

NALSAR University of Law, Hyderabad
Model paper for Ph.D. Entrance Exam

Instructions

1. Both Part A and Part B are compulsory. Attempt both the parts.
2. Part A carries 50 Marks and Part B carries 50 marks.
3. Total duration of the Exam: 3 ½ hours.

Part A (Total 50 marks; Duration: 1½ hours)

1. **Read the following brief summary of a hypothetical study and complete the prompts that follow the text. (7 marks)**

Company X claims that their new energy drink invigorates the mind (attention and engagement and hence improves academic success) and improves physical growth (height, weight and Body mass Index). The scientists of the Company work with 20000 randomly assigned children in class 5-8 (ages 10-13) from 65 schools from 8 metros. Children's physical and mental fitness on standardized arithmetic/verbal tests and physical growth indices is measured prior to the intervention. As intervention the subjects get two doses of the drink mixed in milk twice a day for 5 months. Additionally, their parents are invited for a workshop where nutrition aspects are discussed; advice on concerted cultivation are discussed and finally receive a diet chart too). After six months, the company publishes its results where the scores of the 20000 students on various physical aspects like stamina test, running race and weight-lifting and standardized tests which include both verbal and non-verbal reasoning; vocabulary test and creative writing. The outcomes of which are compared against a non-equivalent group of 20000 students, from across 15 towns and cities. T-tests across the two groups showed significance for all the parameters in favor of the experimental group.

Answer the following questions

- a) What is the proposition being studied? And what theoretical logic is applicable to this study? (2mark)
- b) Do you think the finding of this study is **reliable**? (2 mark)
- c) Is the company's claim justified? Why? Give 2 reasons only. (3 marks)

2. Attempt the questions (choose/fill/match)

- a. Identify the description that best fits '*pearl search*'. (2 mark)

- a) Searching for the most relevant literature/studies that directly address a tenet of the research problem you are interested in, in relevant journals/books and reports
- b) Searching for the most relevant literature/studies that directly address a tenet of the research problem you are interested in by engaging with specific authors who write/research the same issue.
- c) Searching for the most relevant literature/studies that directly address a tenet of the research problem you are interested in from the citations of the research within the paper.

- d) Searching for the most relevant literature/studies that directly address a tenet of the research problem you are interested in based on conversations with experts and researchers.

b. Match the statements in B with their technical terms in A (6x2 =12 marks)

A Concept	B Description
1. Narratives	a. Discourses that circumvent ideological convergence through engagement with diversity and decentralisation.
2. Reliability	b. In-depth investigation as to why a certain phenomenon occurred in the past.
3. Centripetal Forces	c. Discourses that aspire and work for ideological convergence through unification, centralisation and uniformity
4. Construct	d. Construction of an experience and/or interpretation of an event or an artefact at a specific time and space or across an extended period of time and spaces.
5. Subjectivity	e. A way of homogenizing various parts of society or of historical developments through common webs of meaning
6. Historical Research	f. The degree to which the outcome of a measurement/calculation/specification can be determined to be accurate if retested or reinvestigated.
	g. Qualitatively aims to comprehend and thereof predict the impact of the past on the present and future eventualities
	h. A mental <i>explanation</i> to a visible/social/political phenomenon
	i. One's constructed responses (usually communicated to an audience) to a question/prompt in the form of reasoning and reflective judgment.

c. What does 'ibid' that is often used in the foot notes refer to? (2 mark)

1. Just referenced/cited
2. In the same source cited in a specific footnote
3. In the same place as above
4. In the text referenced/cited

d. In the sets of related terms, identify the odd man out. (2 mark)

1. Abstract, introduction, theory, method
2. Findings, discussion, limitation, conclusion
3. Mean, ANOVA, MANOVA, Simulations
4. Research domain, research topic, research problem, research Questions

e. The latest amendment to the Unlawful Activities Prevention Act (which came into effect from 14/08/2020) procedurally vests unfettered power to the

Central Government to control the process of labeling anyone as a terrorist. Mr. S pointed out (endorsed and supported the amendment) that several countries had such legislations and that such a change was necessitated in order to deal with 'lone-wolf' terrorist acts which were on the rise since two decades. Naming an organization would rarely stop the terror activities since individuals regroup under a new name and resume activities and in most cases individuals manage to circumvent the law. After all it is not organizations that do terror acts but individuals. Such amendment, would not merely position agencies such as NIA four steps ahead of 'terrorists' but 'nab' the individuals behind them as well. This amendment aims at the safety and security of the citizens.

1. What is the position taken by Mr. S? (3 marks)
2. Is the reasoning convincing? Why/ why not? (4 marks)

3. Read the two excerpts given below and answer according

Excerpt 1

In 1968, anthropologist W.E.H. Stanner delivered the second of his 1968 Australian Broadcasting Commission's Boyer Lectures: The Great 'Australian' Silence. In the lecture, Stanner (1969: 22) argued that several critical areas of Indigenous and non-Indigenous history, such as invasion, theft of land and massacres, had generally been long ignored by Australian historians. As Stanner put it, 'the native question is rising into great importance, the melancholy footnote is turning into a whole chapter of Australian history, and the codicil is becoming a major theme in the Australian story'. He further argued this 'silence' did not result from individual historians neglecting these issues, but instead it is a structural matter, "a view from a window which has been carefully placed to exclude a whole quadrant of the landscape. What may have begun as a simple forgetting of other possible views turned under habit and over time into something like a cult of forgetfulness practised on a national scale". This 'cult of forgetfulness' emerged in the late nineteenth century, during a period of growing Australian nationalism and campaigning for Australian federation (Reynolds 1999: 92) and continued for decades. Apart from some isolated instances, it was not until the 1960s and 1970s that anthropologists and historians started writing on the history of Indigenous and non-Indigenous relations, including the invasion, frontier violence, massacres and genocide (Reynolds 1999). By the 1970s and 1980s, many Indigenous and non-Indigenous peoples were rewriting revisionist histories on Indigenous and non-Indigenous relations. Despite these revisionist histories however, by the late 1980s, the wider Australian community remained woefully ignorant of the history of Indigenous and non-Indigenous relations in Australia, violence, violation of indigenous people's rights and their socio-economic disadvantage in health and education. (*excerpt from WEH Stanner's Boyer talk; published 1973*)

1. Who is referred to as the 'wider Australia'? What according to the author has "the wider Australian community remained woefully ignorant of? Predict how law could be involved in the facade of 'ignorance'?(1m + 2m+ 2m = 5 marks)

2. Which option below is closest to the expression 'rewriting revisionist histories'? (1 marks)
- a. Making changes to historical documentation pertaining to specific events in the past.
 - b. Filling conceptual gaps in published history
 - c. Triggering political and cultural discussions about relations of the past and the present through conscious and intentional reinterpretation of things of the past.
 - d. Interpreting historical events with a view to rectify historical lapses or to add more details which necessarily have causative propositions
 - e. All the above

3. 'Cult of forgetfulness' would be understood as(1 marks)

4. Great Australian Silence refers to _____. (1marks)

- a. Neglect of matters pertaining to Australian history by historians.
- b. The structural invisibilisation of the role of indigenous people of Australia in its history
- c. The key-hole documentation of history of Australia
- d. The absence of historical documentation, discourses and deliberations of the treatment of indigenous people and matters pertaining to them in the history of Australia
- e. None of the above
- f. All of the above

5. The expression 'structural matter' refers to (1 marks)

6. How would you interpret 'national scale' in the excerpt: "a view from a window which has been carefully placed to exclude a whole quadrant of the landscape? What may have begun as a simple forgetting of other possible views turned under habit and over time into something like a cult of forgetfulness practiced on a national scale"? (1 marks)

Excerpt 2

Fundamental to the concept of a basic income is that it is paid in cash and not in the form of food, shelter, clothes, and other consumer goods. This is in sharp contrast to the earliest forms of guaranteed minimum income instituted in Europe from the sixteenth century onwards and also to food-distribution programs put in place more recently in less-developed countries. The main argument in favour of in-kind provision is that it increases the likelihood that resources will provide for basic necessities for all members of the household rather than be wasted on luxuries or worse. The same argument is the motivation behind the special forms of currency often used to provide minimum income, such as food stamps and other earmarked vouchers. The fact that there is greater public support for in-kind poor relief focused on health and the necessities of life than for blank checks reflects widespread concern that money will not be spent responsibly. On the other side of the argument, there is first of all the fact that a fair and efficient distribution of cash, especially in an era of electronic payments, requires far less bureaucracy than a fair and efficient distribution of food or housing. Cash distribution is also less prone to clientelistic pressures, lobbying of all types, and waste through misallocation. Furthermore, when cash is distributed rather than food it creates purchasing power in the areas where poor people live, boosting local economies rather than depressing them, as the distribution of imported free food tends to do. Such advantages become more salient when one recognizes that secondary markets can readily spring up for in-kind transfers, making the argument that they will provide first and foremost for necessities more theoretical than real. Most fundamentally, a priority placed on achieving greater freedom for all carries with it a general presumption in favor of cash distribution, with no restriction as to the object or timing of its spending. This leaves the beneficiary free to decide how to use it, thus allowing individual preferences to prevail among the various options available even with a modest budget. It is no coincidence that the clearest and most general form of minimum income provided in kind is to be found in prisons. (excerpt from Van Paradis, 2004; Universal Basic Income)

7. Summarize the position taken by Van Parajis in this excerpt in not more than 100 words (2 marks)

8. State whether the statement given below is correct or incorrect in the light of the excerpt above. Why you think so? (2 marks)

Statement: Van Parajis is in favour of 'cash distribution'.

9. What would the phrase 'a presumption rather than evidence-based fact' mean? And how does the phrase fit in this excerpt (80 words; 2 marks)

10. In which options do the state and the beneficiary enjoy mutual advantage as the universal income? Why (2 marks)

PART B (Total 50 marks; Duration: 2 hours)

INSTRUCTION: Q1 and Q2 are compulsory. Choose one of the options from Q3.

1. Read the excerpt taken from The Nunavut Report (2019). Respond to the following questions. (MARKS 20)
 - a) Summarize the text in 60-80 words. (5 marks)
 - b) What is the authors' position? Do you agree with the authors' exposition? Justify your response. (10 marks)
 - c) Create an ALTERNATIVE argument. (5 marks)

Genocide

Rafaël Lemkin, who conceived of the term genocide, was of the view that it should encompass not only the physical destruction of what he termed “national groups”, but also “the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves”, and he made reference to the “disintegration of the political and social institutions of culture, language, national feelings, religion and the economic existence of national groups” (Lemkin, 1944: 79; emphasis added). This concept of cultural genocide was considered at length during the drafting of the United Nations' Convention on the Prevention and Punishment of the Crime of Genocide (the ‘Genocide Convention’). Indeed, in the initial draft of the Human Rights Division of the Secretariat of the UN (UN Doc. E/447), genocide was defined as a criminal act directed against any racial, national, linguistic, religious or political group of human beings “with the purpose of destroying it in whole or in part, or of preventing its preservation or development” (Article 1.II). The criminal acts which gave rise to genocide were, following Lemkin (1944), divided into three categories, physical, biological, and cultural. This third category involved “destroying the specific characteristics of the group”, by one of the following means:

1. forcible transfer of children to another human group;
2. forced and systematic exile of individuals representing the culture of a group;
3. prohibition on the use of the national language even in private intercourse;
4. systematic destruction of books printed in the national language or of religious works or prohibition of new publications;
5. systematic destruction of historical or religious monuments or their diversion to alien uses, destruction or dispersion of documents and objects of historical, artistic, or religious value and of objects used in religious worship (UN Doc. E/447).

The concept of cultural genocide was carried forward in the draft of the Genocide Convention prepared by the ad hoc drafting committee created by the UN Economic and Social Council. What constituted the crime of genocide was set out in two articles, Article II, which dealt with ‘physical and biological’ genocide, and Article III, which dealt with ‘cultural’ genocide. Article III provided that genocide also meant “any deliberate act committed with the intent to destroy the language, religion, or culture of a national, racial or religious group on grounds of the national or racial origin or the religious belief of its members such as:

1. Prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group;

2. Destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.” (UN Doc. E/AC.25/12).

When it came to the final draft of the Genocide Convention, however, the concept of cultural genocide was not included, due to opposition from several, mostly western States. Among the justifications for this opposition were that the physical destruction of groups was more serious than the destruction of their culture, that cultural genocide could result in “spurious claims” being brought, and that the inclusion of cultural genocide could inhibit the assimilation of cultural or linguistic groups. Ironically, delegates from some countries, including the United States and Canada, were also apparently concerned that the inclusion of cultural genocide could lead to claims by indigenous groups.

The exclusion of cultural genocide from the final text of the Genocide Convention has the effect of greatly restricting the application of that treaty to the sorts of policies and practices described in the previous part of this paper. As Schabas notes, “in light of the travaux préparatoires of the Genocide Convention, it seems impossible to consider acts of cultural genocide as crimes if they are unrelated to physical or biological genocide.” (Schabas 2000: 187).

Article II of the Genocide Convention defines genocide to mean the commission of any of the acts set out in paragraphs (a) to (e) of the article—the list is meant to be exhaustive—with the intention “to destroy, in whole or in part, a national, ethnical, racial or religious group, as such”. There is no doubt that indigenous peoples such as the Inuit would be considered to be a protected group, for example on the basis of their ethnicity. The acts of genocide in Article II are the following:

1. Killing of members of the group;
2. Causing serious bodily harm to members of the group;
3. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. Imposing measures intended to prevent births within the group;
5. Forcibly transferring children of the group to another group.

Not surprisingly, given the drafting history of the Genocide Convention as just outlined, most of the acts set out in paragraphs (a) to (e) of Article II of the Genocide Convention concern the physical destruction. However, paragraph (b) of Article II refers not only to causing serious bodily harm to members of the group, but also to causing serious mental harm to them. Paragraph (e) is particularly interesting, as it was one of the acts which constituted cultural genocide in the initial draft of the Secretariat working group, described above, and it did not form part of the definitions of physical or biological genocide that had been developed during the preparation of the convention. It has been noted that paragraph (e) was added to the Genocide Convention “almost as an afterthought, with little substantive debate or consideration.” (Schabas 2000: 175). Likewise, the inclusion of the concept of “mental harm” under paragraph (b) was a late addition to the convention, and although it attracted more debate—and initial opposition by some States—its meaning and consequences also did not receive a great deal of attention (Schabas, 2000: 159- 160).

With regard to Article II, paragraph (b), what constitutes causing “serious bodily or mental harm” is not altogether clear. Rape or other acts of sexual violence would appear to be covered; interestingly, it seems that the level of harm required, though high, need not be permanent. The scope of “serious mental harm” is, however, and remains problematic (Schabas 2000: 161). The paragraph contemplates that mental harm can exist independently of physical harm—“serious physical or mental harm”— and it must therefore be possible that the infliction of serious mental harm in the absence of physical harm can, potentially, constitute an act of genocide within Article II. The difficulty is that acts which have been considered to come within paragraph (b) by tribunals such as rape and sexual violence have a clear physical as well as mental element. Very serious levels of mental harm—serious enough to cause similar levels of suffering as is caused by rape and sexual violence, for example, would likely have to be demonstrated, establishing a very considerable threshold.

Paragraph (c) is even more problematic. While the reference to ‘conditions of life’ could be interpreted broadly, the infliction of those conditions has to be directed at the physical destruction of the group. In practice, such conditions usually involve physical deprivation of things necessary to sustain life, such as subjecting members of the group to a reduced diet, provision of medical services which are below a minimum standard, withholding adequate accommodation, and so forth.

With regard to paragraph (e), although the wording is ambiguous, “forcibly transferring children of the group to another”, seems to imply the physical transfer of children, rather than their alienation from the language and culture of the group to which they belong. The use of the adverb “forcibly” is strongly suggestive that what is anticipated here is the physical transfer of children.

In addition to establishing that one of these acts of genocide have been committed, it is also necessary to establish that there is the requisite intent, and this is a further significant obstacle to the application of the Genocide Convention to the sorts of practices considered in this report. This is because there is widespread scholarly agreement that the intention to physically or biologically destroy the group is essential to any genocide claim under the Genocide Convention. This is based on the decision to exclude “cultural genocide” from the scope of the treaty. The International Law Commission has expressed the position in the following terms:

As clearly shown by the preparatory work for the Convention, the destruction in question is the material destruction of a group either by physical or biological means, not the destruction of the national, linguistic, religious, cultural or other identity of a particular group. . . . [T]he text of the Convention, as prepared by the Sixth Committee and adopted by the General Assembly, did not include the concept of ‘cultural genocide’ contained in the two drafts and simply listed acts which come within the category of ‘physical’ or ‘biological’ genocide.

In particular, it is commonly assumed that the concept of ‘destruction’ is limited to physical destruction of the group, based once again on the drafting history, and international tribunals seem to continue to be wary of expanding the nature of the intent required for a finding of genocide beyond the physical or biological destruction of the group. While some prominent

scholars, such as William Schabas, has noted that the reference to ‘destruction’ could bear a wider ‘socio-cultural’ interpretation, and while recent scholarship has shown some considerable sympathy to such an expanded interpretation (Novic, 2016: 239), one such scholar has concluded that such a move “is unlikely to happen”, for a variety of reasons (Novic, 2016: 239). The present state of the law is summarised by another recent scholarly consideration of the concept of cultural genocide. After reviewing recent case law which have involved claims having a cultural element, Gilbert concludes as follows: “it appears that although judges are clear that cultural genocide is not part of the [Genocide] convention text, cultural attacks against a specific group can serve as evidence to prove the intent to physically destroy a group” (Gilbert, 2018: 328).

It is arguable that the substantial social problems in Nunavut, with suicide as a extreme symptom of alienation, are indicative of residential schools and present-day ‘white’ schooling causing physical and mental harm. While this very probably cannot in the current state of international law be seen as entailing criminal liability, there is a strong case for seeing the current situation in Nunavut education as morally, socially, financially, and politically indefensible and requiring firm action to remedy the many problems that have been identified in this report.

{end of the excerpt}

2. Write an essay reviewing a recent and a significant development, (national/international) or scholastic exposition in the area you wish to research. Respond to this question in about 500 words ONLY. Ensure that the following aspects are covered: a brief exposition on the development/scholastic writing and relate your research interest and the conceptual component of the development/exposition. (MARKS 10)

3. ATTEMPT ANY ONE OF THE FOLLOWING QUESTIONS (depending on the choice of domain you’d have mentioned in the application form MARKS 20)
 - a) What constitutes modern rationality? How do Critical theorists and Post-modernists differ in critiquing modern rationality? How do you relate the critique of modern rationality with the critique of Positivism in social theories?
 - b) Write an essay on what you understand by ‘the politics of marginalized literatures and cultures’ in the Indian context. You can draw your ideas from any sources you like such as literary texts, visual/filmic texts and scholarly writings. The sources you refer to need not be necessarily in English, and can be in any of the Indian languages.
 - c) “Women have often contended “that sexual harassment at the workplace has denied them equal opportunity to work. Options like Me Too # need to be taken as the legal protection has been more symbolic than real”.
Keeping the aforesaid assertions in mind, write an analytical essay on the contemporary controversies surrounding the law relating to sexual harassment.
 - d) Critically analyze the recently concluded general elections from a management perspective using at least one of the following management theories:
 - i. Resource based view
 - ii. Competitive advantage theory
 - iii. Integrated capability theory making communication
 - iv. Dynamic

- e) “The success or failure of India's democracy in sustaining the country's diverse identities is an urgently practical question, involving the destinies of over a billion human beings, and depends on the exercise of political judgment. Those in India who have thought deepest about its diversities and their democratic articulation into a national identity have also been political actors— men and women who had to make judgments and to act. In considering the relationship between identity and politics in India, it is therefore important to be able to move between the perspectives of political understanding and political judgement” - Sunil Khilnani.

In the light of comment above and specifically keeping in view of the recently concluded elections, write an evaluative essay on the emerging nature of politics in India.