

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

**Course: Professional Ethics and Professional Accounting System
Semester- IX (Batch: 2018-23)**

End Semester Examination: November 2022

Date: 07th Nov, 2022

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- 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.

Part-A

Marks

Answer any two of the following questions (minimum 300 words)

- Q.1 Who is a 'Senior Advocate' as per the Advocates Act, 1961? Do you agree that this classification is a kind of discrimination among the legal fraternity of practicing advocates? Discuss. (5)
- Q.2 What do you consider important in your legal profession – 'Client' or 'Cause'? Justify with illustrations in relation to litigation or research policy-making on issues of your choice. (5)
- Q.3 Do you think, law and legal profession have become multidisciplinary in kind with ongoing globalization, developments in science and technology and advancements of knowledge in social and human affairs of social life? (5)

Discuss this in the context of foreign law firms entering into national jurisdictions for legal practice. How do we strike a balance between internal and global requirements in the field of legal profession in the context of Bar Council of India v. A. K. Balaji (AIR 2018 SC 1382)?

Part-B

Answer any four of the following questions (minimum 700 words)

- Q.4 What are the six important strategies or stages or steps for dealing with a client who has come to you for the first time to discuss about the possibility of resolution of a conflict? Identify an area of conflict of your choice and demonstrate those strategies, stages and steps with illustrations. Use narrative-method of illustration. (10)
- Q.5 Explain the importance of 'Advocates on Record (AoR)' examination for practising in the Supreme Court of India. Do you think this legal requirement violates the 'Constitutional Equality' clause and the 'Legislative Powers' of the Parliament? Discuss. (10)
- Q.6 *Punishment has a functional duality-deterrence and correction. But, conventional penalties have their punitive limitations and flaws, viewed from the reformatory angle. A therapeutic touch, a correctional twist, and a locus penitentiae, may have rehabilitative impact if only Courts may experiment unorthodoxy but within the parameters of the law. When the Constitution under Art. 19 enables professional expertise to enjoy a privilege and the Advocates Act confers a monopoly, the goal is not* (10)

assured income but commitment to the people whose hunger, privation and hamstringing human rights need the advocacy of the profession to change the existing order into a Human Tomorrow. Justice has correctional edge, a socially useful function especially when the delinquent is too old to be pardoned and too young to be disbarred. Therefore, a curative not cruel punishment has to be designed in the social setting of the legal profession. Punishment for professional misconduct is no exception to this 'social justice' test.

Discuss these insightful thoughts of Justice V.R. Krishna Iyer on V. C. Rangadurai vs. D. Gopalan (1979 AIR 281, 1979 SCR (1)1054) in the light of Professional Misconduct under Section 35 of the Advocates Act 1961.

- Q.7 *The rule of law cannot be built on the ruins of democracy for where law ends tyranny begins. If such be the keynote thought for the very survival of our Republic, the integral bond between the lawyer and the public is unbreakable. And the vital role of the lawyer depends upon his probity and professional life style. Be it remembered that the central function of the legal profession is to promote the administration of justice. If the practice of law is thus a public utility of great implications and a monopoly is statutorily granted by the nation, it obligates the lawyer to observe immunity in him as a vehicle of justice - social justice. The Bar cannot behave with doubtful scruples or strive to thrive on litigation. Canons of conduct cannot be crystallised into rigid rules but felt by the collective conscience of the practitioners as right.* (10)

Bar Council of Maharashtra vs. M. V. Dabholkar 1976 AIR 242, 1976 SCR (2) 48.
Discuss these insights in the light of the 8 lamps of advocacy and professional ethics.

- Q.8 In a divorce petition, opponent's advocate reaches you to have a deal for settlement. (10)
- You refuse straight away.
 - You consult your client and act accordingly.
 - You inform the court to take consent and act accordingly.
 - You accept and go ahead for the deal.

Explain the rationale behind your choice. Identify the social and psychological realms of justice in alignment with the professional legal requirements.

- Q.9 Answer the following according to Advocates Act of 1961. Highlight the subtle nuances and differentiations. (4+3+3=10)
- Essentials to become a Practicing Advocate.
 - Appearing for Arguments vs. Practicing to Act and Plead.
 - Public Interest Litigation vs. Party-in-Person.
