

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Law and Justice in a Globalizing World
Semester-I (Batch: 2017-18)

LL.M. End Semester Examination: November-2017

Date: 6th November, 2017

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.

Part-A

Marks

**Question number 4 is compulsory and
from the rest answer any two.**

- Q.1 Theories of law and justice stand between philosophy and political theory. They derive their intellectual categories from philosophy and ideas of justice from political theory. Their contribution lies in formulating political ideas in terms of legal principles. Theories of law and justice also reflect the struggle of law between tradition and progress, stability and change, certainty and flexibility. Further, these theories may prefer one of the three attitudes, either they subordinate the individual to the community, or they subordinate the community to the individual or they attempt to blend the two. Elucidate the above proposition with special reference to different thinkers along with your own opinion. (10)
- Q.2 Law may be defined as *that institution or set of institutions in a given society that adjudicates conflicting claims and secures compliance in a formal, systematic, and orderly way*. Law thus defined is one species of social order, but not the whole of it; there are also less formal mechanisms for maintaining social order. Indeed, the vast bulk of cooperation in society in fact depends on informal order rather than on law to attain justice. The true measure of the success of an institution (Law) will be its 'results in life of people'. Do you agree with the above mentioned observation? Discuss with your own illustrations in the light of present scenario. (10)
- Q.3 'We should be concerned not with the redistributing of resources, but with protecting individuals' rights to *what they already have*. In other words, the question of whether a particular distribution of goods is just should be answered by reference to whether the *initial acquisition* was just. So, where I acquired my property by freely entering into a contract, I am entitled to keep it.' Do you agree with the above statement? Discuss the same in the light of "Entitlement Theory of Justice" with special reference to the present context and happenings. (10)
- Q.4 Under the Third Reich the wife of a German, wishing to get rid of him, denounced him to the Gestapo for insulting remarks husband had made about Hitler's conduct of the war. He was tried and sentenced to death, later his sentence was converted to service as (06)

a soldier on the Russian front. In 1949 the wife was prosecuted for procuring her husband's loss of life and liberty. Wife's defense was that he had committed an offence under the Nazi Statute of 1934. The court nevertheless convicted her on the ground that the statute under which the husband was punished offended the *sound conscience and sense of justice of all decent human beings*. Do you agree with the court's approach? Elucidate the court's approach with your own views with the help of Natural and Positive Law Theories.

Part-B

Answer the following questions:

- Q.5 Explain the legal interrelationship between the provisions of Indian Constitutional Law and principles and practices of global justice as proclaimed by international community of States. Illustrate them with examples. (10)

Or

Do you think alternative methods to the formation of State and consequently, a legal system arising out of such ultra-State model will usher a new age of global justice? Explain them in the context of case studies of Rajneeshpuram and Auroville.

- Q.6 How do you think Article 2 of the United Nations Charter, as given below, aids the growth of international community to herald global order and justice? (12)

Article 2 of the United Nations Charter reads as follows:

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles:

- i. *The Organization is based on the principle of the sovereign equality of all its Members.*
- ii. *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.*
- iii. *All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.*
- iv. *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.*
- v. *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.*
- vi. *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.*
- vii. *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.*

Or

Do you think Private International Law can play a significant role in assisting global justice when laws and jurisdictions conflict between States as a result of sovereignty-oriented national legal systems? Illustrate them with appropriate examples.

Part-C

**Answer the following questions:
(word limit: 500-550 words each)**

- Q.7 'It appears that global law is in an embryonic stage. It is growing as the law of a common humanity bringing with it the emergence of an organizational model of the world's society based on the gradual integration of various systems of organization, such as legal, social, economic etc., at different aggregation levels, local to worldwide. It is time to focus on a new reality of gradual transformation of the international community and the structuring process of a global community in which a coherent legal system for a universal human society is being built.' (11)

In the light of the above-mentioned statement, define the notion of global law. What are the related legal notions which can contribute in promoting the notion of global law? Explicate.

- Q.8 'Trade liberalization having aimed at promoting free trade is one of the most significant characteristics of globalization in recent years. Nevertheless, free trade has become highly contentious subject in international trade. Those who oppose free trade being labeled as proponents of fair trade seek to promote equitable international labour, environment and social standards for the production of goods and services that are exported from developing countries to developed countries. Fair trade is a trading partnership, based on dialogue, transparency and respect, that seeks greater equity in international trade.' (11)

In the light of the above-mentioned statement, whether international trade as an essential component of economic globalization is promoting just world? Should core labour standards become part of global trading norms? Explain.
