

NATIONAL LAW UNIVERSITY, DELHI

B.A, LLB. (Hons.): III-YEAR, V-SEMESTER

Special Repeat Examinations, Septemeber-2015

Paper 5.1: Jurisprudence-I

Time: 3.00 Hours

Total Marks: 70

Instructions:

1. Read the questions carefully and answer. All questions are compulsory.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper except your Roll No.
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Part A

- Q.1 Compare the grounds on which sociological jurists, realists and critical legal thinkers challenge legal positivism. **(9 Marks)**
- Q.2 i) Whether "Constitution of India" would be classified as "law" by the following scholars. Give reasons for your answer: **(2+2+2=6 Marks)**
- a) Austin
 - b) Kelsen
 - c) Hart
- ii) How would sociological jurists explain the significance of Constitution of India as law. Illustrate by giving references to the provisions of the Constitution. **(4 Marks)**
- Q.3 Compare the position taken by Austin, Kelsen and Hart with respect to sanction as a component of law. **(6 Marks)**
- Q.4 Delhi Metro Rail Corporation (DMRC) makes a regulation prohibiting entry of hawkers on Metro Stations in Delhi to prevent metro platforms from being used as hawkers streets. The regulation provides, "Entry for hawkers prohibited". A Balloon seller visits the metro station with a huge stick on which he has balloon and other small toys tied to the stick. He intends to go to Rajiv Chowk to sell his stuff. The metro authorities deny him admission.
- i) Assuming yourself to be Lon Fuller argue in favour of the hawker. **(5 Marks)**
 - ii) What arguments will DMRC give in favour of its stand. **(5 Marks)**

Part B

- Q.5 Are unjust laws valid? How would schools of natural law and positivism respond? **(10 Marks)**
- Q.6 Judge Judy is an elected judge of Santoria. She contested elections on an anti-abortion, pro-life agenda. She garnered over 77% of the votes and won the elections with a significant margin. Santoria has a liberal constitution that has a long history of recognizing personal autonomy and freedom of choice. Accordingly, the Supreme Court of Santoria has struck down criminalization of attempt to suicide and recognizes the right to bodily autonomy as a basic right.
- Judge Judy is faced with a case that challenges the constitutionality of a law that allows for abortion in the first trimester of pregnancy. Using Dworkinian method, how would Judge Judy decide?**(10 Marks)**
- Q.7 Critically discuss the significance of the Hart-Dworkin debate. **(10 Marks)**
- Q.8 Can Fuller's theory in The Morality of Law rightly be labeled as natural law? **(5 Marks)**

NATIONAL LAW UNIVERSITY, DELHI
B.A.LLB.(Hons.): III-YEAR, V-SEMESTER
Special Repeat Examinations, September-2015
Paper 5.2: Constitutional Law-I

Time: 3.00 Hours

Total Marks: 70

Instructions:

1. Read the questions carefully and answer. All questions are compulsory.
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(Dr. Anupama Goel)

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- Q.1 The writ petition has been filed in the Court challenging the validity of Regulation 6(a) of the Karnataka Road Transport Authority Regulations, 1962 which provided for the termination of the services of permanent and confirmed employee on one month's notice or pay in lieu of it without assigning any reason and without giving any opportunity of hearing to the employee before passing the order of termination.
Discuss, in which court, this petition would lie and whether it is maintainable or not. If yes, then discuss the probable stand of the court as per the Constitutional provisions and decided case law.
(10 Marks)
- Q.2 Pavement dwellers, who were residing, eating and sleeping on the sides and on the pavements besides the roads gave an undertaking that they would vacate these pavements and the areas adjoining the roads, after a certain date. Later on, due to their previous undertaking, they were not allowed to raise the plea under Art. 21 i.e. Right to Life. Decide and argue, can there be any estoppels/s against Constitution or any individual can barter away his freedoms/rights, especially in India, conferred on him by the Constitution.
(12 Marks)
- Q.3 A judgement debtor, who is unable to pay the decretal amount as he does not have means sufficient even for his survival and is not evading payment by any mala fide or dishonest means or intentions. Can he be detained or arrested due for the non payment of the debt decreed to be recovered from him, keeping in view his precarious condition. Discuss the proposition in the light of Fundamental Rights along with the relevant Constitutional provisions and important case law.
(10 Marks)
- Q.4 Enumerate and explain the protections guaranteed in the Constitution to a person, who has been convicted of an offence. Also compare these Constitutional safeguards with few other jurisdictions and elucidate, whether these are sufficient in light of the comparisons made and what modifications can be suggested, if required.
(12 Marks)
- Q.5 *“The Indian Constitution is founded on the bedrock of the balance between Parts III and IV. To give absolute primacy to one over is to disturb the harmony of the Constitution, This harmony and balance between fundamental rights and directive principles is an essential feature of the basic structure of the Constitution.”*
Comment on the above statement with the help of decided case law.
(10 Marks)
- Q.6 Decide the following legal propositions in about 5-6 sentences with the help of relevant provision/s of the Constitution and the Case law wherever necessary:
- a. Compelling a Sanitation worker to do clear garbage from the road, as the area's drainage got blocked due to heavy rain amounts to violation of any Constitutional provision?
 - b. Government decides not to extend reservation of seats for Anglo Indian community in Lok Sabha and in Legislative Assemblies of the States by nomination under Article 334, beyond the already extended period. Whether aggrieved party can file a writ petition in Supreme Court of India to claim this Right?
 - c. Whether American citizen staying in India since 1970 on American passport with permission from Government of India from time to time and doing some charitable work for Indians, but going back to America many a times in between all these years, be granted Indian citizenship?
 - d. Whether employment of children below the age of 14 years in small shops, with tea vendors etc. violative of Constitutional provision/s?
- (4 x 4 = 16 Marks)**

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Paper 5.2: Constitutional Law-I

Time: 3.00 Hours

Total Marks: 70

Instructions:

1. Read the questions carefully and answer. All questions are compulsory.
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3. Do not write anything on the question paper except your Roll No. **(Dr. Anup Surendranath)**

Q.1 The Judisca Hospital, located in the state of Haryana, provides world class medical facilities. It is owned and managed by the Chaturvedi Group, headed by Mr. Pranav Chaturvedi. The hospital is spread across 5 acres of land, in a prime location within the booming city of Primedia. The land was provided to the hospital at extremely cheap prices (at only 20% of the market rates) by the Government of Haryana. The hospital is registered and regulated *inter alia* under the Haryana Clinical Establishments (Registration and Regulation) Act, 2014. Also, two directors forming part of the Board of Directors of the hospital are nominated by the Government of Haryana.

Dr. Abdullah Hussain, a doctor recently employed by the Judisca Hospital, was assigned to the early morning shift in the Emergency Ward. It was found that he regularly took breaks during his shift, once at around 5:45 am, another at around 7:00 am, and a third around 12:30 pm. The administration did not permit those assigned to the Emergency Ward to take frequent breaks, and decided to terminate Dr. Hussain's employment, even when he explained that it was necessary for him to take these breaks in order to read the namaz.

Dr. Hussain filed a writ petition against the Judisca Hospital, challenging the termination of his employment.

- i. In view of Article 12 of the Constitution of India, is this writ petition maintainable against the Judisca Hospital?
- ii. Assuming the writ petition is maintainable, would Dr. Hussain succeed in his challenge and on what ground?

(15 Marks)

Q. 2 Ms. Rose Iglesias, a Portuguese national, is seeking to apply to the National Law University, Azamgarh, (established under Act 1 of 2006 of the state of Uttar Pradesh) for the B.A. LL.B. Programme starting in June 2015. Comment on the constitutional validity of the following (hypothetical) conditions, separately:

- i. All foreign nationals are required to submit an AIDS clearance certificate, without which applicants cannot appear for the entrance examination.
- ii. All applicants are required to submit an AIDS clearance certificate, without which applicants cannot appear for the entrance examination.
- iii. All applicants are required to submit an HIV test report, without which applicants cannot appear for the entrance examination.

(15 Marks)

Q.3 Ms. Champa Devi was a brilliant student in school, and her teachers believed that she would scale great heights. As was customary in her community, her parents decided to get her married at the age of 14. Overcoming grave opposition, she continued with her studies and in 2008, she applied for the Madhya Pradesh Civil Services Examination. However, she was not allowed to appear for the examination, and the relevant authorities cited Rule 6(5) of the Madhya Pradesh Civil Services (General Condition of Service) Rules, 1961, which provided: "No candidate shall be eligible for appointment to a service or post who has married before the minimum age fixed for marriage. The minimum age of marriage for a boy is 21 years while that for a girl is 18 years."

Aggrieved by the above Rule, Ms. Champa Devi filed a writ petition before the Madhya Pradesh High Court challenging the constitutional validity of Rule 6(5) of the Madhya Pradesh Civil Services (General Condition of Service) Rules, 1961.

In your view, is the writ petition likely to succeed, and on what grounds?

(10 Marks)

P.T.O.

- Q. 4 Section 4 of the Anti-Hijacking Act, 1982 states as follows:
 “The National Security Advisor may authorize any of the chiefs of the armed forces to shoot down a plane that has been hijacked, or is reasonably suspected of being hijacked, if she considers it necessary to do so to protect the security of the State.”
 While explaining the decision of Justice Bhagwati in *Maneka Gandhi v. Union of India*, discuss whether Section 4 of the Anti-Hijacking Act, 1982 is constitutionally valid.
(10 Marks)
- Q.5 The Anjaleema Tribe predominantly resides in the State of Mukundu. They have inhabited the dense forests in Mukundu for centuries, and are determined to preserve their distinct customs and traditions. The customary law operating within this tribe excludes the women from inheriting land or property belonging to the father or husband. The NGO “Jago Nari Jago” challenged the constitutional validity of the customary inheritance law of the Anjaleema Tribe through a PIL before the Supreme Court of India, on the ground that by conferring the right of inheritance only on males, the customary law discriminates solely on the ground of sex. The representatives of the Anjaleema Tribe contended before the Supreme Court that their customary law cannot be challenged as violative of Part III of the Constitution of India in light of the decisions of the Supreme Court on Article 13. Comment on the viability of this contention.
(10 Marks)
- Q. 6 On 5th January 2015, the Constitution (One Hundred and Twenty-Second Amendment) Act, 2015 was passed by both houses of Parliament and it received the assent of the President on 2nd February 2015. The Act amended Article 124(1) of the Constitution of India, and after the amendment, Article 124(1) reads as follows:
 “There shall be a Supreme Court of India constituting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than thirty other Judges. Provided that a minimum of 7 judges must belong to the Scheduled Castes or the Scheduled Tribes.”
 Justice Harish Upadhyaya of the Chhattisgarh High Court filed a writ petition challenging the constitutional validity of the Constitution (One Hundred and Twenty-Second Amendment) Act, 2015. Relying on the materials in the Affirmative Action Module, discuss whether the challenge is likely to succeed?
(10 Marks)

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Special Repeat Examinations, September-2015

Paper 5.3: Administrative Law

Time: 3.00 Hours

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 except your Roll No.

Answer ALL the questions.

- Q.1 Discuss the nature, scope and growth of Administrative Law principles in India. **(10 Marks)**
- Q.2 a) Examine the reasons for the growth of delegated Legislation in India. **(5 Marks)**
- b) What are the permissible limits of delegated legislation? **(5 Marks)**
- Q.3 Write notes on the followings:-
- a) Rule of Law **(5 Marks)**
- b) Separation of Powers **(5 Marks)**
- Q.4 Write notes on the following:
- a) Right to Information Act, 2005 as an instrument to ensure effective and responsible Government **(5 Marks)**
- b) Commission of Inquiry Act, 1952. **(5 Marks)**
- Q.5 A one of the members of the selection board for elections to the post of Forest Officers, was a candidate for the post. A did not participate in deliberations, when his name was considered and approached. B not having been, elected for the post, challenges the selection of A on grounds of bias. Decide while referring to the decided cases. **(10 Marks)**
- Q.6 Write short notes on: **(5+5=10 Marks)**
- i. Writ of Mandamus
- ii. Writ of Certiorari
- Q.7 Write a note of the functioning of various Tribunals in India. **(10 Marks)**

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Special Repeat Examinations, September-2015

Paper 5.4: CPC & Law of Limitation

Time: 3.00 Hours

Total Marks: 70

Instructions:

1. Read the questions carefully and answer. All questions are compulsory.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper except your Roll No.
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Q.1 Short Notes on:

(5X5=25 Marks)

- a) Inherent Powers of the Civil Court.
- b) Salient features distinguishing the order of rejection of plaint compared with those of an order of the return of the plaint.
- c) Attachment before Judgment.
- d) Difference between acknowledgment of liability and part-payment under the law of limitation.
- e) Difference between *res judicata* and *estoppel*

Q.2 Trial court passed the final decree in the partition suit on 16th July, 2010. It directed the deposit of the value of the non-judicial stamp within 15 days to engross the final decree. The judgment did not specify as to who should produce the non-judicial stamp paper and nor did it place the obligation on the plaintiff to do so. No one produced the non-judicial stamp papers within the time specified by the court. However on 1 December, 2010 the plaintiff filed an application praying for condonation of the delay in filing the non-judicial stamp paper which was allowed by the court on 6th January, 2011. The non-judicial stamp papers were received by the court on 15th January, 2011. The defendant made an application for the certified copy of the judgment on 5th March, 2011 and copies were delivered to him on 1st April, 2011 and the appeal was filed by him on 1st May, 2011. Plaintiff is alleging that the appeal is time barred as time starts running from 16th July, 2010 when the decree was passed. Defendant is contending that due to legal impediment the decree was prepared only on March 1, 2011 but plaintiff is contending that there is no legal impediment as judgment did not specify as to who should provide the stamp papers so anybody could have done it. Moreover, defendant is also contending that he is entitled to exclusion of time from 1 March, 2011 to 1 May, 2011 by virtue of the explanation to Section-12, Limitation Act, 1963. Decide with the help of relevant provisions of law and cases.

- a) Whether there is a legal impediment in drawing of the decree?
- b) What period the appellant is entitled to exclude and why?

(10 Marks)

Q.3 A mortgage was executed in 1990 in favour of B, a period of 3 years was fixed for payment of the amount by A. B died in 1994 and the right devolved on his minor son, during whose minority two acknowledgements were made in 1998 and in 2011. The son also died a minor in 2004 and his mother (P) sued on the mortgage in 2011, which was within 3 years of the date when the son would have attained majority. A raised two objections namely, the suit is time barred because it is filed six years after the death of the Minor and the acknowledgements made by A were not valid as these were made to a minor. P alleged that the suit is not time barred as the suit is filed within 3 years of the date when minor would have attained majority and the acknowledgements were valid as there were made by A who was not suffering any legal disability.

Decide upon the contentions of the parties with the help of relevant provisions of law and cases.

(8 Marks)

P.T.O.

Q.4 X and Y entered into a partnership at Delhi for setting up of an industry at Amritsar in the name and style of XY Industries. The head office of the partnership was at Delhi. The partnership was dissolved by a deed which had a clause which provided that all the disputes between the parties in respect of the partnership shall be decided in a court at Delhi and nowhere else. Later dispute arose between X and Y on rendition of accounts and so X filed a suit in Amritsar against Y. Y challenged the jurisdiction of the Amritsar Court in view of the clause in the deed of dissolution. Later Y, filed a suit in Delhi against X. Both the suits continued. Y filed an application in Amritsar alleging that the suit there should be stayed under Section 10, CPC in view of the suit filed in Delhi Courts. X filed an application in the suit filed in the Delhi Court under Section 151, CPC for granting injunction against the continuance of the suit on the ground that Y has filed the suit in Delhi in order to put him to trouble heavy expenses and wastage of time. Y is contending that the court cannot pass interim injunction by exercising its inherent powers but it can do so only under Order XXXIX, CPC.

Decide with the help of relevant provisions of law and cases.

- (a) Whether the court at Amritsar has jurisdiction to entertain the suit? **(4 Marks)**
- (b) Whether the suit at Amritsar can be stayed under Section-10, CPC? **(6 Marks)**
- (c) Whether the suit at Delhi can be stayed by an order of injunction passed under Section-15, CPC? **(6 Marks)**

Q.5 X agreed to finance the business of Y on certain terms and conditions one of which was that if the business would become impossible and unprofitable the company would repay to X the amount advanced with an interest at 9% per annum from the date till realization. X advanced different sums of money from time to time to Y and obtained promissory notes from him. Later Z executed an indenture of guarantee to secure payment to X. Due to change in the fashion trend and drop in demand in the international market, X formed an opinion that the business has become unprofitable and hence cancelled the agreement to finance Y's business and demanded Y to pay back the amount paid to him. X filed a suit under Order-XXXVII, CPC against Y based upon promissory notes executed by Y. Z was also made a party on the indenture of guarantee with respect of the amount advanced to Y. Y and Z filed an affidavit purporting to disclose facts sufficient to entitle them to defend the suit. In view of the plaint and the affidavit of the parties, the court granted conditional leave to Y and Z to defend the suit and ordered them to deposit security money in the court. X and Y filed an appeal against the order on two grounds: firstly, the affidavit of Y and Z raised a triable issue (as held by trial court) and, therefore, they are entitled to unconditional leave to defend; and secondly, the promissory notes upon which the suit is based is only a collateral security for the performance of agreement between the parties relating to export of designer clothes and therefore the suit does not fall under Order-XXXVII, CPC.

Decide with the help of relevant provisions of law and cases and give reasons for your answer.

- (a) Whether this case falls under Order XXXVII, CPC. **(4 Marks)**
- (b) Independent of the answer of (a), decide whether the trial court was right in granting conditional leave to defend in this case. **(7 Marks)**

NATIONAL LAW UNIVERSITY, DELHI

B.A, LLB. (Hons.): III-YEAR, V-SEMESTER

Special Repeat Examinations, September-2015

Paper 5.5: Law of Evidence

Time: 3.00 Hours

Total Marks: 70

Instructions:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
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Answer ALL the questions.

- Q.1a) Under what circumstances, facts not otherwise relevant becomes relevant? Explain. **(5 Marks)**
- b) Which facts are relevant, where the question is as to the existence of any right or custom? Explain. **(5 Marks)**
- Q.2 Discuss the facts, principles of law and the judgment rendered in Aghnoo Nagesia Vs. State of Bihar A.I.R 1966 S.C 119. **(15 Marks)**
- Q.3 a) Statement made by a dead person is a relevant fact if the person making the statement had special means of knowledge u/s 32 of the Indian Evidence Act, 1872. Explain. **(5 Marks)**
- b) Point out the value and significance of F.S.L report in murder and rape cases? **(5 Marks)**
- Q.4 What do you understand by "Circumstantial Evidence"? Point out the distinction between "Circumstantial Evidence" and "Hearsay Evidence"? **(10 Marks)**
- Q.5 a) A gives B a receipt for money paid by B. Oral evidence is offered of the payment whether the evidence is admissible? Refer to the relevant provisions. **(5 Marks)**
- b) A sues B for land of which B is in possession and which as A asserts, was left to A by the will of C, B's father. On whom burden of proof lies? Refer to the relevant provisions. **(5 Marks)**
- c) A accused of murder alleges that, by reason of unsoundness of mind, he did not know the nature of the act. On whom burden of proof lies? **(5 Marks)**
- Q.6 a) Point out the value and significance of a child witness? What are the precautions which are required to be taken by the Court before recording the statement of a child in the Court? **(5 Marks)**
- b) "An accomplice is unworthy of credit, unless he is corroborated in material particulars." Comment. **(5 Marks)**