NATIONAL LAW SCHOOL OF INDIA UNIVERSITY
BANGALORE
Ph. D (LAW)

ADMISSION TEST

Total Marks: 100

INSTRUCTIONS:

1. **THE QUESTION PAPER CONSISTS OF THREE PARTS—A, B & C.**
2. **Answer ALL questions in Part A, any ONE from Part B and TWO from Part C**

PART—A
Research Aptitude

(50 Marks)
Attempt all Questions in Part A

Question 1: Read the given passage and answer the questions that follow:

THE MYTH OF MERITOCRACY

Career progression in academia depends largely on how much you get published in peer-reviewed journals, but getting published is not the same feat for men as it is for women. A number of studies have found that female-authored papers are accepted more often or rated higher under double-blind review (when neither author nor reviewer are identifiable). And although the evidence varies on this point, given the abundant male bias that *has* been identified in academia, there seems little reason not to institute this form of blind academic audition. Nevertheless, most journals and conferences carry on without adopting this practice.

Of course, female academics do get published, but that's only half the battle. Citation is often a key metric in determining research impact, which in turn determines career progression, and several studies have found that women are systematically cited less than men. Over the past twenty years, men have self-cited 70% more than women – and women tend to cite other women more than men do, meaning that the publication gap is something of a vicious circle: fewer women getting published leads to a citation gap, which in turn means fewer women progress as they should in their careers, and around again we go. The citations gap is further compounded by male-default thinking: as a result

of the widespread academic practice of using initials rather than full names, the gender of academics is often not immediately obvious, leading female academics to be assumed to be male. One analysis found that female scholars are cited as if they are male (by colleagues who have assumed the P stands for Paul rather than Pauline) more than ten times more often than vice versa.

Writing for the *New York Times*, economist Justin Wolfers noted a related male-default habit in journalists routinely referring to the male contributor as the lead author when in fact the lead author was a woman. This lazy product of male-default thinking is inexcusable in a media report, but it's even more unacceptable in academia, and yet here too it proliferates. In economics, joint papers are the norm – and joint papers contain a hidden male bias. Men receive the same level of credit for both solo and joint papers, but, unless they are writing with other female economists, women receive less than half as much credit for co-authored papers as men do. This, a US study contends, explains why, although female economists publish as much as male economists, male economists are twice as likely to receive tenure. Male-default thinking may also be behind the finding that research perceived to have been done by men is associated with 'greater scientific quality': this could be a product of pure sexism, but it could also be a result of the mode of thinking that sees male as universal and female as niche. It would certainly go some way to explaining why women are less likely to appear on course syllabuses.

Of course before a woman gets to face all these hidden hurdles, she must have found the time to do the research in the first place, and that is by no means a given. We've already discussed how women's unpaid workload outside of paid employment impacts on their ability to do research. But their unpaid workload *inside* the workplace doesn't help either. When students have an emotional problem, it is their female professors, not their male professors they turn to. Students are also more likely to request extensions, grade boosts, and rule-bending of female academics. In isolation, a request of this kind isn't likely to take up much time or mental energy – but they add up, and they constitute a cost on female academics' time that male academics mostly aren't even aware of, and that universities don't account for.

Women are also asked to do more undervalued admin work than their male colleagues – and they say yes, because they are penalised for being 'unlikeable' if they say no… Women's ability to publish is also impacted by their being more likely than their male colleagues to get loaded with extra teaching hours, and, like 'honorary' admin posts, teaching is viewed as less important, less serious, less *valuable*, than research. And we run into another vicious circle here: women's teaching load prevents them from publishing enough, which results in more teaching hours, and so on.

[Extracted, with minor edits, from: Perez, C., *Invisible Women: Exposing Data Bias in a World Designed for Men*, Chatto & Windus, London, 2019, pp. 96-98.]

i. *Comment upon the author's statement that* 'female-authored papers are accepted more often or rated higher under double-blind review'*; specifically, critique the relevance of the reviewer being unidentifiable in the context of eliminating gender bias in selection for publication.*

(05 Marks)

ii. *The author does not describe differences in observations as regards the selection for publication of female authors across disciplines. Is it possible that female academics are more frequently selected for publication in certain academic disciplines than others, and if so, how would you design a study that identifies and measures such differences?*

(05 Marks)

iii. *Suggest mechanisms to measure the value of administrative, student counselling and support, teaching, and other non-research work, and a means of comparing the same to the value of research work in academia. In particular, how do you think such work should be valued in the context of Indian National Law Universities ("**NLUs**")? Support your response by describing whether, in your opinion, the core objectives of NLUs should be teaching and training, or research.*

(05 Marks)

iv. *Are women under-represented in the syllabus for Indian legal curricula? Support your response with hypotheses, and propose ways in which the veracity of those hypotheses could be determined.*

(05 Marks)

[End of Question 1]

Question 2: Read the two passages that appear below and answer the questions that follow:

RULES ON LIVE-STREAMING AND RECORDING OF COURT PROCEEDINGS

Preface

Whereas to imbue greater transparency, inclusivity and foster access to justice, it is expedient to set up infrastructure and the framework to enable live-streaming and recording of Proceedings. These Rules are framed by the High Court of *Judicature* in the exercise of powers under Article 225 or relevant statute where applicable, and Article 227 of the Constitution of India.

These Rules will apply to the High Court of *Judicature* and to the courts and tribunals over which it has supervisory jurisdiction.

These Rules will come into force from the date notified by the High Court of *Judicature*.

1. Definitions: -

…

xii. Live-stream/ Live-streamed/ Live-streaming: means and includes a live television link, webcast, audio-video transmissions via electronic means or other arrangements whereby any person can view the Proceedings as permitted under these Rules.

…

5. Live-streaming and Recording of Proceedings

5.1. Subject to the exclusions contained within these Rules, all Proceedings will be Live-streamed by the Court.

5.2. The following will be excluded from Live-streaming:

i. Matrimonial matters, including transfer petitions arising thereunder.

ii. Cases concerning sexual offences, including proceedings instituted under Section 376, Indian Penal Code, 1860 (IPC).

iii. Cases concerning gender-based violence against women.

iv. Matters registered under or involving the Protection of Children from Sexual Offences Act, 2012 (POCSO) and under the Juvenile Justice (Care and Protection of Children) Act, 2015.

v. In-camera proceedings as defined under Section 327 of the Code of Criminal Procedure, 1973 (CrPC) or Section 153 B of the Code of Civil Procedure, 1908 (CPC).

vi. Matters where the Bench is of the view, for reasons to be recorded in writing that publication would be antithetical to the administration of justice.

vii. Cases, which in the opinion of the Bench, may provoke enmity amongst communities likely to result in a breach of law and order.

viii. Recording of evidence, including cross-examination.

ix. Privileged communications between the parties and their advocates; cases where a claim of privilege is accepted by the Court; and non-public discussions between advocates.

x. Any other matter in which a specific direction is issued by the Bench or the Chief Justice.

5.3. Live-streaming in certain cases may be restricted to final arguments.

[Extracted from: *Draft Model Rules for Live-Streaming and Recording of Court Proceedings*, e-Committee, Supreme Court of India, available at: https://cdnbbsr.s3waas.gov.in/s388ef51f0bf911e452e8dbb1d807a81ab/uploads/2021/06/2021060752.pdf, accessed on June 13, 2021.]

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Draft Rules released by the Supreme Court e-Committee on Monday for live-streaming and recording court proceedings propose a 10-minute delay in transmission and exclusion of communally sensitive cases and matters that involve sexual offences and gender violence against women.

The Rules are part of the National Policy and Action Plan for implementation of Information and Communication Technology (ICT) in the judiciary.

Chief Justice of India N.V. Ramana recently said the process to make live stream a reality was actively under consideration.

Now, the Supreme Court has invited inputs and feedback on the 'Draft Model Rules for Live-Streaming and Recording of Court Proceedings'. The Rules would cover live-streaming and recording of proceedings in High Courts, lower courts and tribunals.

Letter to CJs

Justice D.Y. Chandrachud, who heads the Supreme Court e-Committee, had written to the Chief Justices of the High Courts for their feedback on the draft Rules.

A sub-committee consisting of judges of the Bombay, Delhi, Madras and Karnataka High Courts was constituted to frame the model draft Rules.

In his letter, Justice Chandrachud said the right of access to justice, guaranteed under Article 21 of the Constitution, "encompasses the right to access live court proceedings".

The Rules intend to balance between access to information and concerns of privacy and confidentiality.

[Extracted, with minor edits, from: Rajagopal, K., "Draft Rules for live-streaming, recording of court proceedings out", *The Hindu*, available at: https://www.thehindu.com/news/national/draft-rules-for-live-streaming-recording-of-court-proceedings-out/article34755473.ece, accessed on June 13, 2021.]

i. *Present arguments to support your opinion on whether inviting stakeholder comments on the* Draft Rules on Live-Streaming and Recording of Court Proceedings*, (the "**Draft Rules**") is both, a necessary and sufficient exercise in the wider context of good practices in formulating public policies, given Justice Chandrachud's statement in his letter to the Chief Justices of the High Courts that "*the right of access to justice, guaranteed under Article 21 of the Constitution, "encompasses the right to access live court proceedings""*?*

(05 Marks)

ii. *Assume you are required to conduct a study on the following question:*

Would the live-streaming of court proceedings exacerbate the phenomenon described as the 'digital divide'?

What data points would you gather as a part of your study?

(05 Marks)

iii. *Further to the preceding question, assume you are required to measure the difference in people's perception of whether live-streaming of court proceedings has provided them a greater sense of access to justice. Since such a measurement can only be conducted at some point after the introduction of live-streamed court proceedings, what ethical*

considerations do you contemplate having to respond to in creating differentiated sets of study subjects, with one set having access to live-streamed court proceedings, and the other not being provided such access? Describe in brief your responses to these ethical considerations.

(05 Marks)

[End of Question 2]

Question 3: Read the passage and answer the questions that follow:

LEGAL THEORY AND EMPIRICAL RESEARCH

The differences between legal theory and empirical research are brought out by considering their subject matters, aims, and methods of research. The subject matter of legal theory is, for Hart "the general framework of legal thought" (Hart, 1961), and for Thomas Morawetz, echoing Hans Kelsen, the presuppositions "that go unquestioned by practitioners and are implicit in their activity" (Morawetz, 1980; Kelsen, 1967). Law means state law in whose making, interpretation, and implementation state officials play a prominent part. The aim is to formulate a theory "true of all legal systems' whose features must of necessity be general and abstract" (Raz, 1979: 104). Those features, according to Joseph Raz, pertain to: the existence, identity, structure, and content of a legal system. The method is to identify, develop, and refine the concepts implicit in law and legal systems.

In order to identify such concepts, theorists must have some evidence of law and legal systems in operation, of how law is practiced and how practitioners understand what they are doing. The information theorists rely on is not that obtained by empirical research; common sense and intuitions about law, what some call folk knowledge, is considered enough. They are enough for two reasons. One is that legal theory is interested only in the features both common and essential to legal systems or a defined group of them. Since common and essential features are likely to be few and easily identified, the range of information about law and legal systems needed for a theory of law is limited. The other reason is that legal theory is concerned only with the "legal," which means a judgment has to be made as to what is distinctively legal and what is not. Legal theorists differ in that judgment, but they are united in excluding from consideration the social environment around law (Harris, 1979). Whether law can be separated so clearly from its social environment is questionable, and a matter to consider later on. The point for the moment is that legal theory of the philosophical kind is based on the separation.

Empirical research means collecting and analyzing data about law. It is a method of research rather than an end in itself and may be conducted with different aims in mind: simply to know more about some aspect of law, or to lay the groundwork for reform, or to build a set of generalizations about law. Another aim could be to contribute to legal theory, although… this is rarely the motivation for empirical research. Whether there is a strict line between law and other social phenomena is not important for empirical research; indeed empirical researchers are likely to count themselves among those who question whether there are precise boundaries between the two. Since empirical research is concerned with how law works in practice, it is to be expected that law's interaction with other social factors is often one of its subjects. Empirical

research is not restricted to state law, but investigates law and legal experience of all kinds, of which state law is just one kind.

The method of empirical research is: to pose questions about an aspect of law; to gather evidence; to interpret the evidence; and then draw conclusions. An understanding of how law works in the circumstances is the first, and often the only, objective. A second step may be taken to relate the findings to wider issues, or to compare them across different legal systems, or to place them in a broader framework of generalizations about law… Generalizations based on evidence of what happens in particular cases are contingent and potentially falsifiable, and therefore different from those of legal theory, which purport to be general truths about law.

Despite the differences between them, legal theory and empirical research have some common features. Both aim at understanding law and legal systems (MacCormick, 1978). Legal theory, while philosophical in method, still has as its subject a social phenomenon, created and practiced for social ends. It must, then, have a footing in social reality and be true to the social practices about which it theorizes. Since empirical research is essentially a means for obtaining and analyzing information about law, it should be a useful source of information for legal theory. Yet in acquiring knowledge of law, legal theorists tend to rely on what they know from common sense and perhaps their own experience of law. Empirical research is not considered relevant and is rarely cited. Hart's approach illustrates the point: he relies on “familiar” facts about law and criticizes other theorists whom he claims overlook or misunderstand the facts (Hart, 1961). It seems strange at first sight that legal theorists do not see empirical research as potentially useful, perhaps in providing a fuller understanding of familiar facts or unearthing less familiar ones…

[Extracted from: Galligan, D.J., "Legal Theory and Empirical Research", in Cane, P., and Kritzer, H.M., The Oxford Handbook of Empirical Legal Research, Oxford University Press, Oxford, 2010, p. 976.]

i. *Is the understanding of law as ‘state law’, in the manner the author describes as being typical of legal theorists, a limitation for the tools and methods used in empirical legal research? Does, or should, empirical legal research confine its understanding of ‘law’ in this manner?*

(05 Marks)

ii. *In your opinion, can folk knowledge form a valid basis for the development of legal theory? Respond to the author’s suggestions as to why legal theorists rely on folk knowledge and may eschew empirical legal research.*

(05 Marks)

iii. *Should legal theory only be concerned with what is strictly 'legal', or identified as such, and distinguished from matters that are 'non-legal'? How may legal theory benefit from reliance on empirical legal research, and* vice versa*? Address the author's descriptions of 'legal theory' and 'empirical legal research' in your response.*

(05 Marks)

PART—B
Contemporary Developments in the field of Law and Society

(25 Marks)
Attempt ONE Topic in Part B

Draft a Research Proposal for a Six Month Project containing the following elements from ONE of the topics in the LIST OF TOPICS below.

a. Background and Context

b. Scope and Focus

c. Research Questions

d. Thesis Statement

e. Research Methods

LIST OF TOPICS

1. Right to Primary Education in the COVID-19 Pandemic
2. Climate Change induced Displacement
3. Labour Law Reforms
4. AI in the Justice System

PART C
Specific Questions in Law

(25 Marks)
Answer any 2 questions (12 ½ + 12 ½)

1. What is the nature, and what are the causes of endemic delays and backlogs in the Indian judicial system? What reforms are required to address this issue?

2. The COVID19 pandemic has exposed the need for just and efficient distribution of vaccines and vaccine-related knowhow across the globe. What are the ethical and justice concerns that arise in the current legal regulation of Covid 19 vaccines? What legal reforms are needed to address these concerns?

3. In various cases, the Supreme Court of India has held that reproductive rights are guaranteed by the Constitution. What are the legal and extra-legal barriers to realizing these rights?

4. In the recently concluded state elections many parties promised “wages” or “monthly financial support” to “housewives.” This has highlighted the issue of invisible work, especially domestic and care work, and its recognition, regulation, and remuneration in the economy. In this context, discuss the need for, challenges to, and solutions for redressing the invisiblization of domestic, care and other feminized work.

5. The gig economy is rapidly gaining ground as an important wing of the service economy across the globe. With this in mind, analyze the regulation of the gig economy with respect to one or more of the following key words: fair wages, labour issues, protection of labour rights, casualisation, precarity.