

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Clinical-2 (Professional Ethics and Professional Accounting System)
Semester-IX (Batch: 2016-21)

End Semester Online Examination: December 2020

Date: 20th December, 2020

Duration: 8 hours

Max. Marks: 50

Instructions:

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.

- Q.1 Why is professional legal ethics not only important in legal profession but indispensable for the collective society as a whole? Do you think that the ethical standards given by the Bar Council of India for advocates are sufficient to bring the application of ethical understanding in legal profession in India? How do you think the ethical understanding can be brought in the minds of advocates for raising the standards of the practice of Indian legal profession? Give innovative recommendations to the Bar Council of India. Marks
(10)
- Q.2 A group of recently graduated young advocates gathered together and made a written statement of alleged misconduct of a simple kind about a presiding judicial officer of a court where they all have started their respective independent practices. The said written statement was duly submitted to the District Judge under whose jurisdiction the respective judicial officer is officiating. Meanwhile, the aforementioned group of young advocates raised the same issue in one of the meetings of their Bar Association before the large gathering of advocates that included few clients. They made public statements about the written record of alleged misconduct of the judicial officer and also informed the Bar Association members and clients present that the written statement is pending for necessary action before the District Judge. The judicial officer raised the issue of the contempt of court against young advocates before the District Judge on two counts as per the Contempt of Courts Act 1971. One, he was not aware of the said written statement of alleged misconduct, and two, it was made known to the public by these young advocates when the actual matter is pending for action before the District Judge. Consequently, a contempt notice was duly served to initiate an inquiry for contempt against those advocates who made the written as well as public statement. Young advocates argued that the statement made in public did not reveal the actual contents of alleged misconduct except that it was just an information of the written statement that is pending before the District Judge for action. The judicial officer presented that the statement made in public by young advocates itself constitute contempt irrespective of contents with or without revelations of alleged misconduct. (10)

Explain the intricacies of the contempt of court in relation to the aforementioned facts of the case, where an allegation scandalizes, interferes in the course of justice and

prejudices the mind of the public or tends to bring indignity to the court and process of justice.

Q.3 Is the designation of an advocate as Senior Advocate amounts to un-reasonable and arbitrary classification among advocates? Do you think this method of designation for an advocate is superfluous as knowledge and skill can come from any advocate irrespective of age, seniority, experience and qualification? Give ten innovative suggestions as to how this contentious issue of designation of a Senior Advocate be looked into considering the changing contours of legal profession in India with developments through information and technology creating new frontiers of legal knowledge. (10)

Q.4 You are officially appointed as an empaneled advocate for a leading manufacturing company of mobile phones. It was found out by a recent scientific discovery that one of the processes that the manufacturing company of mobile phones adopting is against the sustainable development of the environment and leads to a very high degree of pollution. Meanwhile, the manufacturing company is half-way through the process to complete its production of the mobile phones in which this manufacturing process was involved. Ministry of Environment and Sustainable Development has sent a notice to the mobile company to stop the process of the manufacture. What would be your course of legal action that you would suggest to the company to keep in mind? (10)

Step.1 To fight this situation through a legal battle as it is a matter of legitimate expectation for the company in the event of post-factum of scientific discovery after the manufacturing process that is already in progress.

Step.2 To inform the company to adhere to the notice of the Ministry of Environment and Sustainable Development as it is also a matter of goodwill-brand for the company that can fetch long term benefits.

Step.3 To negotiate with the Government through respective Ministry to seek one-time exemption to prevent financial loss and in turn contribute to green-nurturing.

Step.4 To inform the company to complete the manufacturing process and finally pay the fine for irregularities.

Explain your order of preferences arranging the four steps and give your reasoning that justifies legal, commercial, national and ecological aspects of advocacy in legal profession. Illustrate through multi-folded and graded reasoning to give the best course of legal action to the company, government, environment and legal profession.

Q.5 An advocate under The Advocate's Act 1961 under section 24 is one who has completed the age of 21 years, obtained a law-degree from the recognized educational institution in India and a citizen of India. These three elements in the definition of an advocate under the said Act, poses serious challenges to the advocates and law-firms from any foreign country to practice in India. (10)

Explain the challenges of foreign advocates and foreign law firms to set up their legal practice in Indian courts. What are the merits and demerits of fly-in and fly-out model of legal practice in India as explained by the Supreme Court of India?
