

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Law and Justice in a Globalizing World
Semester-I (Batch: 2018-19)

LL.M. End Semester Examination: Oct-Nov. 2018

Date: 1st November, 2018

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 no.4 is compulsory. Answer any two from the remaining questions:)

- Q.1 Two needs have determined philosophical thinking about Law and Justice. On the one hand, the paramount social interest in the general security, which as an interest in peace and order dictated the very beginnings of law, has led men to seek some fixed basis of a certain ordering of human action which should restrain magisterial as well as individual willfulness and assure a firm and stable social order. On the other hand, the pressure of less immediate social interest and the need of reconciling them with the exigencies of the general security and of making continual new compromises because of continual changes in society have called for readjustment at least of the details of the order. Do you agree with the above mentioned proposition? Discuss with your own illustrations. (10)
- Q.2 What are John Rawls main objections against utilitarianism? Does his theory of justice overcome these problems? How can Rawls be sure that the people in the original position would agree on his two principles of justice? Critically analyze. (10)
- Q.3 The links between law and morality constitute the subject-matter of an age-old jurisprudential debate. Ought the law to concern itself with morality? Ought the law to reflect shifts in public opinion concerning moral question? What significance ought to be attached? The function of the law is to preserve public order and decency, to protect the citizen from what is offensive or injurious, and provide sufficient safeguards against exploitation and corruption. Some of the view that the courts retain a residual power, where no statute has intervened to supersede the common law, to superintend those offences which are prejudicial to the public welfare. (3+3+4=10)

In the light of the above mentioned proposition and luminosity of present international and national developments, discuss in brief the following along with the views of relevant thinkers:

- (a) Has society the right to pass judgment on matters of morals? Ought there, to be a public morality or morals always a matter for private judgment?
- (b) If society has the right to pass judgment, has it also the right to use the weapon of the law to enforce it?
- (c) If so, ought it to use that weapon in all cases or only in some, and if only in some,

on what principles should it be distinguished?

- Q.4 Discuss in detail along with your own views the popular launching pad for the comprehension of legal ideas, Lon Fuller's hypothetical "Case of the Speluncean Explorers." (06)

Part-B

Answer the following questions:

(2x11=22)

- Q.5 'As a pragmatic approach to global justice leads to questions of universality and universal enforcement of legal norms, contemplating justice on a global scale in today's world can easily be seen as an almost impossible. The issue of global justice therefore promises nothing but an enormous scope of inquiry.'

In the light of the foregoing statement, examine the notion of global justice. Also, critique on the three kinds of legitimate claims that constitute the idea of global justice.

- Q.6 'Trade liberalization, which is aimed at the reduction of artificial barriers to international trade in goods and services, is considered to be one of the most significant features of globalization in recent years. It is designed to achieve 'free trade' amongst countries across the globe; however, 'free trade' has become one of the most contentious issues in the era of economic globalization.'

In the light of the preceding statement, evaluate whether the prevailing international trade rules promoting 'free trade' are fair and just for various countries with disparate economic conditions. Assess whether core labour standards should become part of global trading norms.

Part-C

- Q.7 Why do you think Private International Law has an interconnection with law and justice in a globalizing world? Explain this interconnection in the context of two situations as mentioned below: (2x5=10)
- International commerce necessitates this situation through commercial agreements in order to avoid application of *renvoi* in the court of law, and consequently, an injustice to the parties.
 - International marriage necessitates this situation, as matrimonial agreement cannot be easily entered into between two individuals who have respective jurisdictions with different legal rules for application in case matrimonial conflicts come.

- Q.8 What are the alternatives to existing legal system in relation to emerging global justice? Explain them in the context of case-law of Auroville at Pondicherry in India and Rajneeshpuram at Oregon in USA. (10)

OR

How do you identify the nature of relationship between municipal law and international law in order to impact the governance of global justice in international community? Explain them in the context of monism and dualism on one side and executive and legislature on the other side.

Q.9 A State 'X' who is not a member of UNO is un-willing to understand and contribute to global justice. As a legal policy researcher of State 'X', your legal advice to the respective 'Ministry of Foreign and External Affairs' would be; (02)

- (a) To open up trade-ties with members of UNO.
- (b) To open up diplomatic channels with members of UNO
- (c) To become member of UNO to get collective recognition and common benefits.
- (d) To open up cultural interactions with members of UNO as a source of soft-power.

Choose the order of preference from the above mentioned four options and explain with corresponding legal reasoning.
