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UPSC law Optional previous paper 2008

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Paper-I

Section - A

1. Answer any THREE of the following (Each answer should be about two hundred words) :

(a) 'Rule of Law' does not mean rule according to statutory law, pure and simple, because such a law may itself be harsh, inequitable, discriminatory or unjust. 'Rule of Law' connotes some higher kind of law which is reasonable, just and non-discriminatory. Explain. (20 MARKS)

(b) "With a view to enabling Parliament to act and discharge its high functions effectively, without any interference or obstruction from any quarter, without fear or favour certain privileges and immunities are attached to each House collectively, and to the Member thereof individually." Critically examine the statement. (20 MARKS)

(c) Examine the scope of the 'Special Leave Jurisdiction' of the Supreme Court as expounded by the Supreme Court of India. (25 MARKS)

(d) Explain and elucidate the significance of the various strategies adopted for the implementation of the 'Directive Principles' of State Policy enshrined in Part - IV of the Indian Constitution. (25 MARKS)

2. (a) The framers of the Constitution felt that, in an emergency, the centre should have overriding powers to control and direct all aspects of administration and legislation throughout the country. Elucidate. (25 MARKS)

(b) 'Judicial review is one of the basic features of the Constitution.' Do you agree with the view? Cite relevant case laws. (25 MARKS)

3. (a) "The legislature cannot delegate its powers to make a law; but it can make a law to delegate a power to determine some fact or state of things upon which the law intends to make its own action depend." Critically comment on the above statement and discuss with the aid of relevant legal provisions and case laws. (25 MARKS)

(b) "Equality is the basic feature of the Constitution of India and any treatment of equals unequally or unequals as equals will be violation of basic structure of the Constitution of India." Explain. (25 MARKS)

4. Write short notes on the following: (a) The distinction between 'Executive Power' of the President and his 'Constitutional Power'. (20 MARKS)

(b) Rights of the Press and the problem of Pre- censorship. (15 MARKS)

(c) The scope of the constitutional harmony and balance between 'Fundamental Rights' and 'Directive Principles' of State Policy. (15 MARKS)

Section - B

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5. Answer any THREE of the following (Each answer should be about two hundred words):(a) "It is difficult to maintain the distinction between formal and material sources taking into account that material sources consist simply of quasi constitutional principles of inevitable but unhelpful generality. What matters is the variety of material sources, the all-important evidence of the existence of consensus among States concerning particular rules of practice." Critically examine the various sources of International Law in the development of Modern International Law, with the help of relevant case law. (20 MARKS)
- (b) "India is neither a signatory to the 1951 Convention nor to the 1967 Protocol relating to the status of refugees and is already a signatory to other Universal Human Rights instruments. The Indian courts have taken the lead by resorting to judicial activism in protection of refugees with the aid of International Instruments, constitutional and various legislative provisions." Discuss. (20 MARKS)
- (c) Explain the concept and characteristics of 'Third World Countries'. Critically examine the demands and the achievements of 'Third World Countries' in shaping New International Economic Order. (20 MARKS)
- (d) Do you find any distinction between the State Liability and State Responsibility under International Law ? Critically examine the general principles of State Responsibility in International Law. (20 MARKS)
6. (a) "International Organisations are very important to International Trade Law." Examine the role of relevant International Organisations involved in the development of International Trade Law. (25 MARKS)
- (b) Explain the need, objectives and outcome of the Bretton Woods Conference of 1944. Discuss the similarities and distinctions between the International Monetary Fund (IMF) and the 'International Bank for Reconstruction and Development (IBRD)'. Critically examine the role of IMF and IBRD initiatives in the liberalisation, privatisation and globalisation of economies, while focussing on the problems of the developing countries.(25 MARKS)
7. (a) "It is evident that general International Law does not prohibit intervention under all circumstances, forcible interference in the sphere of interest of another State is permitted as reaction against violation of International Law." Critically examine the statement. (25 MARKS)
- (b) "The general principles and prescriptions of International Law are not without applicability to problems of transnational pollution - an environmental degradation. Thus fundamental principle of international limits action by one State which would cause injury in the territory of another state " "There has been general recognition of the Rule that a State must not permit the use of its territory for purposes injurious to the interest of another State Explain. (25 MARKS)
8. Write notes on the following:
- (a) Globalisation and Human Rights. (20 MARKS)
- (b) India's accession to the WTO : Pros and Cons. (15 MARKS)
- (c) Laws relating to Territorial Waters, Continental Shelf and High Seas. (15 MARKS)



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Paper-II

Section - A

1. Answer any THREE of the following (answer to each question must not exceed 200 words). Support your answer with the help of legal provisions & decided cases:

- (a) "Offence does not happen all of a sudden, it passes through some stages." Discuss and distinguish between preparation to commit offence and an attempt to commit an offence. (20 MARKS)
- (b) Discuss the rules regarding joint and constructive liability in Criminal Law. Do you find any distinction between similar intention and common intention?
- (c) "State has to answer for every wrong committed by its erring servant." Comment. (20 MARKS)
- (d) "It is an actionable wrong to institute, maliciously and without reasonable and probable cause, criminal proceedings which may injure person's reputation, personal freedom or property." Elucidate. (20 MARKS)

2. (a) "Right of private defence can be exercised only against the offender." Explain and discuss also the circumstances when even death can be caused of the accused in exercise of right of private defence of property. (25 MARKS)

(b) "In all robbery there is either theft or extortion." Explain. A holds Z down, and fraudulently takes Z's money and jewels from Z's person without Z's consent and for this purpose he causes a wrongful restraint to Z. Discuss A's liability. (25 MARKS)

3. (a) "It is not the hindsight of a fool, it is the foresight of a reasonable man which alone can determine the liability." Discuss. A threw a lighted cracker in a crowded market. It fell on B's shop. C was standing nearby. To save himself and B's shop too, C threw the cracker away. It then fell on D's shop. D in his turn, threw it away which then fell on E who became blind. Decide, who is liable to E? (25 MARKS)

(b) "Knowledge of the danger does not amount to consent to undertake the risk." Discuss with the help of decided cases. (25 MARKS)

4. (a) "The law of consumer protection has come to meet the long felt necessity of protection to the common men from the wrongs for which the remedy under ordinary law for various reasons has become illusory." Discuss this statement and explain to what extent the Consumer Protection Act, 1986 has succeeded in its objectives. (25 MARKS)

(b) Critically examine the concept of 'plea bargaining' and evaluate its scope in India. (25 MARKS)

Section - B

5. Answer any THREE of the following (Answer to each question must not exceed 200 words). Support your answer with legal provisions and decided cases :-

(a) "For giving rise to a valid contract, there must be consensus ad-idem among the contracting parties." Explain this statement. (20 MARKS)

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- (b) “Law as well as justice should try to prevent unjust enrichment.” Critically examine this statement in relation to quasi-contracts. (20 MARKS)
- (c) “Liability of the surety is secondary.” Comment. (20 MARKS)
- (d) “The rule of Caveat Emptor does not mean that the buyer must take a chance, it means that the buyer must take care.” Explain with exceptions, if any. (20 MARKS)
6. (a) “The effects of non-registration of partnership firm are so fatal that ordinarily the firms are registered.” Explain with the help of legal provisions and decided cases . (25 MARKS)
- (b) “Every contract of guarantee is a contract of indemnity but every contract of indemnity is not a contract of guarantee.” Elaborate. ‘A’ and ‘B’ go to a shop. ‘A’ says to the shopkeeper, “let B take goods from your shop and if he does not pay, I will pay”. What kind of contract is this? Give reasons. (25 MARKS)
7. (a) “The object of Sec. 138 of the Negotiable Instruments Act, 1881 is to inculcate faith in the efficacy of banking operations and credibility in transacting business on negotiable instruments.” Elucidate with the help of the latest Supreme Court cases. (25 MARKS)
- (b) The “precautionary principle” and the “polluter pays principle” are the parts of the environment law of this country. Explain in the light of decided cases. (25 MARKS)
8. (a) “Intellectual property of whatever species is in the nature of intangible incorporeal property.” In the light of this statement discuss the scope of intellectual property rights in India.. (25 MARKS)
- (b) “Cyber crime is a collective term encompassing both ‘cyber contraventions’ and ‘cyber offences’.” Explain this statement and discuss the various offences enumerated in the Information Technology Act, 2000. (25 MARKS)

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