



THE INDIAN LAW INSTITUTE
(Deemed University)
NEW DELHI

LL.M. (1 YEAR) IST SEMESTER END- EXAMINATION
DECEMBER-2018

PAPER (123) – JUDICIAL PROCESS

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. In his lectures, Benjamin N. Cardozo has raised various questions, viz. What is it that I *do* when I decide a case? To what *sources* of information do I appeal for guidance? In what proportions do I permit them to contribute to the result? If a precedent is applicable, when do I refuse to follow it? At what point shall the quest be halted by some discrepant custom and so on. Discuss his questions in the light of decisions of the Supreme Court including *Subhash Kashinath Mahajan*, *Rajesh Sharma* and *Shyara Bano*.
2. Critically examine the similarities and differences between the Constitution of USA and India in context of freedom of speech and expression. While deciding Indian cases on article 19, to what extent the judicial process in India can rely on the US judgements? Are the judicial decisions in India on freedom of thought and expression in conformity with the intention of the framers of the Constitution?
3. What do you understand by the terms presumption of constitutionality, Doctrine of severability and Reading down and reading into? Illustrate these concepts with the help of case laws decided by the Constitution Benches. Can basic structure be an exclusive ground to declare an enactment unconstitutional? Give reasons.
4. What are the substantive issues in the review petition of *Arup Bhuyan v. State of Assam*, (2014)? To what extent it is correct to incorporate the dictum of *Kedar Nath Singh* (1962)? Do you think the decision of *Arup Bhuyan* (2011) is *per incurrium*? Assuming that you are a judge, how will you decide the issues in this case?
5. The constitutional validity of provisions dealing with section 497 of IPC had already been decided in few cases. However, the *ratio decidendi* of these cases could not stop the judicial process in the Supreme Court. Why? Both conservatives and liberals are criticizing the *Joseph Shine v. Union of India* decision. Elaborate with reasons and your opinion.
6. Dr. Ambedkar has not supported any of the suggestions as to the procedure of appointment of judges of Constitutional Courts in the Constituent Assembly. Why? What are your suggestions to improve the procedure of judicial appointments in the higher courts?
7. Write short notes on any TWO of the following:
 - i) Future implications of section 377 judgement
 - ii) Difference between judicial function, quasi-judicial function and administrative function
 - iii) Delay, arrear and pendency in the courts



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LL.M. (1 YEAR) 1ST SEMESTER END- EXAMINATION
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PAPER (102) – COMPARATIVE PUBLIC LAW/SYSTEMS OF GOVERNANCE

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. Discuss the meaning, ambit and scope of Comparative Public Law. What are the advantages and disadvantages of the domain/ study of Comparative Public Law?
2. What do you understand by the term constitution and constitutionalism? 'Presence of a constitution does not necessarily lead to the presence of constitutionalism'. Elaborate.
3. What do you mean by 'rule of law'? How is it different from the 'rule by law'? Compare and contrast the principles of rule of law in India and UK.
4. Discuss the concept of Federalism. The Constitution of India though federal, deliberately makes a strong Union. This Unitary-Federalism in India is a constitutional innovation because it supports a strong union *vis a vis* State. Comment.
5. "The English Constitution is one which may be amended by any subsequent Act of Parliament whereas in United States, the Constitution is very difficult to amend..." Indian position is amphibian in nature. Do you agree? Support your answer in the light of basic structure theory with relevant constitutional provisions and leading judicial pronouncements.
6. What is separation of powers? Bring out the differences pertaining to its applicability in Indian and US Constitution.
7. Write short note on any TWO of the followings:
 - a) Methods of Constitutional Review
 - b) The interface between Public Law and Private Law
 - c) Forms of Government

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LL.M. 1ST SEMESTER END- EXAMINATION
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PAPER (101) –RESEARCH METHODS AND LEGAL WRITINGS

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. What is legal research? Distinguish between the doctrinal and empirical research. Explain the merits of multi disciplinary research.
2. How do you select a research topic? Frame a research proposal on the topic of 'Role of Governor under the spirit of Constitution of India vis-a-vis present scenario'.
3. State the importance of literature review in research. As a researcher, how do you determine, whether a particular document is useful for your research?
4. How will you decide that a legal writing is well written? Write a research report on the topic you have selected for research.
5. Do ethics have any role in research? What precautions should a researcher need to take to ensure that the research is free from plagiarized material? Also state the difference between plagiarism and copyright infringement.
6. The heart of research design is the collection of data whether it is primary or secondary. What are the various types of data collection tools in research and their merits & demerits?
7. Write short note on any TWO of the followings:
 - (a) Inductive and Deductive Research
 - (b) Jurimetrics
 - (c) Observation method of data collection



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LL.M. (1 YEAR) 1ST SEMESTER END- EXAMINATION
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PAPER (111) - GENEAL PRINCIPLES OF CRIMINAL LAW

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. In order to establish criminal liability there should be a direct and foreseeable connection between the prohibited act and the resulting consequences.

Discuss in detail the two-step enquiry for causal blameworthiness. Refer to relevant case law.

2. Explain the 'same transaction' approach to concurrence. How are the limits of 'same transaction' approach addressed through the 'moral congruence' approach to concurrence?
3. Discuss subjective and objective liability in homicide provisions in the Indian Penal Code.
4. "the ordinary person standard must be informed by contemporary norms of behavior, including fundamental values such as the commitment to equality provided for in the *Canadian Charter of Rights and Freedoms*. For example, it would be appropriate to ascribe to the ordinary person relevant racial characteristics if the accused were the recipient of a racial slur, but it would not be appropriate to ascribe to the ordinary person the characteristic of being homophobic if the accused were the recipient of a homosexual advance. Similarly, there can be no place in this objective standard for antiquated beliefs such as "adultery is the highest invasion of property" (*Mawgridge*, at p. 1115), nor indeed for any form of killing based on such inappropriate conceptualizations of "honour"."

In the light of above observations from *R v. Tran*, comment on 'reasonable person's test' of provocation.

5. Alan Norrie in his analysis of omissions remarks: "the abstract individualist model is a double-edged sword. On the one hand, it is a form of exclusion and therefore repression because it excludes from sight the social realities which underlie criminality by virtue of a model of individual responsibility...On the other hand, it is at the same time a defence of individual right, albeit in narrow individualistic terms. Both sides of this contradictory phenomenon must be included in any analysis of criminal law."

Elucidate on the above statement in the context of criminal liability for omissions.

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6. (i) "what section 84 lays down is not that the accused claiming protection under it should not know an act to be right or wrong, but that the accused should be "incapable" of knowing whether the act done by him is right or wrong. The capacity to know a thing is quite different from what a person knows. The former is a potentiality; the latter is the result of it. If a person possesses the former, he cannot be protected in law, whatever, might be the result of his potentiality. In other words, what is protected is an inherent or organic incapacity, and not a wrong or erroneous belief which might be the result of a perverted potentiality."

In the light of the above judicial observations, critically examine the elements of the defence of unsoundness of mind. Draw on relevant case law.

(ii) Critically comment on Pre-Menstrual Syndrome as a defense under section 84 in the light of *Kumari Chandra v. State of Rajasthan*.

7. Write short note on any TWO of the followings:

- i) Law of Impossible attempts in India
- ii) Provisions of Criminal Conspiracy and Reform proposals by 42nd report of the Law Commission of India
- iii) Conceptual distinction, if any, between the two illustrations of section 81 of the IPC

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LL.M. (1 YEAR) 1ST SEMESTER END- EXAMINATION
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PAPER (121) - 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. Elucidate the jurisprudential background of Fundamental Rights under Indian Constitution. Also examine the concept of 'constitutional morality' in the light of recent judicial pronouncements.
2. Critically examine the term 'Other Authorities' under Art 12 of the Indian Constitution. Discuss with the help of judicial decisions.
3. Critically analyze the following statement with the help of leading and recent judicial decisions. 'Right to freedom of speech and expression guaranteed under Article 9(1)(a) is indispensable for the development of one's own individuality and for the success of parliamentary democracy'.
4. Analyze the scope and ambit of Right to Freedom of Religion guaranteed under Article 25 to 27 of the Constitution in the light of recent judicial pronouncements.
5. Analyze the Minority rights provided within the constitutional parameters. Also examine the relevant judicial interpretations.
6. Critically examine the differences between articles 32 and 226 of the Indian Constitution.
7. Write short note on any TWO of the followings:
 - a) Ninth Schedule of the Constitution
 - b) Reasonable Restrictions on Fundamental Rights
 - c) Writ of Habeas Corpus



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LL.M. (1 YEAR) 1ST SEMESTER END- EXAMINATION
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PAPER (122) - CENTRE - STATE RELATIONS

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. "The whole federal scheme of the Constitution of India revolves around distribution of legislative powers between the Union & the States." Discuss.
2. "India is an indestructible Union and destructible States." Explain in the light of provisions relating to formation and alterations of boundaries of the State in the Constitution.
3. Discuss the restrictions on legislative powers of the Union and the States with regard to Inter-State trade and commerce. Refer leading and recent judicial pronouncements.
4. Briefly explain the salient features of cooperative federalism envisage under the Constitution of India. How is it different from "Collaborative Federalism"?
5. Critically examine the composition and the decision making process of the Goods & Service Tax Council (GSTC).
6. The Constitution of India is "amphibian --- it can move either on the federal or on the unitary plane ---". Discuss the effect of proclamation of emergency on the Centre-State Relations in the light of the above statement.
7. Write short note on any TWO of the following:
 - (a) Doctrine of Repugnancy
 - (b) Inter-State Council
 - (c) Creation of All India Services



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LL.M. (1 YEAR) 1ST SEMESTER END- EXAMINATION
DECEMBER-2018
PAPER (112) – CRIMINAL JUSTICE ADMINISTRATION

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. The purpose of criminal procedure is not merely to administer technical steps of a trial but has multiple purposes and each one is complex. Comment.
2. Packer in his book *The Limits of Criminal Sanction* talks about “allocation of competences”. In light of that examine the prosecution system in India. Also refer to decided cases.
3. Although the right to bail is intended to prevent the imposition of punishment prior to conviction – the judicial discretion involved in the bail system ends up precisely permitting that result. In light of this statement discuss the bail provisions in CrPC, 1973. You are required to supplement your answer with case law.
4. Critically examine “appropriate government” in sections 432 and 433 CrPC. Also examine the latest judicial trend of giving life imprisonment for fixed years without remission.
5. “An important challenge today is in creating and exploring new terrains of justice where prison no longer serves as our major anchor.” Comment.
6. “A variety of philosophers and legal scholars have questioned whether any “truth” exists out there that is knowable and stable.” In such a view give your take on the Malimath Committee recommendations on the adversarial system of trial.
7. Write short note on any two of the following:
 - (a) Plea bargaining
 - (b) Victim compensation
 - (c) Pardoning power



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LL.M. (1 YEAR) IST SEMESTER END- EXAMINATION
DECEMBER-2018

PAPER (114) - GENDER AND CRIMINAL LAW

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. "The dominant approach is to characterize sex workers in India as victims, whose work is determined by economic hardship and other coercive circumstances. This approach is located on an East / West binary, and assumes that choice is possible in the West, while economic oppression in Asia is so all-encompassing that the very possibility of choice or agency is negated."

Do you agree with the above position? Answer while addressing concerns generated by the Anti-trafficking Bill, 2018.

2. "Indian women faced a twofold challenge in colonial courtrooms. Not only were they subjected to British legal presumptions about false charges, they also had to contend with specifically colonial ideas about the unreliability of native witnesses and other prejudicial ideas about Indian culture. Indian rape victims were doubly suspect suspects."

Discuss in detail while elaborating on the category of 'doubly suspect suspects'.

3. (i) "The shift from 'Hicklin' to 'Community Standard' test in the determination of obscenity may not necessarily challenge to dominant sexual normative order." Comment in the light of your reading of *Aveek Sarkar's* case.

(ii) "Pornography can be friend to women." Do you agree? Give reasons.

4. "Mens Rea is gendered." Comment. Draw upon course readings and case laws.
5. Drawing upon readings and class discussion, discuss the possibilities of a principled, feminist position on death penalty.

6. In "Sexcapades and the law", feminist legal scholar, Ratna Kapur argues that in our overwhelming focus on sexual wrongs and sexual violence, we have not only failed to create any space for the expression and enforcement of sexual rights but also produced a "static, victimized politics for women".

In the light of #Me Too movement and Sexual Harassment laws in India, discuss the contemporary relevance of Ratna Kapur's position.

7. Write short note on any TWO of the followings:

- i) *Navtej Johar v. Union of India*
ii) *Mahmood Farooqui v. State (Delhi High Court)*
iii) *Joseph Shine v. Union of India*



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LL.M. (1 YEAR) 2ND SEMESTER END- EXAMINATION
MAY-2019

LAW AND JUSTICE IN A GLOBALIZING WORLD

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

- Q.1 Define cosmopolitanism. Explain in detail about four types of cosmopolitanism elaborated by Thomas Pogge.
- Q.2 Define globalization and discuss its impact on economic, social, political and cultural aspects on a sovereign state.
- Q.3 John Rawls in his book *A Theory of Justice* presents the term 'primary social goods'. Explain in detail, what are the primary social goods according to John Rawls?
- Q.4 In "*The Law of Peoples*", John Rawls explicitly tackles the question of Justice between societies. Rawls theory states that the liberal state has duty of assisting burdened societies and in this process burdened societies benefit more than the liberal state. Do you agree with this statement? Elucidate with examples.
- Q.5 Do you think that the replacement of Commission of Human Rights (CHR) in 2006 by the Human Rights Council (HRC) has brought significant changes in promotion and protection of Human Rights at the international level? Explain in detail.
- Q.6 Inclusion of right to self-determination under both Covenants (International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights) was an important development by making this right a justifiable right. However, procedural requirements under the Optional Protocol I have prevented Human Rights Committee (HRC) to develop strong jurisprudence on the right to self determination. Discuss.
- Q.7 Write short notes on any two of the following
- a) Distributive Justice
 - b) Humanitarian Intervention
 - c) IPR and Human Rights
 - d) Transitional Justice



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LL.M. (1 YEAR) IIND SEMESTER END- EXAMINATION
MAY-2019

INTELLECTUAL PROPERTY RIGHTS AND PUBLIC POLICY

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. What flexibilities were infused under the TRIPS Agreement to address the public health concerns of developing countries? To what extent the Patents Act, 1970 as amended in 2005 has been successful in ensuring availability of drugs and medicines at reasonable affordable price. Discuss the role of recent landmark judgments by Indian Courts in this regard.
2. Discuss in detail the subject matter of patentability under Patents Act, 1970. Unlike US Patent law, the Indian law has a detailed layout of non-patentable inventions. To what extent this helps us in ascertaining and analysing the extent and scope of patentability to suit to the socio-economic requirements peculiar to India.
3. What is traditional knowledge? How the collective rights of communities/ indigenous people over biological resources and traditional knowledge can be protected in India under the existing legal framework? What are the provisions on prior informed consent and access and benefit sharing in India under the Biological Diversity Act, 2002 and Protection of Plant Varieties and Farmers' Rights (PPVFR) Act, 2001?
4. What are the economic justifications for the protection of trademarks? How the trademark protection serves the consumer interest too while protecting the proprietary right of the trademark owner?
5. "There must be some minimal degree of creativity and what should be protected by copyright are the fruits of intellectual labour and not just sweat of the brow". Explain the concept of 'originality' in the context of the aforesaid statement and how it serves public interest?
6. Explore the linkages between agricultural biotechnology, intellectual property rights and its implications to food security.
7. Write short notes on any TWO of the following:
 - (i) Farmers Rights
 - (ii) Criminal liability under copyright
 - (iii) Difference between Passing off & Infringement in Trademarks
 - (iv) access to knowledge in copyrighted works in digital environment



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LL.M. (1 YEAR) IIND SEMESTER END- EXAMINATION
MAY-2019

SOCIO ECONOMIC CRIMES

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. Critically examine the differences between 'Traditional Crimes' and 'Socio Economic Crimes'. Also explain the application of *Mens Rea* in Socio Economic Crimes.
2. Analyze the nature and dimensions of the concept of "Privileged Class Deviance". What is the role of this concept in the emergence of "Socio Economic Crimes".
3. Examine how the 'Socio Economic Offences' originated in the International arena. Also state the various reasons for the emergence of socio-economic crimes internationally.
4. Describe the offences mentioned under the Prevention of Corruption Act, 1988. Also analyze the judicial interpretations relating to this enactment.
5. One of the main objectives behind the enactment of the Food Safety and Standards Act, 2006 (FSSA) was to remove consumer confusion regarding the multiple food laws. Analyse how far the FSSA is successful in achieving this objective.
6. Examine the significant changes brought about by the Prevention of Corruption (Amendment) Act, 2018.
7. Write short notes on any TWO of the following:
 - a) Sutherland's theory of White Collar Crimes.
 - b) Santhanam Committee Report on Socio Economic Crimes
 - c) Various theories on 'Privileged Class Deviance'



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LL.M. (1 YEAR) IIND SEMESTER END- EXAMINATION
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GENERAL PRINCIPLES OF ADMINISTRATIVE LAW

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. "With each addition to the functions of the State, additional powers are being acquired by the administrative organs concerned, which keep the body of administrative law expanding and growing day by day." Do you agree with this statement? Substantiate.
2. "The doctrine of Separation of Powers has not been accepted in India in its strict sense. In India, not only there is functional overlapping but there is personnel overlapping as well. In principle, we go for separation of powers and dilution of powers simultaneously." Comment with examples.
3. Why is secondary legislation regarded as 'a necessary evil'? What are the controls and safeguards of delegated legislation? Discuss in the light of Indian experience.
4. 'A universal set of administrative law principles is difficult to identify and not especially desirable since primarily it is a Western construct to protect Western interests and it may impact unfavourably on developing economies'. Give a critical comment.
5. What is your observation on the statement that 'globalization of public law limits the internal democratic accountability of domestic authorities, but at the same time accrues their external democratic accountability, by imposing the obligation to regulate taking into account the foreign interests affected by the domestic decisions.' While answering also discuss the legal issues surrounding globalization of public law.
6. Does the mushrooming of tribunals undermine the judiciary? Is there any need to reform and modernise Indian tribunals? Answer by explaining the working of any two tribunals in India.
7. Write short notes on any TWO of the following:
 - (a) Arbitrariness as a ground to challenge enactment
 - (b) WTO Dispute settlement body
 - (c) Transparency and Accountability in administrative discretion



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LL.M. (1 YEAR) IIND SEMESTER END- EXAMINATION
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ENVIRONMENT PROTECTION MECHANISM IN INDIA

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. Explain "*Sic utero tuo et alienum non laedas*" as an established principle under the Customary International Environmental Law. Refer to case law.
2. Justice Krishna Iyer in the case of *Ratlam Municipality v. Vardhichand* (AIR 1980 SC 1622) states:

"Public nuisance, because of pollutants being discharged by big factories to the detriment of the poorer sections, is a challenge to the social justice component of the rule of law. Likewise, the grievous failure of local authorities to provide the basic amenity of public conveniences drives the miserable slum-dwellers to ease in the streets, on the sly for a time, and openly thereafter, because under Nature's pressure, bashfulness becomes a luxury and dignity a difficult art. A responsible municipal council constituted for the precise purpose of preserving public health and providing better finances cannot run away from its principal duty by pleading financial inability. Decency and dignity are non-negotiable facets of human rights and are a first charge on local self-governing bodies. Similarly, providing drainage systems- not pompous and attractive, but in working condition and sufficient to meet the needs of the people- cannot be evaded if the municipality is to justify its existence. A bare study of the statutory provisions makes this position clear." Explain public nuisance as enunciated in this landmark judgement and discuss this case as the evolution of environmental jurisprudence in India.

3. "...environmental law has succeeded in unshackling man's right to life and personal liberty from the clutches of common law theory of individual ownership. Examining the matter from the above constitutional point of view, it would be reasonable to hold that the enjoyment of life and its attainments and fulfilment guaranteed by Art 21 of the Constitution embraces the protection and reservation of nature's gifts without (which) life cannot be enjoyed. There can be no reason why practice of violent extinguishment of life alone would be regarded as violative of Art 21 of the Constitution. The slow poisoning by the polluted atmosphere caused by environmental pollution and spoliation should also be regarded as amounting to violation of Art 21 of the Constitution." Explain the aforementioned excerpts from a landmark decision regarding the scope of Art 21, in environment protection.
4. The Directive Principles of State Policy represent the socio-economic goals which the nation is expected to achieve. The Directive Principles form the fundamental feature and the social conscience of the Constitution and the Constitution enjoins upon the State to implement these directive principles. Explain the provisions of Directive Principles of State Policy pertaining to protection of environment. Refer to leading decisions.

5. Critically evaluate the objectives and the provisions of the Environment (Protection) Act, 1986. Do you feel that the provisions of the Act are consistent with the purpose for what they were enacted. Also give the historical background of the legislation in brief.
6. Explain the scope of the National Green Tribunal Act, 2010. Elucidate the jurisdiction and powers of the Tribunal in effective and expeditious disposal of cases relating to environmental protection.
7. Write Short notes on any TWO of the following:
 - a) Role of Religious doctrines for the protection of environment
 - b) Preservation of flora and fauna
 - c) Environmental crimes



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LL.M. (1 YEAR) IIND SEMESTER END- EXAMINATION
MAY-2019

NATIONAL SECURITY, TERRORISM AND FUNDAMENTAL RIGHTS

Time: 3 hours

Max. Marks: 50

Answer any Five questions. All questions carry equal marks.

1. How has the Constitution of India responded to the issue of national security? Who can be termed as anti-national? Do you think "terrorism" should be expressly incorporated in the seventh schedule of the Constitution? Give reasons.
2. While the Indian Penal Code, 1860 has various provisions to address the threat to national security, the Parliament and the State legislature have passed a number of enactments for this purpose. Critically evaluate the *desirability* of special or local legislations on national security? What are the trends in the UK?
3. How will you find the *ratio decidendi* of *Kedar Nath Singh* (AIR 1962 SC 955) case? A gathering in a University raised certain slogans many times. A high court order recognises these slogans as "Afzal Guru Maqbool Bhatt Jindabad, Bharat Ki Barbadi Tak Jung Rahegi Jung Rahegi, Go India Go Back, Indian Army Murdabad, Bharat Tere Tukde Honge- Inshaallaha Inshaallaha, Afzal Ki Hatya Nahi Sahenge Nahi Sahenge, Bندوق Ki Dum Pe Lenge Aazadi." Is it correct to state that these slogans are legitimised by the Supreme Court in *Balwant Singh* case (AIR 1995 SC 1785). Give reasons.
4. Critically examine the "rights" discourse in the constitutional validity of national security laws in India since 1950.
5. Explain whether punishing membership of a terrorist organisation is an illustration of inchoate crimes or is it a symbol of over-criminalisation. Are the provisions of membership crime under the Indian law against the US doctrine of "clear and present danger" and therefore, violative of Article 19 as well as Article 21 of the Constitution of India? Discuss.
6. Abolitionists argue that the root cause of terrorism and secessionist movement in Kashmir is Article 370 of the Constitution of India. On the other hand, retentionists warn that any modification under Article 370 will further complicate the problem of national security in India. Critically examine the competing claims of abolitionists and retentionists.
7. Write short notes on any two of the following:
 - a) Need of article 34 of the Constitution of India
 - b) Section 108 of CrPC 1973 and Seditious content
 - c) UN declaration of global terrorist
