



THE INDIAN LAW INSTITUTE
(Deemed University)
NEW DELHI

ANNUAL EXAMINATION-MAY 2013

LL.M. 2 YEAR, 2ND SEMESTER / 3 YEAR, 3RD SEMESTER

CRIMINAL LAW - II

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. Distinguish between clause (c) of section 299 and clause 4thly of section 300 of the Indian Penal Code. Elucidate the relevant states of mind (*mens rea*) referred to in these two provisions. Do you think the subjective knowledge of the accused as to the final consequence (i.e. death) is required to be proved to bring the case within the ambit of clause 4thly of section 300 of IPC? Explain.
2. Discuss the law relating to criminal liability for medical negligence in India in the light of relevant case law.
3. What are the facts that are required to be proved before raising the presumption of 'dowry death' under section 304-B of IPC? Whether such presumption is rebuttable? Explain in the light of case law.
4. Do you think section 370 of IPC-substituted by the Criminal Law (Amendment) Act, 2013, defines and comprehensively criminalizes the 'trafficking of persons'? Discuss in the light of the definition of 'trafficking in persons' provided under the United Nations Palermo Protocol.
5. Critically examine the law relating to corporate criminal liability in India. State whether corporations can be held liable for offences involving mandatory corporeal punishment.
6. What are the essential ingredients and distinguishing features of the offences of 'criminal misappropriation' and 'criminal breach of trust'? Discuss in the light of case law.
7. Write short notes on any TWO of the following:
 - (i) Criminalization of environmental violations
 - (ii) Cyber terrorism
 - (iii) Criminalization of marital rape

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ANNUAL EXAMINATION-MAY 2013

LL.M. 2 YEAR, 2ND SEMESTER / 3 YEAR, 3RD SEMESTER

INTELLECTUAL PROPERTY RIGHTS - II

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. "India with the Copyright (Amendment) Act, 2012 became the most progressive exception for persons with disabilities". Do you agree with this statement? Substantiate.
2. Explain the concept 'fair dealing' giving due importance to the recent amendments to section 52 of the Indian Copyright Act. Examine the judicial treatment of fair dealing as an exception to 'copyright infringement'.
3. What are the 'works' qualified for copyright protection under Indian Law? Can facial make up be protected as painting qualified for artistic copyright? Explain your answer with the help of case laws?
4. What do you mean by circumvention? What are the inbuilt mechanism the Indian copyright law has to be prevent circumvention? Also explain the relevant provisions in WIPO Copyright Treaty, 1996.
5. State the rationale behind the protection of industrial designs. Comment on the TRIPS regime on the protection of industrial designs. Explain with the help of case laws piracy of registered design?
6. Comment on the international legal regime on the protection of semiconductor integrated circuits layout-design. Does the Indian law comply with the international obligations in this regard?
7. Attempt short notes on any TWO:
 - (iv) *De minimis* principle
 - (v) Database protection
 - (vi) Interface between copyright law and design law

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ANNUAL EXAMINATION-MAY 2013

LL.M. 3 YEAR, 4TH SEMESTER/ 2 YEAR, 3RD SEMESTER
CORPORATE LAW - I

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. Scholars generally agree that 'Freedom of Contract' means different things in different contexts. In India, there have been radical changes in 'freedom of contract' when the nation moved from *Licence Raj to Economic Liberalization* and *Globalization* coupled with e-commerce. Critically analyze.
2. "Corporations are, after all, legal persons. They represent important human interests, and there is no reason in principle why they ought not to have human rights as well as ... constitutional rights." Elucidate the statement.
3. Growth of law relating to 'standard form of the contract' in common law countries have always been complex as it involves the task of balancing the interests of economic efficiency on the one hand and protecting innocent consumers from unjust terms on the other hand. Now in the era of e-commerce these challenges are even more complex. Explain.
4. What is Limited Liability Partnership? How is it different from a partnership and a company?
5. Each contract is composed of a number of contractual terms as desired and agreed by the parties. The courts, legislatures and customs have also implied terms to these contracts. The nature and import of those terms and the form that they may take can vary. Critically analyse.
6. The question as to whether corporate powers are to be held in 'trust for shareholders' or in 'trust for the entire community' was a question that has been debated for long. Write your stand on this in the light of concepts like 'corporate social responsibility' and 'corporate crimes'.
7. Write note on any TWO of the following:
 - a. Oppression and Mismanagement
 - b. Developments in the doctrine of *Ultra Vires*
 - c. Contract or Bailment



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ANNUAL EXAMINATION-MAY 2013

LL.M. 3 YEAR, 4TH SEMESTER

HUMAN RIGHTS - I

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. How universalism and cultural realism affect each other? Discuss how the debate between universalism and cultural realism has emerged as a point of friction in international politics.
2. Elaborate the rights and duties relationship as expounded by Salmond. Explain how Austin differ from Salmond in this regard.
3. Explain the historical development of human rights with reference to the contribution of the Natural Law School by various philosophers.
4. Critically examine the social contract theory. Do you feel that this theory is more akin to the institutions of International law constituted for the development of Human Rights?
5. Discuss the contribution of the customary international law to the Development of Human Rights in the present era.
6. What are civil and political rights? How the Human Rights Committee monitors the implementation of the International Covenant on Civil and Political Rights?
7. What do you mean by 'derogable' and 'non-derogable' rights? Explain the status of non-derogable rights during emergency.
8. Write notes on any TWO of the following:
 - a. American Bill of Rights
 - b. Evolution of international human rights law
 - c. Bentham's critique on rights

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SEMESTER END EXAMINATION-MAY 2013

LL.M. 2ND SEMESTER (2 YEAR)/ 3RD SEMESTER (3 YEAR)

INTELLECTUAL PROPERTY RIGHTS - III

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. The political debates are centred on the proposition that until we have a globe that is more equal we cannot justify a *Global Regime of Patents* that attempts to treat all countries and regions similarly when knowledge is made a property. Explain.
2. Critically evaluate the dynamic relationship between protection of IPRs, Technology Transfer and Commercialisation of Traditional Knowledge in India.
3. There exists a broad division between developed and developing countries in the implementation of the Convention on Biological Diversity as each country is entitled to frame its own law in sectors of strategic interests. Analyse the statement in the Indian context.
4. Discuss the politico-legal discourse about India having adopted measures forcing a deeper transformation of Indian Patent Act, 1970 in conformity with the TRIPS standards.
5. India has been a central proponent of harmonization of Farmers' Rights not only at the national, but also at the international level ever since 1980's. Examine the areas of concurrence and conflict in the obligations that the country has towards various international and regional agreements, which culminated in the enactment of the Protection of Plant Varieties and Farmer's Rights Act, 2001.
6. Intellectual Property in the international arena is a highly treaty-bound area, in which the international aspect goes largely toward enabling the enforcement of private rights across borders. In this context, examine the recent controversies relating to biotechnological patents.
7. Write short notes on any *two*:
 - a) Software Patents
 - b) Budapest Treaty
 - c) Patent vis-à-vis Utility Model



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SEMESTER END EXAMINATION-MAY 2013

LL.M. 2ND SEMESTER (2 YEAR)/ 3RD SEMESTER (3 YEAR)

CRIMINAL LAW - III

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. Explain the salient features of Crime Control Model and Due Process Model of criminal justice system. Do you think India should switch over to the Crime Control Model in order to address the problem of low conviction rate? Elucidate.
2. What are the powers and duties of the investigating officer? Explain, in the light of case law, the scope of judiciary's power in regulating police investigation.
3. What are the rights guaranteed to the arrested persons under the Indian Constitution? Explain how the Supreme Court of India has contributed to the strengthening of those rights.
4. What are the components of fair trial? To what extent the principles of fair trial have been incorporated in Indian law? Critically examine.
5. Explain the law relating to withdrawal of prosecution in India in the light of relevant case law.
6. Critically examine the law relating to bail in India with special reference to powers of the court to grant and cancel bail.
7. Write short notes on any TWO of the following:
 - i. Right against self incrimination
 - ii. Criminal Appeal
 - iii. Compensation to victims

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ANNUAL EXAMINATION-MAY 2013

LL.M. 4TH SEMESTER, 3 YEAR

CORPORATE LAW - II

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. According to Redfern & Hunter in International Commercial Arbitration, “even a comparatively simple international arbitration may require reference to at least four different national systems or rules of law.” Explain this complexity with reference to different national systems that apply in an international commercial arbitration which is generally understood as “Applicable laws.”
2. “The main purpose of Competition Act is to promote healthy competition”. Explain the provision in competition Act dealing with abuse of dominant position and discuss the kind of agreements affecting such competition which are prohibited by the Competition Act.
3. FDI results in shifting of comparative cost advantage. Discuss with reference to the characteristics of India FDI Policy.
4. Discuss the institutional mechanism of WTO and the important agreements entered into at the Uruguay Round of trade negotiations.
5. Critically analyse the legal issues involved in E-Commerce.
6. “Consent is basis of arbitration”. Discuss the meaning and necessities for validity of an “arbitration agreement” and also the concept of “autonomy of parties”.
7. Write short notes on any two of the following:
 - (a). Procedure for redressal of Consumer Disputes
 - (b). Unfair Trade Practice
 - (c). Kinds of Mergers

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ANNUAL EXAMINATION-MAY 2013

LL.M. 3RD SEMESTER, 3 YEAR
HUMAN RIGHTS - II

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. "History shows that when societies trade human rights for security, most often they get neither". Critically examine the current rhetoric of War on Terror in light of the above statement.
2. Critically examine the Convention on the Elimination of Discrimination against Women. Also comment on India's reservations.
3. Article 7 of Convention No. 169 states that indigenous and tribal peoples have the "right to decide their own processes for development as it affects their lives, institutions and spiritual well being and the lands they occupy or otherwise use, and to exercise control over their economic, social and cultural development". How, according to you, should sovereign states respond to these rights mentioned above, which, if literally translated are almost political in nature.
4. Discuss the impact of science and technology on human rights by giving specific examples.
5. The states want to appear to believe in a moral, humanitarian imperative to protect individuals seeking refuge, yet, on the other hand, due to economic and other compulsions they are reluctant to permit entry of nationals of the states. How can the states reconcile this duality and which interest according to you should be given weightage-human centred interest or state centred interest? Give reasons.
6. International human rights law and International humanitarian law are different and yet mutually reinforcing. Discuss.
7. Write notes on any TWO of the following:
 - a. Trafficking can rank as the most serious crime of concern to the International community as a whole
 - b. Differently abled rights as human rights
 - c. Rights of migrant workers



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ANNUAL EXAMINATION-MAY 2013
LL.M. 3 YEAR, 5TH SEMESTER (SUPPLEMENTARY)

CORPORATE LAW-III

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. “No salvation except through the preceptor, no credit except through the money lender.” In the light of this adage, explain the evolving position of a ‘banker’ along with the growth and development of banking Institutions in India.
2. Explain the Banker’s obligation to honour customer’s cheques, consequences of a wrongful dishonour of customer’s cheque and duty of banker to act as per customer’s directions.
3. Examine the relevancy of Narasimhan Committee’s recommendations for improving the financial systems in India.
4. Who is a holder? Explain the legal position of the holder. In the light of Negotiable Instruments Act, how does a holder differ from a “holder in due course”?
5. Critically examine the principle of Insurable Interest and Indemnity in Insurance Contracts with the help of case law.
6. “Consumer loans should be treated as a non-essential business of banks since they trigger inflation with the growth of goods.” Critically examine this statement in the context of credit policies of commercial banks.
7. Write short notes on any TWO of the following:
 - (a) Banking Ombudsman Scheme
 - (b) Garnishee Orders
 - (c) Life Insurance of India (LIC)



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ANNUAL EXAMINATION-MAY 2013
LL.M. 3 YEAR, 5TH SEMESTER (SUPPLEMENTARY)

HUMAN RIGHTS-III

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. Explain the right to self-determination. Critically analyse India's approach towards right to self-determination.
2. Examine how far India has been able to realize the rights laid down in ICESCR.
3. Critically analyse the role played by NHRC in the promotion and protection of human rights.
4. Critically analyse the role played by the media in protecting human rights. Should there be a legislation to make media accountable for violations of human rights committed by them?
5. Discuss the rights of aged persons in India. Do they provide sufficient protection to them? Substantiate your answer with reasons.
6. Critically analyse the rights guaranteed to minorities in India and the role played by the National Commission for Minorities in protecting them.
7. Write short notes on any TWO of the following:
 - (a) Right to clean environment
 - (b) Rights of the Scheduled Tribes in India
 - (c) Right to development

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ANNUAL EXAMINATION-MAY 2013
LL.M. 2 YEAR/3 YEAR, 2ND SEMESTER
INTELLECTUAL PROPERTY RIGHTS - I

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. State your arguments for and against the protection of intellectual property rights. Can there be any alternative(s) to intellectual property? If so, in your opinion which will be the best alternative in our country?
2. Analyze the role of intellectual property rights in technology transfer. What is the impact of technology diffusion in developing countries with sufficient capacity to innovate and in those developing countries without such capacity to innovate?
3. Write a critique on *Novartis AG. v. UOI*, (Civil Appeal No. 2728 of 2013, decided on 1 April, 2013). What is the impact of *Novartis* on public health sector of India and other developing countries that depend on affordable medicines from India? Whether *Novartis* verdict has any impact on FDI in India? State your opinion.
4. Comment on the registrability of unconventional trademarks with the help of case laws. How will you judge the 'graphical representability' of olfactory (smell), tactile (touch), gustatory (taste) and sound marks?
5. What do you mean by certification trademark and collective trademark? Distinguish between the two.
6. State the advantages of registration of a geographical indication? Who can register a GI? What are the conditions for GI's registration? How a GI to be registered?
7. Attempt short note on any TWO:
 - a. Madrid system
 - b. Passing off
 - c. Distinctiveness



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ANNUAL EXAMINATION-MAY 2013
LL.M. 2 YEAR/3 YEAR, 2ND SEMESTER
CRIMINAL LAW - I

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. The maxim *actus non facit reum nisi mens sit rea* is the fundamental principle of criminal liability. However when a person is charged with attempt the intent becomes the principle ingredient of the crime. How do you reconcile the two positions of criminal liability?
2. The 'just deserts' or proportionate sentences merely reinforces existing social inequalities. They do not achieve justice as much as they confirm injustice. Do you agree with the statement? Give reasons for your answer. Also discuss the theory of punishment that you support.
3. Discuss the evolution of socio-economic offences in India. How do socio-economic offences differ from offences under the IPC? Bring out the differences with examples from NDPS Act.
4. Partial defence of diminished responsibility has been introduced in many jurisdictions. Should the defence of insanity in IPC be revised to include diminished responsibility? Give reasons in support of your answer.
5. 'The criminal justice system exists to identify process and respond to criminal activity within the community.' But the question is what makes the conduct criminal? Discuss what is crime and does morality play a role in criminal law.
6. If the right of private defence is to be based on a 'rights based approach' the penal code must not disqualify the aggressor from exercising the right of private defence. In light of this statement discuss the right of private defence under the IPC with the help of case law. Also propose reforms if, according to you, the defence is inadequate.
7. Write short note on any TWO of the following:
 - a. Impossible Conspiracy
 - b. Joint Liability under IPC
 - c. Differential Association Theory



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LL.M. 3 YEAR ANNUAL EXAMINATION-MAY 2013

2ND YEAR (REAPPEAR)
CRIMINAL LAW - IV

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. What are the factors responsible for juvenile delinquency in India? Explain.
2. Critically examine the role played by the Supreme Court of India in protecting the rights of Children in Conflict with Law.
3. Critically examine the legal approaches to delinquency control in India. Do you think enough preventive measures have been taken in India to prevent juvenile delinquency? Explain.
4. Describe the composition of Juvenile Justice Boards established under the Juvenile Justice (Care and Protection of Children) Act, 2000. What are the powers and duties conferred on Juvenile Justice Boards in relation to juveniles in conflict with law under the said Act?
5. Do you think 'Non-custodial Measures' are more appropriate than 'Custodial Measures' for the proper treatment and rehabilitation of children? Explain.
6. Critically examine efficacy of the measures taken under the Juvenile Justice (Care and Protection of Children) Act, 2000 for protection, treatment and rehabilitation of children.
7. Write short notes on any two of the following:
 - (a). "Child in need of care and protection"
 - (b). Observation Homes
 - (c). Convention on the Rights of the Child

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SEMESTER END EXAMINATION-MAY 2013

LL.M. 2ND SEMESTER (3 YEAR)/ 1ST SEMESTER (2 YEAR)

COMPARATIVE CONSTITUTIONAL LAW

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. Discuss aims and objectives of Comparative Constitutional Law. Support your answer with judicial pronouncements also.
2. What label shall we give to our Constitution-Federal, unitary or quasi-federal? Support your answer with the provisions of the Constitution, judicial pronouncement and opinions of Constitutional scholars.
3. Judicial Globalization has led to growth of Comparative Constitutional Law. Discuss.
4. Constitutional developments in worldwide in the concept of judicial review diluted the principle of democracy. Explain.
5. Parliament's power to amend the Constitution destroys Federalism. Explain the statement. Examine the role of states in amending the constitution.
6. Compare and contrast the principle of separation of powers in the Indian and American perspective.
7. Write notes on any TWO
 - a. Judicial Review
 - b. Constitutionalism and Rule of Law
 - c. Growing judicial trend to use foreign precedents



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SUPPLEMENTARY EXAMINATION-MAY 2013

1ST SEMESTER, LL.M. 2 YEAR/ 3 YEAR

JUDICIAL PROCESS

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. Explain the concept of independence of judiciary. Do you agree that the independence of judiciary not only requires non-interference of the legislature and the executive with judicial functions but it also requires the judiciary to remain independent? Elucidate.
2. Critically examine the efficacy of *Wambaugh's test* and *Goodhart method* in determining the *ratio decidendi* of a case.
3. Define 'value judgments'? Explain the scope for value judgments in judicial process. Critically examine the problems of value judgments as norms of law?
4. Explain the importance of 'literal rule' of interpretation of statutes and state the circumstances under which departure from literal rule is justifiable.
5. Critically examine the constitutionality of the concept of collegium and the rule of primacy to be opinion of Chief Justice of India in the matter of appointment of judges to the High Courts and Supreme Court?
6. Critically examine the law relating to removal of judges of the High Courts and the Supreme Court of India.
7. Write short notes on any TWO of the following:
 - (a) Inductive and Deductive Reasoning
 - (b) Reflective Judiciary
 - (c) Judicial Overreach

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