

**Roll No.....**

**NATIONAL LAW UNIVERSITY, DELHI**  
**LL.M. Degree Programme, II-Semester (Batch of 2018)**  
**End-Semester Examinations, April - 2019**  
**Paper: Advanced Criminal Procedure**

Time: 3:00 Hours

Total Marks: 50

Instructions:

1. Read the questions carefully and answer.
2. Attempt any five questions. Each Question carries equal marks.
3. Only Bare Act, Printed cases and hand written/typed class notes are allowed.
4. Students are strictly advised to use hand written/typed/photocopied class notes of their own.
5. No clarification shall be sought on the question paper.
6. Do not write anything on the question paper except your roll no.

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**Q1.** It is advocated that “victims’ rights should be enforceable within the system and this can be done by giving party status to victims so that whatever grievances they have concerning their rights could be dealt with immediately during trials by the bench as opposed to external, lengthy and bureaucratic complaint mechanism. For the rights to be meaningful and beneficial, these should be enforceable internally of the criminal justice system like the rights of the offenders.”

Analyze above statement and discuss to what extent the Indian courts have recognized the victim’s right to correctability at all the crucial and critical stages of criminal process?

- Q2.** Discuss how victims’ right to participation has been recognized in the proceedings of the International Criminal Court?
- Q3.** Critically analyze the definition of victim as provided under Section 2 (wa) of the Code of Criminal Procedure, 1973. Whether this definition is wide enough or limited in its scope in comparison to the definition of victim as provided under UN Declaration of Basic Principles of Justice for Victims 1985 and various legislations of other countries (following adversarial criminal justice system). Discuss in the light of decided Indian cases.

**Q4.** In a brutal and ghastly honour killing case a young woman and man, were murdered in broad daylight for marrying against the wishes of man’s family. It is the petitioner’s case (girl’s father) that when the couple was trying to escape from their native place they were intercepted by the accused persons. They were severely beaten with deadly weapons resulting into grievous injuries. They left the injured on the road and then one truck belonging to the accused ran over them to make it a case of road accident. Two of the family members of the women victim happened to be working in the field adjacent to the road where crime took place hence they were eye witness to the crime. The accused were very powerful and influential persons in that area.

One mobile phone belonging to the victim was recovered by the police from the crime scene but no attempts were made to contact the family members of the deceased and

police cremated the body in haste as unidentified. Even the forensic evidence was not properly collected from the crime scene which could have established the presence of accused at the crime scene. No proper sketch plan was prepared by the IO. Despite several attempts by the victim and his family members, police did not record correctly the statements of witnesses U/Sec. 161 Cr.P.C. in the case. No arrangements were made for TIP. Even though a named FIR was lodged against the accused person, any immediate custodial interrogation of the prime suspect was not done and in fact his statement was recorded only at his convenience. After this shoddy investigation, police filed the final report and made a case of hit and run by unidentified vehicle.

In the abovementioned facts, discuss whether the petitioner (victim's father) is entitled to demand a fair investigation in the case and action against the erring IO. With the help of decided cases discuss how judiciary has interpreted victims' right to fair investigation as part of fair trial?

**Q5.** In the above fact scenario, two of the family members of the victim (both eye witnesses) were also murdered in daylight outside the Court. From the record of the case it was evident that several letters had been written and/or applications had been made by the family of the victim making grievances about the threats administered to him and his family by the accomplices of the accused. There were two incidents reported to the police by the victim family that two of their vehicles were set on fire outside their house by the accomplices of the accused to create fear in the victim's family. It was submitted by the police that from the facts there was no real and immediate risk that could be established. Whereas it was alleged by the petitioner that the authorities did not do all that could reasonably be expected of them to avoid a real and immediate risk to life of which they had or ought to have had knowledge. The police did not provide any protection to the witness-victims despite the fact that accused and their family members were continuously threatening the victims for not to depose before the courts. Two other witnesses in the case had already turned hostile because of chasing of those witnesses by the accomplices of the accused. The record indicates that two of the assailants had been already enlarged on bail when they opened fire on the deceased witnesses but no action on part of police or state authorities were taken to get their bail cancelled.

In the light of the above facts, discuss what remedies are available under the Criminal Procedure Code, 1973 to ensure victim/witness protection and how the courts have responded towards victim's right to protection?

**Q6.** "The third respondent has been a silent spectator in the whole episode. This Court cannot ignore her rights and genuine apprehension in the matter of effective trial, as her husband is the victim. A fair trial does not necessarily mean that it must be fair only to the accused. It must be fair to the victim also. She has as much right as the accused to represent her case effectively before the court. If she feels the representation for the State is comparatively less effective and may also be easily tampered with through a variety of nefarious influences, and feels impelled to engage a counsel of her own choice in whose competence and probity she has full faith and approaches the State to engage a Counsel of her choice, the Government is bound to consider such request and pass appropriate orders in the light of the observations made above and in accordance with law."

Considering the above observation of the Court, critically examine the role and scope of the prosecutor, special public prosecutor and victim engaged advocate for conducting prosecution in a trial under the Criminal Procedure Code. Refer to the decided cases.