

LAW
(Paper I)

Time Allowed : Three Hours

Maximum Marks : 250

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.

Attempts of questions shall be counted in sequential order. Unless struck off, attempt of a question shall be counted even if attempted partly. Any page or portion of the page left blank in the Question-cum-Answer Booklet must be clearly struck off.

SECTION 'A'

1. Answer the following (each answer should be in about 150 words):— **10×5=50**
- (a) Has judiciary been a hindrance or a facilitator in the interpretation of Directive Principles? Examine in the light of various judgements of the Supreme Court.
- (b) “Fundamental duties are only ethical or moral duties and should not form a part of the fundamental law.” Comment.
- (c) Is ‘Commercial advertisement’ covered within the ambit of ‘freedom of speech and expression’? Discuss with reference to leading cases.
- (d) Critically examine the constitutional validity of an amendment deleting Article 16(4) and authorising the State to make job reservation in favour of the backward classes of citizens.
- (e) Doctrine of equality under the Constitution cannot be applied to legitimise an illegal act. Can equality be invoked to justify another wrong? Critically examine with reference to cases.
2. (a) Do you agree with the view that “Equality is antithesis of arbitrariness. In fact equality and arbitrariness are sworn enemies”? Comment critically. **25**
- (b) “The Constitution of India merely subscribes to three-fold division of gubernatorial functions and not to the doctrine of separation of powers in its absolute rigidity.” Comment. **25**
3. (a) The goals specified in the Preamble contain basic structure of our Constitution, which cannot be amended under Article 368. Elaborate in context of leading cases. **25**
- (b) What restrictions have been imposed by the Constitutional Amendment (44th) to check misuse of proclamation of emergency? Discuss. **25**
4. Write critical notes on the following:— **[50]**
- (a) Residuary Powers. **15**
- (b) Whether law relating to preventive detention can be challenged for violation of Article 19? **15**
- (c) Introduction of Uniform Civil Code. **20**

SECTION 'B'

5. (a) “Due to increasing penetration of international legal rules within the domestic systems, the distinction maintained between two autonomous zones of international and municipal law has been somewhat blurred.” Explain with special reference to Indian practice. How international legal rules emanating from customs and treaties, influence the actions of domestic agencies? 10
- (b) While concluding a multilateral treaty, a State can make reservation(s) and the other State(s) may accept or reject such reservation(s) without jeopardising the object and integrity of the treaty. Discuss the need and relevance of reservations in treaty law in the light of above statement. 10
- (c) Explain the rights and duties of coastal state over continental shelf, exclusive economic zone and high seas as defined under the provisions of UN Convention on Law of Sea (III), 1982. 10
- (d) The Arbitration Commission of European Conference on Yugoslavia emphasised in opinion no. 2 that “it is well established that whatever the circumstances, the right to self-determination must not involve changes to existing frontiers at the time of independence (*Uti possidetis juris*) except where the states concerned agree otherwise.” Explain the present day relevance of principle of self-determination as a human right incorporated in both the international covenants with the help of at least one actual instance. 10
- (e) “States are not under a duty to recognize a nationality acquired by a person who has no genuine link or connection with the naturalizing state.” [Nottebohm case (second phase) ICJ, 1955] In the light of above statement, explain the concept of ‘nationality’ and its acquisition with the help of suitable instances. 10
6. (a) “The substance of customary law must be looked into primarily in actual practice and ‘*opinio juris*’ of the States.” In the light of above statement and by referring to case law, explain the interplay between objective and subjective elements in acceptance of a particular custom as a source of international law. 25
- (b) “States are subject to a duty under International Law to recognise a new State fulfilling the legal requirements of Statehood, but the existence of such a duty is not borne out by the weight of precedents and practices of States. The decision of a State in according or withholding recognition is a matter of vital policy that each State is entitled to take by itself.” Reconcile and argue which of these two statements (extreme views) regarding recognition of a State given by Lauterpacht (obligatory) and by Podesta Costa (Facultative) is more appropriate, with the help of instances in regard to *de facto* and *de jure* recognition. 25
7. (a) The concepts of ‘necessity’ and ‘proportionality’ are at the heart of self-defence in International Law. Explain, in the light of UN Charter and recent trend of extending these to ‘pre-emptive’ or ‘anticipatory’ self-defence due to ‘the imminence of attacks and advancement in armaments’. 25
- (b) A group of three men (L, M and N) citizens of country A, posing as officers of premier investigating agency of A, rob a huge jewellery shop and then flee away to country B, where they are granted asylum. Government of A, requests B to extradite L, M and N in terms of extradition treaty between them. B declines. A sends spies to B who abduct L, M and N and who produce them before the Court in A. ‘B’ approaches ICJ against use of force by ‘A’. Prepare (i) A brief of arguments for A, (ii) A brief of arguments for B, (iii) Opinion of the Court. 25
8. (a) Chapter VI of UN Charter is devoted to peaceful settlement of International Disputes. Discuss the methods mentioned and explain the role of Security Council and General Assembly in this regard, and the role such settlement plays in obviating the need to resort to Chapter VII measures. 25
- (b) A member of European Union has witnessed widespread disturbances, consequent upon a military coup, including censorship on all forms of media and communication, targeting civilians sympathetic with the ousted leader by assaulting and killing, severe rationing and 25

control on essential commodities such as fuel and food resulting into galloping inflation. In the light of these grave violations of human rights, examine the role of: (i) Security Council (ii) European Court of Human Rights.