

Name:

Enrolment No:



**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**

**End Semester Examination, May 2019**

**Course: Labour Laws- 1**

**Semester: VI**

**Program: BA. LL.B. (HONS.) CRIMINAL/LABOUR LAW/CONSTITUTIONAL LAW 2016, BA., LL.B. (HONS.)**

**ENERGY LAWS 2016**

**Time: 03 hrs.**

**Course Code: LLBL251**

**Max. Marks: 100**

**Instructions:**

**SECTION -A**

S. No.	Attempt all the questions	Marks	CO
	(Attempt any five)		
Q1	Section 19 of Trade Unions Act 1926	2	CO3
Q2	General Funds	2	CO3
Q3	Tripartism	2	CO1
Q4	Lock out	2	CO3
Q5	Dominant Nature Test	2	CO4
Q6	Works Committee	2	CO3

**SECTION B**

	(Attempt any four)		
Q7	Differentiate between a registered and unregistered Trade Union in the light of Trade Unions Act 1926.	5	CO4
Q8	Differentiate between 'Closure' and 'Lay-off' under the Industrial Disputes Act 1947.	5	CO3
Q9	Write short note on the objective and purpose of Industrial Employment (Standing Orders) Act, 1946.	5	CO1
Q10	What is 'retrenchment'? What are the conditions precedent to retrenchment as per the Industrial Disputes Act 1947?	5	CO3
Q11	Write a short note on ILO and its contributions towards developing labour jurisprudence and furthering labour welfare.	5	CO1


**SECTION-C**

(Attempt any two)

Q12	Critically examine the law relating to ‘Strikes’ in India. Discuss whether an ‘illegal strike’ can be justified and the workmen would be entitled to wages during the period of ‘illegal strike’?	10	C04
Q13	What is an ‘Industrial Dispute’ under the Act of 1947? Distinguish between an Individual dispute and Industrial Dispute. When can an Individual dispute deemed to be as Industrial Dispute?	10	C05
Q14	“Development of all progressive societies has hitherto been a movement from Status to Contract”. Analyze the statement and describe whether the industrial societies all over the world are moving from contract to status (a politico-socio-economic juristic status) in the present century. Explain.	10	C01
<b>SECTION-D</b>			
	Attempt all the questions		
Q15	There was a dispute between the management of Nestle & Co. and its registered Workers Union. The said dispute was regarding the reinstatement of a co-worker. The office bearers of Union decided to go on strike without resorting to violence. However, during the course of strike, some of the workers become violent and caused substantial loss to the establishment. The management wants to file a civil suit for recovery of damages and initiate a criminal proceeding against the office bearers of the Union. Will it succeed? Explain it with reasons and case laws.	10	C03
Q16	A, B and C work in brick-kiln owned by AVTAR Pvt. Ltd. where around 100 workers are employed. They all were allotted a specific portion of the land to produce bricks of a specified quality including length and weight. They were paid according to the number of bricks produced. The supervisor in the kiln was appointed to monitor the process. A, B and C had an issue with the management with regard to working conditions and they approached the Industrial Tribunal for it though the workers union they were member of. The Tribunal found it difficult to determine whether it is a case of <i>contract of employment</i> and <i>contract for employment</i> . Help the learned Tribunal in this determination highlighting the difference of ‘contract of employment’ and ‘contract for employment’ with a view to understand the term ‘workman’ under the Industrial Disputes Act, 1947.	15	C04
Q17	Mr. A and Mr. B, who were the employees of XYZ Municipality were dismissed by XYZ Municipality on the charges of negligence, insubordination and indiscipline. The workers union of XYZ employees of which Mr. A and Mr. B were members questioned the dismissal and the matter was referred to the Industrial Tribunal. The Tribunal finds it difficult to hold the XYZ Municipality as ‘industry’ under the ID Act 1947 and mentioned that ‘The understanding of the term ‘Industry’ under the Industrial Disputes Act, 1947 has been a challenging task before the Courts in India in spite of the fact that the term was defined under section 2(j) of the Act.’ Comment on the aforementioned statement in light of the relevant case laws, which reflect this ‘challenge’ faced by the Courts in India including the recent developments in this regard.	20+5= 25	C05

	<p>The Industrial Disputes (Amendment) Act 1982 has not been enforced until now. Assuming that it was enforced, discuss the implications on the understanding of the term 'Industry'.</p>		
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Set-B

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**Instructions:**

**SECTION A**

(Attempt any five)

		Marks	CO
Q1	Strike	2	CO1
Q2	General Fund	2	CO2
Q3	Collective Bargaining	2	CO1
Q4	Closure	2	C03
Q5	Public Utility Services	2	C03
Q6	Tripartism	2	C01

**SECTION B**

(Attempt any four)

Q7	ILO has laid down foundations for 'social justice' and 'labour welfare' in the world. Comment on the statement in affirmative or negative with suitable reasons.	5	CO1
Q8	Differentiate between 'Lock-out' and 'Lay-off' under the Industrial Disputes Act 1947.	5	C03
Q9	Differentiate between 'general funds' and 'political fund' under the Trade Unions along with the objects on which they may be spent along with relevant provisions under the Trade Unions Act, 1926?	5	CO3
Q10	What is 'retrenchment'? What are the conditions precedent to retrenchment as per the Industrial Disputes Act 1947?	5	CO3
Q11	Write short note on the objective and purpose of Industrial Employment (Standing Orders) Act, 1946.	5	CO1

**SECTION-C**

(Attempt any two)

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Q12	What is an 'Industrial Dispute' under the Act of 1947? Distinguish between an Individual dispute and Industrial Dispute. When can an Individual dispute deemed to be as Industrial Dispute?	10	C03
Q13	Discuss the history of the Trade Unions Movement in India and comment upon its importance for the rights of the workers?	10	C02
Q14	'The Constitution of India lays down the theme for Industrial Jurisprudence/Labour Jurisprudence in the country'. Comment on the statement in light of various provisions and judicial precedents.	10	C01
<b>SECTION-D</b>			
	Attempt all the questions		
Q15	There was a dispute between the management of BOSS & Co. and its registered Workers Union. The said dispute was regarding the working conditions of the workers. The office bearers of Union decided to go on strike without resorting to violence. However, during the course of strike, some of the workers become violent and caused substantial loss to the establishment. The management wants to file criminal proceeding against the office bearers of the Union. Will it succeed? Explain it with reasons and case laws. Discuss the immunities available to a Trade Union under the Trade Unions Act 1926.	10	C04
Q16	A was a driver of a taxi. The managers of XYZ Ltd. through its receptionist approach the taxi driver usually for any kind of travel plans and Mr. A accedes to their demands for due consideration. Sometimes, the demands are so frequent that Mr. A is approached many times a day. Mr. A has a dispute with regard to non-payment of his bills for which he wishes to approach the Industrial Tribunal under the Industrial Disputes Act 1947. Guide A in this regard. Comment on the aforesaid statement highlighting the difference of 'contract of employment' and 'contract for employment' with a view to understand the term 'workman' under the Industrial Disputes Act, 1947. Discuss in detail and comment on the celebrated judgment of Dharangdhra Chemical Works v. State of Saurashtra (AIR 1956 SC 264) in this regard.	15	C05
Q17	In 'XYZ Ltd. v. Workmen' in 2019 before the Hon'ble Supreme Court of India in its appellate jurisdiction, the court had to determine whether XYZ Ltd. is an 'Industry' under section 2(j) of the Act of 1947. It observed that-"In the celebrated <i>Bangalore Water Supply Case</i> , the Supreme Court of India reviewed the earlier dicta of the Court on the definition of 'Industry' in the spirit of crusaders. It went haywire and far beyond the confines of the case in the name of judicial activism to bring every conceivable activity in the sweep of Industry." Critically examine the statement commenting on Section 2(j) of the Industrial Disputes Act 1947. Cite relevant case laws in this regard also. Also, determine whether a legal consultant firm employing a stenographer and a peon would be an 'industry'?	20+5= 25	C05