

GUJARAT NATIONAL LAW UNIVERSITY
SILVASSA CAMPUS
Course: **Law and Justice in a Globalizing World**
LL.M. Semester- I (Batch: 2024-25)
End Semester Examination: Oct 2024

Date: 23rd October, 2024

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.
- Word Limit: (5 Marks:600-700 words), (10 Marks:1000-1200 words)

Answer any five of the following questions

- | | Marks |
|--|--------------|
| <p>Q.1 “In the first instance the globalist posits a general progression toward globalization which draws all nations and peoples into a common set of market relations. One does not know what to make of that statement when absolute majorities consciously reject the policies proposed to further the globalist project. I am referring to NAFTA, Maastricht, the free trade doctrines proposed in North America, Europe and Asia. One senses that the absence of general support is a catalyst for making even more exaggerated affirmations: from the best to the only policy, from an advance in the economy to the culmination of human history. These unfounded claims, in particular, the notion of inevitability in the face of fragile social support is one of the major elements analyzed by the concept of globaloney.”</p> <p style="margin-left: 40px;">a. In light of the statement made above critically examine the concept of <i>globaloney</i> as used by the James Petras.</p> <p style="margin-left: 40px;">b. The author is of the belief that globalization, as conceptualized in the 20th Century, will collapse under the burden of its own contradictions. Elucidate the reasoning behind this belief.</p> | (5+5) |
| <p>Q.2 In the country of Bindia, a new form of governance known as "Technocratic Legalism" has been implemented. Under this system, laws are generated and enforced not by human legislators or courts but by artificial intelligence algorithms. These algorithms analyze data, historical legal precedents, and societal behavior patterns to create laws and automatically enforce them. The government claims that this system eliminates human bias, inefficiency, and corruption in law-making and law enforcement. However, concerns have been raised</p> | (10) |

about whether the decisions made by the algorithms can truly be considered "law" in the traditional sense. Critics argue that, while the algorithms are capable of enforcing rules, they lack the human elements of interpretation, morality, and justice, which are essential for a legal system. They also question the legitimacy and validity of laws created by machines rather than elected representatives or judges. A group of citizens, led by a prominent lawyer named Dr. Rajji, files a legal challenge against the system, claiming that Technocratic Legalism violates fundamental principles of law as understood by human jurisprudence. They argue that law cannot merely be reduced to a set of automated commands, but must involve a deeper understanding of justice, human values, and social context.

On the basis of discussions that transpired in the class and concepts taught, decide where 'technocratic legalism' sits in the long history of human endeavor to give meaning to the concept of law.

- Q.3 In the country of Equitera, the government is debating two potential proposals for social and economic reform in response to rising inequality. The country faces a significant wealth gap between the top 10% of the population and the rest of the society. Both reform proposals aim to address this issue, but they are grounded in very different philosophical approaches to justice. The first proposal, called the 'Fair Distribution Act' (FDA), is based on the principle that inequalities are only justifiable if they benefit the least advantaged members of society. It proposes heavy taxation of the wealthy, redistributive welfare programs, and universal access to healthcare and education. The policy is designed to create a more equal starting point for all citizens, ensuring that social and economic inequalities only exist if they improve the welfare of the poorest. Proponents argue that the policy promotes fairness by prioritizing the well-being of the least advantaged. The second proposal, called the 'Liberty and Entitlement Act' (LEA), emphasizes the importance of individual property rights and freedom from coercion. It proposes minimal taxation and rejects any redistributive policies. According to this proposal, justice is about ensuring that individuals are free to acquire property and wealth through voluntary exchange, and any interference by the government to redistribute wealth is seen as a violation of individuals' rights. Supporters argue that as long as wealth is acquired through fair means, such as hard work, talent, or inheritance, the state has no right to interfere. The citizens of Equitera are divided. The supporters of the FDA argue that it promotes a more just society by ensuring that everyone has a fair chance, regardless of their starting position. On the other hand, proponents of the LEA claim that the government should not interfere with how people choose to use or distribute their wealth, as long as it was acquired fairly. A public referendum is being held, and the citizens of Equitera must decide which model of justice should shape the future of their society. (10)

In light of the facts mentioned above, discuss both the contested theories of justice referring to relevant scholars as taught in the class.

- Q.4 “Moving beyond ‘compliance’ as a central concept of international legal theory and inquiry opens up new horizons, or at least suggests new emphases in international legal scholarship and a recasting of certain of the predominant debates. First of all, empirical inquiry or theoretical speculation as to how much ‘compliance’ there is with respect to international law, and how and why it happens, cannot as such play much of a role in the debate about whether international law is ‘law’ or what it contributes to global order that some other non-legal discourse – cosmopolitan moralism, for example – would not contribute. What one needs is much more reflection on those properties of ‘law’ that it possesses which make international law distinctive as a mode of discourse in international order, and then to see the effects of international law through such an understanding.” (10)

In light of the passage quoted above discuss the normativity of international law as discussed by the author and the arguments advanced for moving beyond ‘compliance’ method in ascertaining its legitimacy. Briefly elucidate how such an understanding of international law helps in achieving the ends of global justice.

- Q.5 “The lawyer’s job often involves at least two characteristics that, at a superficial level, might seem puzzling to the philosopher. One is that the lawyer will try to work within the confines of current positive law, and try to ensure that every step taken can be traced to some bit of the current positive law. Second, lawyers, simply as a function of their role responsibilities, will often start out with a conclusion that they need to establish. This is quite different from the “follow the argument” approach. For instance, the lawyers who figured out that perhaps they could use the Alien Tort Statute to get a court in New York to exercise jurisdiction over events that happened among Paraguayans in Paraguay had that conclusion in mind when they started the investigation into the possibility. The philosopher’s first question more naturally seems to be, “well, should a court in New York exercise jurisdiction over events of this sort?” It seems that interdisciplinary work may very well involve both kinds of rigor, though, of course, there will often be occasion to choose which kind to employ or where to put emphasis.” (10)

In light of the passage quoted above, reflect, in detail, on the need for international legal scholarship to interact with political and moral philosophy in aiding the ends of global justice. Elucidate your answers by citing relevant examples.

- Q.6 “It is hardly possible to dispute that these institutions are intensely political institutions, notwithstanding their attempts to suggest otherwise. Nevertheless, the international financial institutions have formulated specific images of ‘law’ and ‘politics’ to present themselves as neutral, and apolitical. Whatever the deficiencies of these images, it is by (10)

developing and deploying them that these institutions attempt in part to legitimize their actions and establish their particular authority.”

In light of the statement made above, discuss as to how international financial institutions have redefined law and politics to legitimize their actions and decisions. Also, discuss, very briefly, the role that international institutions play in achieving the ends of global justice.
