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UPSC law optional question papers - 2014

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Paper-I

Section-A

1. Answer the following (each answer should be in about 150 words):

- (a) What do you think the form/nature of our Constitution – Federal, Unitary or Quasi-federal? The Members of the Drafting Committee call it federal, but many others would this title. Critically examine the statement. (10 MARKS)
- (b) What is 'Constitutionalism'? Explain the said concept both in its negative and positive aspects in the context of India's trust with 'Constitutionalism' and 'Constitutional Governance.' (10 MARKS)
- (c) Article 13 makes the judiciary, and especially the Apex Court, as a guardian, protector and the interpreter of the fundamental Rights. It confers a power as well as imposes an obligation on the Courts to declare a law void if it is inconsistent with a Fundamental Rights. Discuss. (10 MARKS)
- (d) Explain the scope of the 'Special Leave Jurisdiction' of the Supreme Court as expounded by it. (10 MARKS)
2. (a) The concept of 'Reasonable Opportunity' being a constitutional limitation on the doctrine of 'Tenure Pleasure', Parliament of State Legislature can make a law defining the content of 'Reasonable Opportunity' and prescribing procedure for affording the said opportunity to the accused government servant. Explain the concept with reference to leading cases. (20 MARKS)
- (b) Explain and elucidate the meaning of the 'Right to personal liberty' as interpreted by the Supreme Court in Papanasam Labour Union v. Madura Coat Ltd. AIR 1995 S.C. 2200. Analyse critically the guidelines prescribed by the Hon'ble Supreme Court in this respect. (15 MARKS)
- (c) Define the term 'public servant'. Also discuss the recruitment procedure of public servants in India. (15 MARKS)
3. (a) Examine the elucidate the constitutional scope of the Ordinance making power of the President and the Governors in India. (20 MARKS)
- (b) A backward class cannot be identified only and exclusively with-reference to economic criterion. A backward class may, however, be identified on the basis of occupation-cum-income without any reference to caste. There is not constitutional bar in the State categorizing the backward classes as 'backward' and 'more backward'. Do you agree with the statement? Give reasons. (15 MARKS)
- (c) What is 'Public Interest Litigation'? What are the major facets of this form of litigation? Also discuss the limitations of this type of litigation. (15 MARKS)



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4. (a) Define the distinguish between 'Constituent power', 'Amending power' and 'Legislative power'. Give illustrations. (20 MARKS)

(b) Do you agree with the statement that "all human rights are fundamental rights protected and recognized by the Constitution of India". Discuss with reference to statutory provisions and case laws. (15 MARKS)

(c) Enumerate the fundamental duties as provided in the Constitution of India. Also discuss the rationale behind the incorporation of fundamental duties in the Constitution of India later on. (15 MARKS)

Section B

5. Answer the following (each answer should be in about 150 words):

(a) It is impossible to fix a precise data or period in history to mark the beginning of International Law as it predates recorded history. Critically examine the history, nature, scope and relevance of International Law in Contemporary International Society. (10 MARKS)

(b) International Law set little or no limitation on the jurisdiction which a particular State may arrogate to itself. Explain the nature and scope of 'State Jurisdiction'. Critically examine the principles of 'State Jurisdiction'. (10 MARKS)

(c) Recognition confers the legal status of a State under International Law upon the entity seeking recognition. Important legal effects are being derived from recognition. Critically examine the statement. (10 MARKS)

(d) International Treaties are agreement of contractual character between Status or organization of States creating legal rights and obligations between the parties. Examine the statement critically and explain the growing importance of Treaties in Modern International Law. (10 MARKS)

(e) What do you understand by the concept 'Diplomacy Immunity'? What rules are provided under International Law in this respect? Discuss. (10 MARKS)

6. (a) Explain the concept of 'International Humanitarian Law'. How can it be achieved? Critically examine the role of 'The Hague' and 'The Geneva Convention' in the development of Modern International Humanitarian Law. (15 MARKS)

(b) 'In several respect the TRIPS Agreement goes beyond the traditional GATT approach and further develops the 'law of International Trade'. Examine the important achievement of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). (15 MARKS)

(c) What is 'fishery zone'? How it is different from 'Exclusive Economic Zone'? Do you agree with the statement that 'a coastal state has a special interest in the maintenance of the productivity of the living resources in any area of the high seas adjacent to its resources in any area of the high seas adjacent to its territorial sea'? Elucidate. (15 MARKS)

7. (a) What are the objectives, structure and functioning of World Trade Organization? Does signing and ratifying WTO undermine the Parliamentary Autonomy of India? Discuss. (20 MARKS)

(b) Trace the development of International Law relating to sovereignty over air-space. Critically examine the scope of legal control of use and abuse of outer space. (15 MARKS)

(c) Define intervention and mention the grounds under which it is justified. Also throw light on the violations of this principle of International Law. (15 MARKS)

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8. (a) Define the concept of 'opposability' in the context of relationship between International Law and Municipal Law. Also discuss the relevance of this concept in modern times with special reference to India. (15 MARKS)
- (b) What is the importance and meaning of 'Base Line' under UN convention of Law of Sea 1982? How is it determined? (15 MARKS)

Paper II

Section – A

1. Answer the following in about 150 words each. Support your answers with legal provisions and judicial pronouncements: $10 \times 5 = 50$
- (a) What is meant by right of private defence? What are the general principles which form the basis of right of private defence? (10 MARKS)
- (b) Discuss various stage of crime. How is the stage of attempt punishable under the Indian Penal Code? (10 MARKS)
- (c) "The maxim is 'volenti non fit injuria' and not 'scienti non fit injuria'." Explain. (10 MARKS)
- (d) "A tort is a specie of civil wrong." Examine the definition and add other features to make it comprehensive. (10 MARKS)
- (e) "Prevention of Corruption Act, 1988 is an important legislation to safeguard democracy in India." Discuss. (10 MARKS)
2. (a) What are the constituent elements of crime? Elaborately discuss mens rea with relevant case law. (20 MARKS)
- (b) 'A' assaulted his wife kicking her repeatedly on non-vital parts of her body. She fell down and became unconscious. In order to create an appearance that she had committed suicide he took up the unconscious body and thinking it to be a dead body hung it up by a rope. The post mortem examination showed that death was due to hanging. With the help of decided cases determine the culpability of A. (20 MARKS)
- (c) "The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act." Explain and illustrate. (10 MARKS)
3. (a) "Criminal breach of trust and cheating are two distinct offences generally involving dishonest intention but mutually exclusive and different in basic concept." Explain with the help of decided cases. (20 MARKS)
- (b) "Distinction between death caused by rash or negligent act under section 304-A and culpable homicide not amounting to murder section 304 of the Indian Penal Code is fine, but if overlooked, can result in grave injustice." Discuss. (20 MARKS)
- (c) "The age of a child must be considered in deciding whether it has been guilty of contributory negligence." Discuss and refer to case law. (10 MARKS)
4. (a) "Although the decision of the Supreme Court in *Kasturi Lal v. State of U.P.* has not been overruled as such, yet for all practical purposes its force has been considerably reduced." Elucidate. (20 MARKS)



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(b) W, wife of A was diagnosed to be suffering from toxic Epidermal Necrolysis. Doctor D was consulted who prescribed a long acting Cortico steroid 'Depomedrol' injection at a dose of 80 mg twice daily. Despite administration of this medicine her condition deteriorated rapidly and she died within a week. On expert opinion, it was found that the line of treatment followed by D is not supported by any school of medical thought and is in sheer ignorance of a basic hazard relating to use of steroids. A files a complaint in Consumer Forum claiming Rupees 75 lakhs as damages for death of his wife W. D objects to the jurisdiction of the Consumer Forum and also plead lack of negligence on his part. Decide. (20 MARKS)

(c) "It is not necessary that in all cases of tort of defamation there must be a loss of reputation of the plaintiff." Explain and illustrate. (10 MARKS)

Section – B

5. Answer the following (answer to each part must not exceed 150 words). Support your answer with relevant legal provisions and decided cases: 10 × 5 = 50

(a) If a contract is broken, the law will endeavor so far as money can do it, to place the injured party in the same position as if the contract had been performed. Explain the above statement and discuss the principle court follows for assessment of damages. (10 MARKS)

(b) "The procedure and qualifications for appointment of chairperson and members of Cyber Appellate Tribunal have been introduced to keep up the standards of Justice." Comment. (10 MARKS)

(c) Arbitration, as an alternate method of adjudication is acceptable to parties largely irrespective of the fact that access to court by the parties has been curbed drastically under the Arbitration and Conciliation Act, 1996. Explain. (10 MARKS)

(d) The actual concept of partnership from 'people sharing to the profit' to 'mutual responsibility' was the outcome of the decision in Cox V. Hickman case. Elaborate. 10 (e) "The liability of sub-agent towards principal is not direct, except in case of fraud and willful wrong." Explain giving reasons. (10 MARKS)

6. (a) X and Co. in its prospectus represented that A, B and C would be the direction of the company. This was true and on the basis of this P and Q applied for shares. However, before the allotment took place, there were changes in directions. Is the allotment of P and Q subject to their choice or it stands cancelled due to change in directions? Discuss. (10 MARKS)

(b) A, stands as surety for the good conduct of B, who is employed in a Bank on a monthly salary of Rs. 1600. Three months after the financial position of the bank deteriorated B, agreed to accept a monthly salary of Rs. 1500. Two months after, it is discovered that B has been misappropriating cash all through. What is the liability of A as surety under the Indian Law? (20 MARKS)

(c) Judiciary in India is impartial, hence cannot be influenced by internal or external factors. In the light of this discuss how far media transgresses its limit and attempts to influence the judicial process. (20 MARKS)

7. (a) "Copyright is the right of the artist, author, producer of a film who have created a work by use of their artistic skills." Examine infringement of copyright particularly relegating to video piracy and the remedies available under the law. (20 MARKS)



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- (b) The doctrine of “Public Trust” as propounded by Supreme Court has worked as an instrument for protection of Environment in India. Discuss. (15 MARKS)
- (c) Explain the scope of rule of “Caveat Emptor” in the expanding law of consumer protection. (15 MARKS)
8. (a) “Right not to complete” is a right meant for promoting business through small groups called firms. Explain. (20 MARKS)
- (b) “By and large Lok-Adalats have failed in achieving the objects for which they were created.” Comment. And also suggest some measures to make this institution more effective. (10 MARKS)
- (c) Cyber-terrorism is a well organized transborder criminal act, hence a combined domestic law supported by a Global law may help to address the problem. Discuss. (20 MARKS)

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