Civil Services (Main) Examination, 1995

LAW
(Paper I)

Time Allowed : Three Hours **Maximum Marks : 300**

QUESTION PAPER SPECIFIC INSTRUCTIONS

(Please read each of the following instructions carefully before attempting questions)

There are EIGHT questions divided in two Sections.
Candidate has to attempt FIVE questions in all.
Question Nos. 1 and 5 are compulsory and out of the remaining, any THREE are to be attempted choosing at least ONE question from each Section.
The number of marks carried by a question/part is indicated against it.
Wherever any assumptions are made for answering a question, they must be clearly indicated.
Word limit in questions, wherever specified, should be adhered to.

SECTION 'A'

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

(a) "Constitution of India is neither purely federal nor purely unitary but is a combination of both." Discuss.

(b) "A quasi-judicial authority cannot make any decision adverse to any party without giving him an effective opportunity of meeting any relevant allegations against him." Examine.

(c) "Right to life includes the right to commit suicide." Examine.

(d) "The doctrine of basic structure has established judicial supremacy in the area of constitutional amendment." Examine.

2. (a) Critically examine the widening dimensions of the concept "the State" in Article 12 of the Constitution of India. **30**

(b) Discuss the characteristics of secularism and examine how far the Indian Constitution is secular. **30**

3. (a) "The Central Executive exercises not only executive functions but also, in a limited way, judicial and legislative functions." Comment on the various powers of the Executive at the Centre. **30**

(b) Do you agree with the view that it is not possible to define limitations on the exercise of discretionary jurisdiction vested in the Supreme Court by Article 136? Give reasons for your answer. **30**

4. Answer any two of the following: **30×2=60**

(a) D, a judge of a High Court was transferred by the Presidential order to another High Court. D challenges the transfer on the ground that the order was issued without his consent and without the concurrence of the Chief Justices of the two State High Courts concerned and of the Chief Justice of India. Examine the legal issues involved.

(b) Consequent on a dispute between two rival groups, the police arrested A, the leader of the group and lodged him in sub-jail. A warned the authorities that the other group may attack him in jail. But the authorities did not take any precautionary measures. At night the rival group attacked and killed A in jail. The heirs of A filed writ petition before the High Court asking for compensation for the violation of the right to life of A. The State pleads sovereign immunity. Decide.

English version compiled from published transcriptions and cross-checked across sources; not a facsimile of the official UPSC question paper.

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(c) Doordarshan invited X, a lady journalist, for an interview to be telecast subsequently. The theme of the interview was "Laws relating to women". In the course of the interview X referred to a bill on women's rights pending in Parliament and criticized that some of its provisions are unjustified and unconstitutional. This portion of the interview was arbitrarily deleted when the interview was telecast. X wants to challenge with deletion. Discuss the questions involved.

SECTION 'B'

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

20×3=60

(a) "International law is the name for the body of customary and treaty rules which are considered legally binding by States in their intercourse with each other." Discuss.

(b) "Occupation can be effected only through taking possession of, and establishing an administration over, territory in the name of, and for, acquiring State." Explain and distinguish occupation from annexation.

(c) "A system of international environmental law has emerged, rather than simply more international rules about the environment." To what extent does this observation reflect the results of the Rio Conference?

(d) One of the most controversial provisions in the Vienna Convention on the Law of Treaties 1969 is in respect of jus cogens. Discuss.

6. (a) Discuss various theories as to the relationship between International law and Municipal law and explain the practices followed by the United States, Britain and India for adopting international law into their own legal systems. **30**

(b) "Although the primary responsibility for the maintenance of peace and security belongs to the Security Council, the General Assembly is given in this connection certain facultative or permissive powers of consideration and recommendation." Highlight the developments that equipped the General Assembly with a leading role on the question of international peace and security. **30**

7. Answer any two of the following:

30×2=60

(a) Ten aircraft that belonged to the monarchical government of pre-revolutionary Russia were lying in the British airfield even after they were sold to an American company. The Communist Government that came to power in Russia after the revolution and was recognised de jure by Britain made a claim for the ownership of the aircraft. Discuss whether the previous transaction of sale is binding on the new government.

(b) K, a foreign sovereign, assuming a false name enters into a contract of marriage in England with a woman Q. Later K makes a breach of contract. In a suit by Q, K pleads that he being a sovereign is entitled to immunity. Discuss the legal questions and decide.

(c) X and Y were British subjects who entered in the service of the Chinese Government. While they were on board a Chinese warship anchored in the territorial waters of Hong Kong, X killed Y. X is prosecuted for murder before the British local court of Hong Kong. X challenges the jurisdiction of the court to try him. Decide.

8. Write short notes on any three of the following:

20×3=60

(a) Servitude

(b) Transit passage

(c) Calvo doctrine

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(d) India and Nuclear Non-Proliferation Treaty

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