

CBSE Question Paper 2018

Class 12 Legal Studies

Time allowed : 3 hours

Maximum Marks : 100

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

1. The first legal officer of the country is

- a. Advocate General
- b. Solicitor General
- c. Law Minister
- d. Attorney General

Ans. d) Attorney General

2. Amit, a minor, takes a room on rent from Shyamlal and agrees to pay ₹ 10,000 as advance. He paid only ₹ 6,000 in cash and promised to pay the balance later. After occupying the premises for a week, he vacated it and asked for a refund of the advance.

Which of the following situations is applicable in this situation?

- a. Amit is liable to pay ₹ 10,000.

- b. Amit is liable to pay the remaining ₹ 4,000.
- c. Shyamlal is liable to refund ₹ 6,000.
- d. Neither is Shyamlal liable to refund ₹ 6,000 nor is Amit under obligation to pay ₹ 4,000

Ans. c) Shyamlal is liable to refund Rs. 6000

OR

d) Neither is Shyamlal liable to refund Rs. 6000 nor is Amit under obligation to pay Rs. 4000

3. **In which of the following situations do two parties out of their own free will appoint a neutral third party to resolve their disputes?**
- a. Lok Adalat
 - b. Family Court
 - c. Conciliation
 - d. Arbitration

Ans. c) Conciliation Or d) Arbitration

4. **Sanjeev allows the growth of poisonous weed on his plot of land. He was not negligent nor was he aware of the fact that the weed is poisonous. The weed spreads and grows onto the property owned by Gurmeet. Gurmeet's cattle die after consuming the poisonous weed. Which of the following is applicable in the given scenario?**
- a. Sanjeev is not liable to Gurmeet as the latter should have taken due care of his livestock.
 - b. Sanjeev is liable because allowing poisonous plants to grow and spread amounts to trespass to land.
 - c. Sanjeev is strictly liable to Gurmeet even though he may not be negligent.
 - d. Sanjeev is liable as it amounts to trespass to chattels.

Ans. c) Sanjeev is strictly liable to Gurmeet even though he may not be negligent.

5. **Phulmaniya travels from Ranchi to Kolkata to work as a domestic help. On landing in Kolkata, she was subjected to forced surrogacy. Which Fundamental Right of Phulmaniya has been violated?**

- a. **Right to Equality**
- b. **Right against Exploitation**
- c. **Right to Life and Personal Liberty**
- d. **Right to Freedom**

Ans. b) Right against exploitation

6. The minorities whose interests are protected by the National Commission for Minorities are

- a. Cultural groups
- b. Linguistic groups
- c. Other Backward Classes
- d. Religious minorities

Ans. d) Religious minorities

7. Arun is a law graduate who hopes to work as a law clerk-cum-research assistant. Which of the following will make him eligible?

- a. L.L.M. (Master of Laws)
- b. All India Judicial Services Examination
- c. CLE (Continuing Legal Education)
- d. All India Bar Examination

Ans. a) LL.M. (Master of Laws)

OR

b) All India Judicial Services Examination

OR

d) All India Bar Examination

8. There were three processes whereby the developing civilization progressively moved towards social engineering through free legal aid. Point the odd one out :

- a. To grant aid to vulnerable communities
- b. To encourage pleaders to provide free legal aid
- c. To put restrictions upon the exercise of privileges accorded by law to those well-off
- d. To strip those fortunate of their privileges and place the strong and weak on an equal footing before the law

Ans. b) to encourage pleaders to provide free legal aid

9. Why is it essential that the judicial branch of government be kept separate from the executive and legislative branches?

Ans. Judicial branch of government should be kept separate from the executive and legislative branches due to the following reasons:-

- It helps in maintaining rule of law, a free and fair society.
- It is a guardian of our fundamental rights.
- If Judiciary is not kept separate from the other branches, it may result in arbitrariness/ high handedness of executive.
- It grants a fair trial to the accused.
- It acts as a watch dog in society.
- It ensures a good governance.

10. How is the judicial system of the United Kingdom different from that of Germany?

Ans.

- A. In U.K., 'common law system' is followed. Under this scheme of the common law system, the decisions, orders and judgments developed by the judges help in the creation and development of laws and legal principles, which becomes binding precedents for all subordinate courts in the hierarchy. Therefore, courts play a vital role in creating laws.
 - B. UK follows adversarial mode of dispute resolution, where the judge is neutral, based on the merits of the case as presented by the lawyers, he gives the decision.
 - C. In Germany, concept of civil law system is followed. Only the legislature or executive has the power to create laws and rules.
 - D. It follows the inquisitorial mode of dispute resolution, where the judge takes the role of police and investigates the case too.
- 11. A milkman shows his delivery boy how to make profit by adulterating milk. He shows him the techniques of adulteration so that customers may never suspect anything wrong with the taste or texture. Identify and explain the basis on which the milkman can be punished on account of this conversation.**

Ans. The milkman has confessed his fraud to the delivery boy. Hence we can call it extra

judicial confession.

An extra-judicial confession has been defined to mean "a free and voluntary confession of guilt by a person accused of a crime in the course of conversation with persons other than judge or magistrate seized of the charge against himself".

Extra-judicial confession can be accepted and can be the basis of a conviction only if it passes the tests of credibility as laid down in the procedural laws.

12. **Praveen was arrested on the suspicion of having murdered his friend. He was produced before the Magistrate within twenty-four hours of his arrest. No concrete evidence could be presented by the police against Praveen. After being brought back from the court he was taken to custody to make him confess his crime. Is the police justified in its action ? Which provision of Article 22 of the Constitution of India is being violated by the police?**

Ans. The police is not justified in its action.

No person can be detained in custody beyond 24 hours without the authority of a magistrate.

Or

Article 20(3) Right against self incrimination

13. **“Neither is it possible nor is it proper to isolate the right to legal aid from the range of human rights.” Comment.**

Ans.

- The access to justice itself is one of the most basic human rights, and without it, the realization of many other human rights may become difficult.
- Indeed, the right to access to justice or Legal Aid is evolved by judicial creativity for the benevolence of poor persons.
- The right to legal aid enables accomplishment of these human rights and makes them worthwhile for the poor masses in the world.
- In the present legal system of most of the countries justice is not given but sold. The consumers of justice have to pay remuneration of the counsel.
- Indeed, the poverty is an obstacle in the way of getting justice and due to this reason the poor becomes sufferer of social injustice.
- Legal aid is only a way for providing social justice to all. Legal aid indeed, is an integral part of human rights and it requires urgent considerations.

14. **Enumerate the components of the pre-litigation legal services.**

Ans. Pre litigation legal services-

- Legal education
- Legal advice
- Legal awareness
- Pre litigation legal settlement

15. State the characteristics of Public Interest Litigation.

Ans. Characteristics of PIL-

- Tools for social change, non adversarial litigation, pits interest of one party over another
- It expands the right of third parties to approach the court
- Remedial nature, creates a dynamic, welfare oriented society
- incorporates directive principles of state policy, which
- cannot be enforced in courts
- they are creating new rights
- strengthening democracy
- strengthens the role of judiciary as a monitor and watch dog, fear of being dragged to the courts improves the quality of social institutions

16. Discuss the main problems confronting law courts that have resulted in the rise of Alternate Dispute Resolution (ADR) mechanisms

Ans.The main problems confronting law courts that have resulted in the rise of ADR mechanism are:

1. Lack of number of courts and judges, inadequacy within the justice delivery system;
2. Increasing litigation in India due to increasing population, complex laws, obsolete continuation of some pre-existing legal statutes;
3. Increasing cost of litigation in prosecuting or defending a case, increasing court fees, lawyer's fees and incidental expenses;
4. Delay in disposal of cases resulting in huge pendency in all the courts.

17. What is Conciliation? In what ways does the role of a conciliator go beyond that of a mediator?

Ans. Conciliation- Parties out of their own free will appoint a neutral third party to resolve their disputes. The role of a conciliator goes beyond that of a mediator. A conciliator may be interventionist in the sense that he/she may suggest potential solutions to the parties, in-order to resolve their claims and disputes.

18. **Examine the scope for qualified lawyers from outside England and Wales to practise in the UK.**

Ans. For qualified lawyers coming from outside England and Wales to practice.

1. The Solicitors Regulation Authority does not impose any formal experience requirements in order to re-qualify as solicitors in England and Wales.
2. Some law firms may express their own requirements which can differ from the SRA guidelines.
3. Candidates can take the Qualified Lawyers Transfer Scheme in order to qualify under this jurisdiction.
4. Lawyers coming from EU Member States can rely on EU Directive 77/249 in this area. European lawyers can practice to the same level as they did in the own country.

19. **“ ‘Ambulance chasing’ is commonplace in the USA but is not representative of professional practice in India.” Justify the statement and explain the norms of advertising by advocates in India.**

Ans. 'Ambulance chasers' are personal injury lawyers in USA who are robust in their advertising- on billboards, newspapers, flyers, and even distasteful ads on the television. The position in the USA is different from that in India, where lawyers have a right to advertise but subject to reasonable restrictions. (Any 1 point on USA)

Norms - In India advertising by lawyers has been strictly restricted by the Bar Council of India. 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 published in connection with cases in which he has been engaged or concerned.

Only 5 pieces of information can be put up on the internet, that is first, the name of the advocate or the firm, second, the contact details, third details of enrolment with the Bar, fourth, his professional and academic qualification and fifth the areas of practice.

20. **State the composition and any four functions of the State Legal Services Authority (SLSA).**

Ans. Composition –

The SLSA consists of - the Chief Justice of High Court as the Patron-in-Chief, a Judge of the High Court nominated by the Governor as Executive Chairman, and other members nominated by the State Government in consultation with the Chief Justice of High Court.

Functions –

- a. Give legal service to persons who satisfy the criteria laid down under this Act.
- b. Conduct Lok Adalats, including Lok Adalats for High Court cases
- c. Undertake preventive and strategic legal aid programmes
- d. Perform such other functions as the State Authority may in consultation with the Central Authority, fix by regulations.

21. a. **Deepak purchased woollen innerwear of a renowned company. As soon as he wore it, rashes developed all over the body and he was diagnosed of having 'acute dermatitis'. He had to undergo medication and a huge amount was spent on his treatment. Deepak wants to sue the company for compensation. In order to successfully argue that the company was careless in a way that harmed Deepak, what are the elements that must be proved against the company?**
- b. **In the situation given above, the court orders for laboratory testing of the innerwear to find out the reason for Deepak's ailment. The laboratory report stated that:**
- i. **The innerwear had traces of white petrol and naphtha but in a permissible limit required to protect the garments from being infested by moths.**
 - ii. **A normal person will not have any problem using it.**
 - iii. **It was concluded that Deepak's skin was very sensitive.**
- Will the company be liable to pay any compensation in this situation when it is proved that it was not careless? Give reason for your answer.**

Ans:

- a. Deepak needs to prove the following elements against the company in order to hold them liable:
 - Duty of Care – Duty of care is owed to those whom one can reasonably foresee as being potentially harmed.
 - Breach of duty of care- The defendant was unsuccessful in fulfilling the duty of care in accordance with the standard of 'reasonableness'.
 - Harm to the Claimant - As Deepak suffered from dermatitis, the company is liable
- b. The company is not liable.

The company did not design garments for those with extra sensitive skin as it is not reasonably foreseeable.

22. **Maurya, a tribal youth, is tortured and beaten for participating in an Athletics**

competition in the district. He alleges that although police personnel were present at the venue, they offered no protection against the perpetrators. Name the autonomous body which can initiate action against the police. Explain its powers and functions.

Ans. The autonomous body which can initiate action against the police is NHRC Or NCST Or NCSCST Powers- (same for both) – They have the powers of a Civil Court:

FUNCTIONS OF NCST

- summon and enforcing the attendance of any person from any part of India and examining him on oath;
- require the discovery and production of any document;
- receive evidence on affidavits;
- request any public record or copy from any court or office; and
- issue commissions for the examination of witnesses and documents.
- to evaluate the working of the safeguards;
- to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes;
- to participate and advise on the planning process of socioeconomic development of the Scheduled Castes and Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
- to present to the President, annually and periodically, reports on the working of the safeguards and recommendations for the effective implementation of the safeguards and protection, as well as welfare, and socioeconomic development of the Scheduled Castes and Scheduled Tribes.

OR

FUNCTIONS OF NHRC

Inquiry and Investigation –

- to conduct inquiry and investigation into the alleged violation of human rights or abetment (aiding or supporting) or negligence in the prevention of such violation by a public servant.
- The complaint can be filed by the victim or his or her representative, or the court

may direct the Commission with a complaint, and at times the Commission may initiate inquiry and investigation on its own (sou motu).

- 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. The recommendation may include payment of compensation to the victims or suggest initiation of proceedings for prosecution of the public servant.
- The Commission can also approach the Supreme Court or the High Court for directions and orders. The Commission may also ask the State authority to provide immediate interim relief to the victim.

Intervening in court proceedings –

- The Commission may with the permission of the court intervene in court proceedings concerning human rights violations. For example, the Commission can request the Supreme Court to transfer pending riot cases out of a state in which the riots had happened to ensure the witnesses are not threatened in any manner and that evidences are not damaged.

Inspection of jails, etc.– The Commission may also visit any jail or other governmental institutions, where prisoners are lodged or detained, to study the living conditions of the inmates and make recommendations to the government.

Awareness and Sensitization –

- review various human rights laws either in the Constitution or other statutes and recommend measures to the government for their effective implementation.
- evaluate various factors, including acts of terrorism, which prevent the enjoyment of human rights and recommend appropriate remedial measures to the government.
- studying various international human rights laws and make recommendations for their effective implementation at the domestic level
- undertake and promote research in the field of human rights as well as spread human rights literacy among various sections of society
- promote awareness of the safeguards available for the protection of these rights

through publications, media, seminars, and other available means.

- encourage and support the efforts of non governmental organizations and institutions involved with human rights work

23. a. **State the provisions of the most authoritative source of International Law.**
b. **Explain 'custom' as a source of International Law.**

Ans: a. The most authoritative source of international law is Article 38(1) of the Statute of the International Court of Justice –

It provides that when a court which deals with disputes relating to international law, it shall apply:

- a. "International conventions,
- b. International custom, as evidence of general practice accepted by law -
- c. The general principles of law recognized by civilized nations -
- d. Judicial decisions and teachings of the most highly qualified publicists

b. ICJ has to apply 'international custom.' This source of public international law is described as 'evidence of a general practice accepted as law.' International customary law is probably the most disputed and discussed source of international law. For example, it is not clear when a particular State practice becomes a legally binding State practice. An observed custom could be derived from the law of nature or mutual consent

- i. It is extremely fluid.
 - ii. Custom is usually derived by sifting through many layers and evidences of state practice and opinion juris.
 - iii. Other sources such as unsigned treaties and United Nations declarations have been included to identify and cover more and more customs and practices in the international domain.
24. **In the context of International Dispute Resolution mechanism, answer the following questions:**

Ans.

- a. When and why was the International Criminal Court (ICC) set up?
- b. What is the Jurisdiction of the ICC?
- c. When can the ICC take up a case?
- d. The International Criminal Court (ICC) is a tribunal set up through the Rome Statute in

2002 with the purpose of prosecuting criminals for 4 major crimes:

Crimes against Humanity

Genocide,

War Crimes

Crime of Aggression

- e. The ICC may prosecute criminals for crimes committed in a country which accepts the jurisdiction of the court. Thus, only if countries agree to submit to the jurisdiction can the ICC take up certain cases in which the person who has committed the crime is a national of the country or if it was committed in the territory of that country
- f. Only if countries agree to submit to the jurisdiction can the ICC take up certain cases in which the person who has committed the crime is a national of the country or if it was committed in the territory of that country. The cases may be referred by the country directly to the ICJ or through the Prosecutor of the ICC, who is the person appointed to try cases on behalf of the ICC. Note: Some points of content in b) and c) part of the question are the same. Students should get the credit for the same

25. **Priyansh, an advocate practising in the Calcutta High Court, aspires to become the Chief Justice of the High Court some day. Identify the specific steps in the elevation to the said post in the collegium model.**

Ans. The specific steps to be taken in the elevation of Priyansh, an advocate of High Court to the post of Chief Justice of High Court in the collegium model are:

- i. For High Courts, the collegium comprises of the Chief the High Court.
- ii. The Chief Justice conveys his recommendations to the Chief Minister of the State and the Governor of the State,
- iii. They in turn send their views directly to the Union Minister of Law and Justice.
- iv. The complete material is then forwarded to the Chief Justice of India, who in consultation with a collegium of two Judges of the Supreme Court, sends his recommendations to the Union Minister of Law and Justice.
- v. The Union Minister of Law and Justice then puts up the same to the Prime Minister who will advise the President in the matter of appointment of a HC judge.
- vi. The seniority of a Judge plays a vital role in his/her elevation or appointment as Chief Justice.

26. **Explain the types of administrative actions.**

Ans. Administrative action can be of four types:

1. Administrative Legislative Action
 - i. Wherein the administration puts on the hat of the legislature
 - ii. it is not possible for any legislature in the world to legislate so that their laws are able to cover the possibility of all kinds of conflicts
 - iii. Administrative legislative action includes rule-making action as well as delegated legislation.
 - iv. many decisions can be taken only by the grass root authorities
 2. Administrative Adjudicatory/ quasi judicial Action
 - i. administration performs functions which can be put under the judicial domain
 - ii. there is some adjudication on legal rights of the individuals involved in the matter.
 3. Simply Administrative Action
 1. Of all the actions undertaken by administrative authorities, other than the two types of actions mentioned before, the rest are called 'Administrative Actions
 2. they essentially deal with execution of crucial administrative decisions.
 4. Purely Administrative Action/ Ministerial Action
 1. Those actions which are copybook action and no discretion is vested with the authority (that is there is only one way of performing that action), such action will be called purely administrative action or ministerial action.
 2. For example, the statute which created a University mandates that the University open a bank account with a given Bank Y. This is a purely administrative action or a ministerial action as there is no scope of any discretion in its performance
27. **Deep Mohanty and Raghav Nair are neighbours in an apartment complex. Large flowering pots kept on the balcony of Deep's flat have caused seepage and weakened the ceiling above Raghav's balcony. The latter demands that Deep remove the plants and a dispute ensues. Identify and explain the alternative dispute resolution mechanism that is best suited in the given situation. Also explain its process.**

Ans. Mediation – ProcessThe neutral third party facilitating the process of mediation is known as a mediator. Mediation does not follow a uniform set of rules, though mediators typically set forth rules that the mediation will observe at the outset of the process. There is no uniform set of rules for mediators to become licensed, and rules vary by state regarding requirements for mediator certification.

Broadly speaking, mediation may be triggered in three ways:

1. Parties may agree to resolve their claims through a preagreed mediation agreement

without initiating formal judicial proceedings (pre-litigation mediation).

2. Parties may agree to mediate, at the beginning of formal court proceedings (popularly known as court referrals).
3. Mediation may be taken recourse of, after formal court proceedings have started, or even post trial, i.e. at the appellate stage.

28. What are 'Fundamental Duties' ? State their salient features. How are Fundamental Duties different from Fundamental Rights?

Ans. Article 51A of the Constitution prescribes fundamental duties.

In that, certain conduct and behavior are expected of the citizens.

The salient features of fundamental duties are given below:

- The fundamental duties cannot be enforced in a court of law for violation of the duties, and no one can be punished for the violation.
- Fundamental duties contain standards to be followed by the citizens.
- They remind citizens not to behave irresponsibly but help in building a free, democratic and strong society.

Difference –

Fundamental rights are enforceable in the higher courts of law. One can claim one's rights if they are violated, whereas fundamental duties are laid down for the citizens to follow, but for the violation, no one is punished and they are not enforceable in courts.

29. Describe the professional duties of an advocate in India.

Ans. An Advocate has a duty to:

- > act in a dignified manner
- > to respect the court
- > not to communicate with a judge in private and impair impartiality
- > not to act in an illegal manner towards the opposition
- > to refuse to represent clients who insist on adopting unfair means
- > expected to uphold and maintain the values of the profession.
- > bound to accept briefs
- > not to withdraw from service
- > not to appear in matters where he/she is a witness
- > not to suppress material or evidence
- > maintain client confidentiality

- > not to instigate litigation or to charge contingency fee (fee depending on success or favourable result of matters)
- > ensure that his/her duties do not conflict with the client's interests.
- > not to negotiate directly with the opposing party (only through the opposing advocate)
- > to carry out legitimate promises made.

30. Explain the importance of the following provisions to create equal opportunity and ensure access to justice for all :

- a. Article 39-A of the Indian Constitution
- b. Section 304(1) of the Criminal Procedure Code, 1973
- c. NALSA Regulations, 2010

Ans.

- a. The 1976 amendment of the Constitution inserted Article 39-A in the Constitution. It provided that the state should provide free legal aid, by suitable legislation or schemes, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. It brought in equality to promote access to justice for all by creating equal opportunity.
- b. Section 304(1) provides that: In a trial before the sessions judge, if the accused has not sufficient means to engage a pleader, the court should assign a pleader for his defense at the expense of the State. Thus it gives a chance to the poor too to defend themselves and have a fair trial.
- c. NALSA Regulations- ensure that legal aid is granted to the poor. The Regulations are applicable to the Legal Service Committees of the Supreme Court, High Courts, the States, districts and taluks. Selection of panel lawyers- Applications are invited from legal practitioners with requisite professional experience to indicate the types of cases as they may be entrusted with. A panel is formed. The panel lawyer is barred from taking any fee, remuneration or other valuable consideration from any person for whom legal services are rendered Payment of Fee The Regulations specify the rules regarding the payment of fees for panel lawyers which shall be in accordance with the State regulations without any delay on receipt of completion of proceedings for them. Senior Advocates- services of senior advocates may be availed if the Chairman of the legal services institution forms an opinion in cases of great public importance and where serious threats to life and liberty of the applicant exists.