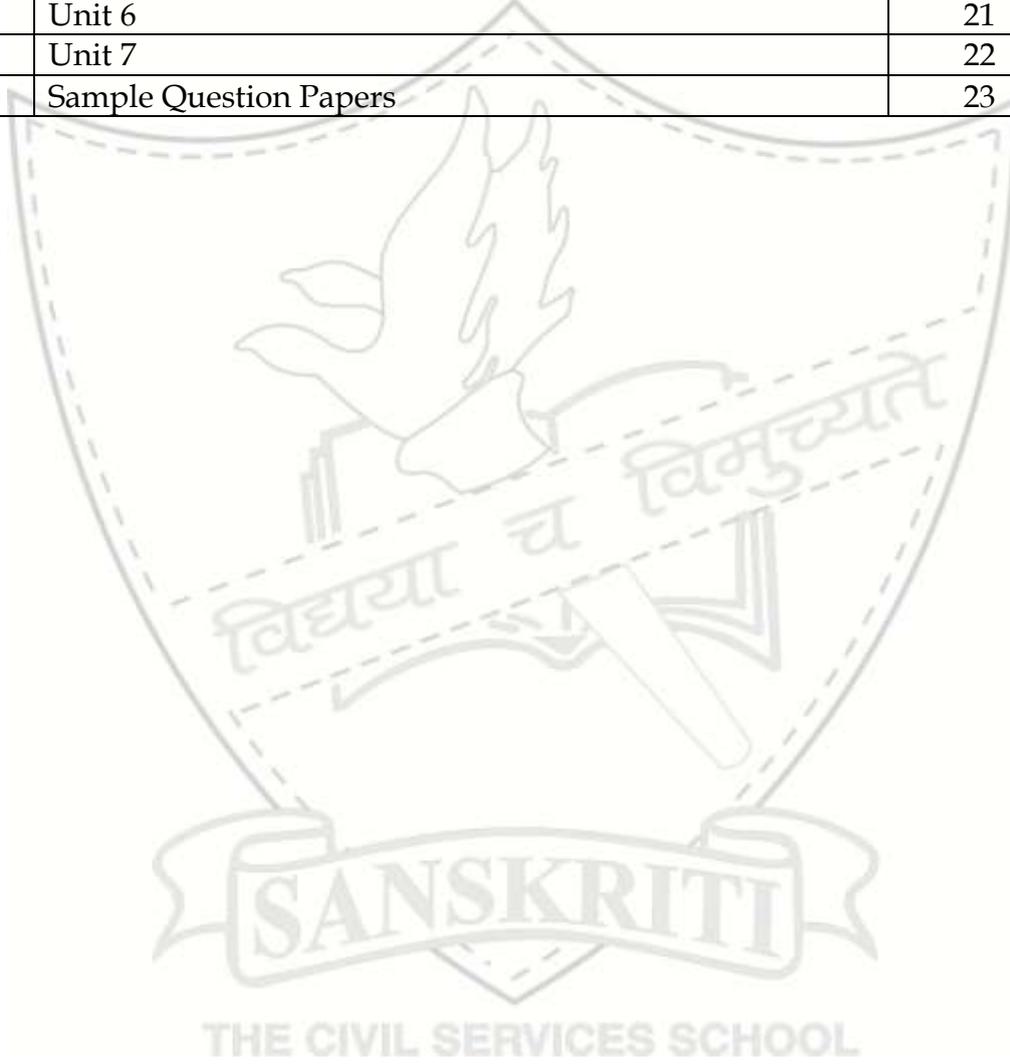


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Rationale

The Latin maxim *ignorantiajurisneminemexcusat*, in plain, which reads as 'ignorance of law is not an excuse'. This is one of the age old principles followed under the Roman Law and even in our own Common Law. If every person of discretion is to know what law is, an effort to teach law outside the remit of a professional law school may have significant social benefits. Law is a subject which has been traditionally taught in Universities for almost eight centuries. Learning law outside the settings of a professional law school has a number of perceived benefits. Some familiarity with law enhances one's understanding of public affairs and an awareness of one's entitlements and duties as a citizen. It may also be helpful in eliminating some of the mistaken notions about law and some of the inveterate prejudices about law, lawyers and the legal system as such. Another advantage is that an understanding of law can undoubtedly encourage talented students to pursue a career in law - an objective which is laudable in its own right. The pitfalls of learning law outside the settings of a professional school are rooted in two key assumptions: (1) law is too vast and complicated to be taught in a non-professional setting; (2) the lack of professional trainers and experienced teachers could lead to incorrect appreciation and understanding of law. If an understanding of law is mis-formed or ill-formed as some academicians think, it may require greater efforts to unlearn whatever was learnt earlier. Both these criticisms have attracted detailed scrutiny, but at least a few countries have introduced law at the High School level. The experience of countries that have introduced law has been by and large optimistic. The Central Board of Secondary Education is introducing Legal Studies at the Class XI level. The proposal is to introduce one module in Class XI and a second module in Class XII.

Objectives

- To provide a background of the evolution of the Indian legal system in a short and concise form.
- To focus on the applicability of justice, equity and good conscience and more importantly the development of Common Law system in India.
- To provide exposure on various systems of law such as Common Law, Civil Law, Hindu Law, Islamic Law etc.
- To develop an understanding of the essential features of the Indian Constitution, including the role and importance of Fundamental Rights, Separation of Powers, Structure and operation of Courts, concept of precedent in judicial functioning, the process of legislation, basic principles of statutory interpretation, etc
- To deal with principles of practical utility such as the concept of Rule of Law, principles of justice, differences between criminal and civil cases, the concept of crime and the fundamental theories of punishment, rights available to the accused at various stages of the criminal investigative process, or the key components of Human Rights, etc.
- To understand the fundamental concept and subject matter of property, contract and tort.

- To understand the rudimentary aspects of contract law such as formation of contract, terms and conditions, discharge, etc.
- To enables students to form an understanding of rights and duties and various categories of liability principles which form the bedrock for an understanding of Law.



S.No.	Units	Periods	Marks
1	Judiciary	35	15
2	Topics in Law	35	15
3	Arbitration, Tribunal Adjudication and Alternate Dispute Resolution	35	15
4	Human Rights in India	35	15
5	Legal Profession in India	35	15
6	Legal Services	35	15
7	International Context	10	10
	Total		

Course Contents:

1. Judiciary Constitution, Roles and Impartiality Structure, Hierarchy of Courts, and Legal Offices in India Appointments, Trainings, Retirement and Removal of Judges Judicial Review	35 periods
2. Topics in Law Property Contracts Torts Crimes Administrative Law	35 periods
3. Arbitration, Tribunal Adjudication and Alternate Dispute Resolution Adversarial and Inquisitorial System Arbitration Administrative Tribunals Ombudsman Mediation and Conciliation LokAdalats Lokpal and Lokayukt	35 periods
4. Human Rights in India Human Rights Laws - Constitution, Statutes Complaint Mechanisms and Human Rights Commissions	35 periods
5. Legal Profession in India History of Legal profession in India Role and types of functions of judges and lawyers	35 periods

Barristers, Solicitors and Advocates Changes Affected by Indian Advocates Act, 1961	
6. Legal Services Legal Services Boards Funding	35 Periods
7. International Context Introduction to International Law Sources of International Law International Institutions International Human Rights	10 Periods



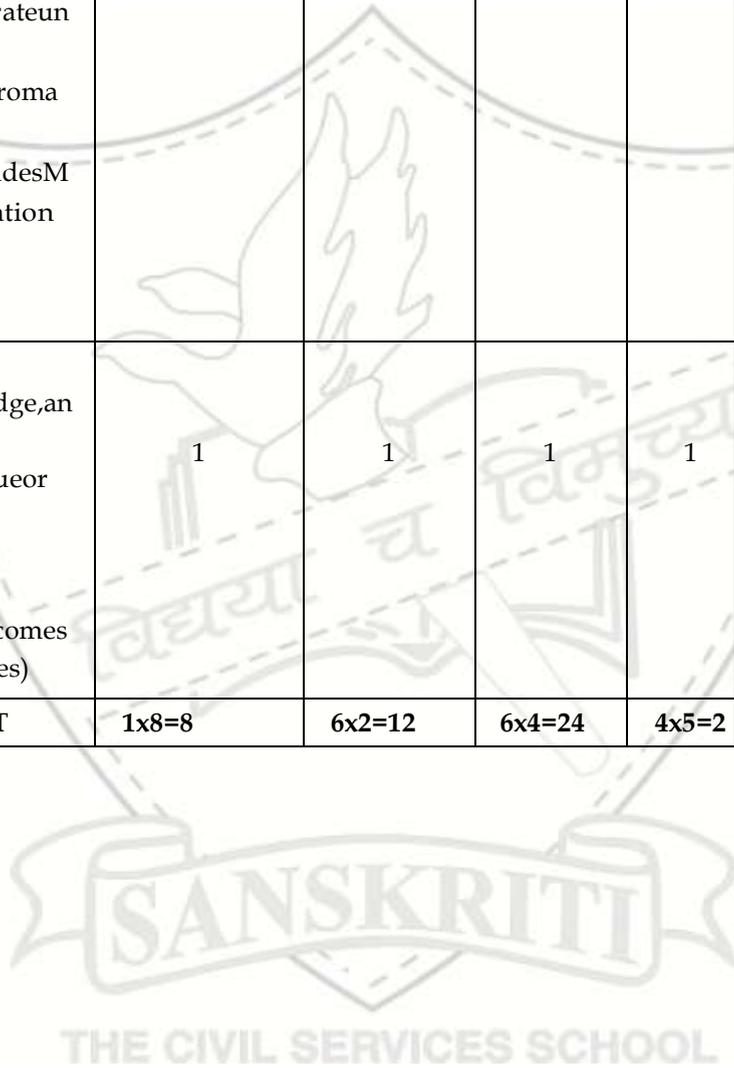
QUESTIONPAPERDESIGN

Time:3 Hours

Max.Marks:100

S.No.	Typology of Questions	Very Short Answer (1Mark)	Very Short Answer (2Marks)	Short Answer (4Marks)	Long Answer-I based on passages and	Long Answer- II(6 Marks)	Marks	% Weig h- tage
1	Remembering- (Knowledgebased simplerecallquestions,toknow)	-	1	2	-	2	22	22
2	Understanding- (Comprehension - tobefamiliarwithme aningandto understandconcept ually, interpret,compare,co ntrast, explain,paraphras e,orinterpret information)	2	-	2	1	1	21	21 %
3	Application (Usea bstract informationinconc retesituation, toapplyknowledge tonew situations;Usegive ncontentto interpretasituation ,providean example,orsolveap roblem)	4	2	-	1	2	25	25 %

4	HighOrderThinki ngSkills (Analysis&Synthes is-Classify, compare,contrast,o r differentiatebetwe endifferent piecesofinformatio n,Organize and/orintegrateun iquepiecesof informationfroma varietyof sources)includesM ap interpretation	1	2	1	1	1	20	20 %
5	Evaluation- (Appraise,judge,an d/ or justifythevalueor worthofa decisionor outcome,or topredictoutcomes basedonvalues)	1	1	1	1	-	12	12 %
	T	1x8=8	6x2=12	6x4=24	4x5=2	6x6=36	100	100%



Unit 1
Judiciary

1. Discuss the scope of Judicial Review with respect to the basic structure of the Constitution of India.
2. How does Judicial Review ensure separation of powers between the three organs of the govt. and between the centre and state.
3. How are independence and impartiality of judges two different concepts?
4. Discuss the provisions related to judges which ensure independence of Judiciary.
5. What are the different roles that the Supreme Court of India performs?
6. How does independence of Judiciary work as a Constitutional Safeguard?
7. Certain Law officers exist at the Union and State level to advise the executive wing of the govt. These officers derive their mandate either from the Constitution or other statutory enactments and rules. Name three such officers and discuss their roles and method of appointment.
8. Discuss the structure and hierarchy of courts in India.
9. What are Tribunals? What is the aim of creating tribunals? Give some examples of tribunals in India and why they were created.
10. India has a common law jurisdiction. Explain, giving the main features of a common law system as opposed to a civil law system.
11. Trace the historical debate on the issue of appointment of judges in India.
12. What is the constitutional mandate for appointment of judges in India?
13. What is the current practice in the appointment of judges in India? What change is being proposed to it?
14. How can the judges of Supreme Court and the High Courts be removed?
15. Write short notes on:
 - a. Judicial Training
 - b. Retirement of judges

In a landmark case of Maneka Gandhi Vs Union of India her passport was confiscated by the Government without giving any reasons. Later on she was given a hearing by the court and her Passport was given back to her.

- a) Which doctrine was used by the Supreme court in this case?
- b) Which principle was used by the Supreme court to hear her case?

What do you mean by the 'right to audience?' Who has been granted this right by the Indian Constitution?

Nisha who used to work with an NGO was shocked to see the condition of people who were forcefully kept by the landlords to work in the fields, Saddened by their plight she decided to approach the court on their behalf to free them.

- a) Name the provision under which Nisha can approach the court.
- b) State the common characteristics of litigations under this provision.

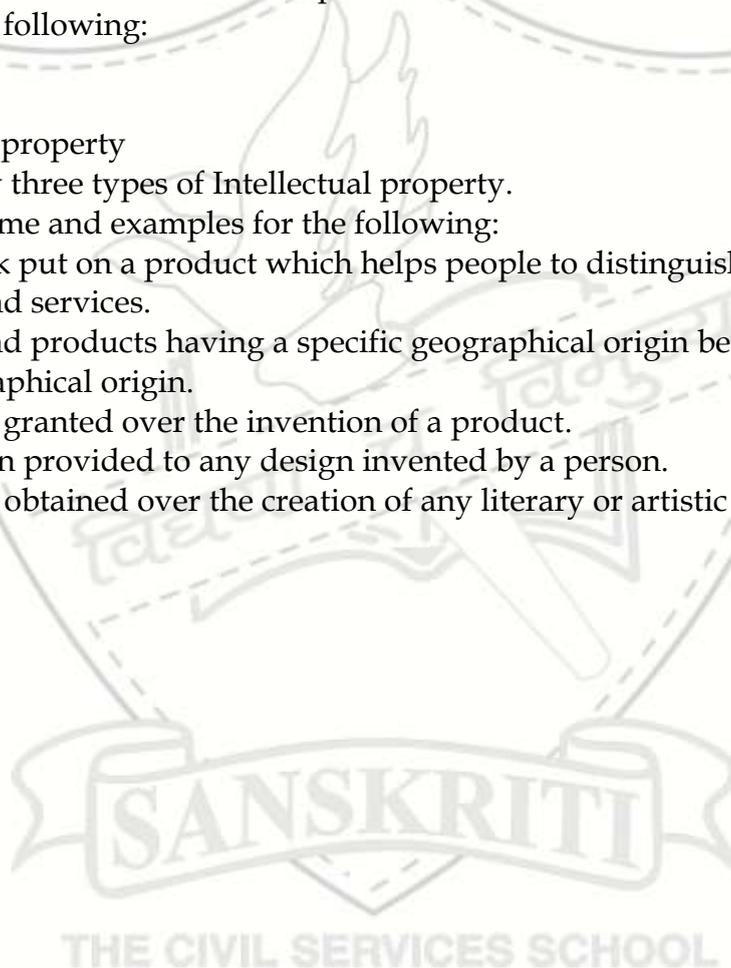
Why is KesavanandaBharatiVs State of Kerala case regarded as a basic structure case? Explain the points discussed in this case and its impact on the working of indian constitution.

How is independent judiciary different from the impartiality of judges? State the legal provisions given in the constitution for the same.

Unit 2A- Law of Property

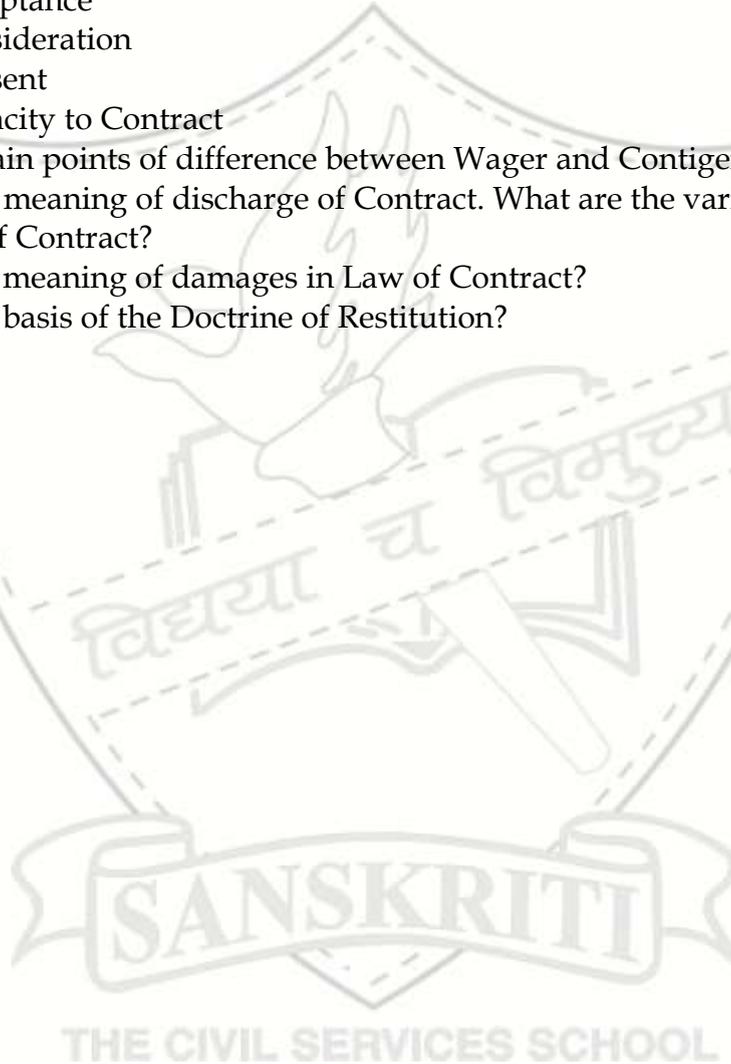
1. What is the object of the Transfer of Property Act, 1882?

2. What are the two types of property? Which legislations govern them?
3. Define immovable property? How has it been defined in the TPA?
4. Distinguish between movable and immovable property with the help of relevant case law.
5. Who can transfer property, and how can property be transferred?
6. What are the essentials of a valid transfer?
7. What is the meaning of the doctrine of LisPendens? What conditions should be satisfied to constitute lispendens?
8. What is the meaning of Sale according to TPA? Give the rights and liabilities of Buyer and Seller?
9. Define Lease. Give the main rights and liabilities of the lessee and lessor.
10. Can an original lessor prevent a sub lessee from enjoying possession of a property during the existence of a lease? Explain, with relevant case law.
11. Explain the following:
 - a) Exchange
 - b) Gift
 - c) Intellectual property
Discuss any three types of Intellectual property.
Give the name and examples for the following:
 - a. Any mark put on a product which helps people to distinguish it from other products and services.
 - b. Goods and products having a specific geographical origin bearing the name of their geographical origin.
 - c. The right granted over the invention of a product.
 - d. Protection provided to any design invented by a person.
 - e. The right obtained over the creation of any literary or artistic work.



UNIT 2(B)
LAW OF CONTRACTS

1. Define a Contract. Which legislation governs the law of Contracts in India?
2. Give the facts, contentions and judgment in:
 - a. Balfour vs. Balfour
 - b. Carlilvs. Carbolic Smoke Ball Co.
 - c. Durga Prasad vs. Baldeo
3. Explain the following terms:
 - a. Offer
 - b. Acceptance
 - c. Consideration
 - d. Consent
 - e. Capacity to Contract
4. Give the main points of difference between Wager and Contigent contract
5. Explain the meaning of discharge of Contract. What are the various ways of discharge of Contract?
6. What is the meaning of damages in Law of Contract?
7. What is the basis of the Doctrine of Restitution?



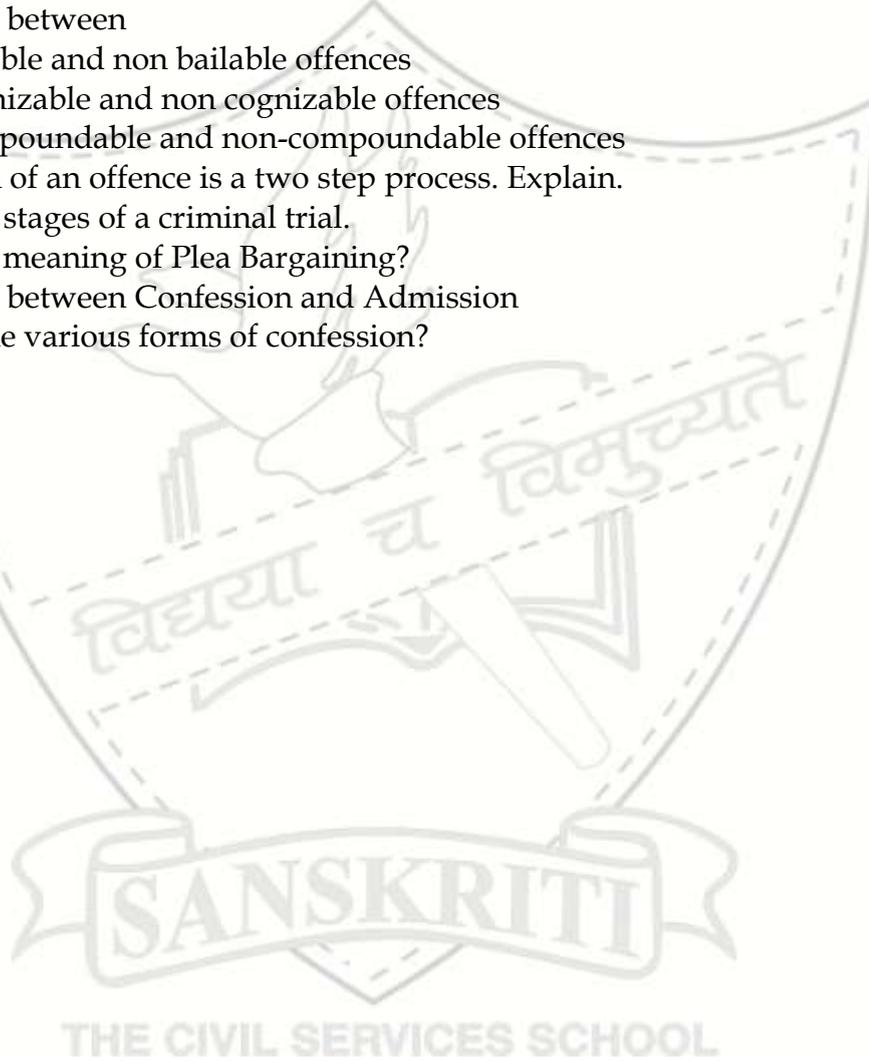
Unit 2 (C) - Law of Torts

1. The definitional features of a tort are that it is a civil wrong as distinguished from a criminal wrong.
Give the main points of differences between a tort and a criminal wrong.
2. What are the remedies generally available in a tort suit?
3. How is tort law a common law subject? Give instances of areas of tort law that have been codified.
4. What is the meaning of intentional tort? Briefly explain any three types of intentional tort.
5. What is meant by the intentional tort of conversion?
6. Explain the difference between trespass to land and trespass to chattels.
7. What is the basic understanding of a tort of negligence? Discuss the three essentials that must be established in order to constitute a tort of negligence, in light of relevant case law.
8. These torts do not care about the intention of the defendant when he caused the injury. Identify and explain this type of tort. Which related principle was introduced by the Supreme Court of India and in the aftermath of which cases? Discuss.
9. How does tort law protect the claimant against bodily injury?
10. Discuss in detail the three purposes of tort law.



UNIT 2 (D)
Introduction to Criminal Laws in India

1. Explain the stages of crime? At what stage does liability in criminal law arise?
2. Explain the principle of actus reus and mens rea in India.
3. Give the distinction between Intention and Motive.
4. Explain the objectives for enforcement of Criminal Law.
5. Which section of IPC, 1860 defines the offence of theft, and what is the punishment prescribed for theft in IPC?
6. Distinguish between
 - a. Bailable and non bailable offences
 - b. Cognizable and non cognizable offences
 - c. Compoundable and non-compoundable offences
7. Prosecution of an offence is a two step process. Explain.
8. Explain the stages of a criminal trial.
9. What is the meaning of Plea Bargaining?
10. Distinguish between Confession and Admission
11. What are the various forms of confession?



UNIT 2 (E) ADMINISTRATIVE LAW

1. There is a clear distinction in the subject matter of constitutional law and Administrative Law. Give this distinction.
2. The scope of govt intervention in the lives of citizens has always been in question. What are the main lines of argument in the discussion on the scope of govt. intervention?
3. Discuss the main types of Administrative actions.
4. Give any four examples each of administrative and non administrative actions
5. What are the three main principles of administrative law?
6. What does Rule of Law mean? Discuss its importance in administrative law.
7. What does the doctrine of Separation of Powers imply? Who gave this theory a socio-scientific and structured meaning? What are the three aspects of this theory?
8. What is the role of principles of natural justice in administrative law?
9. Delegated legislation is the need of the hour. It should, however, not be unfettered. Explain.
10. How can one ascertain the policy of any given legislation?
11. What do Lay in provisions refer to? What are the types of lay in provisions?
12. What are the mechanisms of control over administrative actions in USA, UK and India?
13. How did the Droit Administrative system develop?
14. What are the three main doctrines that emerged from the Droit system? Explain.



**Unit 3- Arbitration, Tribunal Adjudication and Alternate Dispute Resolution
Questions**

1. Fill in the blanks:

- a. The _____ system is generally adopted in common law countries.
- b. _____ system refers to the use of non-adversarial techniques of adjudication of legal disputes.
- c. The decision rendered by an arbitrator is known as _____.
- d. _____ is the relevant legislation that governs the process of arbitration in India.
- e. The initial documents filed by the claimants enlisting the issues raised to be resolved in an arbitration is known as _____.
- f. Articles _____ and _____ empower the Parliament to set up tribunals for adjudication of specialised disputes.
- g. The Central Administrative Tribunal was set up pursuant to the enactment of the _____.
- h. The seven judge bench of the Supreme Court in _____ case held that tribunals would not take away the exclusive jurisdiction of the courts, and their decisions could be scrutinised by the Division bench of the High Courts.
- i. CAT has 17 regular benches, 15 of which operate at the principal seats of High Courts and the remaining two at _____ and _____.
- j. _____ is a process mid way between mediation and arbitration.
- k. Both Mediation and Conciliation are governed by Section _____, a provision inserted by the 2002 amendment of the _____.
- l. The concept of Nyaya panchayat is institutionalized in the philosophy of _____.
- m. The first LokAdalat was held on _____ at _____.
- n. _____ is a statutory body constituted under the National Legal Services Authorities Act, 1987 and is responsible for laying down policies and principles for making legal services under the Legal Services Authorities Act, 1987.
- o. _____ is an anti corruption ombudsman organization in the Indian States.
- p. The Arbitration and Conciliation Act of 1996 is modelled on the _____ model law on _____.
- q. The Chief Vigilance Commission was set upon the recommendations of the _____ committee.
- r. In the case _____, it was held that The Arbitration and Conciliation Act, 1996 should be interpreted and applied, keeping the commercial sense of the dispute in mind.

2. Name three statutes that were repealed by The Arbitration and Conciliation Act of 1996.
3. What type of disputes are held to be most suitable for mediation? Give example of such a dispute. What type of cases have been excluded from the ambit of mediation?
4. Give the main advantage of an ombudsman.
5. Give any three benefits of Lokadalats
6. Give a brief overview of the laws on LokAdalat.
7. Discuss the composition of the Lokpal?
8. What is the main function of the CVC?
9. When was the institution of Lokpal and Lokayukta given formal recognition? Give a brief description of the law governing this institution.
10. Give the main differences between mediation and arbitration.
11. What is the present position in India on the appointment of Lokayukta?
12. What are the problems confronted by Law courts in India, which support the advent of ADR?
13. What are the main benefits of ADR?
14. What is the main problem with the mediation/arbitration hybrid? How can this problem be corrected?
15. 'The history of ADR in India pre-dates the modern adversarial model of Indian judiciary'. Elaborate.
16. Differentiate between adversarial and inquisitorial methods of dispute resolution
17. What do you understand by the term Arbitration? Describe the process of arbitration.
18. What are the three ways in which mediation can be triggered?
19. What are the various types of arbitration? describe each briefly.
20. Give three examples of types of disputes that can be adjudicated by tribunals.
21. What type of cases have been specifically excluded from the scope of mediation?
22. What do you understand by the phrase 'Tribunalisation of Indian Judiciary'?
23. 'The tribunals in India have contributed to supplementing the role of courts in adjudication of service disputes.' Explain.
24. Write a short note on the following:
 1. Arbitral award
 2. Institutional Arbitration
 3. Setting aside an arbitral award.
 4. Ombudsman
 5. The Arbitration and Conciliation Act, 1996
 6. Court referral to Arbitration
25. How is foreign arbitration different from international commercial arbitration?
26. There was a dispute between Ms. Uditia and Mr. Bhavesh regarding title and possession of immovable property. The parties to the dispute, out of their free will appointed Mr. Punit, a neutral third party to resolve their dispute. Mr. Punit acted not only as an interventionist but also suggested potential solutions to the parties in order to resolve their claims & disputes.
State the role of Mr. Punit as an A.D.R. in the given situation.

27. There was a dispute between Ms. Udita and Mr. Bhavesh regarding title and possession of immovable property. The parties to the dispute, out of their free will appointed Mr. Punit, a neutral third party to resolve their dispute. Mr. Punit acted not only as an interventionist but also suggested potential solutions to the parties in order to resolve their claims & disputes.

State the role of Mr. Punit as an A.D.R. in the given situation.

28. Name the category of officials/ public Servants coming under the ambit of Lokpal. What are

the major powers of Lokpal?

29. Trace the progress and development of contemporary Lokpal Movement in India.

Unit 4- Human Rights in India

1. What do you understand by Human Rights?
2. Give a brief description of the historical and international developments in the field of Human Rights.
3. What are the main types of human rights safeguarded by laws in India?
4. How did the modern concept of human rights emerge? Give some earliest examples of human rights laws.
5. What was the Magna Carta of 1215? What were the provisions that can be regarded as Human Rights laws?
6. What was the English Bill of Rights? In which year was it concluded? What were the main rights included in the Bill of Rights?
7. How did the American Declaration of Independence include human rights values?
8. When and how was the principle of human rights adopted by France?
9. Give a brief description of the Universal Declaration of Human Rights.
10. Give some examples of Human Rights treaties.
11. Discuss the human rights provided in the constitutional framework in India. What are the main parts of the Indian Constitution that provide for human rights?
12. Which articles of the Constitution of India contain the provisions on Fundamental Rights? What are the salient features of Fundamental Rights?
13. What does the principle of equality mean? Which provision of the Constitution of India enshrines the principle of equality?
14. The Prohibition of Child Marriage Act, 2006 prescribes the marriageable age of girls as 18 years and that of boys as 21 years. Does this amount to violation of Right to equality?
15. Which article of the Constitution of India justifies reservation in govt. jobs for backward classes/castes?
16. Which laws in India deal with abolition of untouchability?
17. Name the various kinds of freedoms guaranteed to all citizens by the Constitution of India. What are the grounds for restrictions on these freedoms?
18. Can the state prohibit a citizen of India from making a speech? Discuss.
19. Discuss the rights of persons accused of crimes under article 20 of the Constitution of India.

20. What is the meaning of right to Life and Personal Liberty? Is the right to life and personal liberty, as guaranteed under article 21, unlimited?
21. What is the status of Right to elementary education? Has it been included as a Fundamental Right? Discuss.
22. What does article 22 provide for? Are there any exceptions to this right? Give examples.
23. How does the Constitution guarantee Right to Freedom of Religion? Discuss in detail.
24. What do you understand by the Right to Constitutional remedies?
25. Which rights are dealt with under articles 29 and 30?
26. Write a note on a. Fundamental duties b. Directive Principles of State Policy
27. What do you understand by Quasi-judicial bodies? Give some examples of quasi judicial bodies.
28. Which quasi judicial body was established by the Protection of Human Rights Act, 1993?
29. Discuss the composition of NHRC. What are the main powers and functions of the commission?
30. Discuss the complaint mechanism procedure with the National Human Rights Commission. What types of complaints are not ordinarily entertainable?
31. Is there a time limit within which the alleged violation of human rights should have been committed for filing a complaint with the NHRC? If yes, what is it?
32. Give the main functions of the national commission for minorities. What is the composition of the commission?
33. What are the grounds on which the National Commission for minorities can decline admitting a complaint?
34. When was the National Commission for Women established? What is the composition of the commission?
35. What kind of work has the National Commission of Women been involved with in the recent times?
36. What are the main functions and powers of National Commission for Women? What are its powers that are similar to those of a civil court?
37. Which two commissions were established in fulfillment of article 338 of the Constitution? Name two special laws enacted to give effect to the provision.
38. In context with the provisions of death penalty as stated in the Indian Penal Code, explain how it justifies the application of 'procedure established by law' as stated in article 21 of the Constitution.
39. Explain the journey of recognition of right to education as a fundamental right in the Indian Constitution.

UNIT 5
AMERICAN BAR ASSOCIATION (ABA)

1. Founded in 1878
2. Voluntary professional body for US Lawyers.
3. Largest voluntary professional body in the world (400,000 members)
4. Goals-
 - a) To serve the members
 - b) Improve the profession
 - c) eliminating bias
 - d) Enhancing diversity
 - e) advancing the rule of law

Functions-

- a) Supports legal profession with practical resources for legal professionals
- b) Improving the administration of justice
- c) accrediting law schools
- d) establishing model ethical codes etc.

Responsibility-Creation and maintenance of a code of ethical standards for lawyers.

Membership- Open to lawyers, Law students and others interested in the law and the legal profession

Accrediting schools since 1923 and publishes the Internationally reputed ABA Journal.

Model Code of Professional Responsibility 1969 and Model Rules of Professional Conduct, 1983 adopted in 49 states (Only exception being California)



Unit 5
Legal Profession in India

1. Explain the genesis of Vakalatnama as we know it today.
2. What were the changes brought about by the Legal Practitioners Act of 1846?
3. What were the main developments brought about by the Legal Practitioners Act of 1879?
4. Write a short note on
 - a. The Chamier Committee.
 - b. The Indian Bar Councils Act, 1926
 - c. Solicitors
 - d. Pleaders
 - e. Vakils
 - f. Mukhtars
 - g. Revenue Agents

Who is an advocate, as prescribed by the Advocates' Act, 1961?

Name the three legal Officers who act as advisors to the Central Govt. Are there similar officers at the state level? If yes, name them.

What are the essential requirements for being an advocate in India?

Write a short note on

1. Senior advocate
2. Advocate on Record

State the composition of the Bar Council of India.

Name the two main regulatory functions of the Bar Council of India.

What were the two main changes brought about by the Advocates Act, 1961?

Give any two professional duties of an Advocate

Advocates in India can now furnish 5 pieces of information on their websites after taking permission from the Bar Council of India. List them.

Which country has Model Rules for Professional Conduct for lawyers? Which rules deal with advertising by lawyers?

Who are ambulance chasers?

Which country has passed the legislation named Legal Profession (Publicity Rules) 2001? What does it deal with?

The establishment of which Institution marked the beginning of reform of Legal Education in India? How many law schools are there in India presently?

What are the opportunities available to Lawyers in Public Policy?

Discuss the career options available to lawyers in

1. Law Firms
2. Corporate sector
3. Legal Research
4. NGOs
5. Govt. Institutions
6. Judicial Services

What is the current position in India on the issue of opening of Indian Legal Profession to foreign lawyers?

How does one complete Legal Education in the USA?

What is CLE?

Give the expanded form of the following abbreviations:

1. MBE
2. MPRE
3. MEE
4. MPT
5. FLC
6. ABA

How can an Indian Lawyer practice in the USA?

What is the ABA? What work does it do? What are its goals and who all can be its members?

How are lawyers regulated in states having a non unified bar?

How can one become a barrister in the UK after secondary school?

Give one most significant difference between barristers and solicitors.

Give the seven foundation subjects required to be studied for obtaining qualifying law degree in UK.

Can students in UK who do not have undergraduate degrees in Law still become Lawyers? If yes, how?

What is the LPC?

What is the significance of an Inn of court? Name the four inns of court.

What role do notaries play in the French Legal system?

What is the Conference des Batonniers?

Name the overarching National body for all French Bars.

How can foreign Lawyers requalify in France?

What are the two examinations that law students in Germany must complete in order to become a lawyer?

What avenues are open to foreign lawyers in Singapore?

What was the observation of Patna High court in 1922 regarding Ms. Hazra's petition?

What was the main objective of the Legal Practitioners (Women) Act of 1923?

Who was the first Indian Lady Wakil? Which High Court was she appointed to and when?



THE CIVIL SERVICES SCHOOL

UNIT 6

Legal Services

1. Reginald Heber Smith, in his book, _____ promoted the concept of free legal assistance to the poor for the first time.
2. Rawls first principle of justice is that _____
3. The purpose of Hammurabi, in promulgating his code in the 20th c. BC was _____
4. What were the three processes by which developing civilizations moved towards social engineering through free legal aid?
5. How did the Mosaic law provide privileges to the poor man?
6. How was justice administered in Egypt according to Herodotus?
7. Explain the concept of
 - a. Vodimonium
 - b. Sacramentum
8. Explain the civil legal assistance to the poor in the United States of America from 1876 to 1965.
9. Discuss the concept of Free Legal aid under International Law
10. What are the main features of the NALSA Regulations of 2010.
11. What are the criteria for providing free Legal Aid under the NLSA Act, 1987?
12. Explain the composition and main functions of
 - a. The Central Authority
 - b. The State Authority
 - c. The District Authority
13. Explain the meaning of Public Utility Services according to the Legal Services Authorities (Amendment) Act, 2002.
14. Explain the sources and purpose of the funds of the following:
 - a. The National Legal Aid Fund
 - b. The State Legal Aid Fund
 - c. The District Legal Aid Fund
15. Explain the journey of recognition of right to education as a fundamental right in the Indian Constitution.
16. Where is the provision of free legal aid incorporated under the criminal law in India?
17. Why is it not possible to isolate legal aid from Human Rights?
18. Explain the composition of National Legal Services Authority and Supreme Court Legal Services Committee constituted for legal services.

Unit 7

International Context

1. Discuss the history of International law.
2. International law relies on consent-based governance. Discuss the meaning of International law in the context of the above statement.
3. What are the two categories of International law? Explain each with examples.
4. Write short notes on
 - a. CISG
 - b. UNCITRAL Model law on international Commercial Arbitration
 - c. Article 38(1) of the Statute of ICJ
 - d. UN Commissioner for human rights
 - e. Bretton woods twins
 - f. ILO
 - g. UNESCO
 - h. WHO
 - i. ErgaOmnes obligations
5. Name the sources of International Law.
6. What is a treaty? What are the ways in which a state expresses its consent to be bound by a treaty?
7. Name some of the important documents/conventions in the field of International Human Rights.
8. What is the position of various countries on the application of International Law to domestic jurisdiction?
9. Give the relevant case laws and relevant constitutional provisions that discuss the application of international law to India.
10. What are the dispute resolution mechanisms under International Law?
11. What are the functions of Human Rights Council?
12. Discuss about the history of the Bretton Woods Twins.
13. Explain the two International bodies of dispute resolution.
14. Explain the sources of International law.
15. Discuss the history and development of International human Rights.

Previous Year Board Exam Paper

Class XII

Legal Studies

2015-16

1. A constitutional amendment was passed by Indian Parliament which curtailed the concept of 'Federalism' enshrined in the Indian Constitution. This amendment was held to be invalid by the Supreme Court of India. Here, by virtue of which theory / doctrine, the Supreme Court of India has invalidated the said constitutional amendment? (1)

- (a) Principle of Natural Justice
- (b) Theory of Separation of Powers
- (c) Doctrine of Basic Structure
- (d) Principle of Legitimate Expectation

2. The residents of P.V. Colony have been paying for civic facilities to Municipal Department for last three years. During monsoons the roads developed cracks and pit holes. The residents requested for repair of the roads. However Municipal Department, which has the responsibility to provide for this ignored all requests of the residents in spite of continuous reminders. What immediate remedy is available to the residents of P.V. Colony under Article 32/226 of Indian Constitution? (1)

- (a) Writ of Habeas Corpus
- (b) Writ of Quo-Warranto
- (c) Writ of Mandamus
- (d) Writ of Certiorari

3. Which of the following statements does not hold good for "Conflict of Laws"? (1)

- (a) It is a set of rules and principles that govern interstate interactions.
- (b) Its primary objective is to provide for a framework of rules and regulations which help in fostering international relations.
- (c) It is a body constituted of conventions, model laws, domestic laws of state.
- (d) It involves issues like application of Jurisdiction in a particular case.

4. Taluk Legal Services Committee (TLSC) consists of : (1)

- (a) Judge of Supreme Court as the Chairman, and the other members prescribed by President of India and nominated by the Prime Minister of India.
- (b) Senior civil judge as ex officio chairman and other members prescribed by State Government in consultation with the Chief Justice of High Court.
- (c) Senior most judicial officer as ex officio chairman and other member prescribed by Chief Justice of High Court in consultation with the State Government.
- (d) Judge of High Court as the Chairman, and other members prescribed by Chief Justice of High Court and nominated by State Government.

5. Smith is a citizen of United Kingdom. He had completed LL.B. from recognized University of United Kingdom. He wants to practice as a 'Barrister' here. In order to practice as a 'Barrister', Smith is required to complete which of the following course? (1)

- (a) Legal Practice Course (LPC)
- (b) Legal Professional Training Course (LPTC)
- (c) Bar Professional Training Course (BPTC)
- (d) Bar Professional Course (BPC)

6. Prakhar, is a citizen of India and a qualified Advocate. In the year 2000, he was appointed as a Second Class Judicial Magistrate in Rajasthan. But in the year 2003, he resigned from the post of Second Class Judicial Magistrate. He started practising as an Advocate in Delhi High Court in the year 2009. In the year 2011, he shifted to Panchkula located in Haryana and since then he is practising as an advocate in Punjab and Haryana High Court. In 2015 he is eligible to be appointed as? (1)

- (a) High Court Judge only
- (b) Both Supreme Court and High Court Judge
- (c) District Judge only
- (d) Supreme Court Judge only

7. Rohan is a citizen of India and a resident of Mumbai. He is qualified Legal Practitioner and practicing law since 1992, in the Bombay High Court; where he only prepares the case but do not argue in the Court. He belongs to a separate class of legal practitioners, known as : (1)

- (a) Barristers
- (b) Attorneys
- (c) Advocates
- (d) Solicitors

8. Nitin, aged 15 years, agreed to sell his cottage for ` 10,00,000 to Mayank, aged 20 years. However, the market value of the cottage at the time of sale was ` 20,00,000. Nitin afterwards avoided the agreement of sale by saying that, he is a minor and a case was also pending before the court regarding the title of the cottage, at the time of sale. They both appointed Ms. Kriti (a mediator) for the settlement of their dispute. In this context, which one of the following is correct? (1)

- (a) The above dispute can be referred to a mediator, as contractual disputes are most suited for mediation.
- (b) The above dispute cannot be referred for mediation as case against specific classes of persons (minors, mentally challenged) have been excluded from the scope of mediation.
- (c) The above dispute cannot be referred for mediation as the consideration was not adequate and hence contract is void ab initio.
- (d) The above dispute can be referred to mediation, as property disputes are most suited for mediation.

9. Service of Mr. Varun, an officer with Water (Jal) Board was terminated by the authorities by paying him three months salary. No inquiry was conducted against Mr. Varun and also the termination order did not assign any reason of his termination. In the above situation, the action of Water (Jal) Board authority justified or not? Give reasons to your answer. (2)

10. There was a dispute between Perry & Jenny Co., an Indian body corporate and Reed Bros. & Co., a United Kingdom body corporate regarding a contractual obligation. The parties to the dispute, by way of an agreement, appointed Mr. Clark to resolve their dispute. While the legal proceedings were going on, Mr. Clark granted some interim relief to Reed Bros. & Co., also, while taking final decision, Mr. Clark did not followed the laws or reasoning laid down in earlier decisions, rather decided the disputes according to his conception of what is fair and just. (2)

- (a) Identify and explain the role of Mr. Clark, in the given situation.
- (b) Is the decision given by Mr. Clark binding on the parties, as he did not strictly follow the law or the reasoning of earlier case decisions ? Give reason for your response.

11. What is "Legal Aid"? State the two kinds of Legal Services available to a person for his grievance redressal. State any one value communicated by the system of Legal Aid. (2)

12. Anuraag is a qualified Lawyer practicing since 2002 in various District Courts of Delhi. He is having special knowledge and expertise in the field of Criminal Law. Mr. Ankit (appellant) appointed Mr. Anuraag as his advocate to file a Special Leave to Appeal (Criminal) before the Supreme Court of India. Mr. Anuraag was not allowed by to do so by the filing authorities of the Supreme Court. Why was Mr. Anuraag not allowed to file the Special Leave to Appeal (Criminal), even though he is a qualified lawyer having expertise and experience in the field of Criminal Law? (2)

13. When can a dispute be referred to LokAdalat ? State any two powers of LokAdalats. (2)

14. A dispute arose between Kerry & Claire Co., a Netherland based Cosmetic Co. and Star Heaven Co, an Indian cosmetic company regarding money transactions. The parties to the dispute appointed Mr. Harry, a neutral third party, for settlement for their dispute. Mr. Harry acted as a guardian of the dispute resolution process and was focused on helping the parties to find solution to their dispute but failed to bring the parties to settlement. The disputing parties then approached an institution named Roger's Organisation for the settlement of their dispute. The Roger's Organisation appointed Mr. Jeff (Financial Transactions expert) to resolve the said dispute. State the two types of Alternate Dispute Resolution Mechanism in the above situation. (2)

15. How power of Judicial Review helps judiciary to safeguard and to ensure the separation of powers of the other two branches of the government in India ? (4)

16. There was a treaty between two neighbouring countries 'Sodoland' and 'Borway', to stop the killing of Olive Ridley Turtle. A dispute arose between them regarding fulfilment of certain terms and conditions of this treaty obligation. Sodoland became member of United Nations in the year 1946 whereas Borway is not a member of United Nations. Sodoland refused to fulfil its treaty obligations. Aggrieved by this, Borway approached International Court of Justice to resolve this dispute. (4)

(a) Can Borway approach International Court of Justice ? If yes, under which provision of United Nations charter ?

(b) Explain the jurisdiction of International Court of Justice.

17. With regards to the responsibility of the State Government to provide legal aid service; (4)

(a) What is the composition of state authority ?

(b) State any four functions of the state authority.

18. "A common misconception is that motive and intention are same concepts when it comes to crime." (4)

Consider the statement given above and explain the concept of 'Intention' and a 'Motive' in terms of criminal law. Also give one difference between these two.

19. "42nd Amendment Act, 1976 ushered the era of tribunalisation in Indian Judiciary." Explain. (4)

20. Babulal was arrested and detained by police authorities on 26-11-2015 at 1 p.m., under the preventive detention law MACOCA (Maharashtra Control of Organised Crime Act, 1999). He was produced before the magistrate on 28-11-2015 at 1 p.m. He was not allowed to consult his lawyer during the period of detention in police custody

Babulal applied for writ under Article 226 of the Indian Constitution on the ground that his fundamental right under Article 22 has been violated. (4)

(a) State the provisions of Article 22 of the Indian Constitution.

(b) Are the authorities (police) justified in their action ? Give reasons for your answer.

(c) State any one value communicated by the provisions of Article 22.

21. For adoption of International Treaties into domestic law United Kingdom (UK) follows the 'Doctrine of Transformation'. In India the constitution has the provision for implementation of treaty obligation applicable to the country. (5)

(a) Explain the Doctrine of Transformation and its application.

(b) State the Indian constitution provision for the implementation of a treaty with reference of any two decided case laws.

22. Consider the given situations and answer the questions that follows : (5)

(a) Chirag intending to harm Harshit throws an iron ball at Harshit and misses his head as Harshit moves his head away from the direction of the iron ball.

(b) Nimit intentionally locks Garima in a store room on 15th floor of their office building and Garima knows that she is trapped.

(c) Sahil sent a friend request to Jhanvi on Facebook and Jhanvi reject his friend request as she was not interested. Later on Sahil started sending her unwanted messages and phone calls.

(d) Group of 10 friends visited a museum. One of the boy named Gagan (of this group) clicked few photographs of a girl named Vaani (of this group) without her consent and later on posted those photographs on his Facebook timeline without her permission.

(i) Identify the type of intentional tort in situations given above.

(ii) Explain any two types of intentional tort identified above in part (i) of the question.

23. Compare the rules regarding Legal Education in India and The United Kingdom. (5)

24. Consider the following situations and explain by giving reasons, whether any fundamental rights has been violated or not under Article 20 of the Indian Constitution. (5)

(a) Arpit was charged and convicted of theft of property from Sachin. Arpit was subsequently charged and tried for robbery on the same facts.

(b) Nandini was charged with the offence of murder of a Member of Parliament (M.P.). During the police investigation, a list of questions was provided to Nandini. She refused to answer those questions. Is she bound to answer, against her wishes ?

25. Yashu, a student from Chandigarh, had approached Moon Life Insurance Company to get a policy that catered to the requirements of his admission to a University in U.S.A.

for further studies. He paid a premium amount of ` 1 lakh and left for U.S.A. On reaching U.S.A., he realized that the policy that he is holding in his hands is worthless, as it is not recognized by the University. Moon Life Insurance Company in spirit of selling an insurance policy withheld crucial information that their policy is not valid overseas. (6)

(a) Identify the 'Ombudsman' with in India to investigate and resolve complaints related to insurance and banking.

(b) Can Yashu approach this ombudsman as Moon Life Insurance is a private company ? Give reasons for your answer.

(c) What method of dispute resolution is followed by the Ombudsman ?

(d) Give one advantage and one limitation of an ombudsman in India.

26. Explain the powers, functions and complaint mechanism of National Commission for Scheduled Castes and Scheduled Tribes. (6)

27. Ratan Singh committed an offence u/s 304 B (Dowry Death) of Indian Penal Code for which the prescribed punishment is imprisonment for a term, which shall not be less than seven years but may extend to imprisonment for life. (6)

(a) Identify the type of Criminal Trial in the above mentioned situation.

(b) Explain the various stages of criminal trial identified above.

28. 'When a person becomes an advocate his relation with people in general is governed by the general rules of law but his conduct as an advocate is governed by the special rules of professional ethics of Bar Council of India.' (6)

In the light of the above statement, answer the following :

(a) Duties and Responsibilities of an advocate, as laid down by the Bar Council of India.

(b) Rules regarding advertisement by Legal Professionals, as laid down by the Bar Council of India.

29. One Lakshmi Kant Pandey filed a petition in the Apex Court against a social organization named 'Nanhi Khushiyaan'. The organization was engaged in offering Indian children in adoption to foreign parents. It was alleged that in the guise of adoption Indian children of tender age were not only exposed to the long dreadful journey to distant foreign countries at great risk to their lives but in case they survive they were not provided any shelter and relief homes and in course of time they become beggars or prostitutes for want of proper care. It was also alleged that this social organization is indulged in these malpractices with few other voluntary agencies. (6)

(a) Can any person / organization approach the Apex Court on behalf of a group of persons who are unable to approach the court for relief ? If yes, identify and explain this kind of Judicial Activism.

(b) How can this kind of judicial activism be invoked ?

(c) State any two characteristics of this kind of judicial activism.

30. What provisions have been made in India to provide funds to the Central Authority, State Authority and District Authority for providing Legal Services to its citizens ? (6)



LEGAL STUDIES

CLASS XII

SAMPLE PAPER (2014-15)

1. The landmark 1973 Supreme Court case of KeshavandaBharathi v. State ofKerala discussed the question about..... (1)

- a) collegium model of appointment of judges in India
- b) scope of separation of powers in India
- c) the basic structure or feature of the constitution
- d) Power of judicial review

2. What does the Latin phrase audialterampartem mean? (1)

- a) 'listen to the other side'
- b) 'one cannot be forced to be a witness against himself'
- c) 'justice delayed is justice denied'
- d) 'ignorance of law is no excuse'

3. A sells his garden as well as his house through one instrument to B. Whereas; B wants to retain only the house and wants to cancel the transfer regarding the garden. Can B have the right to partial selection? (1)

- a) Yes, B has the right to selection.
- b) Yes, B can have partial selection only if ratified by A.
- c) No, B has to accept or reject the transfer in totality.
- d) No, because House and garden are inseparable.

4. "You must not use a steam hammer to crack a nut if a nut cracker would do." This statement refers to which doctrine of Administrative Law. (1)

- a) Doctrine of Legitimate expectation
- b) Doctrine of proportionality
- c) Doctrine of Governmental liability
- d) Doctrine of Separation of powers.

5. Rahul is facilitating an alternative dispute resolution in which parties appoints a neutral third party who facilitates the parties in achieving an acceptable, voluntary agreement, which is more formal than negotiation. What is Rahul facilitating? (1)

- a) Arbitration
- b) Mediation
- c) Conciliation
- d) Administrative Tribunal

6. Which Indian Statute provides for statutory free legal aid under criminal law; (1)

- a) Code of Criminal Procedure
- b) Advocates Act
- c) Indian Penal Code
- d) Indian Evidence Act.

7. With regards to International Human Rights "ICCPR" stands for: (1)

- a) International Covenant on Civil and Political Rights.
- b) International Covenant on Criminal and Penal Rights.
- c) International Charter on Civil and Political Rights.
- d) International Committee on Civic and Public Rights.

8. The International Criminal Court was set up with the purpose of prosecuting criminals for 4 major crimes. Which amongst the following doesn't belong to that category? (1)

- a) Genocide
- b) War Crimes
- c) Crimes against Humanity
- d) Intellectual Property Piracy.

9. A public authority was given the duty to construct a community center for public in Uddeshyanagar and land was also allotted for this purpose. But instead of constructing community center, the public authorities started constructing shops on that allotted land. What remedy is available to the citizens of Uddeshyanagar under the Indian Constitution? (2)

10. A boy is sinking in the swimming pool of a resort. A man who is beside the pool does not make any attempt to save this boy. Will the man be criminally liable? If yes why; if no why not? (2)
11. Kapoors and Bedis are neighbors living on the first and second floor of ABCL Apartments. The issue between the two is that the water from the kitchen area of Bedis seeps through and the wall of Kapoors kitchen is drenching. The electric gadgets are fitted on that wall and it leads to electric shock. Kapoors have been trying to draw the attention of Bedis to this problem. How can this issue between the two be resolved? (2)
12. Who is an Ombudsman? Identify the Ombudsman in India that brings the Members of Parliament, Union ministers and even the Prime Minister in its preview. (2)
13. Who all can avail free legal aid under the provision of Legal Services Authorities Act? (2)
14. 'Prevention is better than cure', in the light of above statement explain the pre litigation legal services provided to the accused. (2)
15. A frustrated judge in an English court finally asked a barrister after witnesses had produced conflicting accounts, 'Am I never to hear the truth?' 'No, my lord, merely the evidence', replied counsel. To which judicial system does this judge belong? What is his role in such a system? Give two disadvantages of this system. (4)
16. Article 14 of the constitution provides to all the right to equality. Article 16 provides for Reservation and affirmative action for government jobs to backward classes. Are these two provisions contradictory to each other? Explain giving reasons. (4)
17. What changes did the Advocates Act 1961 bring in legal profession in India? (4)
18. What is National Legal Services Authority (NALSA) Regulations, 2010? Explain its relevant features. (4)
19. Distinguish between Public International Law and Private International Law. (4)
20. What is a Treaty? How can a state express its willingness to be bound by a treaty? (4)
21. 'The Indian Constitution contains several provisions to serve the twin functions of Independence and Impartiality of Indian Judiciary.' Explain the features of the constitution for the independence and impartiality of the judiciary. (5)
22. Shine Soap Co. advertised that it would give a reward of Rs.1,000 who developed skin disease after using, "Aroma" soap of the company for a certain period according to the printed directions. Ms. Supriya purchased the advertised "Aroma" and developed skin disease in spite of using this soap according to the printed instructions. She claimed reward of Rs.1,000. The company refused the reward on the ground that offer was not

made to her and that in any case she had not communicated her acceptance of the offer. Decide whether Ms. Supriya can claim the reward or not. Refer the relevant case law, if any. (5)

23. Article 32 and Article 226 gives special powers to the Apex court and High Court for safeguarding the fundamental rights of the citizens. Along with this another extra judicial power is granted to citizens to move these judicial bodies for social interest. Identify these measures to protect/ safeguard the fundamental rights of the citizens. (5)

24. "Law is an exciting and challenging profession." In the light of the above statement evaluate the opportunities for law graduates in India. (5)

25. Shriram Food and Fertilizers Industry (SFFI) a subsidiary of Delhi Cloth Mills Limited was producing caustic and chlorine. On December 4th and 6th 1985, a major leakage of oleum gas took place from one of the units of SFFI in the heart of the capital city of Delhi which resulted in the death of several persons. The leakage was caused by a series of mechanical and human error. Within two days, another leakage, though this time a minor one took place as a result of escape of oleum gas from the joints of a pipe. SFFI had several units engaged in the manufacture of chemicals, vanaspati, soap, and many hazardous chemicals. All units were set up in a single complex situated in approximately 76 acres and they are surrounded by thickly populated colonies within a radius of 3 kilometers from this complex. At this juncture M.C. Mehta moved to the Supreme Court to claim compensation for the losses caused and pleaded that the Shriram Foods and Fertilizer Industries should not be allowed to restart. Does M.C. Mehta have the locus standi to move the higher courts under this situation? If yes, identify this form of judicial activism and explain its characteristics. (6)

26. Diya and a friend Priya were at a café in GK Market. Priya ordered and paid for a bottle of Mango Mania for Diya. The Mango Mania was in an opaque bottle. Diya drank some of the contents and her friend lifted the bottle to pour the remainder of the Mango Mania into the tumbler. The remains of a snail in a state of decomposition dropped out of the bottle into the tumbler. Diya later complained of stomach pain and her doctor diagnosed her as having gastroenteritis and being in a state of severe shock. Diya sued Sip Drinks, the manufacturer of the drink, for negligence. Explain the tort of negligence in the light of the above situation (6)

27. What is meant by Arbitration? What is the procedure followed for administering justice by this mechanism? Distinguish between foreign arbitration and International commercial arbitration. (6)

28. Ms. Usha Raja, Technical Assistant in the Herb Research and Development Institute, Gopawar, was being sexually harassed by the Director of the Institute. Allegations of further harassment by way of non-renewal of her job contract with effect from 1.5.2014 were also leveled. She moved an NGO, Sakshi, for help. It approached the National Human Rights Commission (NHRC) for action. What are the powers and functions of NHRC in resolving the issue? (6)

29. What are the roles and functions performed by the Bar Council of India? (6)
30. Explain the functions of Central Authority constituted for legal services. (6)



**LEGAL STUDIES
SAMPLE PAPER
SUBCODE:074**

MAX MARKS 100**TIME 3 HRS****General Instructions:**

- (i) There are 30 questions in all.
- (ii) All the questions are compulsory.
- (iii) Questions number 1 to 8 are multiple choice questions carrying 1 mark each.
- (iv) Questions number 9 to 14 are short answer questions carrying 2 marks each. Answer to each of these should not exceed 50 words.
- (v) Questions number 15 to 20 are short answer questions carrying 4 marks each. Answer to each of these should not exceed 100 words.
- (vi) Questions number 21 to 24 are long answer questions carrying 5 marks each. Answer to each of these should not exceed 150 words.
- (vii) Questions number 25 to 30 are long answer questions carrying 6 marks each. Answer to each of these should not exceed 200 words.

S.No	QUESTION	Marks	Unit	Type
1.	The judiciary has adopted the role of a social activist through- a. Original Jurisdiction b. Advisory Jurisdiction c. Special Leave to Appeal d. Public Interest Litigation	1	1	E
2.	Amit sold his farmhouse to Puja which consisted of apple and plum orchards, meant primarily for selling the produce of the orchards. Identify which law will govern this transaction: a. Sale of Goods Act b. Transfer of Property Act c. Indian Contract Act d. Consumer Protection Act	1	2	A
3.	Ashish hits Rohan with a stone from his rear. Rohan could not see the stone coming towards him. Does this act amount to tort? a. Yes, because battery can take place even without assault b. Yes, because assault can take place even without battery c. No, battery cannot take place without assault d. No, assault cannot take place without battery	1	2	H

4.	GopalisaneighborofPankaj.Gopalhangswetclothesonhisbalconyand thedrippingwater spoils theclothes of Pankaj. Thissituationleadstoafight between the two. Howcan thedisputebebestresolvedbetweenthe two parties; a. Ombudsman b. Arbitration c. Mediation d. Conciliation	1	3	A
5.	Ashokwasconvictedandawardeddeathpenaltyinararestofrarecaseby theHon’bleSupremeCourtofIndiaintheyear2010. Thesentencehasnot beenexecutedtilldate whileAshokislanguishinginTiharJailwaitingforthe execution. Which of the following options can be best applied in this situation: a. Ashokcannotbegiven anyrelief asit’sararestof rarecase b. Ashokhas aright toappealasthewaitperiodislonger than5years c. Ashokdoesnothavearighttoappealasnoppealcanbefiledagainst the judgmentof aSupremeCourt b. Ashokhas aright toappealonthegroundof reformation.	1	4	A
6.	Mr.Smith,eforeignnationalvisitedIndiaandwasarrestedonthesuspicion ofsmugglinggold.Hedid nothavethe meanstoengagealawyerandwas thusunabletopresenthis case.Identifythefundamentalrightof Mr.Smith violatedin theabovesituation: a. Article14–Righttoequality b. Article19–Righttofreedom c. Article21–Righttolife andpersonal liberty d. Article24–Rightagainstexploitation	1	4	A
7.	Vishal,alawyerappearingintheSupremeCourtarguescasesincourtupon instructionsfromanother advocate.Hewearsgown thathasflaps onthe shouldersandcannotfile avakalatnama.Whichcategoryoflawyersdoes Vishal belongto? a. Senior Advocate b. AdvocateonRecord c. Solicitor d. AttorneyGeneral	1	5	U

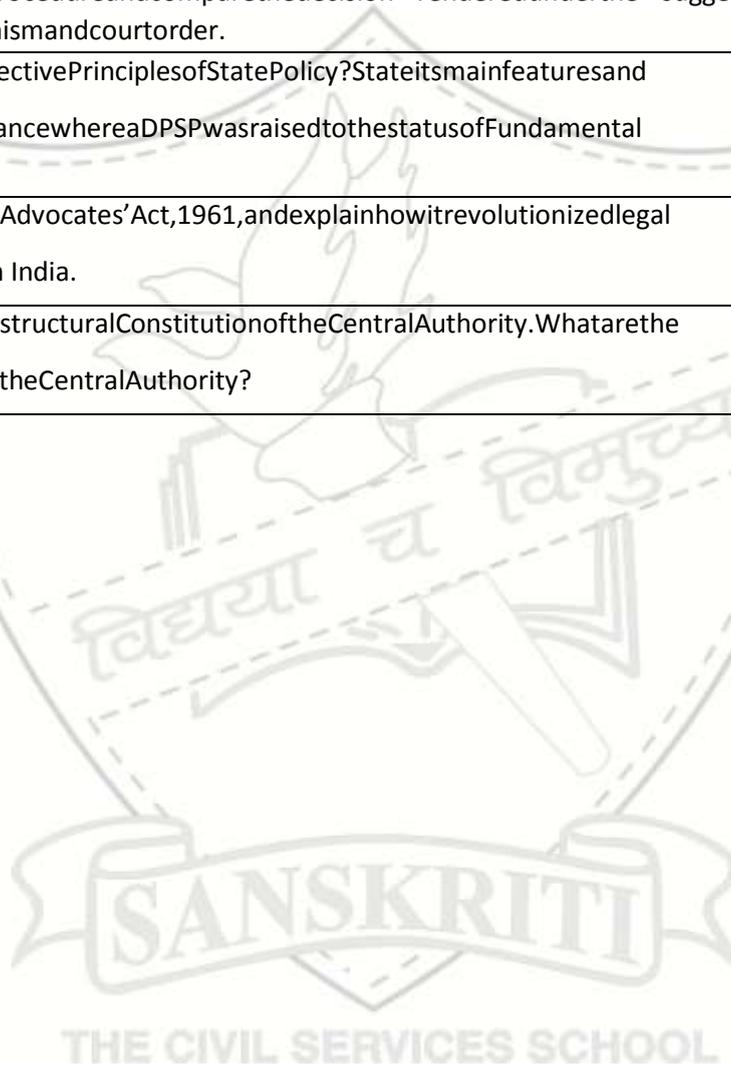
8.	<p>Arrange sequentially, the evolution of legal services in India</p> <ol style="list-style-type: none"> 1. Article 39A inserted via 42nd Amendment Act 2. Committee under Justice Krishna Rao to develop legal aid scheme for states 3. Parliament enacted the Legal Services Authorities Act, 1987 4. Committee on National Implementation of Legal Aid under Justice PN Bhagwati <ol style="list-style-type: none"> a. 1,2,3,4 b. 1.3.2.4 c. 4,1,2,3 d. 2,1,4,3 	1	6	U
9.	How do regulators assist in the functioning of Tribunals? State, giving examples.	2	1	R
10.	Apart from early retirement age, give any two factors that deter any senior lawyer from accepting judgeship in India.	2	1	H
11.	Rita is charged for stealing jewelry. During the trial, she negotiates with the prosecution whereby the prosecution agrees to press for lesser charges. Identify and explain this arrangement.	2	2	A
12.	<i>Saahi</i> , a resident of Candia, fearing persecution on the grounds of nationality, seeks asylum from a neighboring country, and is unwilling to	2	4	A

	return to Candia. What is the status of <i>Saahi</i> in International Law? Identify the International convention which provides legal safeguards to <i>Saahi</i> in this context.			
13.	How has the adversarial system followed by India made access to justice difficult?	2	6	H
14.	State salient features of <i>Lok Adalat</i> and Permanent <i>Lok Adalat</i> .	2	6	EV
15.	Explain the reasons for granting special status to Judiciary in India.	4	1	R
16.	Differentiate between Adversarial and Inquisitorial model of dispute resolution.	4	3	U
17.	Evaluate the role of ADR techniques and institutions help in promoting lawyers as social engineers.	4	3	EV
18.	Vanya completed LLB in the year 2012 from India. In 2014, she went to USA and now wants to practice law there. Advise her on the requirements she needs to fulfill before she can practice Law in the USA.	4	5	R

19.	Consider the following situations and answer the questions that follow: a. In India, a Law Firm mentions on their website, their areas of expertise. b. In India, a Law Firm promotes itself by putting up billboards across the city and distributing flyers at the traffic signals. Which of the above mentioned situations does not violate the guidelines given by BCI regarding advertisement by Lawyers? Give reasons for your answer. State the guidelines provided by Bar Council of India regarding advertisements.	4	5	H
20.	Describe the procedure for the panelment of lawyers and senior advocates under the NALSAR regulations, 2010.	4	6	U
21.	Haircare Pvt Ltd advertised that usage of its shampoo 'Tresses' leads to long and shiny hair. It claimed that it would give a reward of Rs. 2000 to whoever would face hairfall after using the shampoo. Riya after using the shampoo, suffered from a severe hairfall. She claimed the reward of Rs. 2000. The company refused the reward stating that the offer was not made to her. Decide whether Ms. Riya can claim the reward or not. Also refer to the relevant case law.	5	2	A
22.	Ajit was suspected of being involved in child abduction and merely on this suspicion was assaulted by the inhabitants of his village. A detailed report came in the newspaper highlighting the inaction of state agencies in protecting Ajit and his basic non-derogable rights. Name the specialized body which can take action against the state agency. Give its functions and powers.	5	4	H
23.	'Each country has their own method of dealing with the application of International Law to its jurisdiction.' Can International law be directly	5	7	U

	applied in the domestic jurisdiction? Explain, giving the current position in India as developed by Constitutional provisions and case law.			
24.	Evaluate the importance of the following International Human Rights Laws a. UDHR b. Erga Omnes obligations	5	7	EV
25.	Identify the related principles enunciated by the Hon'ble Supreme Court in various case laws through Judicial Review and explain the following briefly. a. Part III of the Constitution, among others cannot be amended or taken away. b. Sentence or punishment should not be disproportionate and burdensome.	6	1	A

26.	The reforms brought about by Napoleon in the French system of administration of justice had two objectives. a. State the two objectives. b. Identify and explain the working of this new system brought about by	6	2	H
27.	Vitawin and Energo, two companies manufacturing health drinks had a dispute over manufacturing technique. They want to resort to alternate dispute resolution to solve their dispute rather than going for the traditional litigation. Suggest the most suited alternate dispute resolution mechanism. Explain the procedure and compare the decision rendered under the suggested ADR mechanism and court order.	6	3	A
28.	What are Directive Principles of State Policy? State its main features and give one instance where a DPSP was raised to the status of Fundamental Right.	6	4	R
29.	Describe the Advocates' Act, 1961, and explain how it revolutionized legal profession in India.	6	5	U
30.	Describe the structural Constitution of the Central Authority. What are the functions of the Central Authority?	6	6	R



MarkingScheme

QNo	ValuePoint	Marks
1	D	1
2	B	1
3	A	1
4	C	1
5	B	1
6	C	1
7	A	1
8	D	1
9	A Regulator alleviates the work of the tribunal it is associated with by formulating laws and policy in a particular area.	1
	For example TRAI (Telecom Regulatory Authority of India) functions alongside the tribunals Telecom Disputes Settlement and Appellate Tribunal (TDSAT) in formulating laws and policy for resolving telecom disputes in India	1
10	High Pendency	1
	Poor Infrastructure	1
11	The arrangement is termed as ' Plea Bargaining '	1
	It refers to the negotiations between the prosecution and defendant in which defendant agrees to plead guilty in return of less harsh punishment than what is to be delivered normally.	1
12	Saahi isa refugee.	1
	The International law dealing with his rights is Convention Relating to the Status of Refugees, 1954.	1
13	The adversarial system ended the era of informal dispute settlement through panchayats etc. prevalent in the Indian society. It was easily accessible, not technical or formal and was conducted in a language known to parties.	1
	The adversarial system requires pleadings and court fees, which, with added complexities like corruption and poverty among the Indian masses, makes	1
14	Lok Adalat: It means, People's Court. It has jurisdiction to settle any matter including civil or compoundable criminal disputes pending before any court, as well as matters at pre-litigative stage, i.e. disputes which have not yet been formally instituted in any Court of Law.	1
	Permanent Lok Adalat: Permanent Lok Adalats, were created by Legal Services Authorities (Amendments) Act, 2002. These courts settle disputes concerning public utility services at pre-litigation state. Eg Transportation, sanitation, etc. Values: Speedy justice, no lawyer needed, equality between the parties as no court fees.	1

15	<p>The major reasons for granting special status (independence) to Judiciary in India are:</p> <p>1. As the watch-dog in democracy, judiciary cautions the other arms of the government when any of them exercises 'excess power' which tends to violate the larger societal or individual interest.</p>		
	<p>2. Independent judiciary is vital for the respect of due-process of law wherein State must respect all the legal rights owed to a person and confirm to the norms of fairness, liberty, fundamental rights etc.</p>	1	
	<p>3. Independence of judiciary is linked to the granting of a fair trial to the accused especially when the accused are foreign nationals or persons who have committed crimes against the state, e.g. terrorists.</p>	1	
	<p>4. Judiciary acts as a guardian of fundamental rights by fully translating the provisions of extensive rights guaranteed under the Constitution into the lives of citizens.</p>	1	
16	Adversarial system	Inquisitorial system	
	<p>The role of the judge/decision maker is passive as the judge decides the claims based solely on the evidences and arguments presented by the parties and their lawyers.</p>	<p>The judge/decision is active in dispensing justice as he/she determines the facts and issues indispute and also decides the manner in which the evidence must be presented before the court.</p>	1
	<p>The parties assisted by pro active lawyers, develop their theory of the case and gather evidence to support their claims. Lawyers participate in cross-examination and scrutiny of evidence presented by the other disputing party.</p>	<p>Less reliance is placed on cross-examination and other techniques often used by lawyers to evaluate evidences of their opposing counsel.</p>	1
	<p>Previous decisions made by higher Courts form a precedent which will bind the lower Courts.</p>	<p>Judges tend to be free to make decisions on a case-by-case basis</p>	1

	<p>interviews other than through personal relations, furnishing or inspiring newspaper comments or producing his photograph to be published in connection with cases in which he has been engaged or concerned.</p> <p>An amendment to above rule allows advocates to furnish only 5 pieces of information i.e. the name of the advocate or the firm, the contact details, details of enrolment with the Bar, professional and academic qualification and the areas of practice on their websites after intimating and taking approval from the Bar Council of India.</p> <p>a. is allowed under the rules of BCI</p> <p>b. is not allowed by the Bar Council of India</p>	<p>1</p> <p>1</p> <p>1</p> <p>1</p>
20	<p>Selection of Panel Lawyers</p> <p>The panel shall be prepared by the Executive Chairman of the legal service institution in consultation with the Attorney-General (for Supreme Court), Advocate-General (for High Courts), Government pleader (for districts/Taluks) and the Bar Association President.</p> <p>The legal practitioners shall have three years or more of experience at the bar for being considered for panelment.</p> <p>The personal traits like competence, integrity, suitability and experience shall be given due consideration. Separate panels shall be maintained for different types of cases.</p> <p>Senior Advocates The services of senior advocates may be availed if the Chairman of the legal service institution forms an opinion to that effect in special cases</p>	<p>1/2</p> <p>1/2</p> <p>1/2</p> <p>1/2</p> <p>1/2</p> <p>1/2</p> <p>1</p>

21	<p>Yes, Ms. Riya can claim the reward based on the famous English case Carlill v. Carbolic Smoke Ball Co., the manufacturer of a medicine called smoke ball which was used for the treatment of influenza. An advertisement was put up offering a reward of £100 to anyone who got influenza again after using the smoke ball medicine continuously for fifteen days. In the advertisement, it was also stated that £1000 was deposited in the Alliance Bank for paying the reward. Seeing the advertisement, Mrs. Carlill bought the smoke ball medicine and used it as per the directions provided. She got a fresh episode of influenza. She sued the company for the reward of £100.</p> <p>The manufacturing company stated that:</p> <p>(1) there was no intention to enter into a legal relationship with anyone through the advertisement, and the advertisement was put up only to boost the marketing of the smoke ball medicine;</p> <p>(2) the advertisement was not an offer as it was not made to any particular person and an offer cannot be made to the public at large or to the whole world;</p> <p>(3) acceptance by the offeree had not been communicated, and so there was no binding contract.</p> <p>The Court rejected these contentions of the company and allowed Mrs. Carlill's claim for £100. The Court also stated that deposit of £1000 in the Alliance Bank by the smoke ball company was evidence that the company had real intention to enter into a legal relationship with anyone who accepted the offer.</p> <p>An offer can also be made to the world at large. It is called a general offer and it is valid. In the case of general offer, there is no need for communicating acceptance to the offeror. Merely fulfilling the conditions of the offer itself is treated as acceptance to create a contract.</p>	<p>1½</p> <p>½</p> <p>½</p>
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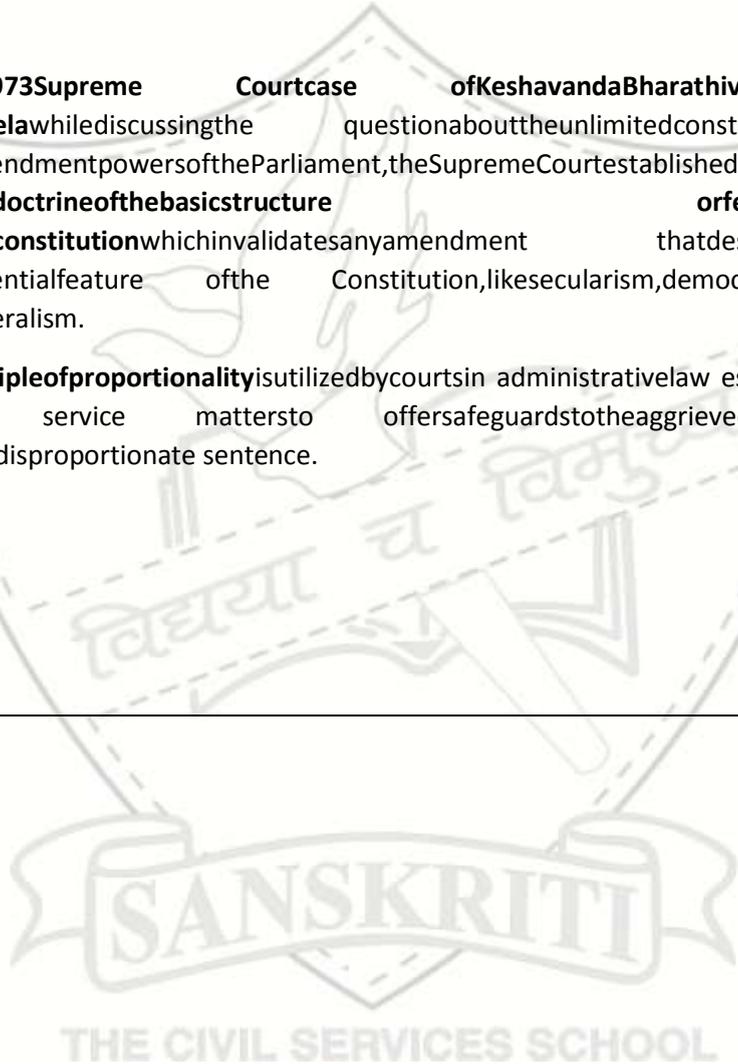
22	<p>Functionsof theNationalHumanRightsCommission(Any6)-</p> <ol style="list-style-type: none"> 1. InquiryandInvestigationintothealleged violation ofhumanrightsor abetment(aiding orsupporting)ornegligenceinthe prevention ofsuch violationbyapublicservant.Afterinquiryrecommendations to governmentalauthorityin caseswhereanypublicservantisthe perpetratorof humanrights violation. 2. Intervening in courtproceedings–TheCommission maywiththe permission of the court intervene in court proceedings concerning humanrightsviolations. 3. Inspection ofjails,etc.–visitanyjail or othergovernmentalinstitutions, whereprisonersarelodged ordetained,tostudythe livingconditions of the inmatesandmakerecommendations tothegovernment. 4. AwarenessandSensitization–review varioushuman rightslawseitherin theConstitutionor other statutesandrecommendmeasurestothe government for theireffectiveimplementation. 5. evaluatevariousfactors,includingactsofterrorismwhichpreventthe enjoyment ofhuman rights and recommend appropriate remedial measurestothe government. 6. study various international human rights laws and make recommendations for their effective implementation at the domestic level(withinthe State). 7. undertakeandpromoteresearchinthefield ofhumanrightsaswellas spreadhumanrights literacyamong varioussectionsofsociety and promote awareness of the safeguards available forthe protectionof theserightsthroughpublications, media,seminars,andotheravailable means. 8. encourage andsupport the efforts of nongovernmental organizations andinstitutionsinvolved with humanrightswork. <p>Powersofthecommissionsareasfollows(any4):-</p> <ol style="list-style-type: none"> 1. summonandenforcetheattendance of witnessesandexaminethemon oath; 2. askfor productionof anydocument beforeitself; 3. receiveevidenceonaffidavits; 4. requestpublicrecordfromanycourtoroffice;and 5. examinewitnessesor documents. 	½x6=3
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23	<p>International law can be applied in the Indian jurisdiction by keeping the following provisions in mind:</p> <ol style="list-style-type: none"> i. Article 51 of the Indian Constitution specifically states that the State shall endeavor to 'foster respect for international law and treaty obligations in the dealings of organized peoples with one another'. ii. Under Article 253, the Union of India has the power to implement treaties and can even interfere in the powers of the state government in order to give power to provisions of an international treaty. <p>Case Laws</p> <ol style="list-style-type: none"> a. In the case of Kesavananda Bharti v. State of Kerala, it was observed that the court must interpret the provisions of the constitution in light of Charter of the United Nations. b. In the case of Magan Bhai Patel v Union of India, the court held that if a treaty or international agreement restricts the rights of the citizens or modifies the laws of the state would require to have a legislative measure. 	<p>½</p> <p>½</p> <p>½</p>
	<p>For example if India is a party to an international agreement to stop the killing of a species of turtle, it restricts the right to trade of certain fishermen by prohibiting killing of the turtle. If this treaty is to be enforced in India, the Indian Parliament needs to pass domestic legislation regarding prohibition of the killing of such turtle species.</p> <ol style="list-style-type: none"> c. In the case of Sheela Barse v Secretary Children's Aid Society, the Supreme Court held that India had ratified conventions regarding the protection of children and this placed an obligation on the State Government to implement these principles. d. In the case of Vishaka v State of Rajasthan, the Indian courts used the provisions of the Convention on Elimination of all forms of Discrimination against Women, (CEDAW), to create legally binding obligations regarding sexual harassment. 	<p>1½</p> <p>1</p>

24	<p>a. OneofthemostinfluentialdocumentsinInternationalhumanrightslawis theUniversalDeclaration ofHuman Rightswhich dealswith various provisions, a fewofthembeing:</p> <ul style="list-style-type: none"> i. libertyof a person(Article3) ii. equalitybeforelaw(Article7) iii. prohibitionsontorture(Article 5) iv. socio-economicrightssuchas righttoworkandequalpay(Article 23) <p>Whileit isnotabindingdocument,perse,therehavebeenmanyinstances where it has been referred to by cases of the International Court of Justice.</p> <p>b. Generallyhumanrightsviolationsaredealtwithbythestateinwhichthey occur.However,therearecertainhumanrights,establishedundertreaty thatmayconstitute ergaomnesobligationsforthestateparties.</p> <p>This meansthattherearesome violationsthatareso grave,thatanystate maytakeactionagainstsuchcrimes,regardlesswhethertheyoccurred intheir jurisdictionornot.Allstateshaveasharedinterestineliminationof suchgraveviolations.</p>	<p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p>
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25	<p>a.</p> <p>i. Article 368 confers power to the Parliament to amend the Constitution without providing any limitation.</p> <p>ii. Article 13(2) limits Parliament's amending authority in matters of fundamental rights conferred by Part III - Fundamental Rights.</p> <p>However in 1971, the Parliament adopted the 24th Amendment to the Constitution altering Articles 13 and 368 to possess unlimited powers of amendments including authority to amend the fundamental rights.</p> <p>In 1973 Supreme Court case of Keshavanda Bharathi v. State of Kerela while discussing the question about the unlimited constitutional amendment powers of the Parliament, the Supreme Court established the doctrine of the basic structure or feature of the constitution which invalidates any amendment that destroys an essential feature of the Constitution, like secularism, democracy and federalism.</p> <p>b. Principle of proportionality is utilized by courts in administrative law especially in service matters to offer safeguards to the aggrieved against any disproportionate sentence.</p>	<p>½</p> <p>½</p> <p>½</p> <p>½</p> <p>1</p>
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	<p>Forexample,SupremeCourt,inacase,hasheldthatthequantumof penalty or punishmentsentenced bya courtmartial onanyarmypersons shouldnotbedisproportionateto theoffence.</p> <p>c. TheLatinphrase'audialterampartem',means'listentotheotherside' wasappliedbytheSupremeCourtin severalcasesincluding thedecision ofManekaGandhiv.Union of Indiawhereherpassport wasconfiscated by thegovernment without giving her anychanceof prior hearing. Invoking its judicial review powers in administrative matters, the Supreme Court held thatinthe matterofconfiscationof passporthearingshouldhavebeengiventothepetitionerin theinterestofthe principles ofnaturaljustice.Consequently,ahearing wasgiven and the passport was returned to her.Thisis an example where the court adopted theprinciple ofpostdecision-hearing,insituations ofurgency where prior hearing isnot feasible,andrecognizedthat a chanceof hearingcannotbedebarredcompletely.</p>	<p>1</p> <p>1</p> <p>½</p> <p>½</p>
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26	<p>(a)</p> <p>i. Tousherinasquicklyaspossible,socio-economicmovementsinthe country.</p> <p>ii. Inorderto meetthis, theCourtwasdisallowedfromputtingaspannerin thewheelsof administration.</p> <p>(b)SpecialCourtshadbeenestablishedtoexpeditiouslydisposethe matter pendingbythis system.</p> <p>Itresultedinthedualsystemofjusticeinwhichanallprivateparties'dispute founditswayinthecivil court,whileadisputebetweenaprivateindividualand Government departmentswentto the administrativelawcourts.</p> <p>Thehighestadministrativecourtwas Conseilde'Etat.</p> <p>Initiallydirectfiling of caseswasnotallowedand aMinisterhad toforwarda petitiontothecourt. The decision ofthecourtcouldhaveonlybeen of advisoryvaluefor theminister.</p> <p>In1872,theGovernmentpassedtheBlancodecreebywhichConseilde' Etatwas madeanindependentsystem ofcourtwheredirectfiling ofcasesas well asopenhearings wereallowed.</p> <p>SpeedyadministrationwasacharacteristicofDroitandaninstitutionwas created by thename ofTribunalDeskConflictto decidewheredifferenttypes of casesweretogo.</p>	<p>½</p> <p>½</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p>
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27	<p>The most suited ADR is Arbitration.</p> <p>Process of arbitration:</p> <p>Arbitration can be chosen by the parties either by way of an agreement (Arbitration Agreement) or through the reference of the Court (Court Referral of Arbitration).</p> <p>Characteristics:</p> <p>The parties have the freedom to select a qualified expert known as an arbitrator. The entire process of arbitration is confidential.</p> <p>The decision rendered by an arbitrator is known as an arbitral award. It is binding on the disputing parties and is recognised and enforced like a court pronounced judgment or order.</p> <p>The arbitrator also holds authority to grant interim temporary relief in order to preserve and protect certain rights of the parties.</p> <p>Unlike a judgment rendered by a judge in the court, the arbitral award does not hold precedential value for future arbitrations.</p> <p>Arbitrators are free to base their decisions on their own conception of</p>	<p>½</p> <p>½</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p>
	<p>what is fair and just. Thus unlike judges, they are not strictly required to follow the law or the reasoning of earlier case decisions.</p>	<p>1</p>



28	<p>Articles 36 to 51 in Part IV of the Constitution lay down the guiding principles of governance for the State are called the 'Directive Principles of State Policy'. Salient features of the directive principles:</p> <ul style="list-style-type: none"> • It is the duty of the State to apply these principles in making laws and policies on social and human development. • These principles endeavor to minimize income inequalities and to eliminate inequalities based on status, facilities, and opportunities amongst both individuals and groups of people. Directive principles of policies guide State to achieve various goals. • These provisions are not enforceable by any court of law, but they provide guidance in carrying out and drafting laws and policies regarding human and social development. <p>Supreme Court has raised the status of elementary education for children between age six and fourteen, which was earlier a policy goal provision in the Directive Principles of State Policy, to the status of fundamental right affirming that depriving one from education amounts to depriving one's right to life (Art. 21 Fundamental Right). Accordingly, right to education for ages six to fourteen is now part of the fundamental rights chapter</p>	<p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>2</p>
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<p>29</p>	<p>The Advocates Act 1961, brought about the following changes:</p> <p>All the old categories of practitioners were abolished and consolidated into a single category called "advocates" who enjoy the right to practice in courts throughout India.</p> <p>It established an All India Bar Council, with the Attorney-General and Solicitor General of India as ex-officio members of the Bar Council. The Bar Council of India regulates the content, syllabus, duration of the law degree, subject to which every University can lay down its own provisions.</p> <p>The Act has created a State Bar Council in each State with the Advocate General of the State as an ex-officio member, and 15-25 Advocates elected for a period of five years. Its functions include:</p> <p>admitting law graduates on its Roll,</p> <p>determining cases of misconduct against Advocates on the Roll</p> <p>organizing legal aid,</p> <p>Application for enrolment is therefore made to the State Bar Council. In order to be eligible for enrolment, an Advocate must be:</p> <p>a citizen of India,</p> <p>at least 21 years of age</p> <p>have an LLB degree from an Indian University.</p> <p>A foreign national may be enrolled on a reciprocal basis with the country of his citizenship, and his foreign degree may be recognized by the Council for the purpose.</p> <p>Advocates have been classified as Senior Advocates and Advocate on record. The designation of an Advocate as a Senior Advocate is the responsibility of the Supreme Court or High Court based on the ability, experience and standing in the Bar of the Advocate in question. The Advocate-on-Record (AOR) is another category of Advocate in the Supreme Court. Only an AOR can file a vakalatnama, a petition, an affidavit or any other application on behalf of a party in the Supreme Court</p>	<p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p> <p>1</p>
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30	<p>The Central Government constitutes the National Legal Services Authority (NLSA) and the Supreme Court Legal Services Committee (SCLSC) for exercising powers and functions as determined by the Central Authority.</p> <p>The NLSA consists of the Chief Justice of India (CJI) as the Patron-in-Chief, a Judge of the Supreme Court nominated by the President as Executive Chairman, and other members nominated by the Government in consultation with the CJI.</p> <p>The SCLSC consists of Judge of the Supreme Court as the Chairman, and other members prescribed by the Government and nominated by the CJI.</p> <p>The Central Authority shall perform the following functions (any six)</p> <ol style="list-style-type: none"> a) Lay down policies and principals for making legal services available under the provision of this Act; b) Frame the most effective and economical schemes for the purpose of making legal services available under the provision of this Act. c) Utilize the funds at its disposal and make appropriate allocation of funds to the State Authorities and District Authorities. d) Take necessary steps by way of social justice litigation with regard to consumer protection, environment protection or any other matter of special concern to the weaker section of the society. e) Organize legal aid camps, especially in rural areas, slums or labour colonies. f) Encourage the settlement of disputes by way of negotiations, arbitration and conciliation; g) Undertake and promote research in the field of legal services with special reference to the need for such services among the poor. h) Do all things necessary for the purpose of ensuring commitment to the i) fundamental duties of citizens under Part IV A of the Constitution; <ol style="list-style-type: none"> a. Monitor and evaluate implementation of the legal aid programmes at periodic intervals. j) Provide grants-in-aid for specific schemes to various voluntary social service institutions and the State and District Authorities. k) Develop, in consultation with the Bar Council of India, programmes for clinical legal education and promote guidance. 	<p>1</p> <p>1</p> <p>1</p>
	<ol style="list-style-type: none"> l) Take appropriate measures for spreading legal literacy and legal awareness among the people and, in particular, to educate weaker sections of society. m) Make special efforts to enlist the support of voluntary social welfare institutions working at the grass-root level. 	

n)Coordinateand monitorthefunctionsofStateAuthorities,District Authorities,SupremeCourt Legal ServicesCommittee,HighCourt Legal ServicesCommittees,TalukaLegalServicesCommitteesand voluntary social service $\frac{1}{2} \times 6 = 3$



Class XII

Legal Studies (074)

Sample Question Paper 2018-19

Time allowed: 3 hours

Max. Marks 100

General Instructions:

1. Section A contains questions 1 – 8 which carry 1 mark each
2. Section B contains questions 9 - 14 which carry 2 marks each and should be answered in about 40 words
3. Section C contains questions 15-20 which carry 4 marks each and should be answered in about 100 words
4. Section D contains questions 21-24 which carry 5 marks each and should be answered in about 120 words
5. Section E contains questions 25-30 which carry 6 marks each and should be answered in about 150 words
6. Internal choices have been given in all sections of the question paper
7. All questions are compulsory

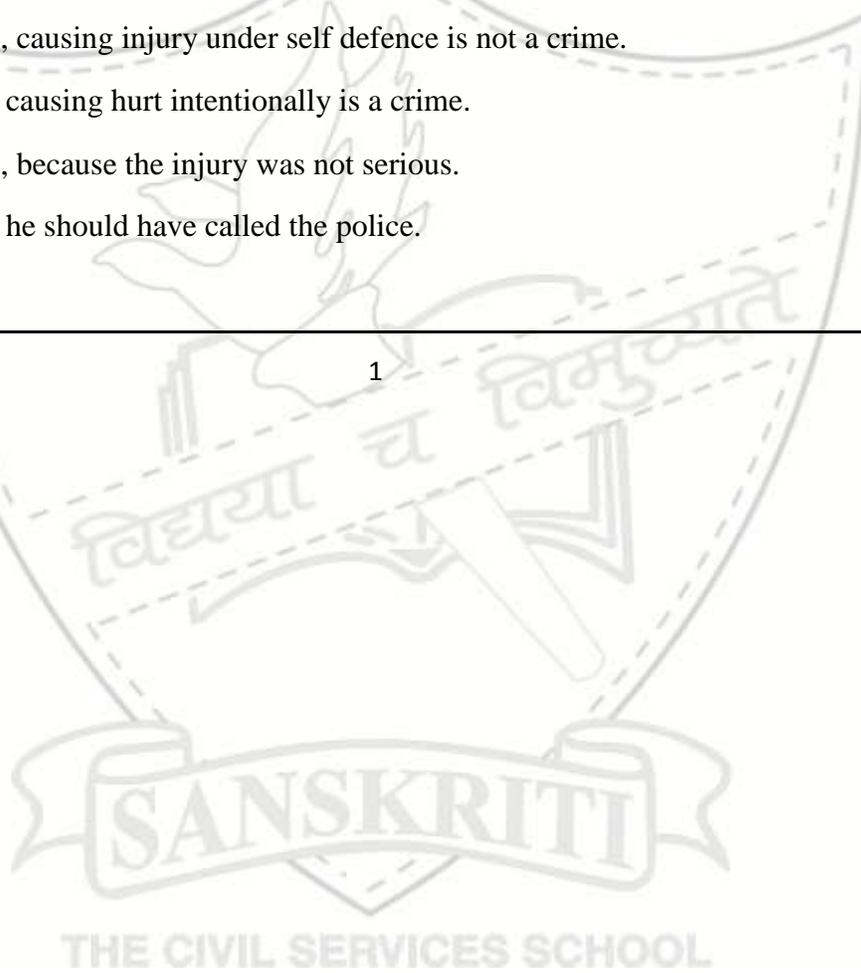
SECTION - A

- | | | |
|----|---|---|
| 1. | Which of the following may act as an estoppel? | 1 |
| | <ol style="list-style-type: none"> a. Admission b. Confession c. Intention d. Preparation | |

OR

SaraswatiUniversty was created under the mandate of a Central Legislation which specified that the university should open a bank account with the Karamchari Bank. This is an:

	<ul style="list-style-type: none">a. Administrative legislative actionb. Administrative judicial actionc. Simply administrative actiond. Purely administrative action	
2.	<p>An armed thief entered Aviral's house. To save himself and his belongings, Aviral pushed the thief which resulted in head injuries to the thief. Is Aviral's act justified under criminal law?</p> <ul style="list-style-type: none">a. Yes, causing injury under self defence is not a crime.b. No, causing hurt intentionally is a crime.c. Yes, because the injury was not serious.d. No, he should have called the police.	1



3.	<p>Ramika International Ltd. And NorthstarPvt. Ltd. have a dispute over production process which involved intricate trade secrets. Suggest the most suited ADR that can protect the trade secret while resolving the dispute:</p> <ol style="list-style-type: none"> Arbitration Mediation Conciliation LokAdalat 	1
4.	<p>The driver of a bus owned by State Road Transport Authority asked Rajni, a passenger to disembark the bus in a deserted place where no other means of transport was available. She alleged that her Fundamental Right was violated by the driver's conduct. Can action be taken against the State Road Transport Authority?</p> <ol style="list-style-type: none"> Yes, because Rajni was dropped at a deserted place. Yes, because State Road Transport Authority is state according to article 12. Yes, Fundamental Rights can be enforced against private entities. Yes, because she was not given a fair hearing. 	1
5.	<p>Simran is 22 years old and has completed her LLB degree from a recognized Indian University. She wants to obtain a license to start her practice. Identify the additional requirement she needs to fulfill</p> <ol style="list-style-type: none"> She must have an LLM degree She must get herself registered with BCI She must have completed her internship under a senior advocate She must clear All India Bar Exam. 	1
6.	<p>With regard to FLC, point the odd one out:</p> <ol style="list-style-type: none"> New York 	1

- b. New Jersey
- c. California
- d. Florida

OR

With respect to an Advocate on Record, point the odd one out:

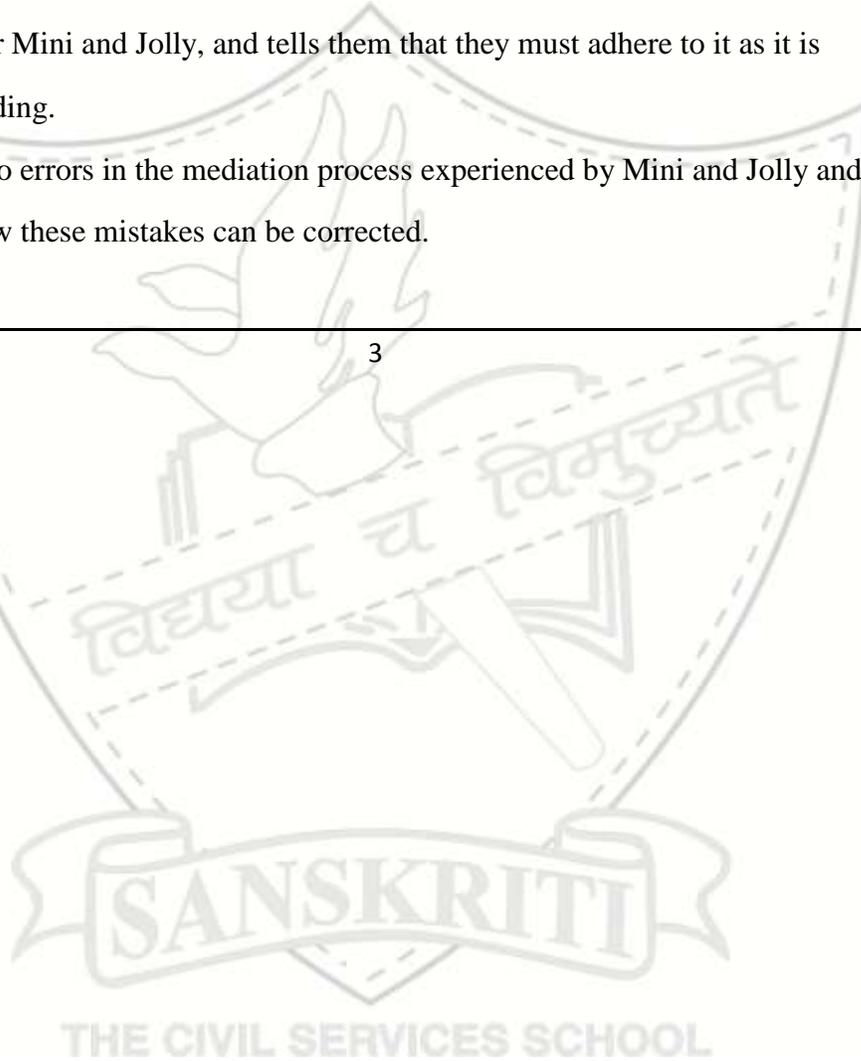
- a. Has to be enrolled with the Bar Council of India for at least 5 years
- b. Completed 1 year training with an AOR of not less than 5 years standing
- c. Must have office in Delhi within 16 kms from the Supreme Court
- d. Wear gowns that have flaps on the shoulder

2



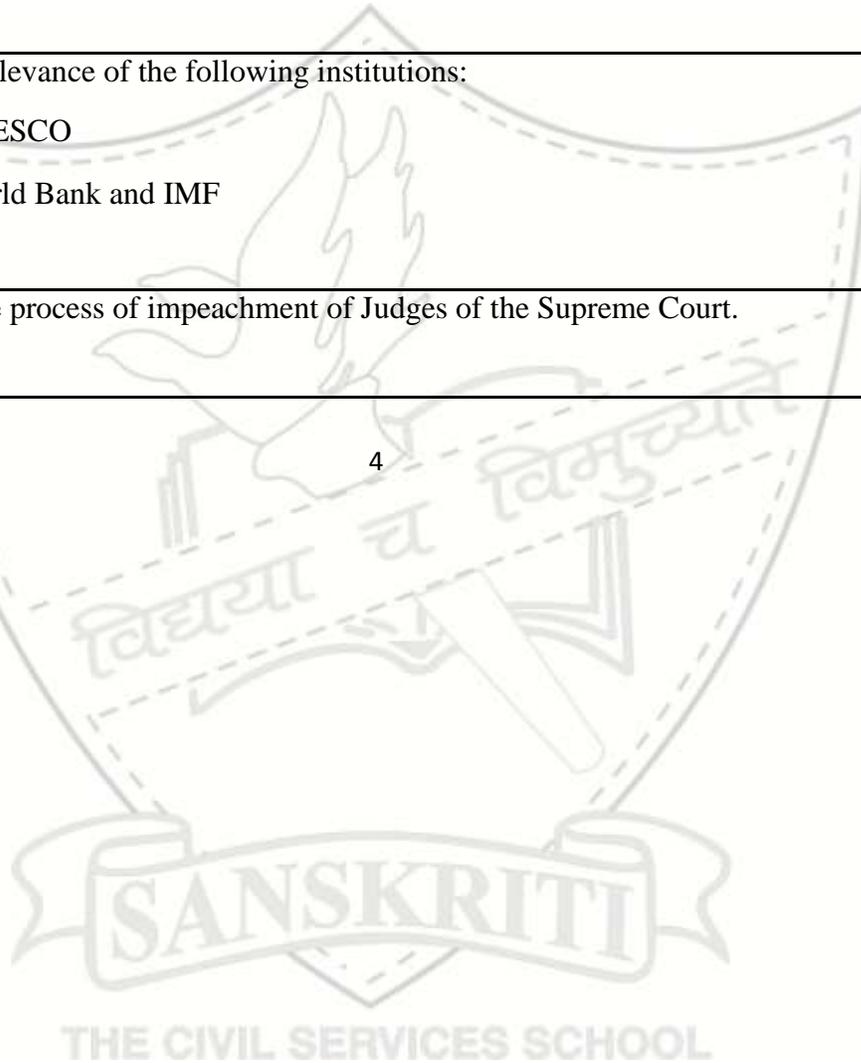
7.	<p>Dinesh Kumar, a practicing advocate engaged in the following activities as part of his professional duties:</p> <ol style="list-style-type: none"> 1. Accepted the brief from his client 2. Asked for contingency fee from the client 3. Met the opposite party directly. 4. Maintained client confidentiality. <p>Which of the above activities amounts to breach of professional duties by the advocate:</p> <ol style="list-style-type: none"> a. Only 2 b. Both 1 and 2 c. Both 2 and 3 d. Only 3 	1
8.	<p>Mr. Mehta, an activist lawyer wrote a letter to a judge of the Supreme Court, drawing his attention towards the need for political reforms having general elections round the corner where he insisted on a condition on the disclosure of the assets by the candidates. Which extra ordinary jurisdiction empowers Mr. Mehta to move the court?</p> <ol style="list-style-type: none"> a. Public Interest Litigation b. Writ Jurisdiction 	1
	<ol style="list-style-type: none"> c. Special Leave to Appeal 	
	<ol style="list-style-type: none"> d. Judicial review 	
OR		
	<p>Sushil was working with a government agency whose function was to formulate laws and policy for resolving telecom disputes in India. Identify the body:</p> <ol style="list-style-type: none"> a. Telecom Dispute Settlement Appellate Tribunal b. Central Administrative Tribunal c. Telecom Regulatory Authority of India d. Regulator 	

9. Mr. Nakul wanted to sell his property at Cochin worth Rs. 30 Lakhs to Ms. 2 Sheetal and by the same instrument another property at Delhi for Rs. 50 Lakhs. As Ms. Sheetal can stay at only one place among the two, she wants to retain the property at Cochin and reject the property at Delhi. Can she do it? Explain
10. Mini and Jolly are neighbours, and have a dispute over the wall that divides their 2 property. They decide to undergo a mediation session, where the mediator listens to Mini and Jolly and discuss their issues. The mediator then decides on a solution for Mini and Jolly, and tells them that they must adhere to it as it is legally binding.
- Identify two errors in the mediation process experienced by Mini and Jolly and explain how these mistakes can be corrected.



	OR	
	Salil and Gunjan had a matrimonial dispute for which they approached litigation as the mode of dispute resolution. However the procedure turned out to be very lengthy and the hearing dates were far apart from each other. Many a times, lawyers representing the parties charged their fees without fruitful results. In light of the above situation, state the benefits of alternative dispute resolution over traditional litigation.	
11.	A statutory body was created consisting of an eminent judicial member of 2 impeccable integrity as its chairman and 8 other members, out of which 4 were judicial members. Identify the body and state its scope.	
12.	Sumit, a resident of NayaSavera society was violently beaten up by his 2 neighbours on the suspicion of human trafficking. He approached the police but they did not take any action to protect his rights. Identify the body he can approach for redressal of his grievance and give its powers.	
13.	Article 19 gives right to freedom and these rights come with a clause which 2 makes these freedoms conditional. Comment on the need of reasonable restrictions.	
14.	State any 4 functions of State Bar Council.	2
OR		
What are the rules on advertising by lawyers in India?		
SECTION – C		
15.	Distinguish between Attorney General and Advocate General.	4
16.	Justify the contradiction between Article 14 and Article 16.	4
OR		
“This article is most fundamental; it is expansive and covers many other rights and is applicable to both the citizens as well as non-citizens.” Evaluate the above statement by identifying the article described.		
17.	How did Chamier committee contribute towards the development of present day	4

	Indian Legal Profession?	
18.	Explain any 4 reasons which necessitate Legal aid in India	4
	OR	
	Explain the main reason behind amendment of the Legal Services Authority Act, 1987 in 2002 and also explain the amendment so made.	
19.	State the relevance of the following institutions: i. UNESCO ii. World Bank and IMF	4
20.	Explain the process of impeachment of Judges of the Supreme Court.	4



SECTION - D		
21.	<p>Gaurav opened an account with Sapna Bank. One day, while operating the 5 ATM, his card did not function. However, the money was deducted from his account. To add to his agony, he discovered that his passbook showed multiple deductions for service charges also He approached the Bank but the bank refused to address his problem.</p> <ol style="list-style-type: none"> i. Identify the agency he can approach for the redressal of his grievance. ii. State its functions. iii. Provide the advantage and disadvantages of this agency. 	
OR		
Which innovative Indian Contribution to the global legal jurisprudence was conceptualized from Nyaya Panchayats?		
	<ol style="list-style-type: none"> A. Give the composition and jurisdiction of this body. B. State any two benefits of this body. 	
22.	Chintu and his friends were working in a fire cracker factory. One day, the 5 factory caught fire and Chintu and his friends were seriously injured. It was established that the owner had taken all due precautions for the safety of his factory. However, Chintu wants compensation for the injury suffered by him and his friends. Identify the principle of tort law under which he can claim relief and explain its evolution.	
23.	In an adversarial dispute resolution model, the knowledge and experience of a judge is not fully utilized. Justify the above statement.	5
24.	Explain the purpose of social engineering. Also, state the three processes whereby developing civilizations progressively moved towards social engineering through free legal aid.	5
SECTION E		
25.	Explain the scope of Judicial Review.	6
OR		
Explain the reasons for granting an independent status to the judiciary.		

26.	<p>SohanLal promises to supply 50 bags of cement to Magna Real Estate for their ongoing commercial project on 15th March 2018. SohanLal does not supply cement on 15th March 2018 but supplies it on 25th March 2018, due to which the project could not be completed on time.</p> <p>i. Identify and explain the mode of discharge of this contract.</p> <p>ii. What is the remedy available to Magna Real Estate.</p> <p>iii. Explain the rationale behind this remedy.</p>	6
27.	<p>Explain any 6 opportunities for law graduates in India.</p>	6



28.	Trace the development of the concept of free legal aid in India.	6
29.	Under an International treaty, to which India was a signatory, a species of fish was declared as endangered and restrictions were put on the right to trade of that species by prohibiting the killing of the fish. How can this treaty be enforced in India? Explain in the light of constitutional provisions and decided cases.	6
OR		
	A convention was held to discuss ways by which global warming can be curbed by the concerted efforts of all participating countries. Answer the following questions: A. Define treaty B. State any two essentials of a treaty. C. Explain the various ways in which a Country can be bound by the clauses of the above convention.	
30.	This article provides human rights framework to the criminal justice system. Identifying this article, explain its provisions.	6



Legal Studies-2019

Marking Scheme

Q No	Value Point	Marks allotted
SECTION A		
1	A Or D	1
2	A	1
3	A	1
4	B	1
5	D	1
6	C Or D	1
7	C	1
8	A or C	1
SECTION B		
9	No, Ms. Sheetal cannot do so due to the operation of Doctrine of Election. According to the principle of Doctrine of Election (Section 35 of the TPA),	2
	a party to the transfer cannot accept as well as reject in a single transaction. In other words, while claiming advantage of an instrument, the burden of the instrument should also be accepted. If a party to the transfer gets two selections (a benefit and a burden), then he has to accept both the benefit and the burden or none. He cannot accept the benefit and reject the burden in a single transaction. In Cooper v. Cooper 1874, LR 7 HL 53, the Court held that the doctrine of election applied on every instrument and all types of property	
10	Mediation is a method of ADR in which parties appoint a neutral third party who facilitates the mediation process in-order to assist the parties in achieving an acceptable, voluntary agreement. Mediation is relatively inexpensive, fast,	

and confidential. Further, mediation and arbitration differ on the grounds of the nature of award rendered. The outcome of mediation does not have similar binding like an arbitral award. However, though non-binding, these resolution agreements may be incorporated into a legally binding contract, which is binding on the parties who execute the contract.

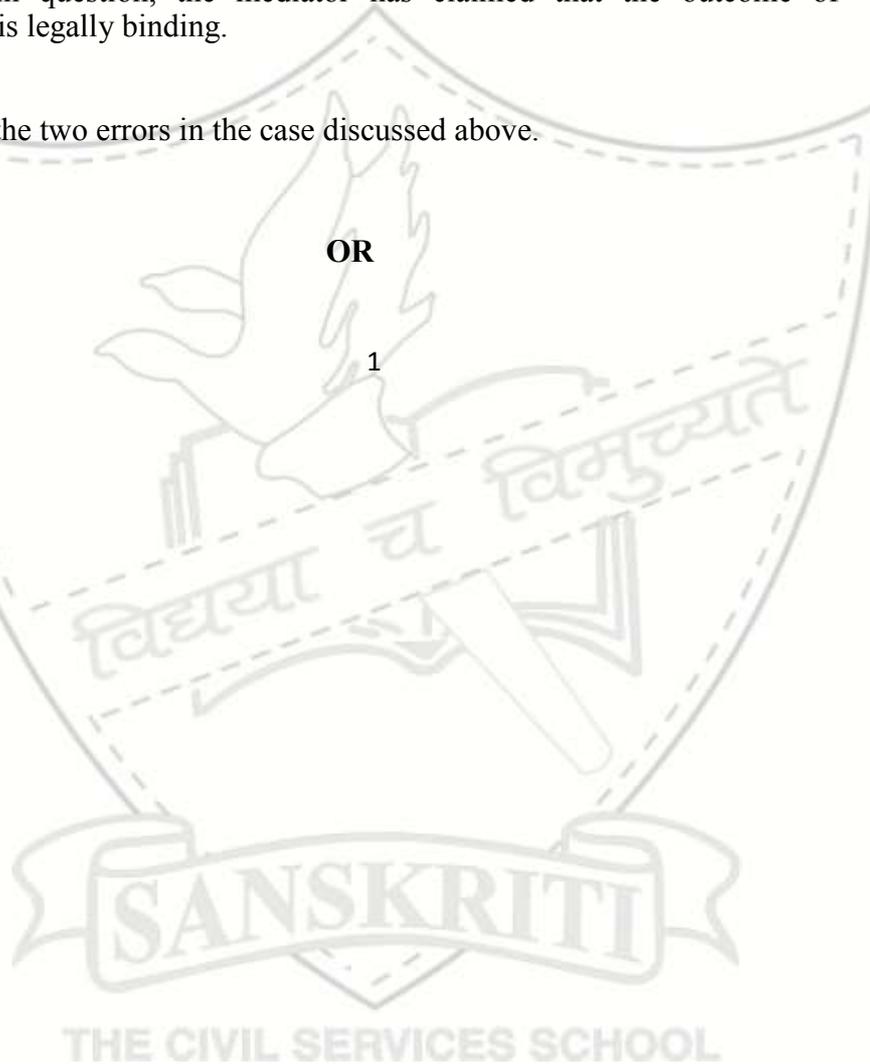
Thus, in the process of mediation, the mediator merely facilitates the resolution of disputes and does not suggest any solutions. However, in the case in question, the mediator has decided on a solution for the parties.

Moreover, the outcome of mediation is not binding on the parties, though in the case in question, the mediator has claimed that the outcome of mediation is legally binding.

These are the two errors in the case discussed above.

OR

1



	<p>Benefits of ADR over litigation are as follows:</p> <ol style="list-style-type: none"> 1. The lack of number of courts and judges which creates an inadequacy within the justice delivery system; 2. The increasing litigation in India due to increasing population, complexity of laws and obsolete continuation of some pre-existing legal statutes; 	
11	<p>Delay in disposal of cases resulting in huge pendency in all the courts.</p> <p>(Any 2)</p> <p>The statutory body discussed above is the Lokpal.</p> <p>The legislation aims to combat acts of bribery and corruption of public-servants, a term that has been given a fairly wide interpretation in the Act. The Act applies to the public servants in and outside India. It includes in its purview even the current and ex-prime ministers of India except in matters pertaining to international relations, external and internal security, public order, atomic energy and space. Besides the Prime Minister, it brings within its purview any person who is or has been a Minister of the Union and any person who is or has been a Member of either House of Parliament. It also includes any Group 'A', 'B','C' or 'D' official or equivalent from amongst the public servants defined in the Prevention of Corruption Act, 1988 when serving or who has served in connection with the affairs of the Union.</p>	2
12	<p>Sumit can approach the National Human Rights Commission. The specific legislation called the Protection of Human Rights Act was enacted by the Parliament in 1993, which in turn established the National Human Rights Commission as an independent institution with powers and functions to promote and protect human rights. The Commission has the powers of a civil court and in conducting an inquiry or investigation it can utilize</p>	2

various powers including the following :

summon and enforce the attendance of witnesses and examine them on oath;

ask for production of any document before itself;

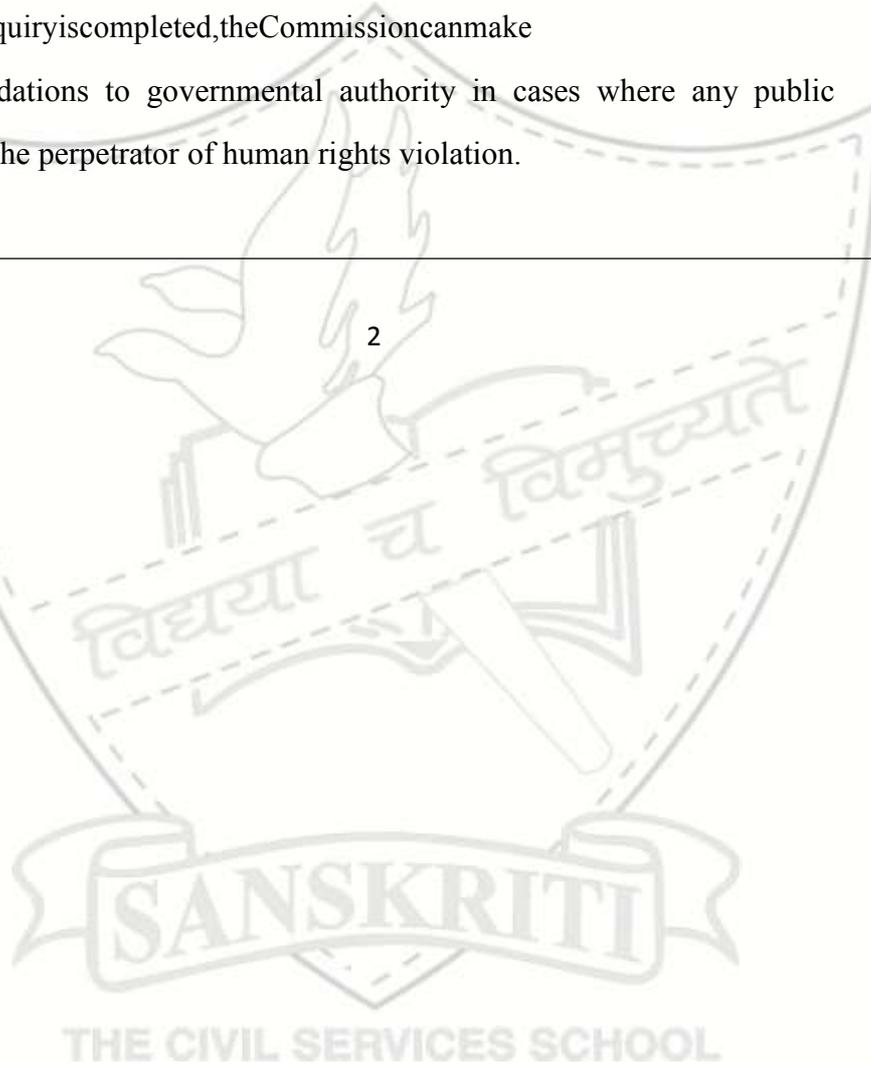
receive evidence on affidavits;

request public record from any court or office; and

examine witnesses or documents.

Once the inquiry is completed, the Commission can make

recommendations to governmental authority in cases where any public servant is the perpetrator of human rights violation.



13	<p>Article 19 provides 'reasonable restrictions' on the freedoms granted by it, which means that these rights are conditional. The State can 'reasonably' limit or take away the right to 'freedom of speech and expression' when there is a threat to the sovereignty and integrity of India, or the security of the State, or friendly relations with foreign States, or public order, or decency or morality, or in relation to contempt of court, or defamation or incitement to an offence. For example, the State can prohibit someone from making inciting speeches that may provoke others to commit violence. However, at times Supreme Court can invalidate State's restrictions if it finds them to be unreasonable. As an instance, State cannot put restriction as an excuse because it is unable to maintain public order, e.g., application of aforementioned restrictions on the sale of a book because of a few unruly protesters; such restrictions are unreasonable and breach the right to freedom of speech and expression of the author.</p>	2
14	<p>Main functions of State Bar Council are:</p> <ol style="list-style-type: none"> 1. Admitting law graduates on its Roll, 2. Determining cases of misconduct against Advocates on the Roll 3. Organizing legal aid 4. Electing one member to the All India Bar Council. <p style="text-align: center;">OR</p> <p>In India advertising by lawyers has been strictly restricted by the Bar Council of India. The restrictions are as follows:</p> <ol style="list-style-type: none"> 1. An advocate is prohibited from promoting himself through circulars, advertisements, touts, personal communications, interviews other than through personal relations, furnishing or inspiring newspaper comments or producing his photographs to be 	2

published in connection with cases in which he has been engaged or concerned.

An amendment to this rule allows advocates to furnish certain information on their websites after intimating and taking approval from the Bar Council of India. However, only 5 pieces of information can be put up on the internet, i.e., (i) the name of the advocate or the firm, (ii) the contact details, (iii) details of enrolment with the Bar, (iv) his professional and academic qualification and (v) the areas of practice



SECTION C

15	Attorney General	Advocate General	4
	The Attorney General is the first legal officer of the country. He is appointed under Art 76 of the Indian Constitution.	Advocate general is the highest law officer in the state. He is appointed under Art 165 of the Indian Constitution.	
	Appointed by president. Holds office at the pleasure of president, tenure is not fixed by Constitution.	Appointed by Governor. No fixed tenure, holds office at the pleasure of Governor.	
	Resignation to be submitted to President.	Resignation to be submitted to Governor.	
	Assisted by a Solicitor General and 4 Additional Solicitors General	Assisted by Additional Advocate Generals.	

16

Article 14 provides to all the right to equality before law and equal protection of the law. It prohibits discrimination on grounds of religion, race, caste, sex or place of birth. It means that law treats everyone equally without consideration of their rank or status or other backgrounds.

Article 16 is based on the equality principle of Article 14. It provides for equality of opportunity in matters of public or State employment and bars any discrimination to any citizen on grounds of religion, race, caste, sex, descent, place of birth, or residence. This article allows State to provide reservation or affirmative action programs for government jobs to

backward classes like Schedule Castes and Scheduled Tribes who because of historical and continued disadvantages based on caste status and otherwise have not been adequately represented in the services under the State.

Equality principle states that one uniform law cannot be applied to all equally as some may not be similarly placed as others. Thus Article 16 is not contradictory to Article 14 but furthers the principle of equality of Article 14.



	OR	
	<ul style="list-style-type: none"> • The article described is Article 21. • The meaning of 'right to life' includes right to human dignity, right to basic requirements of life, right to participate in activities and expression, right to tradition, heritage, and culture, etc. • 'Personal liberty' means various rights that provide for personal liberty of a person, i.e., everyone has right to do his or her will freely. • The meaning of 'right to life and personal liberty' is broad and embraces many aspects including dignity, food, shelter, etc. • A person can be deprived of his or her 'right to life or personal liberty' only by procedure established by law. This means that any law that limits or takes away one's right to life and personal liberty must contain a procedure that is fair and reasonable and not arbitrary. 	
17	<p>i. The Committee in its report stated that it was not practical at that time to organize the Bar on an all-India basis. However, the Committee suggested the establishment of Bar Council for each of the High Courts.</p> <p>ii. The Committee suggested that a Bar Council should have power to make rules in matters such as qualifications and admission of persons to be Advocates of the concerned High Court, legal education, discipline and professional conduct of Advocates, terms on which Advocates of another High Court could appear occasionally in the concerned High Court or any other matter prescribed by the High Court.</p> <p>iii. Giving effect to the Chamier Committee recommendations, the Central</p>	1 x 4

Legislature enacted the Indian Bar Councils Act, 1926. The Act was to provide for the constitution and incorporation of Bar Councils, to confer powers and impose duties on the Bar Councils and to consolidate the regulations pertaining to the legal profession.

iv. The Bar Councils could, with the consent of the High Court, make rules for: a) the rights and duties of Advocates of High Court and professional

18	<p>conduct; and b) legal education and examinations.</p> <p>i. In a participatory democracy, it is essential that citizens have faith in their institution. A judiciary that is as fair and independent is an important component in sustaining their trust and confidence.</p> <p>ii. Citizens agree to a limitation on their freedom in exchange for peaceful coexistence, and they expect that when conflicts between citizens or between the state and citizens arise, there is a place that is independent from undue influence, that is trustworthy, and that has an authority over all the parties to solve the disputes peacefully.</p> <p>iii. It is also the responsibility of the State to ensure that fair and impartial justice is made available at the door steps of the poor and economically weaker sections irrespective of their caste, creed, religion, geographical position at free of cost.</p> <p>iv. Denying access to the courts forces dispute resolution into other arenas and results in vigilantism and violence. As envisaged under Article 15 of</p>	1 x 4
	<p>the Constitution of India, the State shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them. Based on this cardinal principle, no citizen shall on the grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability. Article 14 of the Constitution of India provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.</p>	
	<p style="text-align: center;">OR</p> <ul style="list-style-type: none"> The Parliament has made certain amendments in Legal Services Authorities Act by passing an Act known as the Legal Services Authorities (Amendments) Act, 2002. The purpose of this amendment is to bring out certain changes in the Legal Services Act, 1987 (hereinafter referred to as the principal Act) especially for the establishment of permanent LokAdalats to settle disputes concerning public utility services at pre-litigation state. 	

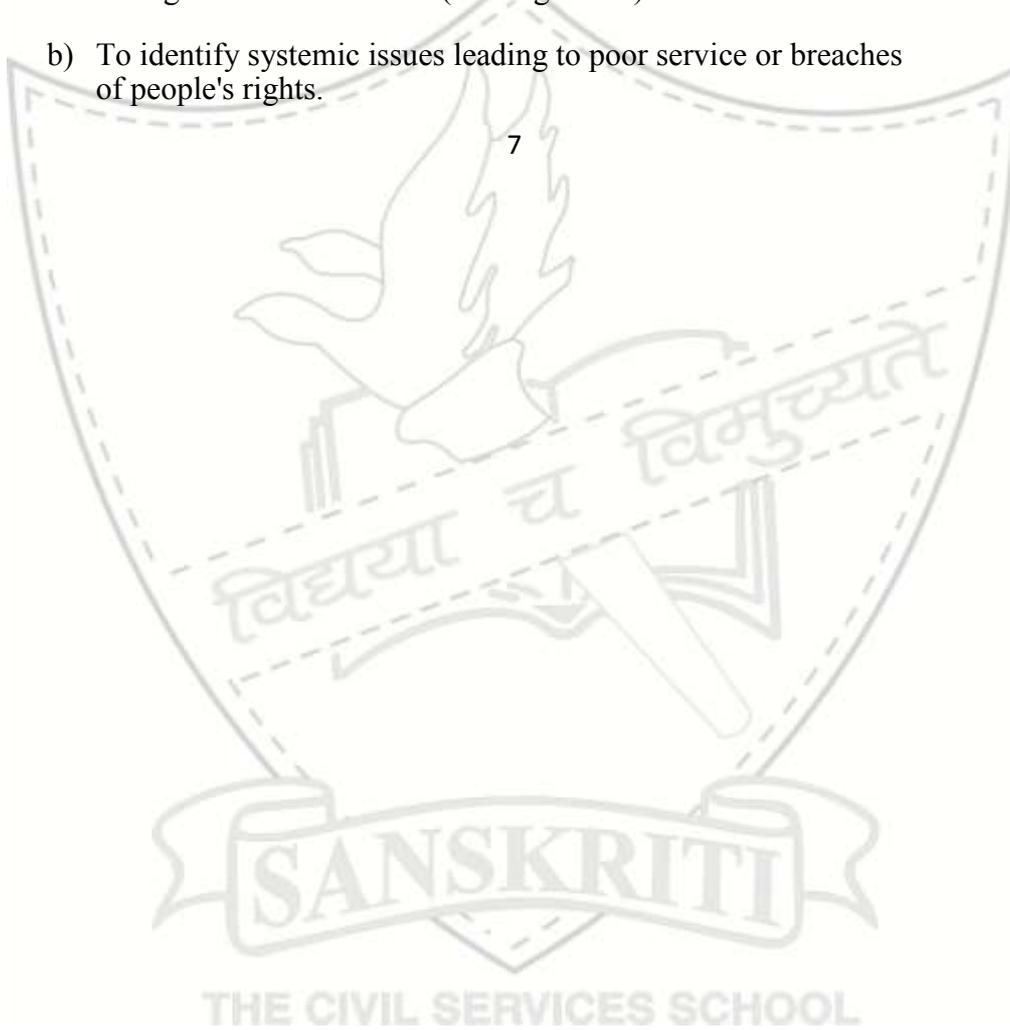
- The reason behind creation of these courts was the realisation that litigation oriented legal services cannot bring out desired result, therefore, it encouraged pre-litigation legal services specially in public utility service.
- "Public utility service" means any- 1) Transport service for the carriage of passengers of goods by air, road or water; or 2) Postal, telegraph or telephone service; or 3) Supply of power, light or water to the public by any establishment; or 4) System of public conservancy or sanitations; or 5) Service in hospital or dispensary; or 6) Insurance service.



19	<p>i. UNESCO: UNESCO was set up to promote coordination between 4 members keeping in mind the fact mere economic and political arrangements are not enough to ensure growth and stability in member states.</p> <p>By promoting culture, preserving the heritage, sharing knowledge and understanding that are beneficial for the whole of mankind, UNESCO aims to aid sustainable development and foster greater cooperation between nations.</p> <p>ii. World bank and IMF: These two sister institutions were started in order to aid the economies of various nations which had suffered immense losses subsequent to the Second World War.</p>	
20	<p>The World Bank aids member states by providing loans to member states for the purpose of development and raises its funds by way of the world's financial markets.</p> <p>i. Grounds of impeachment- Incapacity; Proven misbehavior.</p> <p>ii. The impeachment process in the Parliament is governed under Article 124(4) of the Constitution</p> <p>iii. Inquiry commissions report regarding the charges levied.</p> <p>iv. Based on the findings, the recommendation to impeach the judge has to be made by the Chief Justice of India to the President of India.</p> <p>v. If it is accepted then the proposal of impeachment must be introduced in the Parliament for discussion by 100 MPs in Lok Sabha or 50 MPs in Rajya Sabha.</p>	0.5x8=4
	vi. The copy of the proposal is given to the concerned judge before the proceeding starts in the Parliament of India.	
	<p>vii. Under this scheme, the motion of impeachment has to be passed by the two-third majority members present and voting must be done separately in the each house of the Parliament.</p> <p>viii. If the motion is passed then the formal announcement is done by the President of India.</p>	

SECTION D

- 21
- i Chief Vigilance Officer/ Ombudsman can be approached by Gaurav for redressal of his grievance. 1
- ii. Functions of Chief Vigilance Officer include: 2
- a) To investigate complaints and attempt to resolve them, usually through recommendations (binding or not) or mediation.
- b) To identify systemic issues leading to poor service or breaches of people's rights.



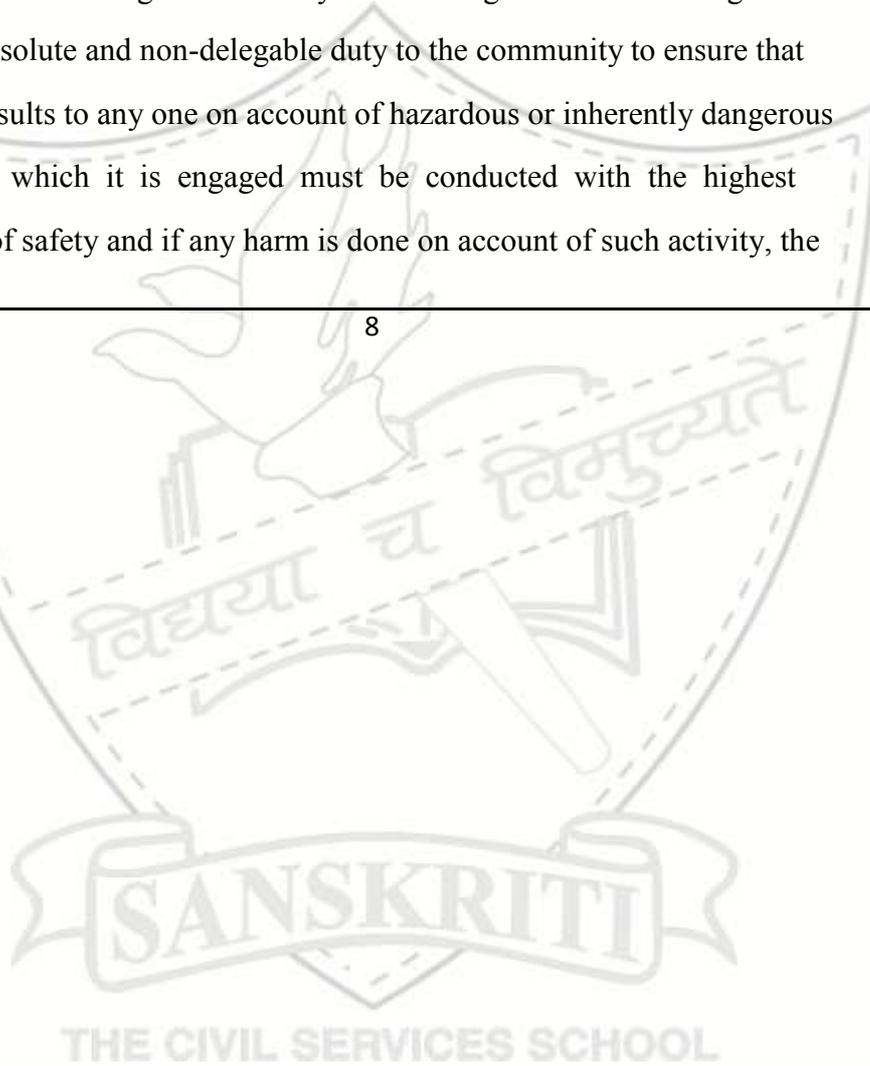
<p>iii.</p>	<p>Advantage of this system is:</p> <p>a. he or she examines complaints from outside the offending state institution, thus avoiding the conflicts of interest inherent in self-policing</p> <p>Disadvantages of this system are:</p> <p>a. The system relies heavily on the selection of an appropriate individual for the office, and</p> <p>b. cooperation of at least some effective official from within the apparatus of the state.</p>	<p>1</p> <p>1</p>
<p>OR</p>		
<p>This very concept of settlement of dispute through mediation, negotiation or through arbitral process known as decision of "Nyaya-Panchayat" is conceptualized and institutionalized in the philosophy of LokAdalat.</p> <p>Composition – It is presided over by a sitting or retired judicial officer such as the chairman, with usually two other members- a lawyer and a social worker</p> <p>Jurisdiction - A LokAdalat has jurisdiction to settle any matter pending before any court, as well as matters at pre-litigative stage, i.e. disputes which have not yet been formally instituted in any Court of Law. Such matters may be in the nature of civil or compoundable criminal disputes.</p> <p>Benefits - The benefits of LokAdalat include:</p>		
<p>22</p>	<p>1. There is no court fee and even if the case is already filed in the regular court, the fee paid will be refunded if the dispute is settled at the LokAdalat.</p> <p>2. There is no strict application of the procedural laws and the disputing parties can directly interact with the judges.</p> <p>3. The decision of LokAdalat is binding on the parties and its order is capable of execution through legal process. (Any 2)</p> <p>1. Absolute liability is the principle that can be used for claiming relief for Chintu and his friends.</p> <p>2. Absolute Liability was introduced by the Supreme Court in the aftermath</p> <p>of the two instances of gas leaks from factories injuring many. The first</p>	<p>1</p> <p>1</p>

case was about the infamous Bhopal gas leak disaster of 1984 and the second incident of 1985 in Delhi, due to leaked oleum gas.

3. The then Chief Justice of India P.N Bhagwati, in the famous 1987 case of

2

M.C. Mehta v. Shri Ram Foods and Fertilizer Industries, held: "We are of the view that an enterprise, which is engaged in a hazardous or inherently dangerous industry, which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an absolute and non-delegable duty to the community to ensure that no harm results to any one on account of hazardous or inherently dangerous activity in which it is engaged must be conducted with the highest standards of safety and if any harm is done on account of such activity, the



	<p>enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that it had taken all reasonable care and that the harm occurred without any negligence on its part."</p> <p>4. The principle of absolute liability has evolved from the principle of strict liability. Strict liability torts do not care about the intention or carelessness of the defendant when the defendant caused the injury. The claimant does not have to establish any sort of or level of blame attributable to the defendant based on the intention or the degree of carelessness. However Strict liability is available in a very limited context.</p>	
23	<p>In an adversarial system, the knowledge and experience of a judge is not fully utilized because:</p> <ol style="list-style-type: none"> 1. In an adversarial system, the parties in a legal proceeding develop their own theory of the case and gather evidence to support their claims. 2. The parties are assisted by their lawyers who take a pro-active role in delivering justice to the litigants. 3. The lawyers gather evidence and even participate in cross-examination and scrutiny of evidence presented by the other disputing party. 4. The role of the judge/decision maker is rather passive as the judge decides the claims based solely on the evidences and arguments presented by the parties and their lawyers. 5. Judges play less active role; a judge is not duty bound to ascertain the truth but only to evaluate the matter based on the evidences presented before him/her. 	1 X 5
24	<p>Social engineering may be defined as the science and art of making 2 appropriate adjustments to human relationships as well as to promote the welfare of the community as a whole. The purpose of social engineering was:</p> <ol style="list-style-type: none"> a. To establish justice in the earth b. To hold back the strong from oppressing the weak". 	

There were three processes whereby the developing civilization progressively moved towards social engineering through free legal aid:

a. T
h

e first was to grant aid to vulnerable communities;

3

- b. The second was to put restrictions upon the exercise of privileges accorded by law to those well-off;
 - c. The third was to strip those fortunate of their privileges and place the strong and weak on an equal footing before the law.
-

9



SECTION E

25	<p>The scope of judicial review in courts in India has developed with respect to three issues: 1) protection of fundamental rights as guaranteed in the Constitution; 2) matters concerning the legislative competence between the centre and states; 3) fairness in executive acts; and 4) Basic Structure of the Constitution (Any 3):</p> <p>(a) Individual and Group Rights</p> <p>Article 13(2) of the Constitution of India provides that: "The State shall not make any law which takes away or abridges the rights conferred by this Part (Part III - Fundamental Rights) and any law made in contravention of this clause shall, to the extent of the contravention, be void."</p> <p>Furthermore, Article 32 offers the Supreme Court the power to enforce fundamental rights, and provides one the right to move the Supreme Court for the enforcement of those rights. From this article, the Supreme Court derives authority to issue directions or order or writs</p> <p>(b) Centre-State Relations</p> <p>Article 246 of the Constitution provides that the Parliament has exclusive powers to make laws with respect to matters itemized in the 'Union List' (List 1 of the Seventh Schedule of the Constitution). It provides further that both the Parliament and the Legislature of any State have powers to make laws with respect to matters enumerated in the 'Concurrent List' (List III of the Seventh Schedule of the Constitution). With respect to the States, it provides that the Legislature of any State has exclusive power to make laws with respect to matters listed in the 'State List' (List II of the Seventh Schedule).</p> <p>This Article delivers clear division of lawmaking powers (division of powers) as well as room for intersection between the Centre and the State. Judicial review helps demarcate the legislative competencies and ensures that Centre does not exert its supremacy over the state matters and likewise</p>	6
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states do not encroach upon matters within the ambit of the Centre.

(c) Fairness in Executive Actions

In matters of executive or administrative actions, judicial review practice of courts have often employed doctrines like 'principles of natural justice', 'reasonableness', 'proportionality', and 'legitimate expectation

(d) Basic Structure

Article 368 confers power to the Parliament to amend the Constitution: "by way of addition, variation or repeal any provision of this Constitution"



	<p>This Article in its wordings does not provide any limitation on the power of the Parliament to amend the Constitution. Article 13(2) limits Parliament's amending authority in matters of fundamental rights.</p> <p>The doctrine of the basic structure invalidates any constitutional amendments that destroys or harms a basic or essential feature of the Constitution, like secularism, democracy and federalism.</p>	
	<p style="text-align: center;">OR</p> <p>The main reasons for granting an independent status to the judiciary are as follows:</p> <p>First, Judiciary's independence is linked to its role as the watch-dog in a democracy. It monitors and maintains the checks and balances over the other arms of the government. Thus judiciary emerges as a mediator when any organ of the government exercises 'excess power' which tends to violate the larger societal or individual interest.</p> <p>Second, in-order to ensure that constitutionally guaranteed freedoms such as freedom to speak in public or peacefully assemble, are interpreted as per the true constitutional philosophy, judiciary has been kept free from any external pressures.</p> <p>Third, Judiciary acts as a guardian of fundamental rights which are constitutionally granted to every citizen in India. Our Constitution grants us unique rights such as: Civil and political rights- e.g. the right to life; right to freedom of discrimination based on religion, race, caste, sex or place of birth. Economic, social and cultural rights- e.g. freedom to practice any religion; protection of interests of minorities. An independent and impartial Judiciary has empowered Indian citizens and performed this role.</p> <p>Fourth, in the domain of criminal law as well, independence of judiciary is linked to the granting of a fair trial to the accused. This becomes extremely important even when the accused are foreign nationals or persons who have committed crimes against the state, e.g. terrorists.</p>	

Lastly, independence of judiciary is vital for the respect of due-process of law. Due process of law means that the State must respect all the legal rights that are owed to a person and confirm to the norms of fairness,

liberty, fundamental rights etc. Only an independent judiciary can make this concept operational.

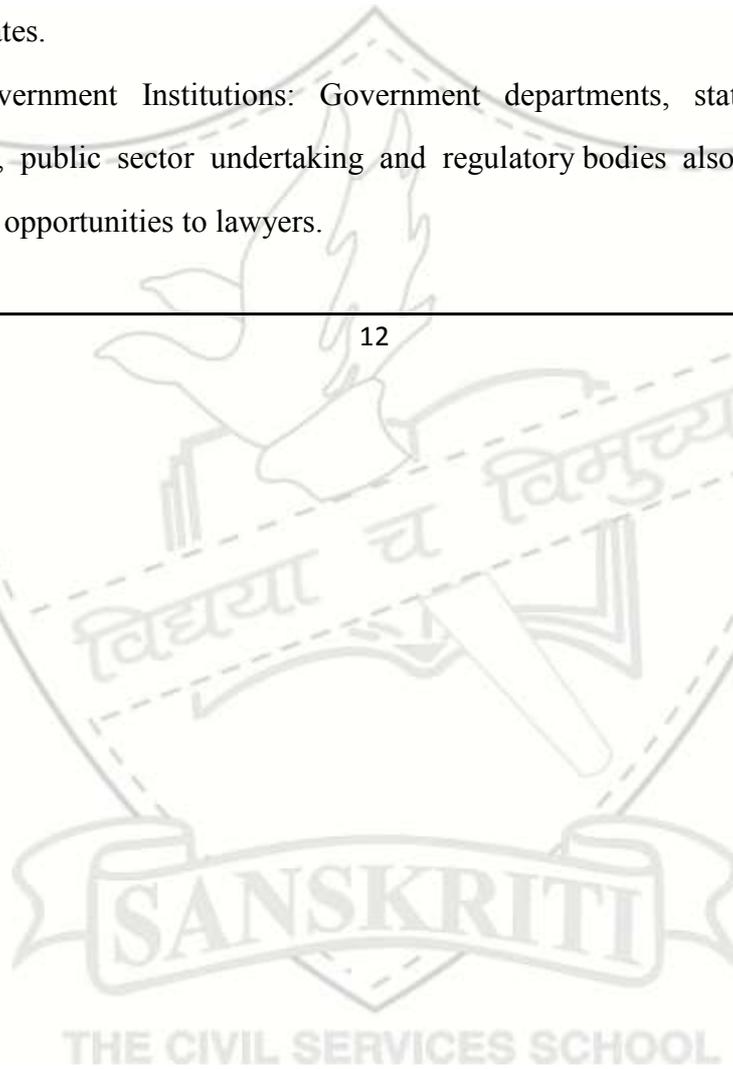
Therefore independence of judiciary remains a vital and core principle even in the modern democracy.



26	<p>(1) Discharge by Breach of Contract-Breach means failure to perform the obligation by a party. When a party to a contract does not perform his part of the obligation due to which the contract becomes broken, the person who suffers because of the breach is entitled to receive compensation or damages from the party who has breached the contract (Section 73)</p> <p>(2) A common remedy for breach of contract is awarding damages to the affected party. Monetary compensation given to the affected party for the loss or injury caused to him due to the breach is called damages.</p> <p>(3) The Doctrine of Restitution. The basis of this Doctrine is awarding damages for the pecuniary loss incurred by the party to the contract.</p>	6
27	<p>Law is an exciting and challenging profession. Law graduates in India have various options and opportunities open to them after their graduation. A Law degree, in addition to being a professional degree, is now considered to be training in a discipline which trains the mind to think analytically and communicate systematically. Following are some of the opportunities available (and opted for by law graduates) to graduates after they obtain their degrees in Law. (Any 6)</p> <ul style="list-style-type: none"> • Litigation: Graduates may practice as an advocate in a court of law. • Law Firm Practice: Law firms vary in size and practice areas. Law firms may range from boutique law firms specializing in specific areas of law to mid-sized law firms as well as large law firms which are full service law firms with different service groups. • Corporate Sector: Large corporations often have in-house legal practice. An in house counsel will give legal advice to the company, have expertise in the business of the company and be responsible for ensuring that the business of the company is being run in compliance with applicable laws. • Public Policy: Lawyers have an important role in formulating and advising on public policy. Several organizations employ law graduates for 	6

policy making and have institutionalized fellowships where law graduates can be Research Assistants.

- Legal Research & Academia: Graduates may attach themselves with ResearchCenters and think tanks. Law graduates may take up teaching and research as a profession.
- Non – Governmental Organizations: Non – Profit Organizations, especially organizations with social justice orientation have positions for law graduates.
- Government Institutions: Government departments, statutory authorities, public sector undertaking and regulatory bodies also provide interesting opportunities to lawyers.



	<ul style="list-style-type: none"> • Further Study: Law is an interdisciplinary subject and graduates may opt for further studies in related disciplines such as Business, Economics, Anthropology and sociology. • Judicial Services/clerkship: The court system provides several avenues to law graduates. The higher judiciary, that is judges of the High Courts and Supreme Court have law clerks cum research assistants who assists a judge in researching for cases, maintaining paper works etc. • Other Avenues: Law graduates may opt for different career paths such as politics, journalism (legal journalism), legal publishing, Fellowships, civil services etc. 	
28	<p>Since 1952, the Government of India started addressing the question of legal aid for the poor in various conferences of Law Ministers and Law Commissions.</p> <p>The 14th Report of the Law Commission of India mooted the idea of providing free legal aid to the poor by the State. The Report highlighted the responsibility of the legal community to administer legal aid scheme and the State to fund legal representation to the accused in criminal proceedings, appeals and jails.</p> <p>In 1960, the Union Government initiated the national legal aid scheme which faced financial shortages and died a natural death.</p> <p>In 1973, in the second phase, the Union Government constituted a committee under the chairmanship of Justice Krishna Iyer to develop a legal aid scheme for states. The Committee devised a strategy in a decentralized mode with legal aid committees in every district, state and the centre.</p> <p>A committee on judicature was set up under the chairmanship of Justice P N Bhagwati to implement the legal aid scheme. This Committee suggested legal aid camps and nyayalayas in rural areas and recommended the inclusion of free legal aid provision in the Constitution.</p> <p>Article 39A of the Constitution - inserted by the 42nd Amendment Act in 1976 - Directed the state to provide free legal aid by suitable legislation or schemes or in any other way, to ensure that opportunities to secure justice are not denied to any citizen by reason of economic or other disabilities. Legal aid schemes were floated across states through legal aid boards, societies and law departments thereafter.</p>	
	<p>Legal aid schemes were floated across states through legal aid boards, societies and law departments thereafter.</p>	

Subsequently, the Parliament enacted the Legal Services Authorities Act, 1987

29 India follows the following provisions of law while implementing an International treaty in the domestic terrain:

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	<ul style="list-style-type: none"> • Article 51 of the Indian Constitution specifically states that the State shall endeavour to 'foster respect for international law and treaty obligations in the dealings of organized peoples with one another'. • Under Article 253 of the Constitution of India, the Parliament and the Union of India have the power to implement treaties and can even interfere in the powers of the state government in order to give power to provisions of an international treaty. • In the land mark case of Kesavananda Bharti v. State of Kerala, it was observed that the court must interpret the provisions of the constitution in light of Charter of the United Nations. • In the case of Magan Bhai Patel v Union of India, the court held that if a treaty or international agreement restricts the rights of the citizens or modifies the laws of the state it would require to have a legislative measure. • In the case of Sheela Barse v Secretary Children's Aid Society, the Supreme Court held that India had ratified conventions regarding the protection of children and this placed an obligation on the State Government to implement these principles. • The most revolutionary of these cases was the case of Vishaka v State of Rajasthan, in which the Indian courts used the provisions of the Convention on Elimination of all forms of Discrimination against Women, (CEDAW), to create legally binding obligations regarding sexual harassment. 	2
	<p>In the current case, where under an International treaty, to which India is a signatory, a species of fish is declared as endangered and restrictions are put on the right to trade of that species by prohibiting the killing of the fish.</p> <p>If this treaty is to be enforced in India, the Indian Parliament needs to pass a domestic legislation regarding prohibition of the killing of such species of fish.</p> <p style="text-align: center;">OR</p>	

- A. A Treaty refers to legally binding, written, agreements in which states agree to act in a particular manner as specified in the agreement.
 - B. Treaties are binding upon the parties when entered in to in good faith and with intention of creating binding obligations.
 - C. A state may express its consent to be bound by a particular treaty in certain cases, the most common of which are:
-

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	<ol style="list-style-type: none"> 1. Consent by signature- In certain cases, treaties may be given force by way of signatures of representatives who have been given the full powers, i.e. authorization in writing from their state to be able to take decisions on its behalf. 2. Consent by exchange of Instruments - In some scenarios, consent may be recorded by way of exchanging certain instruments, i.e. documents which contain the terms agreed to by both sides, when these instruments provide that on such exchange they will be in effect. 3. Consent by Ratification - Ratification is simply understood to be the act by which a State establishes its consent to be bound by a treaty on the international plane. This was initiated as a measure to ensure that the representative who signed a treaty had due authority, by seeing whether the state agrees to 'ratify' the same. Ratification differs from country to country but usually requires a sign that the state consents to follow the provisions of the treaty. 	
30	<p>Article 20 of the Indian Constitution provides human rights framework to the criminal justice system. It provides for safeguards to persons who are accused of having committed crimes.</p> <p>The rights of persons accused of crimes are:</p> <ol style="list-style-type: none"> 1. Article 20 provides that no person can be convicted for the commission or omission of an act that does not amount to an offence by any law in force at the time of such act. 2. Secondly it provides that any person who is convicted of a crime should not receive a penalty greater than what is provided in the law in force at the time of the act of offence. 3. It provides for another important right that “No person shall be prosecuted and punished for the same offence more than once.” <p>This means that if someone commits an offence, that person should not be harassed and punished repetitively (more than once) for the same offence.</p>	1 x 6
	<p>4. Further it states that “No person accused of any offence shall be compelled to be a witness against himself.” This provision safeguards the accused's right against self-incrimination.</p>	

An accused may give information based on own knowledge if he or she chooses to, but cannot be forced to be self-witness against himself or herself. Every accused has a right to fair trial.



