



HIMACHAL PRADESH NATIONAL LAW UNIVERSITY SHIMLA

Ph.D. Course Work Examinations

Subject: Emerging Trends in Law
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Ph.D. Course Work

9th November, 2020

**Time: 3hrs and 30minutes (Writing Examination- 10:30 am -01:30 pm; Scanning & Uploading Answer-sheets--
01:30 pm – 02:00 pm)**

Maximum Marks: 100*Instructions:*

The Question Paper has two Sections. Attempt any four questions from Section-A. Each question in Section-A carries ten marks. Attempt any two questions from Section-B. Each question in Section-B carries thirty marks.

SECTION-A (Short-Answer Type)**(10x4=40 Marks)**

- Q. 1 A.** Two neighbouring countries Baltustan and Hilarystan are members of WTO. Baltustan is mineral rich country yet it is a developing economy. Mining industry is one of the major employments providing industry in the region. In order to further improve development and give impetus to economy, Prime Minister of Baltustan announced Make in Baltustan policy and urged the sub national governments to provide free electricity to Swadeshi companies engaged in mining of minerals. Accordingly, national and sub-national governments provided free electricity to domestic companies engaged in mining, however, MNCs and foreign companies were not provided such facility. MNCs having their origin in Hilarystan want to challenge the policy of Baltustan claiming that it constitutes trade barrier and is not permissible under WTO norms. Discuss and Decide.
- B.** Mr. Buntly and Ms. Bubbly two famous thieves got married. They were famous for their misdeeds across the country and were never caught before. In 2020 they were infected with Covid-19 and got admitted in Hospital and some-how they were nabbed by Police and charged with various cases of forgery, theft etc. Fast Track court convicted them. Both were lodged in same Jail premises which had separate sections/buildings for male and female prisoners. They have filed an application for allowing conjugal visits claiming that it is their basic right. Whether such a petition is maintainable? Discuss in the light of national and international law relating to prisons and need for prison reforms.
- C.** X, person belonging to LGBTQ community filled an application for appearing in CLAT 2020 and was selected in an NLU on the basis of merit. X was lodged in Boys Hostel whereas X resisted such a move claiming that his/her identity and sexuality is different from those residents in Boys Hostel. University administration claims that X cannot be lodged in girls' hostel. X has demanded that separate hostels should be provided for members of LGBTQ whereas university

has cited financial constraints and accordingly University advised X to either to withdraw admission or to stay in Boys hostel. NLU is a fully residential campus. In this backdrop, X has filed a petition in High Court under Article 226 claiming *inter alia* that X belongs to distinct culture and community and that he/she cannot be denied admission in state run NLU. Further, X claims that X has a right to conserve his culture and identity and that non-provision of a separate hostel block for members of LGBTQ community is violative of fundamental rights of LGBTQ community. Discuss.

- D.** Government of Hilarystan wants to ban import of genetically modified eatables on the ground that there is large public opinion against use of such items. Exporting countries claim that such blanket ban is not permissible unless there is clear health hazard resulting from use of such products. It is claimed that Hilarystan, being member of international community and WTO and having signed and ratified international instruments, is bound by international trade related laws. Scientific and medical opinion is divided on the impact of genetically modified eatables on human health. What remedies exporting countries have in this backdrop and what remedies Government of Hilarystan can adopt to counter them? Discuss
- E.** Mr. X and Ms. Y were working in a Sports University. Dispute arose between them and Ms. Y filed an application claiming sexual harassment at workplace by Mr. X. Internal Complaints Committee of the University took cognizance and started proceedings under the Act. In the meantime, Ms. Y filed an application in the High Court claiming that ICC of the University has not been constituted as per law. She claimed that as per UGC Regulations only Senior most female Professor is competent to be the Chairperson of ICC whereas Sports University claims that as per The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, senior most female faculty member (whether Professor or not) can be appointed as Chairperson of ICC. University further claimed that they have designated senior most female faculty member (who is Assistant Professor) as Chairperson ICC and have complied with the law and that UGC Regulations cannot override statutory provisions. Comment.

SECTION-B (Long-Answer/Descriptive/Analytical Type) (30x2= 60Marks)

- Q.2** Mr. Happu Singh was a famous muscleman who claimed to have relations with major political leaders of all parties. He was allegedly involved in various murders, dacoities and extortions in the state of Peoples' Pradesh. He was arrested in connection with a cold-blooded murder in full public view and was convicted by the courts. After his conviction in the instant case, he revealed his connections with bureaucrats and politicians. An international publisher wanted to publish his biography depicting his journey from a poor child born in slums who went on to become a powerful person with the help of corrupt politicians and bureaucrats. They got visitation rights and Mr. Happu Singh happily narrated the story in various visits and also

informed of his infamous affairs with film actresses. As soon as the news of future publication of biography of Happu Singh became public, petitions were filed in High Court claiming that Mr. Happu Singh is telling a tale of lies to defame politicians, actresses and bureaucrats and the same should be banned. Thereafter, suddenly Mr. Happu Singh took a U-turn and sought to repudiate his consent to publish the biography claiming right to privacy. On the contrary publication house claimed that they have invested a lot and that free consent was given by Mr. Happu Singh in writing and now he cannot be allowed to backtrack once the matter has been edited and sent to press. Discuss the maintainability of the petition keeping in view the right of freedom of speech and expression, right to privacy and other factors.

Q.3 Mr. Hamid is living in Lahore, Pakistan. He is a social worker and works in an NGO for environmental protection. He is overawed with the practices followed by farmers in India i.e. burning of crop residue (stubble) after harvesting the crop. He believes that the wind flow during the harvesting season is towards western region i.e. towards Pakistan and therefore, the smoke emanating from stubble burning in Amritsar and other parts of Punjab and Haryana enter Pakistan and pollutes environment in Pakistan. Mr. Hamid and his NGO approached the Government of Pakistan for filing claim against the Government of India. It was claimed that India is bound by United Nations Framework Convention on Climate Change and Paris Agreement. An independent research has found that greenhouse gases emitted from stubble burning in the northern India is about 100 million tones which choked various cities in India and Pakistan in 2019. It is claimed that inaction of the Indian government is responsible for causing air pollution in Pakistan. Government of Pakistan wants to file claim for compensation against Indian Government.

- a. Whether such petitions can be filed under International Environmental Law, if yes, where? Explain.
- b. Whether petition can be filed in Supreme Court of India or NGT claiming that India is bound by various international environmental law both customary and treaty law?
- c. In deciding such petitions, what principles shall govern the grant of compensation, if any?

Q.4 Owing to corona virus and consequent lockdown, it has been observed that there is an increase in incidence of domestic violence. However, owing to lockdown and covid constraints, recourse to legal remedies have been restricted bringing issues of domestic violence and gender equality to the forefront. Even the brunt of economic slowdown and decrease in family income has fallen on women. In this backdrop discuss gender equality and gender justice in pandemic times.

Examination R.NO.

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