

NLUA
NATIONAL LAW UNIVERSITY, ASSAM
B.A.,LL.B.(Hons.) IV-Year, VIII-Semester: Academic Year: 2015-2016
End Semester Examination (June, 2016)
8.1 PRINCIPLE OF LEGISLATIONS AND INTERPRETATION OF STATUTE

Time: **2.30 Hrs.**
Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper. It will be treated as malpractice.

Attempt five of the following. Question (1) is compulsory. Each question carries equal marks. Answer should be based on proper reasoning.

1. In a state having rich traditional base and sound cultural outlook, government comes up with an order according to which person wearing casuals and short dresses are prohibited to enter into government offices. It is the opinion of the government that it is going to protect the culture of the country as all government employees are required to wear the traditional dresses. Further government formulated the said policy by observing the fact of increasing sexual assault cases against women. In one year of the implementation of the said order, it is found that there is a great fall in sexual assault cases against women, and State's tradition start getting appreciation in the world community. The success of the policy is also based on the fact that majority of private organizations also introduced the same in their offices as well. But the said order is also getting criticized by people inside and outside of the country. The majority of people criticizing it belong to the developed, independent and liberal spectrum of the society. How do you analyze the issue? Justify your answer on the basis of your study material and class discussions. **14 marks**
2. S.P. Sathe, in his celebrated work on Judicial Activism stated that, '*Every scholars acknowledge the constructive role of the courts and judges in furthering the will of the people, they also pointed out the dangers of judicial adventurism or excessivism.*' What is your understanding of the statement? While writing a critical thought on the same, justify your argument with the help of relevant case laws and class discussions. **14 marks**
3. Discuss the following cases in reference to the Principles of interpretation. **7x2 marks**
 - a) Spring Meadows Hospital v. Harjol Ahluwalia, (1998) 4 SCC 39
 - b) K.C. Gajapati Narayana Deo and Other v. The State Of Orissa, (1953) SC 375
4. Explain the following: **7x2 marks**
 - a) Discuss the facts & relevant Principle laid down in Kedar Nath v. State of W.B. (1953), SC 404
 - b) Contemporenea Exposito Est Optima Et Fortissima In Lege

5. What do you understand by the term 'external-aids' of Interpretation? How they are relevant in interpretation of the statute? Explain the different principles of external-aids with the help of the case laws and relevant examples. **14 marks**
6. Write a critical review of 'The Nature of the Judicial Process' by Benjamin N. Cardozo. Further explain that how Judicial Process is associated with Judicial Interpretation? **14 marks**

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8.2 TAXATION LAW

Time: **2:30 Hrs.**

Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
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Answer any five questions from the following. Question No. 1 is compulsory. All questions carry equal marks.

1. Mrs. Anu is legally wedded wife of Mr. Niranjana, who transferred all his income from house property to Mrs. Anu without transferring house property to her. He is assessed to income tax by the Assessing Officer for the income from house property transferred to his wife. Mr. Niranjana objected to this claim of Assessing Officer and the matter is brought for dispute settlement. Decide.
2. The recent Panama papers leak is a manifest example of lax tax structure. Elucidate whether the Income Tax Act, 1961 offers any double taxation relief, whereby it bestows upon the state powers to enter into agreements with other countries to address those issues. Explain this statement with principles, provisions and case laws.
3. "Income tax is a charge on income and not on capital." Explain the concept of income, heads of income with special emphasis on income from salary with case laws.
4. Indirect taxes can be considered as destination based consumption tax. Elaborate this statement with a brief overview of the existing structure of sales tax and service tax in India.
5. The term 'business' has been tested by the Hon'ble Supreme Court for the purpose of computation of "income from profits/gains from business or profession". Discuss this heads of income along with various kinds of deductions.
6. Narrate the contributions of Kautilya and Adam Smith in terms of principles and cannons of taxation. Also bring out the difference between tax and fee with decided case laws.

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B.A., LL.B. (Hons.): IV-Year, VIII-Semester: Academic Year: 2015-2016

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8.3 ALTERNATIVE DISPUTE RESOLUTION SYSTEM

Time: 2:30 Hrs.

Total Marks: 70

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. Students are expected to rely on the question paper as it is and respond to it. No clarifications can be sought.
3. Do not write anything on the question paper. It will be treated as malpractice.

Answer any five questions from the following. All questions carry equal marks.

Note: Answers should be precise, supported by the relevant provisions and appropriate decisions. If the answer to a particular question depends on additional facts or foundations not provided, candidates must describe how they are related. Credit will be given for the reasoning for the decision than the decision itself.

1. In a contract entered into between the Guwahati Metropolitan Development Authority (GMDA) and the Contractor for constructing the flyover (Bogibeel Bridge) at Brahmaputra River, there is an arbitration clause to refer all dispute arising out of the performance of the contract to the Sole Arbitrator. However, there is no provision as to Escalation charge. The contractor claims apart from other claims, escalation charges to the tune of Rs. five crores. The advocate for GMDA did not oppose the same. The arbitration awards Rs. Three Crores escalation cost. After the award is passed and handed over to the parties, the GMDA challenged the escalation cost awarded as exceeding of jurisdiction by the arbitration and appealed the court to set aside the escalation cost which is separate from the other amounts awarded by the Arbitrator. "In the light of Patel Engineering case decided by the Supreme Court, critically examine the power of the Arbitration Tribunal to rule on its own jurisdiction and the power of the Court to adjudicated under section 34 of the Arbitration and Conciliation Act, 1996." Decide.
2. "Success of an arbitration proceeding depends upon the underlying arbitration clause." Explain with the help of relevant case laws, the essential ingredients of an Arbitration Agreement. Also draft a model arbitration clause highlighting the essentials of an arbitration agreement to resolve the dispute through arbitration.
3. Critically examine the competitive strategy and principled strategy of Negotiation. Examine in detail the skills of using the principled Negotiation Strategy.

4. A person through online marketplace, purchases a hard disk from Hong Kong from a seller in U.S.A and shipping done through Europe. And when the person opens the box to his surprise, he finds it is not a hard disk, but just a dummy of it. How would you resolve this dispute? Do we need a fast and affordable dispute resolution method? Comment, in the light of aforesaid situation explained Online Dispute Resolution's (ODR) characteristics, benefit, drawback and make suggestions on the same.

5. Critically explain the grounds for setting aside an Arbitration Award with special focus on Public Policy.

6. Write short notes on the following:

(i) Permanent Lok Adalats

(ii) Fast Track Arbitration

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8.3 ALTERNATIVE DISPUTE RESOLUTION SYSTEM
(Repeat Old Syllabus)

Time: **2:30 Hrs.**
Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
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Answer any five questions from the followings. All questions carry equal marks.

1. Critically examine the impact of the Supreme Court decision in Patel Engineering Case on the powers of the Arbitration Tribunal to rule on its own jurisdiction and also the power of the Court under Section 34 of the Arbitration and Conciliation Act, 1996.
2. Comparatively analyse Conciliation as it is contained in the Arbitration and Conciliation Act of 1996 and the Legal Services Authority Act, 1987. Which of the two are more useful for Indian scenario and why?
3. "Negotiation is the use of knowledge, time and power to influence the behaviour of other people so that you can achieve your goal." Discuss. Also explain with illustration the various styles and techniques used by negotiators to achieve their goal. Sometimes a neutral third party assisted negotiation works to avoid an impasse. What communication technique should be adopted by such neutral? Explain
4. Critically examine the impact of Bhatia International Trading Company case and subsequent cases on conducting of International Commercial Arbitration in India.
Discuss the Concept and object of "*Permanent Lok Adalat*" with help of legal provisions of the Legal Service Authority Act, 1987.
5. Explain the phrase "Public Policy of Indian" as interpreted by the Supreme Court of India. Support your answer with reference to appropriate and recent relevant case laws.
"Fast Track Arbitration is the method of accelerating the disposition of arbitration cases in an effort to settle the matter in short time as far as practicable." Comment. Explain the concept, features, of Fast Track Arbitration with help of relevant provisions of the Act, 1996.
6. Write short notes on the following:
 - a) Distinguish between Domestic Award and Foreign Award
 - b) Appointment of Arbitrators

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8.4 CN.2 LAW OF WRITS AND LAW RELATING TO ELECTIONS

Time: **2:30 Hrs.**
Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
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Answer any five questions from the following. All questions carry equal marks.

1. The brief historical account of the writ of habeas corpus shows that the writ is available in all cases of wrongful deprivation of personal liberty. Elucidate.
2. An order of mandamus is a command directed to any person, corporation or inferior tribunal requiring them to do some particular thing which appertains to his or their office and is in the nature of public duty. Comment.
3. Write a short note on history of writs and its introduction in India.
4. Shankar Pal, a candidate for election as a member of Legislative Assembly is convicted for an offence under the Prevention of Corruption Act 1988. Decide as per the relevant provision of the Representation of the People Act 1951 and the cases.
5. Discuss the procedure, jurisdiction, grounds for filing an election petition? What relief can be claimed by the petitioner in an election petition
6. What is the meaning of "corrupt practices" under the Representation of the People Act 1951?

Raviraj, a candidate in the general election hires several vehicles for free conveyance of voters to and from the designated polling station. Decide.

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8.4 IP.2 LAW RELATING TO PATENTS AND DESIGNS

Time: 2 Hrs.

Total Marks: 70

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper. It will be treated as malpractice.

Answer any five questions from the following. Q. No. 1 is compulsory. All questions carry equal marks.

1. A beverage Company 'OLA' is working in partnership with Gimmy in the field of manufacturing and processing since 1970 and having grip in the market. Later in 1999 due to differences the Gimmy separated his share from partnership and Gimmy got his beverage company Registered parallel to 'OLA' with Trademark 'GOLA' on 4-05-2000 and made advertisement for its popularity and sale wherein the advertisement state 'BADON KA GOLA AUR BACHHON KA OLA' and 'GOLA' is for elders and 'OLA' is for children because 'GOLA' is like bomb which gives great impact and 'OLA' is frozen water (i.e. frost) which is enjoyed by children during rainy season, a thing for enjoyment. All these commercial advertisement according to ROZOR the owner of 'OLA' disparage and denigrate the products and therefore entitled to injunction against Gimmy. In the light of the above statement and in the case of *Pepsi Co. Inc v. Hindustan Coca Cola. decide-*
 - (a) Whether 'OLA' will succeed in prosecution for injunction in restraining the advertisement of 'GOLA'.
 - (b) Whether 'GOLA' Trademark is resulting deception/confusion and advertisement *per se* amount to infringement.
 - (c) What are principle while dealing with disparagement as laid down in *Reckitt & Colman India Ltd v. M.P. Ramachandran case.*
2. WIPO is an inter-governmental organization that became in 1974 as one of the specialized agency of the United Nation. Paris Convention and Berne Convention both have provided the establishment of an 'International Bureau'. Discuss about the main objectives of WIPO and its organs.
3. "The request for examination of application for patent is essential for patent except where secrecy direction has been issued". In light of this statement discuss the process of Examination of Application for foreign patent and the new provisions incorporated in Patent (Amendment) Act 2005 on pre-grant and post-grant opposition of grant of patent.
4. "A Patentee has a right to sue when a person does any act that is within the rights conferred on the patentee on the other hand in an infringement action, the burden of proof in showing infringement lies with the patentee." In light of the above statement discuss the Remedies available to the patentee and Defenses available to the infringer on act of infringement.

5. "Modern Society relies heavily on computer technology as well as with advent of Business Models. Today, the new idea of Software patenting and business method patenting with rise of e-commerce is a myth or reality". In light of the above statement support your comment.
6. Registration of Design to protect the rights of proprietor like any other Intellectual Property. Comment on the term the 'Original' in relation to a design with the help of arguments advanced and Principles laid down in the case of *Bharat Glass Tube Ltd v. Gopal Glass Works Ltd.*, (2008) 10 SCC 657.

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**8.4 CR.2 ADMINISTRATION OF CRIMINAL JUSTICE SYSTEMS,
NATIONAL SECURITY LAWS, INSURGENCY MOVEMENTS AND
TERRORISM**

Time: **2:30 Hrs.**
Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper. It will be treated as malpractice.

Answer any five questions from the following. Q. No. 1 is compulsory. All questions carry equal marks.

1. Mr. Fareez is a medical practitioner in Srinagar, who was abducted by militants in the year 2000 (14 May 2000). After 20 days he is released by them. Mr. Fareez comes back to his hometown and decides to shift alongwith his family to another village in July 2000. Mr. Fareez is arrested by the police on 10 December 2000 and his body in a destroyed manner is reported to be found a kilometer away from the said police station on 13 December 2000. Police claims that Mr. Fareez was attacked by the militants suspecting him to be informer, whereas his legally wedded wife suspects custodial death and fake encounter. The wife of deceased Mr. Fareez approaches Hon'ble Supreme Court for compensation and setting up an inquiry into this matter and alleges fake encounter. Advise the widow of Mr. Fareez.
2. Amnesty International, one of the leading international human rights organisations observes that, "the sweeping powers bestowed upon security forces [...] have fostered a climate in which security forces and other agents of law enforcement commit human rights abuses with impunity." Deliberate upon this statement in the light of anti-insurgency laws that exist in India.
3. Michel Foucault in his celebrated book stated that "it is the certainty of being punished and not the horrifying spectacle of public punishment that must discourage crime". Explain this statement with special reference to theories of punishment.
4. "Rights of accused are well-settled as far as law relating to arrests is concerned. However, rights of detenu is always compromised." Either justify or dispute this statement with existing jurisprudence in this area.
5. Justice K. T. Thomas, in a celebrated case viewed, "Reformation should hence be the dominant objective of a punishment and during incarceration every effort should be made to recreate the good man out of a convicted prisoner." Deliberate upon the need for prison reforms in the light of The Prison's Act, 1894.
6. "The dominant criticism of Prevention of Terrorism Act, 2002 is that it can be used to arrest political opposition not engaged in terrorist acts." Provide an overview of anti-terrorism legislations in India with case laws.

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8.4 HR.2 HUMAN RIGHTS AND CRIMINAL JUSTICE SYSTEM

Time: 2 Hrs.
Total Marks: 70

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper. It will be treated as malpractice.

Answer any five questions from the following. All questions carry equal marks.

1. The poor and indigent accused who were denied bail has to spend years in jails without going for a trial. "Because of delay in disposal of cases people... losing faith in the judiciary... many people have started thinking that justice will not be done in the courts due to the delays in court proceedings. This is an alarming state... the concerned authorities to do the needful in the matter urgently before the situation goes totally out of control" (*Quoted in Moser Wilson and Others v. Kasthuriba*, AIR 2008 SC 379).

Critically examine necessity and importance of introducing plea-barging mechanism in India. What are the probable crucial risks attached with this system? Advance your logical arguments to improve the criminal justice system in India.

2. Although treaties can be applied as a direct source of international criminal law, "in practice the International Tribunal always ascertains that the relevant provision is also declaratory of custom" (*Prosecutor v. Stanislav Garlic*, Case No. IT – 98 – 29 – T, ICTY, Trial Judgment, 5 December 2003, para. 98).

With the help of above statement determine the position of treaty and custom as a source of International Criminal Law.

3. What do you mean by principle of legality? How far this principle could be applied in the International Criminal Justice System? Critically analyse with the help of suitable case laws.
4. What are the differences between international crimes and *jus cogens* crimes? Critically evaluate the international approaches designed for combating trans-national organised crimes.
5. "Individuals have international duties that transcend the national obligations of obedience imposed by the individual State. A person who violates the law of war cannot obtain immunity while acting in the pursuance of the authority of the State, if the state in authorizing action moved outside its competence under international law" (Article 7, The Charter of the International Military Tribunal for Nuremburg 1945).

Critically analyse the criminal liability of individual under international law with the help of the above provision.

6. Write short note on the following :
 - a) Victor Justice
 - b) International Criminal Justice is the Prerogative of the Super Power

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8.4 IL.2 LAW OF INTERNATIONAL ORGANISATIONS

Time: **2:30 Hrs.**
Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper. It will be treated as malpractice.

Answer any five questions from the following. All questions carry equal marks.

1. Alisha Florrick is the Chief of Country Office, UNICEF India. On her way to attending the 32nd Regular Session of the United Nations Human Rights Council, she was apprehended at the IGI Airport at New Delhi and her personal baggage was seized under suspicion that she was carrying narcotic drugs above the permissible limit. Decide on the validity of the actions of the Airport Authorities in the light of Ms. Florrick's privileges and immunities under the relevant international instruments.

Further, discuss the concept of *laissez passer* as provided under the relevant international instruments relating to immunity of international organisations. **10+4 Marks**

2. States have tended to compartmentalize their legal commitments, as WTO members on the one hand and as States parties to human rights treaties, on the other. The general assumption also heavily leans towards the view that trade obligations and human rights obligations never cross paths. However, it is noticeable that several World Trade Organisation agreements have severe human rights implications. In the light of the above, discuss the human rights implications of such World Trade Organisation agreements.

Further, discuss the dispute settlement mechanism under the WTO regime with the help of decided cases involving human rights connotation. **7+7=14 Marks**

3. There is no ambiguity to the statements that the impact of non-governmental organisations at both the domestic and international levels have been widely noted, recognized and accepted. However, these acclamations are mostly based on anecdotal evidence and non-scientific assessment of their work and impact. In the light of the same, discuss the mechanisms available to ascertain the impact and influence of non-governmental organisations. Further, chart out the governing mechanisms available and desirable for non-governmental organisations. **7+7 Marks**

4. Metropolis, Gotham, Wakanda and Atlantis have entered into the MWAG treaty to share power generated from a hydro-electric project to be constructed on the river Silverlode that flows through all the four states. Gotham had promised that the dam would come up in its part of the river. Subject to this promise, all the other states gave their consent to the MWAG treaty. Subsequently, Gotham failed to construct the dam as the river changed its course and the engineers opined that the part of the river flowing through Gotham was not suitable for the construction of a dam anymore. Decide on the validity of the treaty in the light of the provisions of the Vienna Convention on the Law of Treaties between States and International Organisations or between International Organisations, 1986.

Further, discuss the stages of treaty making in details as well as the methods of expressing consent to be bound by the treaty. **8+6 Marks**

5. The First World War jolted the world leaders to the idea that the planet was in dire need of guaranteed peace and security and the best way to achieve it was by organizing the states. This idea culminated into the formation of the League of Nations. However, the outbreak of the Second World War evidenced the failure of the League to serve its purpose and renewed initiatives were undertaken to establish a stronger institution thereby establishing the United Nations. In the light of the same, trace the journey from the Covenant of the League of Nations to the Charter of the United Nations while making a comparative analysis of the two. **14 Marks**

6. Write short note on any two of the following: **7+7=14 Marks**

- (a) European Convention on Human Rights
- (b) Structural Adjustment Programmes
- (c) UN Programmes and Funds and UN Specialized Agencies

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End Semester Examination (June-2016)
8.4 EL.2 ENVIRONMENT, TRADE AND HUMAN RIGHT LAWS

Time: **2:30 Hrs.**
Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. Students are expected to rely on the question paper as it is and respond to it. No clarifications can be sought.
3. Do not write anything on the question paper. It will be treated as malpractice.

Answer any five questions from the following. Q. No. 1 is compulsory. All questions carry equal marks.

1. The U.S. Endangered Species Act of 1973 listed as endangered or threatened the five species of sea turtles that occur in U.S. waters and prohibited their harvesting within the U.S, in its territorial seas and in the high seas. Further U.S. required that Shrimp Trawlers and Fishermen use Turtle-Excluder Devices (TED), a costly device invented by U.S, in their net when fishing in the areas where there is a significant probability of encountering sea-turtles. It means that U.S imposed a condition that the countries with any of these species of sea turtles within their jurisdiction and harvesting shrimps with mechanical devices have to impose on their fisherman to use TED at all times if it wishes to export shrimp or shrimp products to U.S.. Indian fisherman traditionally respected turtles as the 'incarnation of God' and protected these species customarily while harvesting shrimps in their jurisdiction and High Seas. The export of Indian shrimp and shrimp products have been prohibited in the U.S. on the ground that it didn't fulfill TED requirement needed for market access of shrimp or shrimp products into U.S.. India complained before the WTO Dispute Settlement Body. You as an expert of environmental law have been requested by the Dispute Settlement Body of the WTO to draft the Panel report on its behalf. Write the panel report.
2. The analysis of the relevant International norms has demonstrated that the material progress predicted by contemporary trade agenda can be pursued without sacrificing the moral and civil progress represented by the advancement of human dignity and the protection of environment through certain principles applied in dispute settlement mechanism. In the light of the aforementioned statement describe the operative principles of Dispute settlement in the interpretation of agreements of GATT/WTO
3. "Sanitary and Phytosanitary measures by their nature may result in restrictions to trade." In the light of aforementioned statement discuss the justification of these measures, International Standards and alternative Standards, Risk Assessment and Transparency Measures with relevant case law.
4. Discuss the facts, Panel report and Appellate Body report in the case of WTO-DS430 on measures concerning the importation of certain Agricultural products.
5. "GATS is a treaty created to extend the multilateral trading system to service sector" Describe the four modes of supply for the delivery of service in cross-border trade. Discuss environment services and commitments under GATS Agreement.
6. "The purpose of the TRIPS agreement is to establish a uniform set of rules across the globe that provides adequate standards of protection for intellectual property and greater predictability and stability in International economic relations" in the light of aforementioned statement discuss provisions that allows for exclusion from patentability as well as exception from the rights of patent holder in order to fulfil human rights obligations.

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8.4 BL.2 MERGERS, ACQUISITIONS AND ANTI-TRUST LAWS

Time: 2:30 Hrs.

Total Marks: 70

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper. It will be treated as malpractice.

Answer any five questions from the following. All questions carry equal marks.

1. The main object of the Coolwell Ltd. is to manufacture soft drinks. However, due to potential in spirits market, Coolwell Ltd. decided to get into distillery business by acquiring through merger Cool Spirits Ltd. Both Coolwell Ltd. and Cool Spirits Ltd. agreed for the merger. The scheme was placed before the High Court for sanction but under the Companies Act, 1956, Registrar of Companies objected to the scheme. Registrar of Companies objected that Coolwell Ltd. and Coolwell Spirits Ltd. has very different objects. Therefore, unless there is a change in Memorandum of Association of both the Companies scheme of merger cannot be sanctioned. The Registrar also contended that the scheme merger is hit by Section 42 of Companies Act, 1956, which prohibits a company from being a member of its holding company and any such allotment or transfer of shares in a company to its subsidiary shall be void. Considering yourself at the position of High Court, frame Issues in the above matter and decide in the light of decisions given by High Courts and the Supreme Court of India.
2. Merger under the Companies Act, 1956 (in brief 'the Act') of the two big companies-one, Euphoria Limited (EL), a subsidiary of (UL), London based multi-national company, and other Pure Oil Mills Company Ltd. (in brief 'POMCO') Indian company was unsuccessfully challenged in the High Court by few rather nominal shareholders of POMCO. According to the appellants, the scheme should not be sanctioned as the valuation of share exchange ratio is grossly loaded in favour of EL. The Appellants contended that the share exchange ratio in the merger is unfair as the valuation was not as good as it would have been if another method would have been adopted. They also argued that the Chartered Accountant who determined the share exchange ratio is the Director of POMCO. Later, the Transferor Company verified the determination of share exchange ratio from two different valuers who confirmed the share exchange ratio as proper. Valuation report was approved by majority of the equity shareholders present and voting holding 90% value of shares. Whereas, the Respondent has argued that the evaluation of shares had to be done according to well-known methods of accounting principles. The valuation of shares is a technical matter. It requires considerable skill and experience. There are bound to be difference of opinion among Accountants as to what is the correct value of the shares of a company. It was emphasized that more than majority of the shareholders had approved the valuation. The test of fairness of this valuation is not whether the offer is fair to a particular shareholder. Appellants may have reasons of their own for not agreeing to the valuation of the shares, but the overwhelming majority of the shareholders have approved of the valuation. The Court should not interfere with such valuation. Based on the aforesaid facts, while deciding the case emphasize upon the scope of power of High Court and Company under Section 391 to 394 of the Companies Act, 1956.
3. On July 21, 2000, at the Gesco Corporation¹ (Gesco Corp's) annual general meeting (AGM), a shareholder stood up and asked executive Vice-Chairman and a Promoter, Sudhir Mulji (Mulji) a question: "If your market cap is so low (Rs 23 crore on that date) and the promoter stake less than 15%, isn't Gesco Corp a sitting duck for a raider?" Mulji seemed to have taken it lightly and

responded, "If there's a takeover bid, I will welcome that since shareholders will gain." Mulji and Ghanshyam Sheth (Sheth), CEO, Gesco Corp, should have taken it seriously for, seated among the shareholders was Sanjay Bakshi (Bakshi), an Abhishek Dalmia (Dalmia) confidante. Even as Mulji did not take the matter seriously, Dalmia was busy mopping up shares of the Sheth-managed company. By October 2000, Dalmia and his associates had cornered 10.5% of Gesco Corp stock. On October 18, Dalmia made an open offer of Rs. 23 through his company-Renaissance Estates Ltd. for acquiring an additional 45% of Gesco Corp shares. On October 21, the offer price was raised to Rs. 27. If Dalmia got thorough with the offer, his stake in the company would cross 55%. The fear of losing a newly spun off company, made the Mulji and Ghanshyam Sheths look for help. Based on the aforesaid facts discuss the nature of acquisition done by Abhishek Dalmia. Advise Mr. Mulji and Ghanshyam Sheth the appropriate take-over defenses that can be useful to avoid this takeover by Mr. Abhishek Dalmia.

4. SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 is based on principles such as Equality, Protection of Minority, and Respect for Majority, Transparency and Fairness. Explain the above statement while referring to different Regulation of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.
5. November 20, 2013 was a historic day in the Indian aviation industry after Jet Airways (India) Limited ("Jet" or "Target") and Etihad Airways PJSC ("Etihad") concluded the much talked about US\$ 379 million investment by Etihad to acquire a 24% stake in Jet ("Deal"). In addition to the equity investment, Etihad had also agreed to infuse US\$ 150 million into JetPrivilege, the frequent flyer program of Jet, to be managed by its subsidiary, Jet Privilege Private Limited and also provide or arrange for a loan of US\$ 150 million to Jet. Earlier this year, Etihad had purchased 3 slots owned by Jet at the Heathrow airport in London for US\$ 70 million. Following are the important terms of the deal:
 - i. Etihad and its affiliates are prohibited from directly or indirectly transferring their shares for a period of 3 years from the date of issue of shares, unless agreed by any one of the Promoters. Jet is allowed to transfer the shares directly or indirectly only according to the conditions prescribed. The lock-in will not apply to any transfer between Etihad and its affiliates.
 - ii. The quorum for a board meeting of the Target is at least 4 directors which should include at least one Director nominated by the Promoters and one by Etihad unless either of them waives their presence in writing.
 - iii. Etihad's right to nominate 2 out of 12 directors;
 - iv. Promoters' right to appoint the chairman of the board of Jet, who shall have a casting vote;
 - v. Etihad not having any veto/ affirmative voting rights;
 - vi. No pre-emptive or tag along rights with Etihad.
 - vii. Etihad's right to recommend suitable candidates for senior management Positions
 - viii. The right of Etihad to take lead in negotiations on aircraft and engine purchases

Based on the above facts of the case comment whether mandatory open offer is required to be made by Etihad or not. Also, comment whether Etihad has control over JET under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and Competition Act, 2002. Answer your questions with reasons.

6. Write a note on the commercial consideration in the following deals:
 - (a) ING Vysya Bank - Kotak Bank
 - (b) Thomas Cook-Sterling Holidays

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