

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: 2.2 (IP) Copyright Laws and New Challenges
(Optional Paper - III)**

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.

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

1. The 1980s and 1990s saw the digital revolutions sweeping the world and the advent of internet over the World Wide Web. The global community responded to the challenges posed to the copyright system by the internet through two treaties framed in 1996, called WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) known as the 'internet treaties'. The Copyright (Amendment) Act, 2012 introduced amendments to harmonize the Copyright Act, 1957 with WCT and WPPT. Critically analyze the salient features of the Amendment and problems if any.
2. Whether parallel imports are permissible or not has been a matter of debate at national and international fora. Further, it has also been controversial whether a particular national legal regime actually permits it or not. In the light of this critically analyze the Indian Copyright provisions pertaining to parallel imports, doctrine of first sale and principle of exhaustion by citing leading cases on the matter.
3. The Plaintiff is a Company and a Registered Copyright Society. The Plaintiff was established to monitor, protect and enforce the rights, interest and privileges of its members comprising of authors, composers and publishers of literary or musical works. The Defendant No. 1 organized a live concert at Defendant No. 2 stadium located at Guwahati. At the said live concert the Defendants communicated the literary and musical works and/or permitted their place to be used for communication of the said literary and musical works, the copyright in which vested in the members of the Plaintiff. Decide whether it would amount to infringement under the Copyright Act. What amounts to fair dealing or use under the Copyright Act? Justify your answer with leading cases on the point.
4. The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (MVT) is the latest addition to the body of international copyright treaties administered by WIPO. Discuss the position of

India post Marrakesh Treaty by highlighting the relevant provisions of the Copyright Act, 1957.

5. Write critical note on any two of the given:
- (a) Anton Piller order
 - (b) Digital world and threats to copyright
 - (c) Role of World Intellectual Property Organization (WIPO)

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**Subject Code: 2.2 (CN) Constitution of India and Affirmative Actions
(Optional Paper - III)**

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.

Answer any three out of the first five questions. And any two from the Short Notes.

1. The principle of justice based on equality prohibits any discrimination based on race or caste and therefore, the Constitution of U.S.A. and of India are said to be colour/caste blind. But equality in fact or reality is quite different in context of racism and casteism resulting the creation of ingrained unequal society crying for colour/caste consciousness to remove the past injustice and secure justice in the present through affirmative action policy.

In light of the above observation discuss the affirmative action/preferential treatment policy in the U.S. and India. (25)

2. India has adopted a very aggressive form of affirmative action policy based on a rigid reservation system that directly uses quota in order to attain diversity in representative bodies, in services and in educational institutions.

In light of the above observation discuss provisions for reservation of seats in legislative bodies, posts in services and seats in educational institutions meant to ameliorate the condition of the Scheduled Castes and Scheduled Tribes. (25)

3. Affirmative action in India intends to reserve posts in services and make special provisions for the "socially and educationally backward classes." But the expression "socially and educationally backward classes" does not carry certainty and therefore, the judiciary has evolved different yardsticks to interpret this expression.

In backdrop of the above observation give the account of the role played by judiciary in identification of socially and educationally backward classes. (25)

4. "There are some services where expertise and skill are the essence. In such services there can be no room for reservation of posts. Likewise in admissions at the level of superspecialisation there cannot be any reservation".

With the help of decided cases critically examine the above observation. (25)

5. Finality is attached to the Presidential order issued under Article 341 and Article 342 with respect to the Scheduled Castes and Scheduled Tribes and SCs and STs are a well-knit class. The reality of few upperstrata of these classes enjoying all privileges has prompted a plea of division of these classes into benefit grabbing category and more depressed classes among them.

In backdrop of the above situation critically examine the applicability of creamy layer formula in context of SCs and STs.

(25)

6. Write short note on **any two** of the following: (12.5 x 2=25)
- (i) Affirmative action and reverse discrimination.
 - (ii) Diversity as justification for affirmative action/preferential treatment policy.
 - (iii) Social reservation in private sector Employment and unaided educational institutions.
 - (iv) Politicalisation of affirmative action policy in India and its future prospect.

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**Subject Code: 2.2 (EL) Climate Change and Law
(Optional Paper - III)**

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. In the context of the UNFCCC, the private sector domination as direct participants in technology transactions, either as stand alone deals or as part of the CDM, operation of the Technology Mechanism and the measures it may undertake to support the wider technology transfer process. Elucidate.
2. What are the essential elements of Paris Agreement? Discuss the same in details.
3. Critically appraise the adaptation policy roadmap from Kyoto to Paris.
4. Significant progress in the multilateral negotiations on climate change will only be made if civil society and in particular business and industry stakeholders actively contribute to shaping it. Admitted to the international negotiations through participation in non-governmental organisations (NGOs), business and industry entities continue however to be far more active at the national than at the international level. Elucidate the same.
5. What are the major decisions adopted in Conference of Parties 23? Discuss the same in details.

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Subject Code: 2.2 (BL) Commercial Disputes Resolution Mechanism (Optional Paper - III)

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. Mr. Raghav Joshi and Mr. Prem Joshi were partners in a partnership firm dealing with construction business. The partnership agreement has a clause for dispute resolution as provided below:

“If during the continuance of the partnership or at any time afterwards any dispute touching the partnership arises between the partners, the same shall be mutually decided by the partners or shall be referred for arbitration if the parties so determine.”

Mr. Raghav and Mr. Prem Joshi had a dispute related to partnership. Mr. Raghav wants the dispute to be referred to arbitration based on the above-mentioned agreement. Based on the above fact situation, explain whether the clause mentioned above is valid or not under the Arbitration and Conciliation Act, 1996. Substantiate the arguments with the help of decided case laws. Define International Commercial Arbitration under Arbitration and Conciliation Act, 1996.

2. Discuss the role of arbitration in International Chamber of Commerce (ICC) with respect to resolving commercial disputes.
3. The Contract between the parties provided for the final settlement of dispute by arbitration in Belgium. A dispute arose. An application was made to an English court for interim injunction relief. The other party applies for stay of the proceeding in favor of arbitration. The party approached to you; working as Senior Associate in “Corporate Legal India” (CLI) which is a leading international law firm in India comprising over 350 professionals, with offices in India as well as England; providing legal advice and service to international & domestic clients. Give advice to the party for granting interim measure from the court. Discuss the procedure of Interim measures under the LCIA and how it’s different from section 8 of the Arbitration and Conciliation Act, 1996.

4. Critically examine the impact of Bhatia International Trading Company Case in conducting of International Commercial Arbitration in India.
5. What is BITs? Explain their significance in resolving disputes. Why are they controversial? Critically evaluate.
6. A Norwegian Court of Appeal refused recognition of an arbitral award rendered in London on the ground that an exchange of e-mail did not constitute a “written agreement” for the purpose of the New York Convention. Discuss the request for arbitration with the help of The London Court of International Arbitration (LCIA) India Rules and Indian Arbitration and Conciliation Act, 1996.
7. Short Note on (any two):
 - a) Revocation of appointment of arbitrator and procedure for challenge of arbitrator under LCIA.
 - b) *Ad hoc* arbitration v. Institutional Arbitration
 - c) *Lex arbitri* principles

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**Subject Code: 2.2 (HR) International Humanitarian Law
(Optional Paper - III)**

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.

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

1. Discuss the contribution of the ancient Indian Hindu texts in the development of modern international humanitarian law. Briefly explain the role of International Committee of Red Cross as the guardian and promoter of international humanitarian law.
(15+10=25)
2. Examine the scope and application of Common Article 3 to the Four Geneva Conventions of 12th August, 1949. "Prisoners of War specified in Article 3 of the Geneva Convention Relative to Prisoners of War are entitled to protection during captivity and internment." - Discuss.
(9+8+8=25)
3. "The legal framework governing hostilities provides further protection for specific vulnerable groups, which include certain categories of children. Such protection results from a variety of complementary international legal regimes."- In the light of the above statement analyze the interplay between these regimes in dealing with the involvement of children in armed conflict.
(25)
4. In the light of the treaties and dilemmas to the cultural property protection in recent armed conflicts examine the international legal instruments for protection of cultural property.
(25)
5. Analyze legal effort undertaken in India to give effect to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 1993. Discuss briefly the challenges encountered at the international level for the implementation of the Chemical Weapons Convention.
(15+10=25)
