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UPSC law optional question papers - 2010

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Paper-I

Section - A

1. Answer any three of the following (each answer should be in about 200 words): 20×3=60

(a) "The fragrance and colour which is enshrined in Article 141 of the constitution of India is destined to uphold the Rule of Law in the interest of justice and people of India." Do you agree? Give reasons. (20 MARKS)

(b) Whether right to vote is a fundamental or a statutory right? Justify your statement with the help of relevant case-law on this subject. (20 MARKS)

(c) "While certainty of law is important in India, it cannot be at the cost of justice." Critically examine this statement in the context of 'curative petition' in Indian and also refer relevant case-law. (20 MARKS)

(d) The doctrine of separation of powers in its classical sense, which is fundamental rather than structural, cannot be applied in any modern government. Discuss (20 MARKS)

2. (a) New frontiers of criminal justice have been spelled out from Article 21 of the Constitution, which provides that no person shall be deprived of his right to life and personal liberty except according to procedure established by law. Discuss and refer to decided cases. (25 MARKS)

(b) Locus standi is necessary for challenging an administrative action, through a writ petition. How has it been liberalized in case of public interest litigation? Comment on the statement that "PIL is not a PILL against all the ILLS." (25 MARKS)

3.(a) Critically examine the role of the Supreme Court of India in the maintenance of minimum standards in public life and polity. Opine on how much of it is enforcement of the rule of law and how much of it is judicial activism. (25 MARKS)

(b) In recent times the role of governor in the appointment and dismissal of Chief Minister has been impugned and it is said that the Court has assumed the role of the Governor and the Speaker comment. Refer to recent cases where the Supreme Court has directed to take composite floor test and report to the Court. (25 MARKS)

4. Write critical notes on the follow:

(a) "The power to destroy the constitution is not included in the power to amend the Constitution. (25 MARKS)

(b) "The power to destroy the constitution is not included in the power and amend the Constitution." (15 MARKS)

(c) "The doctrine of excessive delegation is a judicially tailored principle. (15 MARKS)

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Section - B

5. Answer any three of the following (each answer should be in about 200 words): 20×3=60

(a) “The fundamental principles of International law are passing through a serious, crisis and this necessitates its reconstruction.” Do you agree with this statement? Give reasons. (20 MARKS)

(b) Comment on the statement that ‘WTO’ is the main organ for implementation of Multilateral Trade Agreements and is the third economic pillar of the worldwide trade and commerce. (20 MARKS)

(c) A reservation, which purports to exclude or to modify the legal effects or certain provisions of the treaty in their application to that State, is accepted in practice, if it is compatible with object and purpose of the treaty. Discuss the practice of different nations and opinion of ICJ regarding admissibility of reservation to the conventions. (20 MARKS)

6. (a) “The traditional definition of International law with its restriction to the conduct of States inter se, in view of developments during the last six decades cannot stand as a comprehensive description of all the rules now acknowledged to form part of International law. (25 MARKS)

(b) Discuss with illustrations the law and the practice of various States in relation to non-recognition of governments. (25 MARKS)

7. (a) Normally the States are reluctant to resort to the International Court of Justice mainly due to political factors; the general conditions of international relations; the greater suitability of other tribunals; a flexibility of arbitration in compulsory jurisdiction and difficulty in getting enforcement of the decision of the court. However, the court has made a reasonable contribution in settling disputes. (25 MARKS)

(b) How would you react to the statement that TRIPS agreement on the one hand is a historic act but on the other hand it failed to achieve the goals of improving trading powers and trade issues of the least developed countries? Comment. (25 MARKS)

Paper–II

Section A

1. Answer any three of the following (each answer should be in about 200 words): 20×3=60 (a) Distinguish common intention from abetment and criminal conspiracy. (20 MARKS)

(b) “Under the Indian Penal Code there is no right of private defence in which there is time to have recourse to the protection of public authorities.” Examine (20 MARKS)

(c) Defence of ‘Volenti-non-fit injuria’ is not available when the rescuer is injured in an act of recurring” Discuss. (20 MARKS)

(d) Discuss the principle of Res-ipsa-Loquitur. Refer to recent cases. (20 MARKS)

2. (a) “In order to constitute a public nuisance there must be an act or an illegal omission, and it is not necessary that the act should be illegal.” Explain the offence of public nuisance with the help of decided cases. (20 MARKS)

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(b) 'A' and 'B' were both security guards posted outside the home of senior army officer, Mr. X. They often used to exchange hot words with each other in context to the other. On the day of Holi festival both of them had a verbal exchange due to the fact that both wanted to go home early for festival, that led to altercation between the two, both of them instantaneously aimed their revolvers at each other respectively. 'C' who was also on duty with them intervened and pacified both of them. Both 'B' noted that 'A' had lowered his revolver, he immediately fired at 'A' and killed him. On being tried 'B' was awarded death sentence. However, on appeal the High Court acquitted 'B' on the plea of self-defence. The State intends to go in for appeal in the Supreme Court against the decision of the High Court. Advise in the light of the case law on the subject. (20 MARKS)

(c) Discuss the law relating to criminal intimidation. Refer to case law. In what way is extortion different from criminal intimidation? (20 MARKS)

3. (a) What test has the Supreme Court prescribed to understand 'the rarest of the rare cases theory' while inflicting capital punishment? Can one argue that capital punishment in any case is against human rights jurisprudence? (20 MARKS)

(b) Do you find it necessary to convict the accused both under section 304-B and Section 498-A of the Penal Code? Refer to recent cases. (20 MARKS)

(c) Mr. A, a chronic heart patient, was drawn into a political debate and in the course of arguments his adversary looked at him fiercely and said that people like him should be hit till they are dead. Hearing this 'A' suffers a heart attack and dies on the spot. Discuss the liability of his adversary. Argue for the State also. (20 MARKS)

(d) 'A' a minor girl leaves her parents' house because of ill treatment and lives with 'B' her friend. Can he (B) be prosecuted for kidnapping? (20 MARKS)

4. (a) The editor of a weekly published a series of articles directed against the business of the plaintiff alleging how the wealth of the vast empire was built up by having recourse to the unlawful and questionable means involving tax-evasion, import-export rackets, foreign exchange violations and how the investigations into the operations of the organisation were bogged down. In an action for defamation, the defendant put up the defence of fair comment on a matter of public interest. The plaintiff brought evidence to show that the defendant had to tender an apology to the plaintiff in an earlier defamation case and that his present publication was motivated by malice. Discuss the defence of fair comment in the light of the facts of the case. (20 MARKS)

(b) We must use our property so as not to cause discomfort to another's use of property. Yet a temporary discomfort is not actionable. Explain the law. (20 MARKS)

(c) Discuss the liability of hospitals under the Consumer Protection Act, 1986. Refer to decided cases also. (20 MARKS)



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Section B

5. (a) On breach of contract only such loss can be recovered as was in the contemplation of both the parties at the time of entering into the contract. Discuss. (12.5 MARKS)
- (b) The very object of taking a surety is defeated, if the creditor is required to postpone his remedies against the surety. Expand the laity of the suety. (12.5 MARKS)
- (c) What do you understand by a Promissory Note? Discuss. (12.5 MARKS)
- (d) Mere cessation of trading does not result in dissolution of a partnership. Rights and liabilities need to be settled between the partners. Explain. (12.5 MARKS)
6. (a) The competition Act is designed to prevent monopolies and unfair trade practices against smaller competitors and consuming public elucidate. (20 MARKS)
- (b) Public interest Litigation has been a significant tool in protecting the environment Discuss with the help of cases. (25 MARKS)
7. (a) An impartial and independent conciliator assists the parties in resolving their dispute amicably. Discuss the provisions of law relating to conciliation. (25 MARKS)
- (b) Distinguish between 'Foreign Award' and the enforcement of 'Foreign Award' with the help of case law. (25 MARKS)
8. (a) Examine the legal recognition of 'Digital Signature' and explain the procedure for its registration under the information Technology Act. (25 MARKS)
- (b) The principle of passing off' in an action has been extended to the use of 'false trade description. Explain the conditions for two successful passing off action and the defenses available to the opposite party. (25 MARKS)