

NLUJAA

National Law University and Judicial Academy, Assam
One Year LL.M. Degree Programme, II-Semester (Academic Year: 2017-18)

Semester End Examination (June, 2018)

**Subject Code: 2.1 (EL) Environmental Law and Policy
(Optional Paper - II)**

**Time: 3:00 Hrs.
Total Marks: 100**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. Unnecessary queries on the Question Paper shall not be entertained.
 3. Do not write anything on the question paper. It will be treated as malpractice.
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Answer any four questions from the following. All questions carry equal marks.

1. The concept of intergenerational equity primarily rests on the equality amongst the existing generations. But, if anything, this entire logic has to be understood in the context of the needs and the present generation, given that the primary causes of ecological degradation and exploitation of the natural resources are to satisfy the needs of the current generation. In the light of this, discuss the significance of sustainable development in the context of Indian Judiciary with relevant case laws.
2. Write about the duties of the stakeholders under:
 - (a) Municipal Solid Waste (Management and Handling) Rules 2016
 - (b) Hazardous and Other Wastes (Management and Trans-boundary Movement) Rules, 2016
3. Short Notes:
 - (a) National Environment Policy 2006
 - (b) Draft National Forest Policy 2018
4. Discuss the salient features of National Mineral Exploration Policy 2016.
5. The Constitution of India is not an inert but a living document which evolves and grows with time. The specific provisions on environment protection in the Constitution are also result of this evolving nature and growth potential of the fundamental law of the land. Discuss the provisions with relevant case laws.

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**Subject Code: 2.1 (CN) Independence of Judiciary and Changing Contours
(Optional Paper - II)**

Time: 3:00 Hrs.

Total Marks: 100

INSTRUCTIONS:

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

1. "An independent judiciary is necessary for a free society and a constitutional democracy. It ensures the rule of law, constitutionalism and also the prosperity and stability of a democracy."

Elucidate the above statement in the light of present status of judiciary in India as an independent dispute redressal body citing its deviation in the past.

2. The independence of judiciary as an institution and the independence of individual judges have to go hand in hand as the independence of the judiciary as an institution is not possible without the independence of the individual judges. Therefore, utmost care should be taken in appointing a judge, especially in higher judiciary. Provide a brief analysis, in the light of the above, on the constitutional provisions, practices and judicial pronouncements that governs the appointment of judges of higher judiciary in India.
3. Almost all international documents pertaining to the protection and promotion of human rights and civil liberties provides that everyone should be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. This implies that an independent judiciary is indispensable for the implementation of these rights. Stating its requirements, make a critical evaluation of the steps taken by various international organizations to secure the independence of judiciary at both international and municipal level.
4. Provide a comparative analysis of the presence of independence of judiciary as a feature of the constitutional schemes of USA, England and Australia stating the contribution of the judiciary in promoting and protecting the ideals of the Constitutions in these countries.
5. The role of the doctrine of 'Rule of Law' and 'Separation of Powers' as components of independence of judiciary as the institutions are immense in securing the independence of judiciary. Discuss the significance of these two doctrines along with the power of 'Judicial Review' as tools in the hands of the judiciary in India to retain its sanctity and independence citing recent examples.

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**Subject Code: 2.1 (IP) Comparative Intellectual Property Rights Regime
(Optional Paper - II)**

Time: 3:00 Hrs.

Total Marks: 100

INSTRUCTIONS:

1. Read the questions carefully and answer.
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Answer any four questions from the following. All questions carry equal marks.

1. The Connect India co., an Indian company has been manufacturing and selling smart phones, having obtained valid license on “FRAND” terms from the SEP holders for all patented components. They have a registered trademark, “INMARS”, which is popularized through extensive advertisement and marketing. The phones are sold by retailers by displaying them alongside the popular brands, Samsung and Apple phones. In one of its advertisements the brand ambassador is portrayed as holding ‘Samsung Galaxy’ and ‘Apple i-phone’ in one hand and “inmars” in the other hand saying that “inmars” can match Galaxy and i-phone in terms of speed, efficiency and smartness. He says that ‘Desi’ stay with us and ‘Pardesi’ stay in ‘Pardes’ and throws off the two smartphones into sea. The Connect India co., has also purchased keywords in Google advertisement program as a result of which any user searching for Apple and Samsung phones will get a popup of India make advertisement. Apple and Samsung have issued notice to the Connect India co., to desist from broadcasting the advertisement, change the distribution channels and withdraw from Google program. Will they succeed if they sue Connect India co. Decide.
2. Answer the following question:
 - a) Examine the tests for determining novelty of a patentable subject matter. Comment on practical utility and commercial utility.
 - b) Discuss the mode of GI protection in EU and India. Explain the efforts to resolve the overlap between Geographical Indication and Trademarks.
3. Answer the following questions;
 - a) Utilitarian approach and personality theory as basis for justification of Patent system.
 - b) Comment on the graphical representation requirement for registration of trademark with emphasis on non-conventional trademarks.

4. Answer the following questions;

- a) Cosmogenerics Co., is the producer of mechanical, electrical and electronics appliances as well as cosmetics, and files an application for obtaining trademark registration for the 'smell of strawberries' for some of its products. It describes the mark as 'smell of strawberries' and claims that the fragrance is stable and durable, that it is capable of creating olfactory memory. Application is filed in UK and India. Explain whether it can be registered?

- b) Mishings, tribe in Assam have a unique practice of preparing formulations by use of Ashwagandha leaves and bark of Eucalyptus tree for curing snake bites. The process of preparation is known only to Mishings in Assam. Syngenta's (AN AMERICAN BASED MNC) representative, on his tour of Assam came in contact with Mishings, collected information and after developing active ingredient, applies for patent in India and USPTO, an NGO approaches the law firm 'Das and Das Associates' and desires to help Mishings. What advice should the law firm provide?

5. Answer the following questions;

- a) Copyright law protects expressions and not ideas, concepts, methods. Critically examine.

- b) Explain the copyright protection for computer programmes. Can computer programme be protected under copyright law? Explain.

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Semester End Examination (June, 2018)

**Subject Code: 2.1 (BL) International Trade and Competition Law
(Optional Paper - II)**

Time: **3:00 Hrs.**

Total Marks: **100**

INSTRUCTIONS:

1. Read the questions carefully and answer.
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Answer any four questions from the following. All questions carry equal marks.

1. What is the significance of the basic principles of International Trade Law? Explain the meaning of the two most important principles of the WTO; the MFN and National treatment principles. Are there any differences in these principles between the three main agreements: GATT, the GATS and the TRIPS?
2. James Forrestal, "*For the only way in which peace can be created is by worldwide restoration of economic activity and international trade*". In the light of the above statement, explain how growth of international trade can lead to the preservation of world peace? Support your answer with the views given by various political thinkers and economists in understanding international trade.
3. Implementation is the very object for which any law is formulated; same is the case with international trade law. India being an active member of the WTO has implemented various provisions laid down by the WTO in dealing with other countries. In the light of the above statement, answer the following questions:
 - (a) What is the approach of India in implementing international trade law provisions into domestic law?
 - (b) What is the role of India in shaping international trade law as a part of major multilateral economic organizations?
4. What do you mean by free trade? What are the different types of barriers to free trade?
5. Before 1991, the competition law of India was mainly regulated by Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act). It was after 1991 that widespread economic reforms were undertaken and consequently the march from Command-and-Controlled economy to an economy based more on free market principles commenced its

stride. In the context of the new economic policy paradigm, India had chosen to enact a new competition law. The MRTP Act has metamorphosed into the new law, Competition Act 2002. In the light of the above statement answer the following questions:

- (a) Can the Competition Act 2002 really replace the Monopolies and Restrictive Trade Practices Act, 1969? Support your answer with appropriate case laws.
- (b) What are the salient features of Competition Act 2002?

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**Subject Code: 2.1 (HR) International Human Rights Enforcement Mechanisms
(Optional Paper - II)**

Time: **3:00 Hrs.**

Total Marks: **100**

INSTRUCTIONS:

1. Read the questions carefully and answer.
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Answer any four questions from the following. All questions carry equal marks.

1. The UN Charter stipulates in Article 1.3 that one of the aims of the organization is to promote and encourage the respect for human rights and fundamental freedoms. Describe, analyze and comment upon the global institutional framework for the universal promotion and protection of human rights which has developed from the basis of the UN Charter.
2. "It is unconvincing to present the international human rights treaty-body system as an effective set of mechanisms for holding states to account for their practices affecting human rights. The treaty-body system is weak, underfunded and lacks any real enforcement mechanism, and it is for precisely this reason that so many states have created and signed on to it." Discuss.
3. 'There is little hope for the promotion of the rule of law internationally if the most powerful international body makes it subservient to the rule of political expediency.' – *Former ICTY Chief Prosecutor Louise Arbour.*

Examine critically the challenges faced by the International Criminal Tribunal of Yugoslavia. Do you think the international community could be able to restore international rule of law through the establishment of *ad hoc* tribunals? Examine with the help of above statement.

4. "Today, the winds of international justice swept through the fields, forests, and towns of Cambodia where millions perished. After a conflict that killed a quarter of the population of Cambodia, two defendants, Khieu Samphan and Nuon Chea, were found guilty of crimes against humanity....This tortuous and twisted path to justice resulted in most of the top suspects being old men and women by the time the tribunal got going. Many, including Pol Pot, were already dead. Two other arrested top leaders, Ta Mok and Ieng Sary, died of illness before the ECCC could deliver its verdict. Is it so surprising that only a few old men have been convicted?"

With the help of given statement evaluate the jurisdiction and effectiveness of the Extraordinary Chambers in the Courts of Cambodia (ECCC).

5. The accomplishment in Rome in 1998, to create a treaty for a permanent International Criminal Court, is an event in a millennium. The twentieth century has been a bloody era, and only a trial can help teach respect for humanitarian standards. Human history has been witnessed with atrocities such as genocide, war crimes, and crimes against humanity. Human wrong have been pledged against fellow human beings, whether in times of peace or in times of war, and often in a widespread manner or in a systematic manner.

Why is enforcement of the international law necessary for efficiency? Does the International Criminal Court meet the purpose of enforcing international criminal law? Evaluate with the help of case laws.
