

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Law and Justice in a Globalized World**
Semester-I (Batch: 2013-14)

End Term LL.M. Examination: November-2013

Date: 15th November, 2013

Duration: 3 hours

Max. Marks: 70

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.

Marks

Part-A

Answer any three from Questions No. 1 to 5. Question No. 6 is compulsory.

- Q.1 *"Human and social life in this globalised world has become highly complex. On one side resources are limited. On the other side human wants are unlimited. In between these two states of affairs what remains in existence is only the competition to appropriate. However, sadly the neglected ones when they too struggle to earn their life against the powerful slowly become or tend to become weak and would finally perish too."* (10)
- Is this social condition suitable for global justice in this globalised world? What according to you are the essential grounds justified in law that one must keep in mind in a global legal regime in order to arrive at global justice where everyone gets what they want? Elucidate them with examples.
- Q.2 Is education the space where children can be nurtured with the ideas of global law and justice? Enumerate the list of values, thoughts, ideas and plan of action that can nourish the mind of youth in understanding what global law is and in realizing what global justice is. (10)
- Q.3 What are the methods and processes for propounding a model global law in the issue of Gender Justice? Consider yourself as a legislator for drafting a model global law on this issue. How would you go about it? You can draft a model global law on either side male-centered or female-centered or gender-neutral. (10)
- Q.4 X wants to start a new age community in one of the States of India. Being a religious and powerful orator X has a large following in India and abroad. He acquired a piece of land in one of the States of India claiming an uncontested religious denomination. However he slowly changed his philosophy and teachings into his own teaching in which he claimed he has nothing religious and in turn propagated that his irreligion is true religion. He requested all his followers not to practice any religious rituals rather follow his own method and style of meditation that can lead to self-fulfillment in life. His new teaching attracted large number of followers and more than 20,000 people wanted to stay with him in the land given by the Government where he stayed and preached his philosophy. Owing to a large number of followers living with him, his (10)

followers created their own brand of security considering certain radical religious groups questioning his teachings and demonstrating *dharna* in front of his dwelling place. The new age group developed a kind of paper currency which they used and circulated among themselves for their social and economic interactions. They also developed telephones lines based on their own science and technology knowledge contributed by his followers. Buildings and constructions started growing in large and great numbers and local tax and insurance issues cropped up with serious legal questions. There used to be a monthly congregation where people gather in 1000's of numbers crossing beyond one lakh people. Tourism in the State flourished though, but traffic and prices, sanitation and law and order used to be a problem sometimes during these mass-gatherings. Subsequently they also wanted their own representation claiming electoral constituencies and seats based on the growing population inside the land. The United Nations also considering its new philosophy and teaching in which every religious people could freely participate encouraged such initiatives and accorded Observer Status too in the General Assembly. But the Government of the respective State was bit alarmed by these developments and questioned the motive behind all these establishments, activities and demand for electoral seats. By and large the community was peaceful but they still depended on systems which law and legal order would otherwise control and regulate without any discrimination. Government developed a dossier of legal compliance and non-compliance by this new age community. After a preliminary report by the media, the Government wanted to investigate which the new age community resisted with force and subsequently filed a writ petition challenging the same.

- a. New age community claimed peace and development are the foundational pillars of new global world, new global law and subsequently new form of global justice.
- b. State Government claimed though their philosophy and teachings are new and attractive however they are dependent still on the social and political systems which only the State Authorities under law of the Constitution and established legal system must control.

Do you agree with the viewpoints given above by the two parties to the contention? Critically analyze them in the context of global law, global justice in a globalised world.

Q.5 Explain anyone of the concepts of global justice based on the following legal sources: (10)

a. The Preamble to the Constitution of India:

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a [SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens:

JUSTICE, social, economic and politic al;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the [unity and integrity of the Nation];

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

Or

b. The Purposes of the United Nations are:

The (United Nations) Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. *The Organization is based on the principle of the sovereign equality of all its Members.*
2. *All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.*
3. *All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.*
4. *All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.*
5. *All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.*
6. *The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.*
7. *Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.*

Q.6 Compulsory Question:

(05)

Answer any two short notes (2x2.5=5 marks)

- a. Relevance of Private International Law in Global Justice.
- b. Importance of understanding the human psychology of awareness while propounding a model Global Legal Regime.
- c. Sustainable Development as a concept in Global Justice.
- d. Fundamental Rights vs Fundamental Duties in Global Law.

Part-B

Answer any three from Question No. 7 to 10. Question number 11 is compulsory.

- Q.7 The Libertarianism, as the name suggests, emphasizes individual liberty as the central and indeed exclusive concern of social justice. A just society, according to the Libertarian, must grant and protect the liberty or freedom of each individual to pursue his desired ends. In the Libertarian view people are essentially rational end-choosers, to use our earlier term, and the kind of life appropriate to rational end-choosers requires them to be free to choose their own ends and free to pursue them without interference from others. This may seem to imply that the Libertarian holds that everyone should be able to do whatever he or she wants, but really the Libertarian holds no such view. The Libertarian view is that each person should have the same freedom to pursue his chosen ends, that each is therefore obligated to refrain from interfering with others in their freedom to pursue their ends, and that the function of the state is solely to protect each individual's freedom to pursue his chosen ends. The Libertarian therefore conceives of everyone as having certain rights, which protect his or her liberty to pursue a desirable kind of life. What is distinctive about Libertarianism is its conception of the rights that each individual has. Elucidate with reference to the John Locke's theory of justice. (10)

- Q.8 'X' was stranded on a desert land with no one but a dying man i.e. 'Y'. 'Y' who, in his final hours, entrusts 'X' with Rs. 10,000/- and asks him to give the same to his daughter. 'X' agrees to do so and manages successfully to reach India. Reaching 'Y's' place in India 'X' learns that 'Y's' daughter has married a billionaire. The Rs. 10,000/- will now make little difference to daughter's financial situation. Shall 'X' donate the money to a charity? In the light of the above facts discuss in detail the different theories of justice along with your own views. (10)
- Q.9 Samantha was born in a poor family and she could never afford an education. She couldn't afford food and couldn't find a job, so she starves to death. Meanwhile there is an abundance of food and wealth that is almost exclusively owned by the wealthiest members of society. Was there a violation of any right? Nozick would say, "No". No one has a right to anything nor does anyone have an obligation to help others. To redistribute wealth using coercion would be a violation of our property rights and there is no conflicting right against our property rights in this situation. (10)
- Is this a fair assessment of Robert Nozick? Discuss.
- Q.10 What are the main criticisms of Rawls's against Utilitarianism? Does his theory of justice overcome these criticisms? Discuss Rawls theory in the Indian context. (10)
- Q.11 Write short note on **any one**: (05)
- (a) Hart and Fuller debate.
 - (b) Aristotle's theory of Justice.
