

GUJARAT NATIONAL LAW UNIVERSITY GANDHINAGAR

Course: Legal Methods and Moot Court
Semester-I (Batch: 2014-19)



End Term Examination: Oct-Nov. 2014

Date: 22nd October, 2014

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

- Q.1 Identify the legal system from the brief description provided below and discuss the main characteristic of the same.

Marks
(06)

The origin and model of this legal system are to be found in the monumental compilation of Roman law commissioned by the Emperor Justinian in the sixth century CE. While this compilation was lost to the West within decades of its creation, it was rediscovered and made the basis for legal instruction in eleventh-century in Italy and in the sixteenth century came to be known as *Corpus iuris civilis*. Succeeding generations of legal scholars through out Europe adapted the principles of ancient Roman law in the *Corpus iuris civilis* to contemporary needs. Medieval scholars of Catholic church law, or *canon law*, were also influenced by Roman law scholarship as they compiled existing religious legal sources into their own comprehensive system of law and governance for the Church, an institution central to medieval culture, politics, and higher learning. By the late Middle Ages, these two laws, civil and canon, were taught at most Universities and formed the basis of a shared body of legal thought common to most of Europe.

- Q.2 *'If all criminals were punished very severely, crimes would almost disappear.'*
Do you agree with this statement? Give reasons and explain your answer, showing that you have thought about more than one point of view taking into consideration various theories of punishment.

(08)

- Q.3 Explain the following terms:

- (a) Hypothesis
- (b) Per incurrium
- (c) Adversarial
- (d) Persuasive Precedent

(4x2=
08)

- Q.4 Draw a chart showing hierarchy of Judicial System in India and discuss various types of jurisdiction.

(08)

- Q.5 Answer any two of the following:

- (a) Discuss the kind of research in which the researcher indulges in the analyses of the 'Black letter of Law'.

(10)

- (b) What do you mean by Research Design? Analyze the stages of Research Design briefly.
- (c) Why is it necessary to acknowledge the source of reference while writing a paper? Explain the modes citing such references by also referring to methods of subsequent citation.

Q.6 Read the following Act carefully and answer the questions.

(05)

THE EMBLEMS AND NAMES (PREVENTION OF IMPROPER USE) ACT, 1950
An Act to prevent the improper use of certain emblems and names for professional and commercial purposes.

Be it enacted by Parliament as follows:

1. Short title, extent, application and commencement. (1) This Act may be called the Emblems and Names (Prevention of Improper Use) Act, 1950.
- (2) It extends to the whole of India, and also applies to citizens of India outside India.
- (3) It shall come into force on such [dates] as the Central Government may, by notification in the Official Gazette, appoint.
2. Definitions. In this Act, unless the context otherwise requires,
 - (a) *emblem* means any emblem, seal, flag, insignia, coat-of-arms or pictorial representation specified in the Schedule;
 - (b) *competent authority* means any authority competent under any law for the time being in force to register any company, firm or other body of persons or any trade mark or design or to grant a patent;
 - (c) *name* includes any abbreviation of a name.
3. Prohibition of improper use of certain emblems and names. Notwithstanding anything contained in any law for the time being in force, no person shall, except in such cases and under such conditions as may be prescribed by the Central Government, use, or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade mark or design, any name or emblem specified in the Schedule or any colourable imitation thereof without the previous permission of the Central Government or of such officer of Government as may be authorised in this behalf by the Central Government.
4. Prohibition of registration of certain companies, etc. (1) Notwithstanding anything contained in any law for the time being in force, no competent authority shall, (a) register any company, firm or other body of persons which bears any name, or (b) register a trade mark or design which bears any emblem or name, or (c) grant a patent in respect of an invention which bears a title containing any emblem or name, if the use of such name or emblem is in contravention of Section 3.
- (2) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority, may refer the question to the Central Government, and the decision of the Central Government thereon shall be final.
5. Penalty. Any person who contravenes the provisions of Section 3 shall be punishable with fine which may extend to five hundred rupees.
6. Previous sanction for prosecution. No prosecution for any offence punishable under this Act shall be instituted, except with the previous sanction of the Central Government or of any officer authorised in this behalf by general or special order of the Central Government.
7. Savings. Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

8. Power of the Central Government to amend the Schedule. The Central Government may, by notification in the Official Gazette, add to or alter the Schedule, and any such addition or alteration shall have effect as if it had been made by this Act.

9. Power to make rules. The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Answer the following questions;

- a. Identify the long as well as short title from the Act
- b. Is there any proviso in the Act?
- c. Explain the saving clause as provided in the Act
- d. Is there any *non-obstante clause* in this Act? If yes explain the same.

Q.7 What are the essential elements of a Precedent? How does the doctrine of Precedent (05)
work in Indian Legal System?



