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RG/MT/15/09/22

RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PUNJAB



**LL.M. ONE YEAR COURSE
FIRST SEMESTER
MID TERM EXAMINATION
SEPTEMBER - 2022
PAPER-I: LEGAL METHODS AND RESEARCH
METHODOLOGY
TIME DURATION: ONE AND HALF HOURS
MAXIMUM MARKS: FORTY (40)**

Note: Section - A is compulsory and each part carries 5 marks. Attempt one question each from Section B & C and each question carries 15 marks

SECTION - A

1. Write short notes on the followings:

- a. With the help of relevant examples briefly explain Inductive and Deductive method of research.
- b. What factor a researcher should keep in mind for the evaluation of a research problem. Formulate a socio legal research problem for the purpose of doing empirical research.

Contd.....P.2

SECTION - B

2. After covid-19 pandemic the health sector was exposed to a large extent in terms of ensuring the right to health to every citizen of India. To address the legitimate demand for effective implementation of Right to health as fundamental Rights under Indian Constitution without any discrimination has ignited a new debate, for which there is a need to frame regulations to address the issues with appropriate mechanism. With this object the health ministry and Human Right Commission is willing to sponsor a research to know & understand the problems, its impact, issues etc. to frame a policy or appropriate regulations or amendments in existing laws.
On the basis of above information suggest the essentials required to conduct a research based on of non-doctrinal/empirical research methodology. Also explain the characteristics of empirical research methodology.
3. For the title "Land reforms and resettlement or rehabilitation of displaced persons" if the researcher is exploring the study of laws, meant for specific group or people or for specific purposes. The researcher is following which model of research. Explain the various models of research with the help of appropriate examples.

SECTION - C

4. *"A research design is a research planning of the proposed research project to conduct the empirical test of the hypotheses or to test the veracity of it. As to which research plan or design will be suitable for the collection and analysis of data in an economic, efficient and selective manner depends upon the nature of the problem under the research"*. Explain the statement with the help of essential characteristics of a scientific legal research design and also make a research design for the topic which you have planned/identified for your dissertation.
5. Write Short note:
 - i. Kinds of Hypothesis
 - ii. What is the purpose of literature review while conducting any academic research? How to write a literature review of quantitative data and what precautions must be taken while reviewing the literature, explain with the help of relevant examples.

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**LL.M. ONE YEAR COURSE
FIRST SEMESTER
MID TERM EXAMINATION
SEPTEMBER - 2022
PAPER - II: COMPARATIVE PUBLIC LAW
TIME DURATION: ONE AND HALF HOURS
MAXIMUM MARKS: FORTY (40)**

Note: **Section - A** is compulsory and each part carries **5 marks**.
Attempt **one question** each from Section B & C and each
question carries **15 marks**

SECTION - A

1. Write short notes on the followings:

- a. Briefly explain the context in which David Strauss said, "anyone who tries to understand change in our constitutional system has to look beyond the text to precedents, traditions, and the methods of the Common Law. Our living Constitution is a Common Law Constitution." (5 Marks)
- b. Michel Foucault's analyses of the techniques and rationalities of modern government led him to claim that an entirely new type of governmental power is created, attributable to the emergence of a new phenomenon which he calls 'the problem of population'. Arguing that the problem of population has arisen only since the eighteenth century, he suggests that this is largely a

Contd.....P.2

consequence of the development of the technologies of political arithmetic (statistics) and political economy, or what might be called the arts of government. As per Michel Foucault, how can we say that the "Art of Government", which has evolved from the study of "the problem of population", has got the unprecedented potential to control the conduct of people easily without showing or using any physical force? (5 Marks)

SECTION - B

2.a) In her article entitled "The Constitutional Separation of Powers," why does Aileen Kavanagh say that the pure view of separation of powers is flawed and what does she suggest instead? (7 Marks)

b) T. R. S. Allan said, "Observance of the rule of law confers legitimacy on systems of government by preserving the conditions that honour each person's dignity as an independent agent, responsible for the shape and character of her own life—answerable to her own convictions about what gives life its point and value." How does the principle of the rule of law secure a human being when she lives in constant danger of the dominating powers of public officials or powerful private entities? (8 Marks)

3.a) A.C.L. Davies said, "Privatisation reduces the scope of application of public law by transferring activities from the public sector to the private sector. Any remaining public involvement takes place through special regulatory regimes. Very few legal systems have any constitutional controls over what can or cannot be privatised. And privatisation is difficult to reverse, because of the need to compensate private investors. Contracting out is similar to privatisation in some respects but significantly different in others. Again, there are few controls over what can be contracted out." Is public law losing its importance due to privatization and contracting out services? Critically examine it. (7 Marks)

b) While struggling to explain the distinction between public law and non-public law, David Feldman argued, "When trying to make the various dividing lines coalesce, one inevitably produces a line which is blurry and wobbly, rather than one that is sharp and clearly focused. When such a line is converted into norms and those norms are applied to problems in the world,

we should not be surprised or disappointed that they often leave room for doubt as to how to classify a particular issue, institution, process or claim. Recognizing that reality, however, does not entail discarding the idea that there are fundamentally important differences between law and non-law and between the public and non-public domains." From the point of view of David Feldman, why does the distinctiveness of public law matter?

(8 Marks)

SECTION - C

- 4.a) In an article entitled "Parliament's Will and the Justice of the Common Law: The Human Rights Act in Constitutional Perspective", TRS Allan said, "If judges are merely servants of a fluctuating political will, they should no doubt be grateful for whatever guidance they are given as a means of interpreting it correctly. As servants, rather, of the constitutional order, however, they can scarcely avoid responsibility for developing a theory of legislative supremacy, along with the interpretative principles and presumptions that give such a doctrine its wider constitutional context and meaning." How can it be constitutionally justified that the interpretative power of the Superior Courts is as fundamental as Parliament's legislative supremacy? (7 Marks)
- b) Virginia Eubanks has proved that automation of decision-making processes in public administration reinforces existing inequalities in society. Moreover, Jacob Livingston Slosser said, "Not only can these algorithms develop rules that identify proxies for groups legally protected from discrimination, but when used, the algorithms can reinforce those same proxy associations, hence worsening the outcomes for those already marginalized on the basis of race, sex, gender, religion, among others." What is the answer for Public Law to combat these dangers of artificial intelligence? (8 Marks)
- 5.a) The policy-making decisions of the public administration will not become transparent and accountable unless there is public participation in them. The idea of public participation needs to be adopted in a holistic manner and should not be misused to hinder administrative efficiency and the administrative process. What is Susan Rose-Ackerman suggesting for the use of public participation in executive rule-making in a democratic way?

(7 Marks)

Contd.....P.4

- b) The Doctrine of Unconstitutional Constitutional Amendment plays an important role in protecting constitutional democracy. Many scholars have argued that "the doctrine can be useful as a way to help preserve so-called fragile democracies against democratic erosion." But why do Rosalind Dixon and David Landau still warn that the doctrine should be used in a limited sense and argue that the use of transnational constitutionalism would limit the use of this doctrine? (8 Marks)

RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PUNJAB**LL.M. ONE YEAR COURSE****FIRST SEMESTER****MID TERM EXAMINATION****SEPTEMBER - 2022****PAPER-III : INTERNATIONAL CRIMINAL LAW****TIME DURATION: ONE AND HALF HOURS****MAXIMUM MARKS: FORTY (40)**

Note: Section - A is compulsory and each part carries 5 marks. Attempt one question each from Section B & C and each question carries 15 marks

SECTION - A**1. Write short notes on the followings:**

- a. The Republic of Kansen became a member on 1 June 2005. However, the crime had happened in 1992-95 in Kenya that constitute crime against humanity as per the Rome Statute. Can ICC try those crimes and individuals after ICC treaty has been signed and ratified by the State Kansen.
- b. If the perpetrator kills 'one or more persons, including by inflicting conditions of life calculated to bring about the destruction of part of a population. The conduct constitutes, or takes place as part of, a mass killing of members of a civilian population'. Which crime the perpetrator has committed. Explain the relevant case law under the international criminal jurisprudence

SECTION - B

2. Treaties are agreements (usually in written form) creating rights and obligations, usually between states. Some treaties also create duties and provide for the protection of individuals. ICL has many treaty sources. In jurisdictions where treaties cannot be a direct source of law, which applicable law can be considered under the International Criminal Court. Explain with relevant example.
3. "Many theorists have endorsed the notion that state sovereignty does not constitute an impenetrable barrier to international criminal proceedings, which may be justifiable if the situation within a state becomes sufficiently dismal". Explain the Concept of "Sovereignty of State" under International Criminal Law in the light of this statement. Whether the sovereignty of Ukraine is breached in the Russia Ukraine Invasion?

SECTION - C

4. "Genocide is the intentional destruction of a people usually defined as an ethnic, national, racial, or religious group in whole or in part" as per the definition given by Raphael Lemkin in 1944. Whether "Genocide" incidents had happened in India after Independence. How many perpetrators had been punished for Genocide in India? Explain the law where a person in India can be held liable for committing Genocide.
5. With regards to Chinese settlements in Tibet, in 1991 the Dalai Lama declared "The new Chinese settlers have created an alternate society: A Chinese, denying Tibetans equal social and economic status in our own land, threatens to finally overwhelm and absorb us." In the light of this statement explain whether the erosion of indigenous religious people such as Han Bingtuan Militia in Xinjiang is a crime under International Criminal Law? If Yes, explain the details of 'crime' in detail and reasons.

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RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PUNJAB



**LL.M. ONE YEAR COURSE
FIRST SEMESTER
MID TERM EXAMINATION
SEPTEMBER - 2022
PAPER-III : ADMINISTRATIVE LAW
TIME DURATION: ONE AND HALF HOURS
MAXIMUM MARKS: FORTY (40)**

Note: Section - A is compulsory and each part carries 5 marks.
Attempt one question each from Section B & C and each question carries 15 marks

SECTION - A

1. Write short notes on the followings:

- a. World Justice Project Rule of Law Index 2021.
- b. Discuss the Constitutionality of Delegated Legislation when the Supreme Court became the highest Court of Appeal.

SECTION - B

2. Decide the validity of Delegated Legislation applying the test of substantive Ultra - Vires in the following with the help of decided cases-
 1. Where the Parent Act is Unconstitutional
 2. Where Delegated Legislation is inconsistent with Parent Act.
 3. Where the Delegated Legislation is unreasonable and arbitrary.
 4. Where delegate further delegates.
 5. Where delegated Legislation excludes Judicial Review.
3. Parliamentary Control over Administrative Rule Making is admittedly weak because legislations are sometimes innocent of Legal Skills. In this context, does the procedural Control Mechanism have the potential for Constant vigil over administrative rule making and effective people participation for better Social Communication, acceptance and effectivity of the Rules. Discuss how the Procedural Control mechanism operates to meet the above noted requirements for allowing specific audit of Rules by those for whose consumption they are made.

SECTION - C

4. Examine the sociological and Historical understanding of the Indian Administration Law formation.
5. Indian Constitution has not indeed recognized the Doctrine of Separation of powers in its absolute rigidity but the functions of the different branches of the Government have been sufficiently differentiated. Analyse the statement in the light of the provisions of the Constitution of India.

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RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PUNJAB



**LL.M. ONE YEAR COURSE
FIRST SEMESTER
MID TERM EXAMINATION
SEPTEMBER - 2022
PAPER-IV: INDIAN FEDERALISM AND
CENTRE STATE RELATIONS
TIME DURATION: ONE AND HALF HOURS
MAXIMUM MARKS: FORTY (40)**

Note: Section - A is compulsory and each part carries 5 marks.
Attempt one question each from Section B & C and each question carries 15 marks

SECTION - A

1. Write short notes on the followings:

- a. Whether and to what extent the proceeds of Integrated GST levied by the Union are sharable with the States?
- b. Sikkim has a Vidhan Sabha constituting of 32 MLAs. Of these MLAs one seat is exclusively reserved for a member of Buddhist Sangha constituency where all monks registered in the monasteries of Sikkim will have a right to vote and only a monk can contest the same seat. Do you think such a provision is constitutionally valid?

Contd.....P.2

SECTION - B

2. The outbreak of Covid-19 and consequent lockdowns had serious impact on the economy of States and many of the States went into revenue deficit. All the States requested the Union to provide them Grants in aid. Union has contended that Grants in aid under Article 275 can be granted only on the recommendations of the Finance Commission. Finance Commission had already finalized its report without taking into account the impact of Covid-19 and consequent lockdowns on the economy of the States. States, being aggrieved by the non-sanction of special grants, have filed a matter in the Supreme Court against the Union of India for issue of grants. Decide the matter in the light of Constitutional provisions.
3. Assume that Parliament of India has abolished the legislature for the Union Territory of Delhi by a Constitutional Amendment, however, the taxes levied under List II have been continued for the purposes of the Union Territory of Delhi. Whether and to what extent the taxes levied on the properties of various States in the Union Territory of Delhi (after abolition of legislature) would be exempt from taxation under Article 289 of the Constitution of India? Discuss and decide in the light of judicial decisions.

SECTION - C

4. State of Punjab enacts legislation on agricultural land ceiling, which takes into account the agricultural land held by a person outside the State of Punjab for the purpose of determining the ceiling of agricultural land in the State. Do you think such legislation is constitutionally valid? Cite case law in support of your answer.
 5. Scholars like Douglas Verney suggest that for long the term federalism was confused with the U.S. Constitution, as was reflected in writings of K.C. Wheare also, and that only in recent years, as more and more countries like Canada and India have become more like true federations has it become necessary to treat federalism as a part of political theory as distinct from the study of American Constitution. Discuss in detail the relevance of the ideas of Verney for study of Indian Federalism.
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RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PUNJAB



**LL.M. ONE YEAR COURSE
FIRST SEMESTER
MID TERM EXAMINATION
SEPTEMBER - 2022
PAPER-V: CYBER LAWS
(OPTIONAL)
TIME DURATION: ONE AND HALF HOURS
MAXIMUM MARKS: FORTY (40)**

Note: Section - A is compulsory and each part carries 5 marks. Attempt one question each from Section B & C and each question carries 15 marks

SECTION - A

1. Write short notes on the followings:
 - a. Discuss the issues relating to 'Cyber Defamation' as was discussed in the case of *Google India Private Ltd. v. M/S Visaka Industries Ltd. & Ors.* (Judgment on 10th December 2019).
 - b. Give arguments and reasons if you agree with the statement that *Data Privacy and Data Protection emerge from the Freedom of Speech and expression expressed in Article 19 (1)(a).*

Contd.....P.2

SECTION - B

2. Discuss in detail, the various law issues in the Case of Shreya Singhal v. Union of India, Writ Petition (Criminal) No. 167 of 2012.
3. Discuss in Detail the Data Protection Laws in context of Asymmetric crypto system and Public Key Infrastructure (PKI). Also give the comparative analysis of Data Protection Laws in India and U.K.

SECTION - C

4. Mr. A, an on-line intermediary, receives for its bulletin board an article written by Mr. X in which some defamatory remarks have been made against Mr. Z. Mr. A puts up the article on its bulletin board and Mr. Z sues him for defamation. Discuss under which law Mr. A is liable.
In the context of the facts above mentioned also discuss the role and liability of Intermediaries under the I.T. Act
 5. In the light of the NCRB Record of 2020, discuss in detail with the help of relevant provisions and data concerning the various Cyber Crimes classified under the IT Act, the Indian Penal Code, 1860 and other special laws.
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RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PUNJAB



**LL.M. ONE YEAR COURSE
FIRST SEMESTER
MID TERM EXAMINATION
SEPTEMBER - 2022
PAPER-V : CRITICAL CRIMINAL LAW
(OPTIONAL)
TIME DURATION: ONE AND HALF HOURS
MAXIMUM MARKS: FORTY (40)**

Note: Section - A is compulsory and each part carries 5 marks. Attempt one question each from Section B & C and each question carries 15 marks

SECTION - A

1. Write short notes on the followings:
 - a. *"The more we learn about the 'Is' of the criminal process, the more we become aware about the 'Ought to be' and the gap between the two expands in proportion to our understanding about them."*
Critically examine the abovementioned statement in relation to the Indian Criminal Justice System.
 - b. Which principles can be forwarded to support the criminalization of attempt to suicide and why? Examine the jurisprudence relating to the right to die and section 309, IPC, in light of J. S. Mill's Harm Principle.

Contd.....P.2

SECTION - B

2. *"The Crime Control Model is a high-speed instrument while the Due Process Model is a low-speed instrument of social control."*

Identify how the crime control and due process values find expression in the Indian Criminal Justice processes.

3. *"Constitutional law would give a doctrinal foothold for traditional philosophical debates in substantive criminal law, old saws and hobbyhorses of criminal law theory now taking on new juridical salience."*

In light of the abovementioned statement, critically analyse how substantive issues in criminal law are now debated as issues of fundamental freedoms and rights. Illustrate your answer with suitable examples.

SECTION - C

4. *"But there is a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest; comprehending all that portion of a person's life and conduct which affects only himself, or if it also affects others, only with their free, voluntary, and undeceived consent and participation."*

Critically examine J. S. Mill's analysis of the need to have a principled basis for curtailment of individual liberty, in light of the statement above.

5. Analyse Joel Feinberg's offense principle for criminalisation of conduct by persons other than the actor himself. Which safeguards does Feinberg advise in the criminalisation of such conduct?
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RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PUNJAB



LL.M. ONE YEAR COURSE

FIRST SEMESTER

MID TERM EXAMINATION

SEPTEMBER - 2022

**PAPER-V: ENVIRONMENTAL JUSTICE
(OPTIONAL)**

TIME DURATION: ONE AND HALF HOURS

MAXIMUM MARKS: FORTY (40)

Note: **Section - A** is compulsory and each part carries **5 marks**. Attempt **one question** each from Section B & C and each question carries **15 marks**

SECTION - A

1. Write short notes on the followings:

- a. "The genesis of the movement of Environment Justice was the result of mass mobilisation on the issues pertaining to environment in USA and its outreach globally." Discuss the birth of the concept of Environment Justice.
- b. Article 14 of the Indian Constitution embodies the spirit of Environmental Justice. Critically analyse.

SECTION - B

2. A group of villagers from the coastal area of Kiri file a case against a Salt Manufacturing Company Iodec, whose activities were destroying the Mangrove forests in the vicinity and also preventing them from carrying on their fishing activities which was their sole basis of sustenance. Decide the case with the help of existing environmental legislation and elucidate the concept of environment justice with the help of Indian case studies.
3. "Environmental Conservatism has led to a negation of environmental costs of development." Critically analyse the statement with the help of decided cases.

SECTION - C

4. River Yenesi forms a water boundary between Country X and Country Z. The terms of the usage of the waters of River Yenesi are governed by the Statute of Yarika which is based on the principle of consensus and equitable sharing of the waters of River Yenesi. Country X hires a multinational company to construct a wood pulp mill on River Yenesi, without apprising Country Z of the development. Country X files a case against Country Z on the usage of the waters of the river Yenesi. Decide the case with the help of decided cases and elucidate the principle which has also become a principle of customary international law.
 5. Critically analyse the administration of Environment Justice in the India with the help of constitutional provisions and existing legislations.
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RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PUNJAB



**LL.M. ONE YEAR COURSE
FIRST SEMESTER
MID TERM EXAMINATION
SEPTEMBER - 2022
PAPER-IV: ADVANCED SUBSTANTIVE LAW
TIME DURATION: ONE AND HALF HOURS
MAXIMUM MARKS: FORTY (40)**

Note: Section - A is compulsory and each part carries 5 marks. Attempt one question each from Section B & C and each question carries 15 marks

SECTION - A

1. Write short notes on the followings:

- a. What do you understand by the concept of causation in crime? Discuss the circumstances of proximate and remote cause with illustrations and cases.
- b. 'Mistake of fact is excusable but mistake of law is not'. Critically evaluate this statement in light of the decided cases and provisions of the Indian Penal Code, 1860.

SECTION - B

2. According to Bentham, 'if the question relates to a system of laws already established, offences are whatever the legislature has prohibited for good or for bad reasons. If the question relates to theoretical research for the discovery of the best possible laws according to the principles of utility, we give the name of offence to every act which we think ought to be prohibited by reason of some evil which it produces or tends to produce.'
Critically evaluate the evolving definition of Crime in light of the above statement.
3. There is a presumption that *mens rea* is an essential ingredient of a statutory offence; but this may be rebutted by the express words of a statute creating the offence or by necessary implication. Comment on this expression by the Supreme Court in *MH George v State of Maharashtra* 1965 AIR 722.

SECTION - C

- 4.a) Discuss broadly by the scheme of General Exceptions under Indian Penal Code.
 - b) Critically evaluate the object of having such general exceptions.
 - c) Also discuss the burden of proof in case of the applicability of any general exception or special exceptions?
 - d) Whether the courts would presume the existence of circumstances which attract general exceptions. Comment.
 5. Discuss in detail the principles laid down by the House of Lords in *R v M'Naughten*. Whether the defence of unsoundness of mind would be available in all cases of medical insanity in India? Critically analyse in light of the decided cases.
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