

## NLAT 2020 – PG QUESTION PAPER

PASSAGE 1:.....	1
PASSAGE 2.....	6
PASSAGE 3.....	10

### PASSAGE 1:

Custom and priestly law, on the one hand, and bureaucratic regulation, on the other, divided the social world into two halves: the first, more or less beyond the prince's command; the second, subject to his almost unlimited discretion ...

There is a third and still narrower concept of law. We shall see that far from being common to all kinds of societies, it appeared and survives only under very special circumstances. It may be called the legal order or legal system. Law as legal order is committed to being general and autonomous as well as public and positive.

Autonomy has a substantive, an institutional, a methodological, and an occupational aspect. Law is autonomous in a substantive sense when the rules formulated and enforced by government cannot be persuasively analyzed as a mere restatement of any identifiable set of nonlegal beliefs or norms, be they economic, political, or religious. More specifically, an autonomous legal system does not codify a particular theology. As a body of profane rules, it stands apart from the precepts that govern man's relationship to God and from any single religion's view of social relations. Law is institutionally autonomous to the extent that its rules are applied by specialized institutions whose main task is adjudication. Thus, the distinction between state and society is complemented by a contrast within the state itself among legislation, administration, and adjudication. Law is autonomous at the methodological level when the ways in which these specialized institutions justify their acts differ from the kinds of justification used in other disciplines or practices. This means that legal reasoning has a method or style to differentiate it from scientific explanation and from moral, political, and economic discourse. Lastly, the legal order is characterized by occupational autonomy. A special group, the legal profession, defined by its activities, prerogatives, and training, manipulates the rules, staffs the legal institutions, and engages in the practice of legal argument.

Substantive, institutional, methodological, and occupational autonomy are interdependent. Moreover, taken together, they give a special significance to the ideal of generality in lawmaking and of uniformity in the application of law. Bureaucratic law may consist either of rules with a wide scope or of commands addressed to situations narrowly defined in space and time. But a legal order differs from politics and administration precisely because of its attachment to the aims of generality in legislation and of uniformity in adjudication. The laws are expected to address broadly defined categories of individuals and acts and to be applied without personal or class favoritism. Whereas

generality can never be more than a matter of expedience in bureaucratic law, it acquires special significance in the context of a legal system. For it is the generality of law that establishes the formal equality of the citizens and thereby shields them from the arbitrary tutelage of government. Administration must be separated from legislation to ensure generality; adjudication must be distinguished from administration to safeguard uniformity. These two contrasts represent the core of the rule of law ideal. Through them, the legal system is supposed to become the balance wheel of social organization.

[Excerpted, with edits and revisions, from *Law in Modern Society: Toward a Criticism of Social Theory*, by Roberto Mangabeira Unger, The Free Press, New York, 1976.]

1. Based on the information in the passage above, which of the following is Unger most likely to agree with?
  - (a) There is no difference between a legal system and bureaucratic law.
  - (b) Bureaucratic law emphasises the generality of laws, whereas this may or may not be the case in a legal system.
  - (c) A legal system emphasises the generality of laws, whereas this may or may not be the case in bureaucratic law.
  - (d) Bureaucratic law is generally neither positivist nor prescriptive, whereas the rules framed in a legal system are always positivist and prescriptive in nature.

(Answer: (c))

2. In a society 'X', Sundays are generally regarded as holidays, even though there is no specific rule articulated by the rulers of the society that this should be so: offices and schools are shut and people do not venture out for official purposes on Sundays. The exact reason why Sundays have come to be regarded as holidays in society 'X' is unknown, but it is a commonly held belief that the word of a widely-revered deity prescribes Sundays as a time for rest and recovery. Which of the following best describes the rule regarding Sundays being a holiday in society 'X'?

- (a) Religious and customary law
- (b) Bureaucratic law
- (c) Both, (a) and (b)
- (d) None of the above

(Answer: (a))

3. Based on the arguments in the passage above, can the rule regarding Sundays in society 'X' be regarded as emanating from a legal order or legal system?

- (a) No, since it applies to all persons, and so, can be regarded as general in nature.
- (b) No, since it has theological roots and social agreement and is not backed by a positivist pronouncement.
- (c) Yes, since it is commonly accepted and adhered to by the members of society 'X'.
- (d) Yes, since it is autonomous of theological prescription.

(Answer: (b))

4. Which of the following would Unger agree demonstrates the institutional autonomy of a legal system?

- (a) The promulgation of detailed rules that apply to very narrow sets of circumstances.
- (b) The teaching of theological precepts in schools.
- (c) A set of written rules.
- (d) An independent court system that adjudicates legal disputes.

(Answer: (d))

5. Which among the following, if true, would most weaken Unger's arguments in the passage above?

- (a) The methods used by legal institutions to justify their actions in a methodologically autonomous legal system are vastly different from those employed by scientists and economists.
- (b) The separation of the legislative, judicial and administrative branches of government is critical to a legal system.
- (c) The methods used by legal institutions to justify their actions in a methodologically autonomous legal system are identical to those employed by scientists and economists.
- (d) Customary law, bureaucratic law and a legal system often co-exist.

(Answer: (c))

6. According to Unger, which of the following contrasts between a legal system and bureaucratic law most comprehensively sets out the core of the rule of law?

- (a) The aim of uniformity in adjudication.
- (b) The special significance of generality in a legal system.
- (c) Neither (a) nor (b).
- (d) Both, (a) and (b).

(Answer: (d))

7. In society 'X', the priests of the majority religion also decide disputes between members of the society. Disputants are represented in these matters by priests, economists, specialised engineers or others. Which of the following types of autonomy of a legal order described by Unger is violated in such a situation?

- (a) Constitutional autonomy
- (b) Occupational autonomy
- (c) Political autonomy
- (d) None of the above

(Answer: (b))

8. The ruler of society 'X' pass a rule stating that all cars must be driven on the left side of the road on Sundays and on the right side of the road on all other days. Which of the following types of law, as described by Unger, would such a rule fall under?

- (a) Bureaucratic law
- (b) A legal order or legal system
- (c) Both, (a) and (b)
- (d) Neither (a) nor (b)

(Answer: (c))

9. The ruler of society 'X' promulgates a new rule, providing that anyone directed to do so by the ruler must serve in the armed forces of 'X' for two years. No rules are articulated to describe how conscripts would be identified, but the ruler consistently identifies young people from a particular caste for conscription. Which of the following best describes why such a rule does not concord with the description of a legal order as described by Unger?

- (a) The rule lacks theological support and thus, it cannot exist in a legal order in a society like 'X'.
- (b) The rule is characterised by generality, and thus, cannot exist in a legal order.
- (c) The rule lacks generality and is prone to favouritism at the hands of the ruler.
- (d) The rule concords with the description of a legal order as described by Unger since it has been promulgated by the elected ruler of society 'X'.

(Answer: (c))

10. Which among the following weaken Unger's arguments in the passage above?

- (a) The formal equality of citizens is supported by independent adjudicatory institutions.
- (b) The formal equality of citizens requires the generality of laws.
- (c) The separation of administration from legislation is necessary for the generality of law.
- (d) None of the above.

(Answer: (d))

\*\*\*\*\*

MANKAVIT LAW ACADEMY



## PASSAGE 2

1. These first appeals centre around a dispute between two religious communities both of whom claim ownership over a piece of land measuring 1500 square yards in the town of Ayodhya. The disputed property is of immense significance to Hindus and Muslims. The Hindu community claims it as the birth-place of Lord Ram, an incarnation of Lord Vishnu. The Muslim community claims it as the site of the historic Babri Masjid built by the first Mughal Emperor, Babur. The lands of our country have witnessed invasions and dissensions. Yet they have assimilated into the idea of India everyone who sought their providence, whether they came as merchants, travellers or as conquerors. The history and culture of this country have been home to quests for truth, through the material, the political, and the spiritual. This Court is called upon to fulfil its adjudicatory function where it is claimed that two quests for the truth impinge on the freedoms of the other or violate the rule of law.

2. ...The dispute in these appeals arises out of four regular suits which were instituted between 1950 and 1989. Before the Allahabad High Court, voluminous evidence, both oral and documentary was led, resulting in three judgements running the course of 4304 pages. This judgement is placed in challenge in the appeals.

...

4. A suit was instituted in 1950 before the Civil Judge at Faizabad by a Hindu worshipper, Gopal Singh Visharad seeking a declaration that according to his religion and custom, he is entitled to offer prayers at the main Janmabhumi temple near the idols.

5. The Nirmohi Akhara represents a religious sect amongst the Hindus, known as the Ramanandi Bairagis. The Nirmohis claim that they were, at all material times, in charge and management of the structure at the disputed site which according to them was a 'temple' until 29 December 1949, on which date an attachment was ordered under Section 145 of the Code of Criminal Procedure 1898. In effect, they claim as shebait in service of the deity, managing its affairs and receiving offerings from devotees. There is a Suit of 1959 for the management and charge of 'the temple'.

[Excerpted from the judgment delivered by the Bench comprising Gogoi, CJI, Bobde, J., Chandrachud, J., Bhushan, J., and Nazeer, J., in *M. Siddiq (D) Thr Lrs v. Mahant Suresh Das and Others*, C.A. Nos. 10866-10867 of 2010]

1. The decision of the Supreme Court in *M. Siddiq (D) Thr Lrs v. Mahant Suresh Das and Others*, C.A. Nos. 10866-10867 of 2010 (the "**Ayodhya Title Dispute case**") was delivered *per curiam*. Which among the following most accurately describes what *per curiam* means?
  - (a) An opinion of an appellate court that does not provide a definitive answer to the issues in dispute.
  - (b) An opinion of an appellate court that does not specifically identify the author of the opinion.

- (c) An opinion of an appellate court that overturns, in appeal, the decision of the trial court.
- (d) An opinion of an appellate court that is extremely lengthy and hard to understand.

(Answer: (b))

2. Which of the following most accurately describes the decision of the Allahabad High Court as regards title to the property in dispute in the Ayodhya Title Dispute case?

- (a) The Allahabad High Court directed a three-way bifurcation of the disputed site, one-third each being assigned to the U.P. Sunni Central Board of Waqfs, Sri Ram Virajman, and Nirmohi Akhara.
- (b) The Allahabad High Court directed a two-way bifurcation of the disputed site, one-half each being assigned to the U.P. Sunni Central Board of Waqfs and Sri Ram Virajman.
- (c) The Allahabad High Court directed a two-way bifurcation of the disputed site, one-half each being assigned to the Nirmohi Akhara and the U.P. Sunni Central Board of Waqfs.
- (d) The Allahabad High Court granted exclusive title over the disputed site to Nirmohi Akhara.

(Answer: (a))

3. The Allahabad High Court transferred various suits to itself for trial and the decision of the Allahabad High Court in these matters was challenged in appeal to the Supreme Court, leading to decision in the Ayodhya Title Dispute case. Of these suits, the suit filed by which of the following parties was held by the Supreme Court in the Ayodhya Title Dispute case as being beyond the prescribed period of limitation?

- (a) Gopal Singh Visharad
- (b) Sri Ram Virajman
- (c) U.P. Sunni Central Board of Waqfs
- (d) Nirmohi Akhara

(Answer: (d))

4. What was the decision of the Supreme Court in the Ayodhya Title Dispute case as regards whether the suit filed by Mahant Raghubar Das in 1885 had the effect of bringing about a bar on 'Suit 5' filed by Sri Ram Virajman and Asthan Sri Ram Janam Bhumi, Ayodhya by a next friend because of the application of the principle of *res judicata*?

- (a) The Court held that the principle of *res judicata* did not apply to bar Suit 5 because the subject-matter and parties were distinct in both suits.
- (b) The court held that the principle of *res judicata* does apply to bar Suit 5, but it was utilizing its discretionary authority to admit the suit.
- (c) The Court held that the principle of *res judicata* does apply to bar Suit 5.

- (d) The Court held that the principle of res judicata did not apply to bar Suit 5 because of passage of time.

(Answer: (a))

5. The Supreme Court in the Ayodhya Title Dispute case stated that the Nirmohi Akhara in effect "claim as shebait in service of the deity". Which of the following most accurately describes the meaning of the term 'shebait'?

- (a) The human agency responsible for the protection of the testator whose pious purpose appears in the form of a Hindu idol.
- (b) The human agency that discharges the role of managing the properties of, arranging for the performance of ceremonies associated with worship, and taking steps to protect the endowment, *inter alia* by bringing proceedings on behalf of, a Hindu idol recognised by courts as having a juristic personality.
- (c) A juristic person in which title to property endowed by a testator vests.
- (d) The persons who traditionally provide construction materials for Hindu temples.

(Answer: (b))

6. Upon which of the following cases did the Supreme Court rely in the Ayodhya Title Dispute case to hold that "a stray act or intermittent acts of management do not vest a person with the rights of a *de facto* shebait"?

- (a) *Jijabai Vithalrao Gajre v. Pathankhan and Others*, (1970) 2 SCC 717
- (b) *Ms. Githa Hariharan and Another v. Reserve Bank of India and Another*, (1999) 2 SCC 228
- (c) *Indian Young Lawyers' Association v. State of Kerala*, WP (C) 373/2006
- (d) *Sankarnarayanan Iyer v. Sri Poovananathaswami Temple*, AIR 1949 Mad 721

(Answer: (d))

7. In its orders in the Ayodhya Title Dispute case, the Supreme Court directed that the Central Government "shall, within a period of three months from the date of this judgment, formulate a scheme pursuant to the powers vested in it under Section 6 and 7" of which of the following legislation?

- (a) *The Hindu Succession Act, 1956*
- (b) *The Acquisition of Certain Area at Ayodhya Act, 1993*
- (c) *The Hindu Minority and Guardianship Act, 1956*
- (d) *The Hindu Disposition of Property Act, 1916*

(Answer: (b))



8. Upon which of the following cases did the Supreme Court rely in the Ayodhya Title Dispute case for the proposition that “the conferral of legal personality on immovable property could lead to the property losing its character as immoveable property”?

- (a) *The Mosque, Masjid Shahid Ganj v. Shiromani Gurdwara Parbandhak Committee, Amritsar*, AIR 1940 PC 116
- (b) *Yasmeen Zuber Ahmad Peerzade and Another v. Union of India*, WP (C) 472/2019
- (c) *MP Varghese v. Annamma Yacob and Others*, (MFA No 47/2020)
- (d) *Krishna Kumar Birla v. Rajendra Singh Lodha*, (2008) 4 SCC 300

(Answer: (a))

9. Which among the following provisions of the *Constitution of India, 1949* were quoted by the Supreme Court in the Ayodhya Title Dispute case as evidencing “a line of continuity” with respect to the change of legal regime between the British sovereign and the Republic of India?

- (a) Article 372
- (b) Article 296
- (c) Both, (a) and (b)
- (d) Neither (a) nor (b)

(Answer: (c))

10. In its orders in the Ayodhya Title Dispute case, the Supreme Court directed that “in the scheme to be framed by the Central Government, appropriate representation may be given in the Trust or body” to which of the following:

- (a) Gopal Singh Visharad
- (b) Nirmohi Akhara
- (c) U.P. Sunni Central Board of Waqfs
- (d) None of the above

(Answer: (b))

\*\*\*\*\*

### PASSAGE 3

42. The State's obligation is to undertake the emancipation of the deprived section of the community and eradicate inequalities. When the reservation creates inequalities within the reserved castes itself, it is required to be taken care of by the State making sub-classification and adopting a distributive justice method so that State largesse does not concentrate in few hands and equal justice to all is provided. It involves redistribution and reallocation of resources and opportunities and equitable access to all public and social goods to fulfil the very purpose of the constitutional mandate of equal justice to all.

43. Providing a percentage of the reservation within permissible limit is within the powers of the State legislatures. It cannot be deprived of its concomitant power to make reasonable classification within the particular classes of Scheduled Castes, Scheduled Tribes, and socially and educationally backward classes without depriving others in the list. To achieve the real purpose of reservation, within constitutional dynamics, needy can always be given benefit; otherwise, it would mean that inequality being perpetuated within the class if preferential classification is not made ensuring benefit to all.

44. The sub-classification is to achieve the very purpose, as envisaged in the original classification itself and based thereupon evolved the very concept of reservation. Whether the sub-classification would be a further extension of the principle of said dynamics is the question to be considered authoritatively by the Court.

[Excerpted from the judgment delivered by Mishra, J., on behalf of himself and Banerjee, J., Saran, J., Shah, J., and Bose, J., in *The State of Punjab and Others v. Davinder Singh and Others*, C.A. No. 2317 of 2011]

1. Which Article of the *Constitution of India, 1949* (the “**Constitution**”) provides that “[t]he President may with respect to any State or Union Territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union territory, as the case may be”?
- (a) Article 16
- (b) Article 256
- (c) Article 341
- (d) Article 14

(Answer: (c))

2. Which of the following was not amongst the list of issues framed by the Supreme Court in *The State of Punjab and Others v. Davinder Singh and Others*, C.A. No. 2317 of 2011 (the “**Davinder Singh case**”)?
- (a) Whether the State had the legislative competence to enact the provisions contained under Section 4(5) of the *Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006* (the “**Punjab Act**”)?
  - (b) Whether the decision in *Prem Singh v. Birbal*, (2006) 5 SCC 353 is required to be revisited?
  - (c) Whether the provisions contained under Section 4(5) of the Punjab Act are constitutionally valid?
  - (d) None of the above.

(Answer: (b))

3. Article 338 of the Constitution provides for the formation of which among the following?

- (a) National Commission for the Scheduled Castes
- (b) National Commission for Scheduled Tribes
- (c) National Commission for Backward Classes
- (d) National Commission for Socially and Educationally Backward Classes

(Answer: (a))

4. The judgment in the Davinder Singh case states: “Article 342A’s provisions are *pari materia* to Articles 341 and 342 dealing with Scheduled Castes and Scheduled Tribes”. What does the expression ‘*pari materia*’ mean?

- (a) Words of a general nature following specific and particular words should be construed as limited to things which are of the same nature as those specified.
- (b) On the same subject or matter.
- (c) On a different subject or matter.
- (d) When the parties are equally in the wrong, the condition of the possessor is better.

(Answer: (b))

5. In the Davinder Singh case, the Supreme Court referred to the case of *KC Vasanth Kumar and Another v. State of Karnataka*, 1985 Supp. SCC 714 (the “**Vasanth Kumar case**”), which distinguished the case of *MR Balaji and Others v. State of Mysore and Others*, 1963 Supp. (1) SCR 439 (the “**Balaji case**”) and held that:

- (a) Sub-classification between backward and more backward classes may or may not help more backward classes.

- (b) Sub-classification between backward and more backward classes will worsen the situation of more backward classes.
- (c) Sub-classification between backward and more backward classes is not necessary to help more backward classes.
- (d) Sub-classification between backward and more backward classes may be permissible to help more backward classes.

(Answer: (d))

6. Article 342A of the Constitution states:

**“342-A. Socially and educationally backward classes.—**(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the socially and educationally backward classes which shall for the purposes of this Constitution be deemed to be socially and educationally backward classes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the Central List of socially and educationally backward classes specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.”

Article 342A was introduced into the Constitution by:

- (a) The *Constitution (Forty-fourth Amendment) Act, 1978*
- (b) The *Constitution (Seventh Amendment) Act, 1956*
- (c) The *Constitution (One Hundred and Second Amendment) Act, 2018*
- (d) The *Constitution (One Hundred and Fourth Amendment) Act, 2019*

(Answer: (c))

7. The validity of the Punjab Act was in question before the Supreme Court in the Davinder Singh case. The Punjab Act stipulated that 50% of the vacancies of the quota reserved for Scheduled Castes in direct recruitment shall be offered to which among the following communities?

- (a) Balmikis
- (b) Mazhabi Sikhs
- (c) Both, (a) and (b)
- (d) Neither (a) nor (b)

(Answer: (c))

8. In the Davinder Singh case, which of the following cases did the Supreme Court say was 'crystal clear' that the creamy layer concept can be applied to Scheduled Castes as well as Scheduled Tribes?

- (a) *M. Chandra v. M. Thanagimuthu*, (2010) 9 SCC 712
- (b) *Jindal Stainless Limited and Another v. State of Haryana and Others*, (2017) 12 SCC 1
- (c) *State of Madras v. Vaidyanatha Iyer*, [1958] SCR 581
- (d) *Jarnail Singh and Others v. Lachhmi Narain Gupta and Others*, SLP (C) No. 30621 of 2011.

(Answer: (d))

9. The case referred to in the answer to the preceding question held that one of the following cases did not need to be referred to a seven-judge Bench. Identify the case?

- (a) *M. Nagaraj and Others v. Union of India and Others*, (2006) 8 SCC 212
- (b) *Joseph Shine v. Union of India*, (2019) 3 SCC 39
- (c) *Krishna Kumar Singh and Another v. State of Bihar and Others*, (2017) 3 SCC 1
- (d) *State of Gujarat and Another v. RA Mehta and Others*, (2013) 3 SCC 1

(Answer: (a))

10. Why, according to the Bench in the Davinder Singh case could it not "revisit" the case of *EV Chinnaiah v. State of Andhra Pradesh and Others*, (2005) 1 SCC 394 (the "**Chinnaiah case**")?

- (a) Because referring the Chinnaiah case was not an issue in the Davinder Singh case.
- (b) Because the bench in the Chinnaiah case was of coordinate strength.
- (c) Because it had a lesser number of judges than the Bench in the Chinnaiah case.
- (d) None of the above.

(Answer: (b))

\*\*\*\*\*