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UPSC law optional previous year paper 2009

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Paper-I

Section - A

1. Answer any three of the following (each answer should be in about 200 words): $20 \times 3 = 60$
 - (a) Differentiate between 'Federal Constitution' and 'Federal Government'. Based on judicial pronouncements and your perception of the working of our Constitution, comment on whether India has a Federal Government or a Federal Constitution.(20 MARKS)
 - (b) "There is still a controversy whether Reasoned Decisions' comprise a third pillar of natural justice." Do you agree with this statement? Discuss with reference to recent case laws.(20 MARKS)
 - (c) Define and distinguish between 'formal equality' and 'substantive equality' as interpreted by the Apex Court of the country.(20 MARKS)
 - (d) How would you judge the constitutional validity of an Amendment giving primacy to the executive in the matter of appointment of the judges of the Supreme Court and High Courts?(20 MARKS)
2. (a) "By evolving the concept of jurisdictional facts, the Courts have broadened the power of judicial review of administrative action." Discuss this statement and compare the extent of judicial review of administrative action over jurisdictional facts and ordinary facts.(25 MARKS)
 - (b) "The term 'freedom of speech and expression' in Article 19(1)(a) has been held to include the" right to acquire information and disseminate the same." Elucidate the import of this statement in the context of media industry. Is the right to paint or sing or dance covered by Article 19 (1) (a) of 4) the Indian Constitution or not? (25 MARKS)
3. (a) "The Directive Principles which have been declared to be 'fundamental' in the governance of the country cannot be isolated from Fundamental Rights." Explain critically. Also throw light with reference to recent judgments on the Supreme Court's view as regards the interplay of Directive Principles and Fundamental Rights: (25 MARKS)
 - (b) Spell out the object and reasons of Part IV A of the Constitution of India. Do you support this addition to the Constitution of India? Give reasons and also suggest some effective measures to make these provisions more realistic and operational. (25 MARKS)
4. Write short notes on/Answer the following:
 - (a) Scope of the Right with regard to self- incrimination (15 MARKS)
 - (b) Indian ombudsman - unfulfilled dream (15 MARKS)
 - (c) "Powers of Election Commission are not sufficient." Comment. (15 MARKS)

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Section - B

5. Answer any three of the following (each answer should be in about 200 words) :

(a) Define and distinguish between 'arbitration' and 'judicial settlement' in the context of the rules of International Law. Also mention the relevant provisions regarding 'forum prorogatum'. (20 MARKS)

(b) "Humanitarian Law is no longer Geneva and the Hague Law but transcends these conventions to reach cosmic stature and seek expression through the United Nations and other transnational instruments." Discuss with reference to growth and development of International Humanitarian Law in the present century.(20 MARKS)

(c) "A human rights violation is now conceived as a violation not only of those personally and directly aggrieved but of everybody." Examine critically the above statement with reference to present scenario of our country and rest of the world. (20 MARKS)

(d) "In practice the relationship between International Law and Municipal Law exists in the mixture of International Law supremacy, Municipal Law supremacy and a coordination of legal system." Comment on the aforesaid statement of Edward Collins in the context of the relationship between International Law and Municipal Law. (20 MARKS)

6. (a) Examine critically the different views regarding the recognition of States, highlighting the legal consequences of acts of recognition and policies of non-recognition. Also mention the difference between 'express recognition' and 'implied recognition'. (25 MARKS)

(b) Enumerate the main features of International Criminal Court. What credit would you attribute to the functioning of this Court? What are the major drawbacks of this Court? Discuss, in this context, the possible amendments to the Regulations of the International Criminal Court.(25 MARKS)

7. (a) Would you support the idea of the general review of the United Nations Charter? Give reasons. Also give your opinion about the continuity of the 'Veto System'. What is the stand of India in these respects? (25 MARKS)

(b) Explain critically the principle of 'jus cogens'. Distinguish between 'Equal Treaties' and 'Unequal Treaties'. Give examples and also discuss the salient features of Vienna Convention on the Law of Treaties. (25 MARKS)

8. Write short notes on the following :

(a) Sanctions of International Law (15 MARKS)

(b) 'Piracy jure gentium' on High Seas (15 MARKS)

(c) Manila Declaration, 1982 (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 and decided cases.
- (a) 'Although the requirements of mens related is, general throughout the criminal law, there are numerous exceptions to it'. Explain with illustrations. (20 MARKS) MODEL ANSWER HINT:
- (b) 'Necessity knows no law'. Comment giving illustrations (20 MARKS) MODEL ANSWER HINT:
- (c) 'Volenti non fit injuria is a defence for liability in tort'. Illustrate your answer with decided cases. (20 MARKS) MODEL ANSWER HINT:
- (d) Explain the ingredients of "Innuendo". What is a plaintiff required to prove in order to sustain the plea of Innuendo? (20 MARKS) MODEL ANSWER HINT:
2. (a) Explain the ingredients of the offence of criminal misappropriation of property and distinguish this from criminal breach of trust. A sees Z drop his purse with money in it. A picks up the purse with the intention of returning it to Z, but afterwards appropriates it for his own use. Has A committed any offence? Discuss. (25 MARKS) MODEL ANSWER HINT:
- (b) Distinguish between culpable homicide and causing death by rash or negligent act. A, a woman with a view to poisoning her husband, administered to him a substance which she believed to be poison, but which in fact was harmless. What offence if any she has committed in this case? (25 MARKS)
3. (a) 'A statement made in performance of duty is privileged'. In the light of this statement critically examine the tort of defamation. X the famous writer and art critic while criticising the paintings of Y the famous painter, wrote in the newspaper as follows : 'Mr. Y's paintings are pots of paint hurled in the eyes of the public'. He afterwards wrote to Y saying that whatever he had written had been said by him in the course of his duty and hoped that he would not allow this to interfere with their friendship. Y replied and said 'Next time I meet you, I shall punch your nose them hard. I hope you will not allow this to interfere with out friendship'. What torts, if any, have they committed and what defences are available to them? (25 MARKS)
- (b) 'A master is not responsible for a wrongful act unless it is done in the course of employment'. Comment and explain the circumstances when wrongful acts are deemed to be done "in the course of employment". Refer to decided cases. (25 MARKS)
4. (a) "The enforcement of any disability arising out of untouchability is to be an offence punishable in accordance with law". Comment upon this statement and discuss in this context the scope of protection of Civil Rights Act, 1955. (20 MARKS)
- (b) "Damnum sine injuria and injuria sine damnum are two different principles of law". Comment briefly. (15 MARKS)
- (c) List briefly the procedure to be followed by a District Forum on receipt of a complaint regarding defective goods under the Consumer Protection Act, 1986. (15 MARKS)

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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) 'An invitation to treat is not an offer'. Explain. (20 MARKS)
- (b) 'An attempt at deceit which does not deceive is not fraud'. Do you agree? (20 MARKS)
- (c) "A cheque marked 'not negotiable' is nevertheless negotiable". Comment. (20 MARKS)
- (d) 'A quantum meruit, although a quasi contract, arises out of a contract'. Comment (20 MARKS)

6. (a) 'Information Technology - brought about by Computers, Internet and Cyberspace - has posed new problems in jurisprudence'. In the context of this statement, critically examine how far our existing laws are deficient in meeting these challenges. (25 MARKS)

(b) 'The essential characteristic of an agent is that he is invested with a legal power to alter his principal's legal relations with third parties; the principal is under a co-relative liability to have his legal relations altered'. Discuss. A enters into a contract with B to sell him 500 bales of cotton and afterwards discovers that B was acting as agent for C. Who is liable to A for the price of the cotton? (25 MARKS).

7. (a) 'As an agreement is an essential ingredient in a Partnership, it follows that a minor cannot enter into an agreement of Partnership'. Critically examine this statement and discuss the circumstances under which the Indian Partnership Act permits a minor to participate in the benefit of partnership. (25 MARKS)

(b) Explain the concept of 'Holder' and 'Holder in due course' as envisaged in the Negotiable Instruments Act and also examine the privileges and protections to which they are entitled under the Act. Illustrate your answer with decided cases. (25 MARKS)

8. Distinguish between the following, citing relevant provisions/case laws. Limit your answers to about 200 words each.

- (a) 'Contract of indemnity' and 'Contract of guarantee'. (20 MARKS)
- (b) 'Specific offer' and 'General offer'. (15 MARKS)
- (c) 'Sale' and 'hire purchase' agreement. (15 MARKS)

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