)

- Q.2** “Every practical lawyer knows the need of considering legal rules in the light of the history of their introduction into the legal system. This is true of statutes as well as of judge-made law. Even when courts have decided a point, scientific reconsideration may show that the premises were false or the reasoning mistaken. The principles enunciated may then be revised, if necessary, by legislation. Every lawyer, truly devoted to his profession, takes pleasure in comparing the ways in which the same legal problem is dealt with in different legal systems.” Critically examine the statement in light of the views of K. C. Bhattacharya’s “Swaraj in Ideas” essay.
- Q.3** Absolute conception of Constitution, in view of Carl Schmitt, entails three meanings: one, it refers to the basic law (norms) in the sense of a closed unity, the entire normative

framework of state life in general, and embodies the meta idea of the “law of laws.” Two, in contrast to mere norms, it implies “will” that actually existed as the origin of power for commanding (making) Constitution. In this second absolute sense, by way of will, constitution refers to constitution making capacity and ‘validity’. And the third, as a something absolute are explicable historically from the time in which it (constitution) is considered to be a complete codification. Discuss.

- Q.4** Critically examine that, ‘the true character and feature of the practical idea of sovereignty can be discovered from the ways in which the modern state has managed access, (production), distribution and preservation of certain social goods such as education, health, or water amongst citizenry or classes of people’. Substantiate your argument with suitable examples of policy, law and judicial decisions.
- Q.5** Briefly discuss the concept of ‘constituent power’. Elaborate the two-fold examination by the courts of a Constitutional Amendment Act on the basis of ‘identity test’ and the ‘width test’.

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HIMACHAL PRADESH NATIONAL LAW UNIVERSITY SHIMLA

End-Term Examinations

Paper Code: LM-203

Subject: Constitutional Rights and Theory

LL.M. 2nd Semester25th July, 2020

Time: 2hrs. 30minutes (for writing exam- 10:30 am -12:30 pm and for scanning & uploading answer-sheet- 12:30 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt all questions. Section-A is compulsory consisting of four short questions carrying five marks each. Attempt any two questions from Section-B. Each question in Section-B carries 15 marks.

SECTION-A (Short-Answer Type)**(4x5 =20 marks)****Q.1 Short Answer Type.**

- (A) Explain the difference between ‘procedure established by law’ and ‘due process of law’ in the light of the shift in approach adopted by Indian Judiciary?
- (B) “Judicial Review is the check and balance mechanism to maintain the separation of powers and separation of functions. The concept of separation of power has deepened the scope of Judicial Review”. In the light of this statement, discuss the Emerging Trends of Judicial Review in India.
- (C) “Judiciary is the watchdog and custodian of our Constitution. It draws boundaries for public authority and exercise of powers/functions by them. The primary object of the judiciary is to provide justice to each and every individual in the country and put a cap on growing corruption”. In this background discuss the judicial interpretation of freedom of speech and expression.
- (D) “Social equality means equality of status and of opportunity, assuring the dignity of the individual in the society”. Discuss the concept of social quality as embedded in the preamble of the Indian constitution.

SECTION-B (Long-Answer/Descriptive/Analytical Type)**(2x15 = 30 Marks)**

- Q.2.** “The protective discrimination is meant to overcome the caste discrimination and the persistent inequality in Indian society. The benefits are extended to groups but the individual gets the benefits because of his membership of that group”. Critically Examine.

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- Q.3.** “The right to life and personal liberty are not the creations of Constitution. These rights are recognized by the Constitution as inhering in each individual as an intrinsic and inseparable part of the human element which dwells within. Based on this position about core rights, it can be said that privacy is a constitutionally protected right which emerges primarily from the guarantee of life and personal liberty in Article 21 of the Constitution.” In the light of this background, analyses the statement that elements of privacy also arise in varying contexts from the other facets of the freedom and dignity recognized and guaranteed by the fundamental rights contained in Part III of the Constitution.
- Q.4.** “Indian Constitution has a peculiar form of secularism emerging from its unique socio-cultural context. The provisions in Article 25 of ‘throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus’, perhaps has no other parallel in any other constitution in the world. The country has struggled through targeted discrimination based on caste and sex in the matters of entry and access to religious institutions. The constitutional provision under Article 25, therefore, has the character of attempting to redress a historical inequality.” Explain Article 25 in the context of Article 14 of the Constitution.
- Q.5.** “A modern democracy may simultaneously face two contrasting situations. One, government led by majority and the need to protect fundamental rights of minorities. Two, on many occasions, protection of fundamental right is based on the interpretation by the court based on what is just, fair and reasonable”. In the light of this statement, explain why among the three institutions, legislature, executive and judiciary, the judiciary is considered as the appropriate institution to protect fundamental rights?

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End-Term Examination

Paper Code: LM-208

Subject: Cyber Crime & Cyber Security

LL.M. 2nd Semester29th July, 2020

Time: 2hrs. 30minutes (for writing exam- 10:30 am -12:30 pm and for scanning & uploading answer-sheet- 12:30 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt all questions. Section-A is compulsory consisting of four short questions carrying five marks each. Attempt any two questions from Section-B. Each question in Section-B carries 15 marks.

SECTION-A (Short-Answer Type)**(4x5 =20 marks)****Q.1 Short Answer Type.**

- (A) Discuss various examples of criminal activity in cyber space.
- (B) What is denial-of-service attack ("DoS")?
- (C) Precisely outline the legal issues involved in hacking?
- (D) Elaborate on online dispute resolution and cyber crime.

SECTION-B (Long-Answer/Descriptive/Analytical Type)**(2x15 = 30 Marks)**

- Q.2.** The changes in computing and networking have created an environment in which people increasingly gather in cyberspace to interact socially and commercially. And, like any other gathering place, such an environment creates ample chances for the opportunist to prey upon the unsophisticated, uninformed or naive. Corresponding to the increase of the use of the Internet by households and businesses, the prevalence of crime in cyberspace has rapidly increased. Elucidate the given statement and trace the evolution and legal issues related to cyber space.
- Q.3.** Ramesh,' a fifteen-year-old student at a private school in Delhi, created and maintained a website to promote his budding singing career. A fellow student used the site's comment function to post the following message:
- If I ever see you I'm ... going to pound your head in with an ice pick. I hope you burn in hell.
- At least five other students posted similar threatening and derogatory messages on his website. The death threats and abuse only came to the attention of authorities when

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Ramesh's father read the comments and contacted the school and law enforcement. Discuss the offence of cyber bullying, the legal provisions rushed to address the problem.

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- Q.4.** New computer technology can be "used by some of the worst elements of our society: small-time criminals who can take on a whole new persona on the Internet; malcontents who can find like-minded hate groups; and scam artists who think they can escape detection in the anonymity of the Web. Discuss the above mentioned statement in the light of detection and investigation of cyber crime.
- Q.5.** Do you agree that India has a piecemeal approach in addressing the ever-evolving cyber environment, passing a slate of new legislation to combat specific crimes and reworking current legislation to incorporate other crimes? How far this approach has enabled prosecutors and law enforcement to "swiftly trace a cyber attack back to its source and appropriately prosecute" without having to continually parse and rework the entire Indian Law?

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End-Term Examination

Paper Code: LM-207

Subject: Health Law

LL.M. 2nd Semester27th July, 2020

Time: 2hrs. 30minutes (for writing exam- 10:30 am -12:30 pm and for scanning & uploading answer-sheet- 12:30 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt all questions. Section-A is compulsory consisting of four short questions carrying five marks each. Attempt any two questions from Section-B. Each question in Section-B carries 15 marks.

SECTION-A (Short-Answer Type)**(4x5 =20 marks)****Q.1 Short Answer Type.**

- (A) What is the impact of globalisation on health issues?
- (B) What is the relation between environment and Health?
- (C) What ethical issues are associated with artificial reproductive technology?
- (D) What do you mean by occupational health?

SECTION-B (Long-Answer/Descriptive/Analytical Type)**(2x15 = 30 Marks)**

- Q.2.** “Right to Health is an important component of globalisation, as it addresses elements of conflicting obligations facing countries struggling with the impact of globalisation”. Discuss the role of globalisation in securing public health.
- Q.3.** “Right to Health is not included directly as a fundamental right in the Indian Constitution. The Constitution makers impose this duty on State to ensure social and economic justice. Part IV of the Indian Constitution imposes duty on States. If we only see those provisions then we find that some of those provisions has directly or indirectly related with public health”. In view of this statement, do you find any correlation of right to health with fundamental rights and directive principles of the state policy? Also highlight the role of judiciary in this regard?
- Q.4.** “A person engaged in particular profession is supposed to have the requisite knowledge and skill needed for the purpose and he has a duty to exercise reasonable degree of care in the conduct of his duties. The standard of care needed in a particular case depends on

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the professional skill expected from persons belonging to a particular class". Do you agree with this statement? Also discuss a physician patient relationship with relevant case laws?

- Q. 5.** "Occupational health not only deals with work related disorders but also encompasses all factors that affect community health within it. The inadequate surveillance of the employees is the most important reason for increased prevalence of work related and other communicable life style diseases at work place". In view of this statement discuss the various occupational health laws in India.

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HIMACHAL PRADESH NATIONAL LAW UNIVERSITY SHIMLA

End-Term Examinations

Paper Code: LM-205

Subject: International Criminal Law

LL.M. 2nd Semester25th July, 2020

Time: 2hrs. 30minutes (for writing exam- 10:30 am -12:30 pm and for scanning & uploading answer-sheet- 12:30 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt all questions. Section-A is compulsory consisting of four short questions carrying five marks each. Attempt any two questions from Section-B. Each question in Section-B carries 15 marks.

SECTION-A (Short-Answer Type)**(4x5 =20 marks)****Q.1 Short Answer Type.**

- (A) Outline the general principles of International criminal law.
- (B) Crime of Aggression under International Criminal Law.
- (C) Pre-trial process applied by International Criminal Court.
- (D) 'Mental Incapacity' as defense under the Rome Statute.

SECTION-B (Long-Answer/Descriptive/Analytical Type)**(2x15 = 30 Marks)**

- Q.2.** "Modern International Criminal Law is rounded on the rules formulated through the working of ad-hoc tribunals." In the light of the statement, discuss the role of ad-hoc tribunals in developing general jurisprudence of International Criminal Law.
- Q.3.** "The definitions of the crimes prescribed under the Rome Statute are the product of hard bargaining between states". Critically examine the statement in the light of definition for 'crime against humanity' as prescribed under the Rome Statute.
- Q.4.** "The purpose and the aim of formulating the Rome Statute was to establish objective international standards for fixing international Criminal Liability. However, critiques call the Court as International Criminal Court [for Africa]." Discuss the functioning of ICC in the light of the statement.
- Q.5.** "Individual's official status, such as being the head of state or the government does not provide immunity from prosecution". Critically examine the immunities available under Rome Statute.

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End-Term Examination

Paper Code: LM-206

Subject: Sentences and Sentencing

LL.M. 2nd Semester27th July, 2020

Time: 2hrs. 30minutes (for writing exam- 10:30 am -12:30 pm and for scanning & uploading answer-sheet- 12:30 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt all questions. Section-A is compulsory consisting of four short questions carrying five marks each. Attempt any two questions from Section-B. Each question in Section-B carries 15 marks.

SECTION-A (Short-Answer Type)**(4x5 =20 Marks)****Q.1 Short Answer Type.**

- (A) Justification for enhanced punishment.
- (C) Theory of just
- (D) Sentencing in India and Role of Public opinion.
- (E) Need for Sentencing guideline.

SECTION-B (Long-Answer/Descriptive/Analytical Type) (2x15 = 30 Marks)

- Q2.** “Major changes in the sentencing field in recent times have raised several questions of a constitutional nature. The position of sentencing in relation to the separation of powers has required classification, particularly in the context of the legislative introduction of mandatory minimum sentences.” To what extent the principle of judicial independence is infringed by such developments.
- Q3.** “When there is a discussion on sentencing by the judges, 'discretion' plays an important role. There is a constant tension between flexibility and the rule of law.” Discuss the role of judiciary in developing sentencing policies in the light of the statement.
- Q4.** “The factors recognised as aggravating or mitigating have often been thought to be uncomplicated or uncontroversial.” Do you agree to the statement? Discuss in the light of restorative justice and proportionality in sentencing in each individual case.
- Q5.** There are various issues involved in sentencing procedure like factual basis for sentencing, police antecedents’ statements, role of prosecution, pre-sentence reports, mitigating circumstances, reasoned order, role of victim. Discuss these elements in detail with the help of case laws.

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Paper Code: LM-204

Subject: Service Law

LL.M. 2nd Semester27th July, 2020

Time: 2hrs. 30minutes (for writing exam- 10:30 am -12:30 pm and for scanning & uploading answer-sheet--
12:30 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt all questions. Section-A is compulsory consisting of four short questions carrying five marks each. Attempt any two questions from Section-B. Each question in Section-B carries 15 marks.

SECTION-A (Short-Answer Type)**(4x5 =20 marks)****Q.1 Short Answer Type.**

- (A) Whether clause (4) of Article 16 is an exception to clause (1) of Article 16? What will be the impact if, it is considered an exception?
- (B) Describe the doctrine of pleasure and its position under the Constitution of India.
- (C) A government department entered in a contractual relation with a private individual for rendering services as a computer operator. Mr. X filed an application to the PIO of the department seeking certified copy of the said contract of service under Right to Information Act, 2005. Suggest the applicant that whether he is entitled to the copy of contract under the suitable provision of RTI Act, 2005.
- (D) In a departmental inquiry an employee found guilty and been terminated from his service. The employee filed a case before Court on the ground that Rules of Evidence Act has not been followed. Decide the case. (M-3)

SECTION-B (Long-Answer/Descriptive/Analytical Type)**(2x15 = 30 Marks)**

- Q.2. Discuss the various steps with reference to the Departmental Inquiry against the delinquent employee.
- Q.3. A departmental inquiry has been constituted against an employee regarding misconduct and then the matter referred to the Disciplinary Committee. The employee demanded a copy of Inquiry Committee Report which was denied. The employee was terminated from service by the Disciplinary Committee. The employee filed a case before Court on the ground of non-supply of the Inquiry Committee Report. Decide the case in the light of the Principles of Natural Justice.
- Q.4. Department of forest, in State X, advertised for 100 posts of upper division clerk for 2017. Out of 100, there were 15 seats reserved for candidates belonging to scheduled castes (SCs). Due to non-availability of suitable candidates, 10 seats reserved for SCs

remained vacant. The State X in the 2019 advertised again 100 posts and out of that 100 seats 25 seats were reserved for SCs including 10 unfilled in the previous advertisement. Mr. Y challenges the advertisement as violative of Article 16(4)? Decide in light of decided cases?

- Q.5.** “Article 311(2) imposes a fetter on the power of the President or the Governor to determine the tenure of a civil servant by the exercise of pleasure. as also the power of the authorities on whom the power to impose penalty of removal, dismissal and reduction in rank might be conferred by the law made under article 309.” Critically analyse.

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