

Name:

Enrolment No:



**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**  
**End Semester Examination, May, 2019**

**Course: Legal Language and Legal Writing /Sub Code:CLCC-1005**

**Semester: II**

**Programme: B.A.,LL.B (Hons)/ BB.A.,LL.B (Hons)/**

**B.COM.,LL.B. (Hons)/ B.Sc.,LL.B (Hons)**

**Time: 03 hrs.**

**Max. Marks: 100**

**Instructions:**

- 1. Attempt all the questions**
- 2. Answer as per the word limit**

**SECTION A**

S. No.		Marks	CO
Q 1	Write the meaning of following given legal words: a. Sub Modo b. Per stirpes c. doli incapax	2 x 3 = 6 marks	CO2
Q. 2	Write the legal terms for the followings ( any two) a. Murder of a human being b. One who is unable to pay his debts c. The theory or philosophy of law	2x 2 = 4 Marks	CO2

**SECTION B**

Q. 3	Write the full form of given Abbreviations a. UNCITRAL b. GATT c. CEDAW	2x3 = 6 Marks	CO2
Q. 4	Write an legal essay on following topic (any one)  'Just as a bird can not fly with one wing only, a Nation cannot march forward if the women are left behind'. Considering the above given statement write an essay on Status of Women Rights in India.  Or Write an essay on Legal Recognition of Same sex Relationships in India	14 Marks	CO3 , CO4

**SECTION-C**

Q. 5

Read the passage and answer the following:

In a separate and concurring opinion, Justice D Y Chandrachud held that the exclusion of women between the ages of 10-50 years by the Sabarimala Temple was contrary to constitutional morality and that it subverted the idelas of autonomy, liberty, and dignity. He held that the morality conceptualised under Articles 25 and 26 of the Constitution cannot have the effect of eroding the fundamental rights guaranteed under these Articles. Justice Chandrachud concurred with the opinions delivered by CJI Dipak Misra & Justice Nariman to hold that the Ayyappana, or worshippers of Lord Ayyappa, did not satisfy the judicially enunciated requirements to be considered a separate religious denomination. He held that the exclusion was not an essential religious practice.

Justice Chandrachud further emphasised that physiological characteristics of women, like menstruation, have no significance or bearing on the entitlements guaranteed to them under the Constitution. The menstrual status of a woman cannot be a valid constitutional basis to deny her the dignity and the stigma around the same had no place in a Constitutional order. Significantly, Justice Chandrachud also dealt with the argument that the exclusion was a form of untouchability prohibited under Article 17 of the Constitution. He observed that a perusal of the Constituent Assemble Debates would show that the makers of the Constitution had deliberately chosen to not give the term untouchability a specific meaning. He concluded that this was to ensure that it was not understood in a restrictive manner and must therefore be given an expansive meaning. He further held that Article 17 is a powerful guarantee against exclusion and cannot be read to exclude women against whom social exclusion of the worst kind has been practiced and legitimized on notions of purity and pollution.

Justice Indu Malhotra delivered a dissenting opinion in the Sabrimala verdict. She argued that constitutional morality in a secular polity, such as India, requires a 'harmonisation' of various competing claims to fundamental rights and that the Court must respect a religious denomination's right to manage their internal affairs, regardless of whether their practices are rational or logical. She held that the Sabarimala Temple satisfies the requirements for being considered a separate religious denomination. She therefore held that the Sabarimala Temple is protected under Article 26(b) to manage its internal affairs and is not subject to the social reform mandate under Article 25(2)(b), which applies only to Hindu denominations. Note that Article 26, denominational freedom of religion, is subject to 'public order, morality and health'. Justice Malhotra held that 'morality' (constitutional morality) must be understood in the context of India being a pluralistic society. She stated that the State must respect the freedom of various individuals and sects to practice their faith. It was held that the fundamental right to equality guaranteed to women under Article 14 cannot override Article 25, which guarantees every individual the right to profess, practice and propagate their faith and that Rule 3(b) does not stand in conflict with its parent Act, the Kerala Hindu Places of Public Worship Act. She emphasized that the rule 'carves out an exception in the case of public worship'. She held that the rule was consistent with Article 26(b) of the Constitution. She dismissed the argument that the Sabarimala custom violates Article 17 of the Constitution. Article 17 pertains to


**15  
Marks**

**CO3**

	<p>untouchability and prohibits discrimination on the basis of impurity. She stated that, in the context of the Article and the Constitution in general, untouchability refers to caste and does not extend to discrimination on the basis of gender. Like Justice Chandrachud, she referred to the Constiuent Assembly Debates to establish how the founder intended to use the term untouchability. Unlike Justice Chandrachud, she concluded that untouchability does not extend to gender.</p> <p>(a) Write a suitable title to the passage and justify the title. (3 Marks)  (b) Write a Precis on the given passage. (12 Marks)</p>		
Q6.	Mention 5 fundamental rules of pleading while drafting a plaint.	5 Marks	CO1 , CO3
<b>SECTION-D</b>			
Q. 7	<p>Fill in the blanks with reference to 'status of languages in the Constitution of India'.</p> <p>The Constitutional provisions relating to the _____ Schedule occur in article 344(1) and 351 of the Constitution. Article _____ provides for the constitution of a Commission by the _____. Article 351 of the Constitution provides that it shall be the duty of the Union to promote the spread of the _____ language to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in _____ script and in the other languages of India specified in the Schedule, and by drawing, wherever necessary or desirable, for its vocabulary, primarily, on Sanskrit and secondarily on other languages. This Schedule to the Constitution consists of the _____ languages. The one such newly added language is _____. Article _____ a special officer for linguistic minorities has been enshrined in the constitution. This officer is to be appointed by the president. According to the Article _____, language to be used in the Supreme court and in high courts and for bills acts etc. will be in in the _____ language.</p>	1 x 10 = 10 Marks	CO1
Q.8	<p>Read the passage and answer the following questions strictly in context of the passage:</p> <p>Deriving Intention of legislative command is an exclusive function of judiciary. The task is an arduous one. Very often there are competing claims as to the meaning of words used in the statutory provisions. To find out the most appropriate meaning is full of difficulties. Dias has identified five difficulties in interpretative enterprise. First is to ascertain the 'intention of parliament' which 'is no less elusive than the search for the ratio decidendi of a case.' "Second, whose intention is it that is relevant?' It cannot be the intention of recommendatory body like law commission 'nor of the draftsman nor even' legislators for a good number may not be present when it was voted, or may have voted in obedience of a mandatory whip. "Ascertaining the 'intention of</p>	20 Marks	CO2 , CO3 , CO4

legislature', therefore, boils down to finding the meaning of words used-the 'intent of statute, rather than that of Parliament. Third difficulty 'arises from the fact that 'meaning' and 'intention' are ambiguous words. Does the present case fall within what the legislature 'meant' to refer to by the wording it has used (reference), or does it fall within the purpose which is 'meant' to accomplish(purpose)?" Dias designate these two methods as interpretation and construction, "but the activities of the judiciary cannot be separated in this way, for the distinction between interpretation and construction is not clear-cut. Where language is equivocal, the decision whether the wording was 'meant' to refer to the situation before the court, which no one may have contemplated at the time of passing of the statute, inevitably imports a measure of 'construction.' In such cases it is difficult to see where 'interpretation' leaves off and 'construction' begins." To ascertain purpose means to 'permit a court venture outside the enactment for available evidence as to the policy behind it. The practical question is how far a court is expected to go in search of such evidence, for without some limit the inquiry might be pursued to unreasonable lengths.' Fourth challenge is that 'the statutes control the future by using broad terms of classes and categories.' Casus omissi is inevitable as human error is unavoidable which mandates a measure of discretion in every decision of a case. Fifth, every word can have three meaning, (i) of user, (ii) of receiver and (iii) usual meaning. Which meaning would be suitable? Judges in India face similar challenges. The exclusive and final authority of giving meaning to a word or provision of law is an extraordinary power in the hands of judiciary. Therefore they ought to be very careful. They need to follow certain principles and rules though it is not essential that they should stick to a particular rule because meeting the ends of justice is ultimate objective. Like previous years, the survey of this year also indicate that the judges have used all prevalent rules of interpretation which is natural because 'words are not passive agents.' A thoughtful examination of survey on interpretation has to face two limitations. One, the case law on interpretation is very wide as it is not limited to constitutional or criminal or civil or property law etc. Two, other surveys in this work do cover various case laws under different heads. Care has been taken that this survey limits itself to interpretation issues only though it is not always possible. The survey is limited to the more important decisions of the Supreme Court only which could be conveniently discussed under various heads and subheads.

- a. Write a suitable Title to the passage and justify the title. (2 marks)
- b. What is meant by "intention of the legislature"? (3 Marks)
- c. What is the role of judiciary in determining the intention of legislature? (5 Marks)
- d. What are some of the challenges faced by judges in India while interpreting the law? (5 marks)
- e. Give meanings of the following words: (1x 5 = 5 Marks)
  - i. Ambiguous
  - ii. Ratio decidendi

	iii. Arduous iv. Casus omissi v. interpretation		
Q.9.	Look at the picture carefully and write a para citing some legal terminology. 	<b>10 Marks</b>	<b>CO3</b>
Q 10	<p>Mr. X is the owner of the car driven by Mr. Y under the instructions of the directions of route and work timings with Mr. X. One fine day, as Mr. Y was driving the car on the usual routes at usual time, he met with an accident with another, Mr.T. Due to the collision, Mr. T had a concussion and his car was severely damaged. Due to this collision, Mr. T filed a suit against Mr. X claiming the medical and car insurance of total amount of Rs. 50,000.</p> <p>According to the Motor Vehicles Act 1988, liability to pay compensation in certain cases would arise applying the principle of no fault. The Judge presiding the competent court heard both sides of the party but Mr. X contended that he is not related to the cause because he is not well aware of the law.</p> <p>Answer the following questions with the correct <b>Legal Maxims</b> and its explanation with the situation given:</p> <ol style="list-style-type: none"> <li>Explain the relationship of Mr. X and Mr. Y in the given situation?</li> <li>The Principle of No fault in this given situation can also be termed as _____.</li> <li>Mr. X contended that he was not aware of the law at that time. Will this contention by the defendant be accepted by the Court?</li> <li>The Judge presiding the competent court heard contentions of both parties. Which principle of Natural Justice is reflected in this statement?</li> <li>Mr. T seeks damages of Rs. 50,000 from the court of law due to the injuries suffered from the collision. Name the correct maxim for the situation.</li> </ol>	<b>5x2=10 Marks</b>	

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**SECTION A**

S. No.		Marks	CO
Q 1	Write the meaning of following legal words  a. ex gratia b. habeas corpus c. lex loci	<b>2 x 3 = 6 marks</b>	<b>CO2</b>
Q. 2	One word substitution ( any two)  a. Money a court requires one spouse to pay the other spouse for support before and/or after the divorce is granted. b. Power of court to hear and decide on a case c. A right to hold and retain another's property until a claim is satisfied	<b>2x 2 = 4 Marks</b>	<b>CO2</b>

**SECTION B**

Q. 3	Write the full form of below mentioned Abbreviation a. QBD b. ECHR c. AIDWA	<b>2x3 = 6 Marks</b>	<b>CO2</b>
Q. 4	Write an essay on following topic (any one)  Write an essay on role of law in environmental protection in India.  <p style="text-align: center;">OR</p>	<b>14 Marks</b>	<b>CO3, CO4</b>

	Write an essay on violation of legal Rights of Women Under the Garb of Custom and Tradition.		
<b>SECTION-C</b>			
Q. 5	What is the meaning of pleading and what are their function in the legal system?	5 marks	CO1, CO2
Q. 6	<p>Read the passage and answer the following:</p> <p>Children and childhood across the world, have broadly been construed in terms of a ‘golden age’ that is synonymous with innocence, freedom, joy, play and the like. It is the time when, spared the rigours of adult life, one hardly shoulders any kind of responsibility or obligations. But, then, it is also true that children are vulnerable, especially when very young. The fact that children are vulnerable, they need to be cared for and protected from ‘the harshness of the world outside’ and around (Holt, 1975 : 22). This being so, the adult-child relation, parents in particular, is said to provide ‘care and protection’ – serving thereby the ‘best interests of the child’ and meeting their day-to-day ‘needs of survival and development’. The adult is presumed to be the guardian and in that respect expected to take the responsibility of child’s welfare and development. Whether or not, the premise underlying this is correct or not, the childhood ‘reality’ on the whole is questionable, demanding critical evaluation. Accordingly, idealistic notions and representations associated with children and childhood have been challenged, especially in relation to poverty, disease, exploitation and abuse rife across the globe. Many also believe that childhood is that period during which children are subject to a set of rules and regulations unique to them, and one that does not apply to members of other social categories. It is indeed a period in a person’s life during which she/he is neither expected nor allowed to fully participate in various domains of social life. It is thus not a world of freedom and opportunity but one of confinement and limitation in which children are ‘wholly subservient and dependent’. This being so, childhood is nothing short of a world of isolation, sadness, exploitation, oppression, cruelty and abuse. To dichotomize and juxtapose these theoretical models of the child-adult relation reveals fundamentally different ways of seeing and understanding the very essence of childhood and children. In this sense, childhood is not a static, objective and universal fact of human nature, but a social construction which is both culturally and historically determined. The history of Hebrews, Greeks and Romans, whose cultures had a great impact upon the Western society, bears testimony to the fact that children, by and large, were taken for granted by their parents and the patriarchal society at large. The resultant effect of all this was that they were treated as objects of intervention rather than as legal subjects in their own right. Many labelled them as a ‘problem population’ whereas others reduced them to being seen as property and thus treated them as non-entities. The Roman law, for instance, provided for the Chapter 1 10 patriae potestas whereby the father was endowed with absolute power and authority over his family. It included just vitae necisque, the power of life and death, and a fortiori, of uncontrolled corporal chastisement over wife, children and other family members (Oppenlander, 1981: 386).</p>	15 Marks	CO3

	<p>Ancient Greeks left girls and children born with disabilities on the wild hillsides, where exposure or animals were sure to kill them, and the practice was continued routinely in Rome until Christianity became the State religion. The killing of unwanted children may have become less common in the centuries since then, but it never completely disappeared. In the given adult-child power relation, the usual cliché of childhood being a ‘golden age’ not only seemed to be a myth but a distant dream for majority of these children. Children being our supreme asset, nothing concerning their survival, development, protection and participation should be ignored or sidelined. However, in a country with a large number of floating population, vast disparities, social conflict and turmoil, the challenge to attend to all their rights is even greater.</p> <p>(a) Write a suitable title to the passage and justify the title. (3 Marks)</p> <p>(b) Write a Precis on the given passage. (12 Marks)</p>		
<b>SECTION-D</b>			
Q.7	<p>Analyze the condition of languages in the constitution of India and its applicability to the various organs of the state. Discuss with the help of relevant articles of the constitution.</p> <p>Or</p> <p>Language is obviously a vital tool. Not only is it a means of communicating thoughts and ideas, but it forges friendships, cultural ties, and economic and legal relationships. Analyse the provisions of constitution with respect to language.</p>	<b>10 Marks</b>	<b>CO 1, CO4</b>
Q.8.	<p>"Rules of natural justice are not embodied rules nor can they be elevated to the position of Fundamental Rights. Their aim is to secure justice or to prevent miscarriage of justice. These rules can operate only in areas not covered by any law validly made. They do not supplant the law but supplement it. If a statutory provision can be read consistently with the principles of natural justice, the courts should do so."</p> <p>Mention &amp; discuss the two fundamental principles of natural justice along with its legal maxim.</p>	<b>2 x 5 = 10 Marks</b>	<b>CO1, CO2</b>
Q. 9	<p>Read the passage and answer the following questions strictly in context of the passage:</p> <p>The main issue in the Shreya Singhal case was whether Section 66A of ITA violated the right to freedom of expression guaranteed under Article 19(1)(a) of the Constitution of India. As an exception to the right, Article 19(2) permits the government to impose “reasonable restrictions . . . in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offense.” The Petitioners argued that Section 66A was</p>	<b>20 Marks</b>	<b>CO2, CO3, CO4</b>



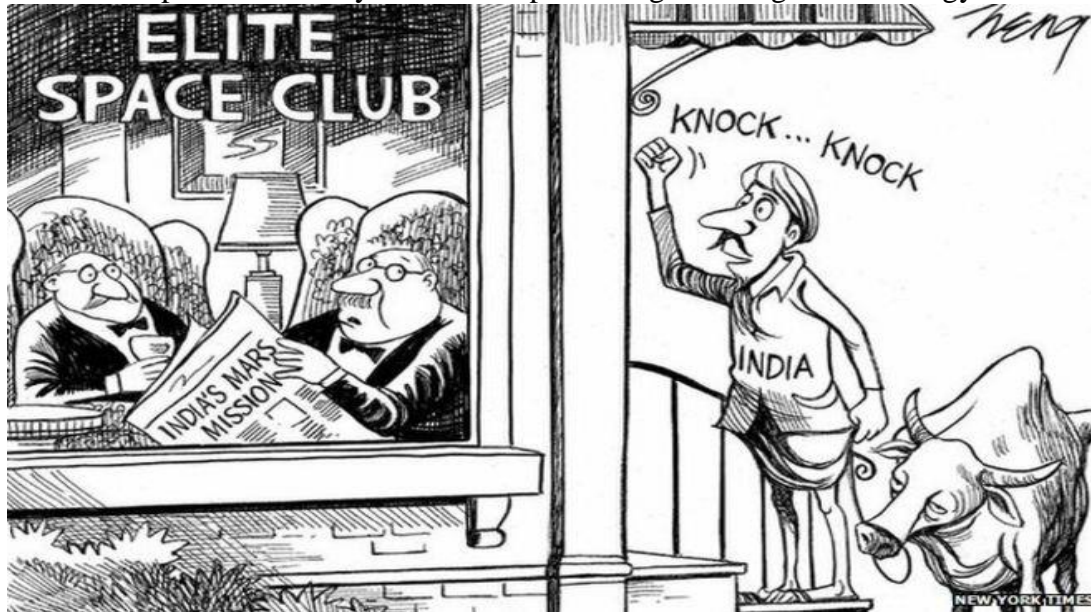
unconstitutional because its intended protection against annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, or ill-will fall outside the purview of Article 19(2). They also argued that the law was unconstitutionally vague as it fails to specifically define its prohibitions. In addition, they contended that the law has a “chilling effect” on the right to freedom of expression. The government, on the other hand, argued that the legislature is in the best position to fulfill the needs of people and courts may interfere with legislative process only when “a statute is clearly violative of the rights conferred on the citizen under Part-III of the Constitution.” The government contended that mere presence of abuse of a provision may not be a ground to declare the provision as unconstitutional. Also, the government was of the opinion that loose language of the law could not be a ground for invalidity because the law is concerned with novel methods of disturbing people’s rights through internet. According to the government, vagueness cannot not a ground to declare a statute unconstitutional “if the statute is otherwise legislatively competent and non-arbitrary.” [para. 6] The Court first discussed three fundamental concepts in understanding the freedom of expression: discussion, advocacy, and incitement. According to the Court, “[m]ere discussion or even advocacy of a particular cause howsoever unpopular is at the heart” of the right. [para. 13] And, the law may curtail the freedom only when a discussion or advocacy amounts to incitement. As applied to the case in hand, the Court found that Section 66A is capable of limiting all forms of internet communications as it makes no distinction “between mere discussion or advocacy of a particular point of view, which may be annoying or inconvenient or grossly offensive to some and incitement by which such words lead to an imminent causal connection with public disorder, security of State etc.” The Court further held that the law fails to establish a clear proximate relation to the protection of public order. According to the Court, the commission of an offense under Section 66A is complete by sending a message for the purpose of causing annoyance or insult. As a result, the law does not make distinction between mass dissemination and dissemination to only one person without requiring the message to have a clear tendency of disrupting public order. As to whether Section 66A was a valid attempt to protect individuals from defamatory statements through online communications, the Court noted that the main ingredient of defamation is “injury to reputation.” It held that the law does not concern this objective because it also condemns offensive statements that may annoy or be inconvenient to an individual without affecting his reputation. The Court also held that the government failed to show that the law intends to prevent communications that incite the commission of an offense because “the mere causing of annoyance, inconvenience, danger etc., or being grossly offensive or having a menacing character are not offences under the Penal Code at all.” As to petitioners’ challenge of vagueness, the Court followed the U.S. judicial precedent, which holds that “where no reasonable standards are laid down to define guilt in a Section which creates an offense, and where no clear guidance is given to either law abiding citizens or to authorities and courts, a Section which creates an offense and which is vague must be struck down as being arbitrary and unreasonable.” [para. 52] The Court found that Section 66A leaves many terms open-ended and undefined, therefore making the statute void for vagueness. The Court also addressed whether Section 66A is capable of imposing

chilling effect on the right to freedom of expression. It held that because the provision fails to define terms, such as inconvenience or annoyance, “a very large amount of protected and innocent speech” could be curtailed. The Court also noted the intelligible difference between information transmitted through internet and other forms of speech, which permits the government to create separate offenses related to online communications. Accordingly, the Court rejected petitioners’ argument that Section 66A was in violation of Article 14 of the Constitution against discrimination. The Court declined to address the Petitioners’ challenge of procedural unreasonableness since the law was already declared unconstitutional on substantive grounds. It also found Section 118(d) of the Kerala Police Act to be unconstitutional as applied to Section 66A. Based on the forgoing reasons, the Court invalidated Section 66A of ITA in its entirety as it violated the right to freedom of expression guaranteed under Article 19(1)(a) of the Constitution of India.

Answer the following questions strictly in context of the passage:

1. Write a suitable Title to the passage and justify the title. (2.5 Marks)
2. What is meant by freedom of speech and expression? (2.5 Marks)
3. Mention the circumstances in which reasonable restrictions be imposed on a right? (5 Marks)
4. What are the observations made by the court in the above passage? (5 Marks)
5. Give meanings of the following words: (1x5=5Marks)
  - (a) Chilling effect
  - (b) violate
  - (c) curtail
  - (d) petitioner
  - (e) vague

Q. 10 Look at the picture carefully and write a para citing some legal terminology.



10  
Marks

CO3