



THE INDIAN LAW INSTITUTE
(Deemed University)
NEW DELHI

LL.M. (1 YEAR) 1ST SEMESTER END- EXAMINATION
DECEMBER 2022

PAPER – NATIONAL SECURITY

Time: 3 hours

Max. Marks: 50

Answer any five questions. All questions carry equal marks.

1. Ancient Indian jurisprudence was conscious about the complex issues of national security and had developed strategies to protect the country and its citizens from internal and external threats. Discuss with the help of literature of the period.
2. National security laws often face the charge of over criminalisation. What are the various arguments in favour and against this proposition? What is your opinion about it?
3. What are the various issues in context of membership of an unlawful or terrorist organisation? Critically examine the issues in *Arup Bhuyan v. State of Assam* [2015 (12) SCC 702] pending before the constitution bench of the Supreme court?
4. In the matters of national security and foreign policy the power of judicial review is restricted. The judiciary under various other jurisdictions has developed national security jurisprudence. Discuss.
5. Regarding the *ratio decidendi* of *Kedar Nath Singh*, (AIR 1962 SC 955) and *Balwant Singh v. State of Punjab* [(1995) 3 SCC 214] there are two competing and inconsistent views among legal scholars. What are those two competing views? Give your views on the issue.
6. Balancing human rights with national security laws is a delicate task. To what extent have the constitution benches of the Supreme Court of India been able to discharge this responsibility? Elucidate.
7. Write short notes on any *TWO* of the following –
 - a. Reforming sedition law
 - b. Constitutional provision and National security
 - c. Declaration of individual as terrorist



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PAPER – JUDICIAL PROCESS

Time: 3 hours

Max. Marks: 50

Answer any five questions. All questions carry equal marks.

1. The emblem of the Supreme court of India uses the phrase यतो धर्मस्ततो जयः [yato dharmastato jayah], where there is *dharm*, there is *jaya*. Did the ancient Indian system recognise some type of judicial system and judicial process? If so, what were the principles followed by them? Are they still relevant? Give examples.
2. What are the thrust areas of the four lectures of Justice Cardozo? To what extent is he relevant to India?
3. What is the philosophical foundation of the ‘presumption of constitutionality’? How does the judiciary observe this presumption while interpreting the laws? Discuss with illustrations and case law.
4. Improvement of judicial collegium is desirable but is very challenging. What are those challenges? Give a detailed answer incorporating the strengths and weaknesses of your propositions.
5. What do you understand by the term ‘*ratio decidendi*’? What are the issues in the context of *ratio decidendi*? Give three illustrations. Suggest ways to resolve these issues.
6. What are the competing arguments [arguments for and against] to enforce Articles 44 and 51A of the Constitution of India through judiciary? What is your opinion about the justiciability of these provisions?
7. Write short notes on any *TWO* of the following –
 - a. Judicial Function versus Administrative Function
 - b. Increasing the retirement age of judges
 - c. Reliance on foreign judgements



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PAPER – FUNDAMENTAL RIGHTS, FUNDAMENTAL DUTIES
AND DIRECTIVE PRINCIPLES OF STATE POLICY

Time: 3 hours

Max. Marks: 50

Answer any five questions. All questions carry equal marks.

1. Critically examine the concept of 'State' as defined under Article 12 of the Constitution. Also examine the important case law through which the court has widened the scope and ambit of Article 12.
2. Examine the right to Freedom of Religion guaranteed under Articles 25-28 of the Constitution in the light of *Indian Young Lawyer's Association v. State of Kerala* [(2019) 11 SCC 1] decided on 28/9/2018 (*Sabarimala* case).
3. How far is the judiciary successful in resolving the conflict between Article 30(1) (autonomy to minorities) and Article 29 (2) (Non-discriminatory clause) on minority rights. Elucidate with the help of relevant case law.
4. Critically examine the jurisprudential basis of Fundamental Rights with the help of important case law.
5. Critically examine the concept of protective discrimination under Part III of the Constitution of India with the help of case law.
6. Elucidate the conceptual differences between Fundamental Rights and Directive Principles of State Policy. Also examine the enforceability of Directive Principles of State Policy.
7. Answer any *TWO* questions from the following:
 - 1) Suspendability and Amendability of Fundamental Rights
 - 2) Remedies Against Violation of Fundamental Rights
 - 3) Right to Privacy as a Fundamental Right



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PAPER – COMPARATIVE PUBLIC LAW

Time: 3 hours

Max. Marks: 50

Answer any five questions. All questions carry equal marks.

- Q1. The modern concept of public law describes State as a system of institutions and rules that govern the relationship between the State and the people residing in its territory. Comment. Also discuss the concept of sovereignty as distinct from sovereign and state as expounded by Loughlin.
- Q2. How far has the Basic Structure theory as evolved by the Supreme Court of India in *Kesavananda Bharti v. State of Kerala*, (AIR 1973 SC 1461) has been influenced by the works of the German scholar, Dietrich Conrad. Compare the Indian model with Carl Schmitt and Maurice Hauriou's idea of implied constitutional limits on constitutional amendment.
- Q3. Comment on the concept of judicial supremacy as asserted by the U.S. Supreme Court in *Marbury v. Madison*. Compare the situation with India.
- Q4. What do you mean by the expression 'Rule of Law'? Discuss the thick and thin conceptions of the 'Rule of Law'.
- Q5. Discuss the rise and fall of separation of powers in the United States of America. Critically analyse the approach of the Indian Supreme Court in adopting the essence of separation of powers in the light of relevant judgments.
- Q6. Evaluate the concept of Constitutionalism discussing its essential features and sources. How is Constitutionalism different from Constitution? Discuss.
- Q7. Write short notes on any *TWO* of the following:
- (a) Originalism
 - (b) Concept of Federalism
 - (c) Methodological challenges faced in the comparative study of public/ constitutional law



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PAPER – GENERAL PRINCIPLES OF CRIMINAL LAW

Time: 3 hours

Max. Marks: 50

Answer any five questions. All questions carry equal marks.

1. “There is no more intractable problem in law than causation” Discuss in detail the tests for causation.
2. The retributive theory of punishment is not merely about ‘desert’ literally but emphasises on ‘just deserts’. Comment.
3. “No portion of our work has cost us more anxious thought or has been more frequently re-written. Yet we are compelled to own that we leave it (Right of private defence) still in a very imperfect state”. In the light of this statement critically evaluate the right of private defence in the Indian Penal Code.
4. “In cases where issue of concurrence or contemporaneity is raised, the law should be clear about the approach to be taken, especially in cases where a strict application of the principle would result in an acquittal even where intuitive justice would suggest otherwise.” Discuss the various approaches to the issue of concurrence. You are required to substantiate your answer with case law.
5. “The offence of criminal conspiracy is vaguely defined and it fails to comply with the requirement of certainty in criminal law” Comment.
6. “The problem with joint criminal enterprise liability is that it erases the difference in legal consequences between the actual murderer who does the killing and the abettor who intentionally helps how to kill (on the one hand) and the confederate who merely foresaw that this may happen (on the other)”. In the light of this statement critically analyse the constructive liability in the Indian Penal Code.
7. Write short note on any two of the following:
 - (a) Criminal Corporate liability
 - (b) Impossible attempts
 - (c) Subjective and objective liability in homicide offence.



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PAPER – CRIMINAL JUSTICE ADMINISTRATION

Time: 3 hours

Max. Marks: 50

Answer any five questions. All questions carry equal marks.

1. “Prison system is like a social cancer, we should fight to eradicate it, but never stop treating those affected by it.” In the light of this statement critically examine prison as an institution and explore the alternatives to imprisonment.
2. *State of Gujarat v. Kishanbhai* (2014) 5 SCC 108 observed that “every acquittal should ordinarily lead to the inference that an innocent person was wrongfully prosecuted.” Critically analyse the role of prosecution and investigation in the light of the observations in this case.
3. “There is a sense of fear (in trial courts in granting bail in heinous offences) which we must confront because unless we do that we are going to render our district courts toothless and our higher courts dysfunctional”. Examine the concerns of this statement while discussing discretion in granting bail.
4. Fair trial principles need to evolve with changing times and demands. Comment.
5. Rejection of mercy petitions or commutation to life imprisonment is fraught with inconsistencies. Comment.
6. “Victimology which involves the state rather than the victim serves a conservative crime control agenda and has increased the power of state in Criminal Proceedings”. In the light of this statement examine the development in victimology in the Indian Criminal Justice Administration.
7. Write short note on any *TWO* of the following:
 - (a) Critical analysis of plea bargaining
 - (b) Inquisitorial and adversarial system
 - (c) Probation of Offender Act, 1958 is the most under utilized statute

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PAPER – CENTRE STATE RELATIONS

Time: 3 hours

Max. Marks: 50

Answer any five questions. All questions carry equal marks.

- Q.1. Our Constitution has important federal features, and the idea of federalism was borrowed from other jurisdictions. The fight between the Union and the States is frequently on display in modern times, and this has had a significant impact on the relationship between the two. Write in detail, suggesting ways to reduce the frictions between the Union and the States in India.
- Q.2. For a long time, it was claimed that the President had made the proclamation in accordance with his constitutional authority under Article 356 of the Indian Constitution and that the Court could not review its legality or constitutionality. However, after the S.R. Bommai v. UOI case, the position has changed. Examine.
- Q.3. Do you agree with the statement that ‘adjudication is an unsatisfactory way of dealing with inter-state river water disputes; a negotiated settlement is infinitely superior; adjudication is divisive and leads to exaggerated claims by both sides’? Discuss
- Q.4. Articles 301 to 305 deal with ‘Trade, Commerce, and Intercourse within the Territory of India.' Do you think that the elimination of inter-state trade barriers is essential to the economic unity of the country? Discuss.
- Q.5. The Constitution contains an elaborate division of legislative power between the Union and States, as laid down in three lists in Schedule VII. In the event of a conflict between these lists, the resolution of those conflicts demonstrates how heavily centralised the federal model is. Do you agree with this statement? Elucidate.
- Q.6. Do you believe that the federalism of India is being negatively impacted by globalisation? Give a detailed answer.
- Q.7. Write short note on any *TWO* of the following:
- (a) Co-operative federalism
 - (b) Compensatory TAX
 - (c) Aspect Theory

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LL.M. (1 YEAR) SEMESTER END- EXAMINATION
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PAPER – RESEARCH METHODS AND LEGAL WRITING

Time: 3 hours

Max. Marks: 50

Answer any five questions. All questions carry equal marks.

1. Elucidate the statement “Research is a systematic investigation” and briefly explain the components of research, its nature and characteristics.
2. You are required to conduct an empirical study on the question: “Does death penalty deter crime”? Prepare a comprehensive research proposal for the same incorporating all necessary components of a research proposal.
3. The Dowry Prohibition Act, 1961 seems to be a half-hearted attempt to end the practice of dowry. The causes of dowry include greed, social status symbol, illiteracy, women empowerment, and vagueness in law. In 2021, reported dowry death cases in India amounted to nearly 6.8 thousand. Dowry is a socio-legal problem that requires broader measures such as educating and empowering women and making them independent.

In view of the above, prepare a sampling plan after examining the factors involved in failure of law to curb the menace of dowry for research on topic - “The Legal impact analysis of Dowry Prohibition Act, 1961”. While doing so, explain the different kinds of sampling.

4. The primary task of a researcher is to conduct a comprehensive literature review. At times literature review can be frustrating. However, a comprehensive literature review lays the foundation to understand different perspectives and evaluate the value addition of your current work. Do you agree with the above statements? Give a detailed answer explaining what a literature review is, its importance and how it helps in legal research?
5. A doctrinal method is sometimes seen as merely a scholarship rather than separate research methodology. Hence, there is more emphasis on carrying out multidisciplinary research as it seeks to find out how far theories are rooted in reality.

Considering this, explain Doctrinal and Non-doctrinal research methods and the difference between them.

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6. Explain the ethical considerations in doctrinal and non doctrinal research. Also make a critical appraisal of UGC norms to ensure academic integrity and quality research in higher educational institutions.
7. Write Short note on any *TWO* of the following:
 - a) Primary and Secondary Sources of law and how is it different from primary and secondary data
 - b) Case study method and its advantages and disadvantages
 - c) Difference between Inductive and deductive reasoning
