

ENTRANCE EXAMINATION, 2018

Ph.D.

LAW AND GOVERNANCE

[Field of Study Code : CLGH (907)]

Time : 3 hours

Maximum Marks : 100

Instructions :

1. This question paper has **four (4)** compulsory Sections. Attempt all sections.
2. Sections A and B are short answer questions while Sections C and D are long answer questions.
3. Please read all instructions for each Section carefully before attempting any question.

SECTION—AAttempt any *three* questions from this Section.

10×3=30

1. Data interpretation only makes sense in the context of social reality. Discuss briefly.
2. Distinguish among inductive, deductive and abductive reasoning.
3. Distinguish between research method and research methodology.
4. What is jurimetrics? Briefly explain the reasons for its increasing use in legal research.
5. Why is the representation of justice feminine or androgynous, in the iconography of justice, although law is phallogocentric? Give reasons.
6. Consider the following three statements :

Statement 1 : Probabilities lie between 0 and 2

Statement 2 : The probability of a proposition that is certainly true, or of an event that is sure to happen is 1.

Statement 3 : Probabilities lie between 0 and 1

(a) Statement 1 alone is true

(b) Statements 1 and 3 both are true

- (c) Statement 3 alone is true
- (d) Statements 2 and 3 both are true
- (e) None of the statements is true

Explain the rationale for your answer.

7. Read the following excerpt from a judgement and answer the questions that follow :

A mere act of helpless resignation in the face of inevitable compulsion, quiescence, non-resistance, or passive giving in, when volitional faculty is either clouded by fear or vitiated by duress, cannot be deemed to be 'consent' as understood in law. Consent, on the part of a woman as a defence to an allegation of rape, requires voluntary participation, not only after the exercise of intelligence, based on the knowledge, of the significance and moral quality of the act, but after having freely exercised a choice between resistance and assent.

Submission of her body under the influence of fear or terror is no consent. There is a difference between consent and submission. Every consent involves a submission but the converse does not follow and a mere act of submission does not involve consent. Consent of the girl in order to relieve an act, of a criminal character, like rape, must be an act of reason, accompanied with deliberation, after the mind has weighed as in a balance, the good and evil on each side, with the existing capacity and power to withdraw the assent according to one's will or pleasure.

(*Rao Harnarain Singh Sheoji Singh v. The State* AIR 1958 P H 123 at para 7)

- (a) What is the difference between passive submission and consent? Give examples.
- (b) Why is choice, intelligence, reason, knowledge, will and morality relevant to determining consent?
8. Read the following excerpt from a constituent assembly debates and answer the questions that follow :

"The presidential system of America is based upon the separation of the executive and the legislature. So that the president and his secretaries cannot be members of the Congress. The draft constitution does not recognise this doctrine. The ministers under the Indian Union are the members of parliament. Only the members of parliament can become ministers. Ministers have the same rights as other members of parliament, namely, that they can sit in parliament, take part in debates and vote in its proceedings. Both systems of government are of course democratic and the choice between the two is not very easy. A democratic executive must satisfy two conditions— (1) it must be a stable executive and (2) it must be a responsible executive. Unfortunately it has not been possible so far to devise a system which can ensure both in equal degree. You can have a system which can give you more stability but less responsibility or you can have a system which gives you more responsibility but less stability. The American and the Swiss systems give more stability but less responsibility. The British system on the other hand gives you more responsibility but less stability. The reason for this is obvious. The American executive is a non-parliamentary executive which means that it is not dependent for its existence

upon a majority in the Congress, while the British system is a parliamentary executive which means that it is not dependent for its existence upon a majority in the Congress, while the British system is a parliamentary executive which means that it is dependent upon a majority in parliament. Being a non-parliamentary executive, the Congress of the United States cannot dismiss the executive. A parliamentary government must resign the moment it loses the confidence of a majority of the members of parliament. Looking at it from the point of view of responsibility, a non-parliamentary executive being independent of parliament tends to be less responsible to the legislature, while a parliamentary executive being more dependent upon a majority in parliament become more responsible. The parliamentary system differs from a non-parliamentary system in as much as the former is more responsible than the latter but they also differ as to the time and agency for assessment of their responsibility. Under the non-parliamentary system, such as the one that exists in the USA, the assessment of the responsibility of the executive is periodic. It takes place once in two years. It is done by the electorate. In England, where the parliamentary system prevails, the assessment of responsibility of the executive is both daily and periodic. The daily assessment is done by members of parliament, through questions, resolutions, no-confidence motions, adjournment motions and debates on addresses. Periodic assessment is done by the electorate at the time of the election which may take place every five years or earlier. The daily assessment of responsibility which is not available under the American system it is felt far more effective than the periodic assessment and far more necessary in a country like India. The draft constitution in recommending the parliamentary system of executive has preferred more responsibility to more stability."

(Dr B. R. Ambedkar, Motion re. DRART Constitution, 4th November 1948, Constitutional Assembly Debates, Vol. VII. Lok Sabha Secretariat)

- (a) How does the Indian Parliamentary system differ from the American and Swiss presidential system?
- (b) According to Dr. Ambedkar it is not possible to meet the objectives of stability as well as responsibility simultaneously and there has to be a trade-off. Do you agree? Give reasons for your answer.
- (c) In light of the experience of Coalition Governments in India, would you agree with Dr. Ambedkar's preference for parliamentary executive in order to ensure more responsibility rather than stability of governments?

SECTION—B

Attempt any *one* question from this section.

10

9. Explain the idea of Developmental State in light of relevant scholarly literature.
10. Distinguish between patriarchy and patriliney. Can one exist without the other?
11. Briefly explain the doctrine of eclipse. Is it applicable to post-constitutional legislations? Give reasons.

12. Durkheim argued that "a social fact is every way of acting, fixed or not, capable of exercising on the individual an external constraint; or again, every way of acting which is general throughout a given society, while at the same time existing in its own right independent of its individual manifestations".

- (a) What is the difference between the universal and the general?
- (b) Give two examples of social facts as external, general and coercive.

13. Read the following excerpt and answer the questions below :

'Exchange' simply names the experience of give and take among all animals. It arises thanks to life's basic rhythm of stimulus and response; it occurs in sex, feeding regimes or fights. Exchanges become self-conscious among higher primates, in the sense that all primates show evidence that they ponder what to give and take, and that they experiment with different kinds of exchange.

The exchanges in which all social animals engage run a spectrum of behaviours from the altruistic to the viciously competitive. I dislike arbitrary categories, but for the sake of clarity I've divided the spectrum of exchange into five segments : altruistic exchange, which entails self-sacrifice; win-win exchange, in which both parties benefit; differentiating exchange, in which the partners become aware of their differences; zero-sum exchange, in which one party prevails at the expense of another; and winner-takes all exchange, in which one party wipes out the other. In animal terms, this spectrum runs from the worker ant which offers up its body as food for other ants, to the wolf whose exchanges with sheep are invariably lethal; in human terms, the spectrum runs from Joan of Arc to genocide. The balance between cooperation and competition is best and most clearly struck in the middle of this spectrum. In win-win exchanges, competition can produce mutual benefits, as in the market exchanges imagined by Adam Smith, or in political coalitions which aim to balance mutual competition and cooperation. Differentiating exchanges, whether occurring simply through physical contact, or in primates like ourselves, via discussion and debate, can define borders and boundaries; as in animal territories, so in urban communities groups may contend and conflict in order to establish turf which they thereafter respect.

(Richard Sennett, *Together : The Rituals, pleasures and politics of cooperation*, Allen Lane London, 2012 p. 72)

- (a) According to the passage, exchange can be understood
 - (i) as market exchange only
 - (ii) as genocide only
 - (iii) as a win-win exchange only
 - (iv) as a variety of give and take, including (i), (ii) and (iii)
- (b) According to the passage, an example of win-win exchange is
 - (i) political coalition and not wolf attacking sheep
 - (ii) wolf attacking sheep and not Joan of Arc
 - (iii) Joan of Arc and genocide
 - (iv) ants eating dead ants and not market exchange

(c) The passage invokes varieties of exchange to

- (i) explain social animals
- (ii) pontificate with no purpose in mind
- (iii) explain Adam Smith
- (iv) understand boundaries in urban settings

SECTION—C

Attempt any *one* question from this section.

20

14. Write a research proposal on 'development and identity articulation' with special attention to empirical research design.
15. Discuss how you would design a research project to evaluate the success of the demonetization drive initiated in India in November 2016.
16. What is the gravity model of international trade? How is it useful in helping countries frame economic policies?
17. Explain the relevance and significance of empirical legal research for law reforms to bridge the gap between law and society.
18. What is multi-sited ethnography? Is all ethnography necessarily partial? Explain with examples.

SECTION—D

Attempt any *two* questions from this section.

20×2=40

19. "The idea of governance depoliticizes democracy and development." Discuss with reference to the scholarly literature on governance.
20. Write a critical essay on character of Indian State citing relevant scholarly works.
21. It is often proposed that since infrastructure projects involve long gestation periods the infrastructure sector compares unfavorably with manufacturing and many other sectors, requiring specific policies to make investment in infrastructure attractive. Critically discuss the challenges placed before the Indian economy in this regard.
22. What is legal pluralism? How does State law recognize, suspend or regulate custom? Give examples.
23. Is there a difference between 'environmental justice' and 'climate change justice'? Explain giving reasons for your answer.
24. What is 'substantive due process'? Does article 21 of the Constitution of India accord substantive due process protection to 'life' and 'personal liberty'? Discuss in the light of judicial decisions.

- 25. "While both 'State' and 'nation' predate capitalism, the nation-state is a product of capitalist modernity". Discuss.
- 26. Is the term 'social media activist' synonymous with 'arm-chair activist'? Describe briefly the nature and role of social media activism in contemporary social mobilisations.
- 27. Explain how by orienting ourselves to 'regional economics'—the acceptance that economic issues that have a spatial dimension, can help a country like India.

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