



# THE INDIAN LAW INSTITUTE

(Deemed University)

New Delhi

**End semester Examination-May- 2014**

LL.M. 2/3 YEAR, 1<sup>ST</sup> /2<sup>ND</sup> SEMESTER (SUPPLEMENTARY)

COMPARATIVE CONSTITUTIONAL LAW

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. What do you understand by the term constitution and constitutional law? 'Presence of a constitution does not necessarily lead to the presence of constitutionalism'. Elaborate.
2. Making of a Constitution can never be an exclusive process, because "there is no 'original' or 'unique' constitution. Every fundamental charter has borrowed some of its elements from the instruments of other nations." Do you agree? Give reasons with reference to the USA and Indian Constitution.
3. The constitution of India though federal, deliberately makes a strong Union. This *Uni-Federalism* in India is a constitutional innovation because it consciously conceived a strong union *vis a vis* State. The coalition government on the other hand makes the Union weak. A coalition government also challenges cabinet form of governance because it is no more a privilege of the prime minister to decide his cabinet. It is why federalism and coalition government are not supportive or complimentary to each other in India. Discuss.
4. In the case of *Suresh Kumar Koushal v Naz Foundation*, it was held by the Supreme Court that 'In fact a constitutional duty has been cast upon this Court to test the laws of the land on the touchstone of the Constitution and provide appropriate remedy if and when called upon to do so. Seen in this light the power of judicial review over legislations is plenary.' Critically examine the statement.
5. "The English constitution is one which may be amended by any subsequent [A]ct of Parliament...In the United States, by contrast, 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.
6. Rights regime in the Constitution of India ranges from enforceable rights to non enforceable rights. The Supreme Court of India, however, has diluted this classification in its enthusiasm to protect the fundamental rights of its citizen/ person in India. Discuss.
7. Write short notes on any two:
  - a. Unitary Government
  - b. Millennium Development goals
  - c. Checks and balances



**THE INDIAN LAW INSTITUTE**  
(Deemed University)  
**New Delhi**

**semester end Examination**

**May- 2014**

**LL.M. 2/3 YEAR, 1<sup>ST</sup> SEMESTER (SUPPLEMENTARY)**  
**JUDICIAL PROCESS**

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. What are the problems with the present system of appointment of judges to the Supreme Court and High Courts in India? Do you think the provisions contained in the Constitution (One Hundred and Twentieth Amendment) Bill, 2013 and the Judicial Appointments Commission Bill, 2013 would be sufficient to address those problems? Explain.
2. Critically examine the procedure envisaged under the Judicial Standards and Accountability Bill, 2010 for removal of judges. Do you think the Bill seeks to assign substantial role for the judiciary itself even in the matter of removal of judges? Explain.
3. "Constitutional Interpretation is concerned with the justification, standards and methods by which courts exercise the power of judicial review." Comment.
4. Define judicial activism. Is judicial activism a boon or bane in India's democratic polity? Explain.
5. Briefly explain the nature of judicial process as outlined by Benjamin N. Cardozo with special emphasis on different methods he has elucidated in his classic '*The Nature of Judicial Process*.'
6. Is the Supreme Court bound by its own previous decisions? Discuss in the light of case law.
7. Write short notes on any TWO of the following:
  - a. Wambaugh's test
  - b. Brandies brief
  - c. Value judgements in judicial process

\*\*\*\*\*



**THE INDIAN LAW INSTITUTE**  
(Deemed University)  
**New Delhi**

**End semester Examination-May- 2014**

**LL.M. 2/3 YEAR, 2<sup>ND</sup> SEMESTER**

**IPR-I: CONCEPT, LAW OF TRADEMARKS AND GEOGRAPHICAL INDICATION**

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. Intellectual Property rights play an important role in the economic, technological and cultural development of a country. The law on intellectual property rights, however, minimizes competition by conferring exclusive rights on the owners of IPRs for a specific period. Do you think that a law which minimizes competition and promotes monopoly is good for the society? Discuss.
2. What are non-traditional trade marks? Discuss with the help of case law, the problems being faced in their registration worldwide.
3. How geographical indications are provided protection under the TRIPs Agreement? How are they protected in India? What should be the stand of India at international level to get better protection for geographical indications?
4. Discuss the tests propounded by the courts in deciding the issue of deceptive similarity under the relative grounds for refusal of registration of a trade marks? Can the Registrar register identical or similar trade marks in the name of different persons under the Trade Marks Act, 1999?
5. What constitutes infringement action in case of a registered trademark under Trade Marks Act, 1999? Discuss what more is necessary to be proved in case of unregistered trade mark so that passing off action may be successful. Explain with the help of *Parley Products v. J. P. & Co.* (1972) 1 SCC 618 and *Cadila Heath Care Ltd. v. Cadila Pharmaceutical Ltd.* (2001) 5 SCC 73. Will it make any difference if the products are medicinal products?
6. What is the principle of exhaustion? Explain with the help of case law whether the Trade Marks Act, 1999 embodies the Principle of National Exhaustion or International Exhaustion.
7. Write short note on any TWO of the following:
  - (i) Protection of domain names
  - (ii) Well-known trade marks
  - (iii) Differences between collective trade marks and geographical indications



**THE INDIAN LAW INSTITUTE**  
(Deemed University)  
**New Delhi**

**End semester Examination-May- 2014**

LL.M. 2/3 YEAR, 2<sup>ND</sup> SEMESTER  
CRIMINAL LAW-I: GENERAL PRINCIPLES

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. "In fact, criminal offences are basically the creation of the criminal policy adopted from time to time by those sections of the community, who are powerful or astute enough to safeguard their own security and comfort by causing the sovereign power in the State to repress conduct which they feel may endanger their position." Do you agree? Explain.
2. Explain the principle *actus non facit reum nisi mens sit rea*. What are the subjective and objective standards of *mens rea* that are generally referred to in the definitions of crime? Explain.
3. Discuss the evolution of socio-economic offences in India. In view of the proliferation of many socio-economic offences under different statutes, do you think there is 'overcriminalization' in the country? Elaborate.
4. Is there a substantial difference between the clause "in furtherance of common intention" (section 34, IPC) and "in prosecution of common object" (section 149, IPC). Discuss. Also highlight the extent to which section 34 and section 149 overlap with each other.
5. "Limitations on right of private defence is as important as right of private defence itself." Explain the statement in the light of provisions under IPC and the rationale behind them.
6. "Judicial punishment can never be used merely as a means to promote some other good for the criminal himself or for civil society, but instead it must in all cases be imposed on him only on the ground that he has committed a crime." Do you agree? Explain the contemporary relevance of retributive theory of punishment with reference to the punishments prescribed under the Criminal Law (Amendment) Act, 2013.
7. Write short note on any TWO of the following:
  - (i) Doctrine of *locus poenitentiae*
  - (ii) Impossible conspiracy
  - (iii) Necessity as a defence



# THE INDIAN LAW INSTITUTE

(Deemed University)

**New Delhi**

**End semester Examination-May- 2014**

LL.M. 2/3 YEAR, 3<sup>RD</sup> /4<sup>TH</sup> SEMESTER  
HUMAN RIGHTS-I: CONCEPT AND HISTORICAL DEVELOPMENT

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. Human Rights are distinguished from other moral rights in so far as they possess the following inherent characteristics: universality, individuality, paramountancy, practicability and enforceability. Elaborate these components giving suitable examples.
2. Professor Hart's thesis is that, given the recognition of the moral value of individual freedom, each and every man and woman capable of choice has a natural right to be free. Comment.
3. What are human rights? What are the difficulties in defining and conceptualizing human rights? Briefly explain whether there is a hierarchy of rights.
4. The right to a fair trial is an ancient one and is synonymous with the trial process itself. Explain the characteristics and components of a fair trial as contained in the International Covenant on the Civil and Political Rights.
5. Globalization seems to have questioned the frontiers of relativism which recommends guarding jealously the values of cultural identity, uniqueness and distinctiveness. Examine major implications of globalization on relativism and discuss the concepts involved in globalization and relativism.
6. Briefly explain 'derogable' and 'non-derogable' rights as contained in the ICCPR. What is the status of non-derogable rights when a state is facing public emergency?
7. Write short note on any TWO of the following:
  - (a) Future of Economic and Social Rights
  - (b) The Right to Self-determination
  - (c) UN Mechanism for the Protection of Human Rights

ψψψψψ



# THE INDIAN LAW INSTITUTE

(Deemed University)

**New Delhi**

**End semester Examination-May- 2014**

LL.M. 2/3 YEAR, 3<sup>RD</sup> /4<sup>TH</sup> SEMESTER  
CORPORATE LAW-I: FOUNDATIONS OF CORPORATE LAW AND POLICY

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. “Among the non-executive directors are independent directors, who have a key role in the mosaic of corporate governance”. Explain the above statement, and highlight the multiple functions performed by the independent directors under the Companies Act, 2013.
2. Distinguish between the shareholder and stakeholder models of governance. What initiatives have been taken in India to ensure the adequate representation of the shareholders in the governance of the Companies?
3. What are the fundamental legal characteristics of a Company? Briefly explain how a Company differs from a Partnership and Sole Proprietorship.
4. The process of auditing is significant for achieving corporate, excellence and investor protection in India. In this regard, what are the applicable statutory regulatory standards to empower and enable the auditors in maintaining integrity and objectivity in auditing?
5. State the extent of civil and criminal liability of Companies in India? How relevant is the principle of lifting of corporate veil for correcting the misuse of the separate legal status of the Company?
6. The “social responsibility of corporations” is predominantly governed by global and domestic instruments (binding and non-binding). In this regard, what initiatives have been taken in the Indian corporate sector for instilling values of “ethical business” or “corporate social responsibility”?
7. Write short note on any TWO of the following:
  - a. Related Party Transactions
  - b. Winding Up of a Company
  - c. Principles governing International Commercial Contracts



# THE INDIAN LAW INSTITUTE

(Deemed University)

**New Delhi**

**End semester Examination-May- 2014**

**LL.M. 2/3 YEAR, 1<sup>ST</sup> SEMESTER (SUPPLEMENTARY)**  
**LEGAL RESEARCH METHODOLOGY & RESEARCH**

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. Define research. Distinguish between empirical and doctrinal research. Do you agree that inter-disciplinary research should be undertaken with clear understanding of different disciplines and objectives of the research project.
2. Explain the difference between the objective and hypothesis of the research. Do you agree that without a clear understanding of the research area and its objective, formulation of hypothesis would be difficult?
3. What do you understand by sampling? What are the different types of sampling? Do you agree that without following correct sampling procedure, the results would be misleading?
4. Explaining interview, questionnaire and schedule, discuss that they are not substitutable methods.
5. Discuss the role of judges, academicians and law commission in bringing about law reform in our country.
6. Discuss how you would write a dissertation in Law? How would you systematically treat the subject for writing your dissertation?
7. Write notes on any TWO of the following?
  - (a) Copy with infringement
  - (b) Use of Constituent Assembly Debates
  - (c) Participant observation

ψψψψψ



# THE INDIAN LAW INSTITUTE

(Deemed University)

**New Delhi**

**End semester Examination-May- 2014**

**LL.M. 2/3 YEAR, 2<sup>ND</sup> /3<sup>RD</sup> SEMESTER**

**IPR-II: LAW OF COPYRIGHT, INDUSTRIAL DESIGN AND LAYOUT DESIGN OF  
INTEGRATED CIRCUIT**

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. Critically examine the recent amendments made in Copyright (Amendment) Act, 2012. Do you think these amendments further strengthen the existing copyright regimen in India?
2. There is a shift from 'Sweat of Brow' test to 'Flavour of Creativity'. While explaining the above two phrases, clarify the mode and manner of measuring the infringement of copyright. Refer to decided case law.
3. A. What do you mean by International Copyright?  
B. Discuss the Role of Copyright Societies in promotion and protection of copyright.
4. Is registration of copyright mandatory? What are the advantages of registration of copyright? Explain with the help of decided cases.
5. Explain the salient features of Designs Act, 2000. Also explain the basic features of design as laid down in the Designs Act, 2000.
6. Discuss the rights and duties of Design holder. How can he protect his design from infringement?
7. Write short note on any TWO of the following:
  - a. Prohibition of Registration of certain Layout Designs
  - b. Provisions of TRIPS related to Layout Designs of Integrated Circuits
  - c. Term of Copyright

ψψψψψ





# THE INDIAN LAW INSTITUTE

(Deemed University)

**New Delhi**

**End semester Examination-May- 2014**

**LL.M. 2/3 YEAR, 2<sup>ND</sup> / 3<sup>RD</sup> SEMESTER**  
**CRIMINAL LAW-II: SPECIFIC CRIMES**

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. In the light of the decision of apex court in *Virsa Singh v. State of Punjab* AIR, 1958 S.C. 465 discuss whether the subjective and objective criteria for determining the “sufficiency” of injury is conjunctive or disjunctive.
2. An offender can take the recourse of provocation only when it is grave and sudden. Elucidate. Is provocation a partial defence? Give reasons.
3. Human Trafficking is the second largest transborder crime globally. To tackle this problem domestic legal regime seems to be insufficient hence some universal law is necessary to deal with it. Comment.
4. Criminal Law Amendment Act (2013) has brought changes in Laws relating to offences against women. Critically analyse the changes made and their effects.
5. The old and limited concept of corporate criminality has undergone great shift, particularly in the post scam related era in India. Critically analyse the new concept of corporate criminality and need for its control.
6. Basically it is the method of obtaining “possession” coupled with intention which makes the difference between theft, criminal breach of trust and criminal misappropriation. Discuss bringing the difference among all three.
7. Write short note on any TWO of the following:
  - a. Environmental Crimes
  - b. Cheating
  - c. Dowry death



# THE INDIAN LAW INSTITUTE

(Deemed University)

New Delhi

**End semester Examination-May- 2014**

LL.M. 2/3 YEAR, 3<sup>RD</sup> /4<sup>TH</sup> SEMESTER  
HUMAN RIGHTS-II: INTERNATIONAL PERSPECTIVE

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. Evaluate the conflicting values of national security and human rights. Which is of greater value as per your estimation? Can these values be made dependent on specific situations or crime type or should they remain same irrespective of the situation?
2. 'Childhood' is a phase of innocence coupled with incapacity during which young need to be protected from their own immaturity and sheltered from adult experiences and adult responsibilities. In light of this statement give your views on child rights as envisaged under Convention on the Rights of Child.
3. There has been a paradigm shift in approach as far as indigenous people are concerned – from assimilation to right of self determination. Critically examine the international instruments dealing with rights of the indigenous population bringing out the significance of the changed approach.
4. Nothing in human experience is more disgusting and profoundly depressing as genocide. Comment.
5. "Humanitarian interventions involve issues of sovereignty, rule of law and relationship between powerful states and weak states". Discuss whether there is a legal right of humanitarian intervention and taking suitable examples bring out the practical dilemmas faced by international actors before, during and after intervention.
6. Trafficking is a crime with transnational dimensions. It is increasingly being recognized as the 'most serious crimes of concern to the international community as a whole' or *delicta juris gentium*. Comment.
7. Write short notes on any TWO of the following:
  - i. Piracy
  - ii. Prohibition of Torture as an international norm of *jus cogens*
  - iii. Rights of internally displaced persons



# THE INDIAN LAW INSTITUTE

(Deemed University)

**New Delhi**

**End semester Examination-May- 2014**

**LL.M. 2/3 YEAR, 3<sup>RD</sup> /4<sup>TH</sup> SEMESTER**  
**CORPORATE LAW-II: CORPORATE GOVERNANCE AND PUBLIC POLICY**

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. Write an explanatory note on the World Trade Organization (WTO). You must be aware of the fact that the World Trade Organization (WTO) replaced its predecessor, namely, the General Agreement on Tariffs and Trade (GATT). Why and how did this change come? According to you, has World Trade Organization been working effectively and serving the purpose for which it was established?
2. Critically examine the trends Transfer of Technology from the First World Countries to the Third World Countries.
3. “Notwithstanding the fact that there are about forty (40) pieces of legislation in India that have been enacted to promote and protect consumer interests, however, an average Indian consumer is yet unprotected in a market place.” In the light of the above statement, write a critical note on any one of the legislations which according to you promotes and protects consumer interests. Give suitable illustrations to support your answer.
4. What are the salient features of the Competition Act, 2002? If you are associated with a High Powered Committee constituted by the Government of India to suggest suitable amendments in the Competition Act, what amendments would you suggest in order to make it more effective?
5. What do you understand by the expression ‘Alternate Dispute Resolution System’? Why, now a days, there has been a great shift towards solving most cases through the practice of Alternate Dispute Resolution Mechanism in place of resorting to the traditional system of adversary litigation?
6. Write an explanatory note on the topic of ‘International Commercial Arbitration’. Also mention, with suitable examples, as to why has the significance of International Commercial Arbitration increased in the recent times?
7. Write short notes on any TWO of the following:
  - (a) Electronic Commerce
  - (b) Enforceability of On-Line Contracts
  - (c) Consumer Exploitation Through Misleading and Unscrupulous Advertisements.



THE INDIAN LAW INSTITUTE  
(Deemed University)

New Delhi

End semester Examination-May- 2014

LL.M. 2/3 YEAR, 2<sup>ND</sup> / 3<sup>RD</sup> SEMESTER  
CRIMINAL LAW-III : CRIMINAL PROCEDURE

Time: 3 hours

Max. Marks: 60

Answer any Five questions. All questions carry equal marks.

1. "In legal ordering, procedural systems also seek to serve values that stand apart from achieving result efficacy." In the light of the statement, explain the importance of the criminal procedure.
2. Explain the salient features of *due process model*. Is it permissible under the scheme of the Constitution of India to switch over from *due process model* to the *crime control model*? Discuss.
3. Explain the concept and various components of fair trial. Do you think shifting the burden of proof by raising reverse presumption would affect the right to fair trial of an accused? Substantiate.
4. Critically examine the law relating to withdrawal of prosecution in India in the light of case law.
5. Explain the provisions in the Constitution of India and the Code of Criminal Procedure relating to the appellate jurisdiction of the Supreme Court in criminal cases.
6. Explain the hierarchy of criminal courts in India. Briefly explain the jurisdiction of appellate courts in the hierarchy.
7. Write short note on any TWO of the following:
  - (i) Plea bargaining
  - (ii) Role of victim in criminal justice system
  - (iii) Powers of Investigating Officer



# THE INDIAN LAW INSTITUTE

(Deemed University)

**New Delhi**

**End semester Examination-May- 2014**

**LL.M. 2/3 YEAR, 2<sup>ND</sup> /3<sup>RD</sup> SEMESTER**

**IPR-III: LAW OF PATENTS WITH LAW ON PROTECTION OF BIO-DIVERSITY,  
FARMERS' RIGHTS AND TRADITIONAL KNOWLEDGE**

**Time: 3 hours**

**Max. Marks: 60**

**Answer any Five questions. All questions carry equal marks.**

1. Article 7 and 8 which outline the objectives and principles of the TRIPS agreement constitute a 'central piece for the implementation and interpretation of the TRIPS agreement'. Comment.
2. Why traditional knowledge is not patentable? Does India have adequate statutory provisions for the protection of traditional knowledge and biological resources? Explain.
3. Differentiate between farmers' rights and researchers' rights under the Protection of Plant Varieties and Farmers Rights Act, 2001. Explain the pre-requisites to register a new plant variety in India?
4. What is compulsory licensing? What are grounds on which it can be granted? Critically analyze recent trends in granting compulsory patent licenses in India?
5. Comment on the pre-grant and post grant oppositions of patent. Refer relevant statutory provisions.
6. Discuss with the help of case law Indian patent law regime non-patentable inventions.
7. Write short note on any TWO of the following:
  - A. Relationship between patents and technology transfer
  - B. Gene fund
  - C. Software patents