

**SAMPLE QUESTION PAPER 2020-2021**  
**LEGAL STUDIES (074)**  
**MARKING SCHEME**

S.No.	VALUE POINT	MARKS ALLOTTED
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**PART A- OBJECTIVE TYPE QUESTIONS**

1.	<p>Anand enters into a contract with Raman to supply 5 bags of cement for Rs. 2000/-. He delivers 5 bags of cement on the decided date, and receives Rs. 2000/- from Raman as consideration, leading to discharge of the contract.</p> <p>What was the mode of discharge of contract in the above situation?</p> <ul style="list-style-type: none"><li>a. Discharge by Breach of Contract</li><li>b. Discharge by Performance</li><li>c. Discharge by Operation of law</li><li>d. Discharge by Lapse of time.</li></ul> <p><b>Ans. b</b></p>	1
2.	<p>Raghav was appointed as an advocate in the year 2020 under The Delhi Legal Services Authorities as a panelist for matrimonial cases . In which year will he have to reapply for being a panelist in the reconstituted panel?</p> <ul style="list-style-type: none"><li>a. 2021</li><li>b. 2023</li><li>c. 2025</li><li>d. 2026</li></ul> <p><b>Ans: b</b></p>	

3.	<p>Powers of the Lok Adalat are similar to that of -</p> <ol style="list-style-type: none"> <li>Civil court under civil procedure code</li> <li>Criminal court under criminal procedure code</li> <li>High Court</li> <li>Supreme Court</li> </ol> <p><b>Ans: a</b></p> <p>OR</p> <p>The panel lawyer selected under The legal Services Authorities Act can take fees from-</p> <ol style="list-style-type: none"> <li>The client</li> <li>He does not get any remuneration</li> <li>From the consolidated fund</li> <li>Barred from taking any fees from the client</li> </ol> <p><b>Ans: d</b></p>	1
4.	<p>Bipin approached Permanent Lok Adalat for resolution of his dispute with Electricity Board on the issue of inflated electricity bill. Permanent Lok Adalat are set up under -</p> <ol style="list-style-type: none"> <li>Legal Services Authorities (Amendment) Act 2002</li> <li>Legal Services Authorities Act 1987</li> <li>Article 39A of Constitution of India</li> <li>Article 14 of Constitution of India</li> </ol> <p><b>Ans: a</b></p>	1
5.	<p>Read the given situations and decide which of the following is eligible to receive free legal aid .</p> <ol style="list-style-type: none"> <li>Raghu in a property dispute with his brother</li> <li>Pankaj working as accounts officer in Government sector undertaking having service related issues</li> <li>Mr. Seth a senior citizen fighting for his pension</li> <li>Mrs. Verma, branch manager of a bank accused of money laundering</li> </ol>	1

	<b>Ans. d</b>	
6.	<p>Ragini gives a gold necklace to her sister Priya. Priya accepts the necklace but does not pay anything in return for the necklace. The relationship between Ragini and Priya is of –</p> <p>a. Lessor and Lessee</p> <p>b. Buyer and Seller</p> <p>c. Donor and Donee</p> <p>d. Lessor and Sub Lessee</p> <p><b>Ans. c</b></p> <p style="text-align: center;">OR</p> <p>Kavita gave possession of her farmhouse to Rajeev for some period of time for money. What type of relationship exists between Kavita &amp; Rajeev?</p> <p>a. Donor &amp; Donee</p> <p>b. Seller &amp; Buyer</p> <p>c. Lessor &amp; Lessee</p> <p>d. Lessor and Sub- Lessee</p> <p><b>Ans. c</b></p>	1
7.	<p>Which of the following is NOT a development of Advocates' Act 1961?</p> <p>a. All old categories of practitioners were abolished and consolidated into a single category called</p>	1

	<p>'advocates'.</p> <p>b. Established Bar Council of India.</p> <p>c. Created state bar Council in each state.</p> <p>d. Scrapped off the provisions of Indian Bar Council Act of 1926.</p> <p><b>Ans. d</b></p> <p style="text-align: center;">OR</p> <p>An advocate sought permission for advertising from</p> <p>a. State Bar Council where he is registered</p> <p>b. Bar Council of India</p> <p>c. Bar Association of the court he practices</p> <p>d. High court of the state where he practices</p> <p><b>Ans. b</b></p>	
8.	<p>Rashi wants to pursue a 5 year integrated BA LLB programme from National Law School University Delhi. Which entrance exam will she have to take?</p> <p>a. MAT</p> <p>b. CLAT</p> <p>c. LSAT</p> <p>d. AILET</p> <p><b>Ans. d</b></p>	1
9.	<p>Who regulates the legal education in India</p> <p>a. Legal Education committee</p> <p>b. State Bar council</p> <p>c. Bar Council of India</p> <p>d. Recognised universities of India</p> <p><b>Ans. c</b></p>	1

	OR	
	<p>The Advocates-on-record practice in</p> <ol style="list-style-type: none"> <li>High Court</li> <li>Supreme Court</li> <li>Both High Courts and supreme Court</li> <li>Any Court in India</li> </ol> <p><b>Ans. b</b></p>	
10.	<p>A acquires a pistol to kill his arch business rival B. A keeps the pistol loaded in his pocket but does nothing more than that to kill B.</p> <ol style="list-style-type: none"> <li>A is guilty of a criminal act as he kept the gun loaded in pocket.</li> <li>A is guilty of a criminal act as he acquired the pistol.</li> <li>A is not guilty as he has made no attempt to kill B.</li> <li>A is guilty because he had the intention to kill B.</li> </ol> <p><b>Ans. c</b></p>	
11.	<p>One morning Sandeep and his friends, Varan and Blair, were hanging out at the McLaren's coffee shop . Blair pointed out a very beautiful girl to Sandeep. The girl was sitting alone at the bar. Sandeep, with the intention of befriending her, went up to her to introduce himself. Before he could say anything, the girl threw her hot drink in his face as she was suffering from heartbreak and did not want to talk to him. Sandeep decides to sue the girl for battery.</p> <ol style="list-style-type: none"> <li>The girl cannot be blamed as she was suffering from heartbreak. Sandeep got what he deserved.</li> <li>The girl realised that Sandeep was flirting with her and her behaviour can be justified on the grounds of self defence.</li> <li>The girl had a justification to throw the drink in his face. The use of force was completely lawful and hence battery has not been committed.</li> <li>The girl has committed battery as she used unlawful force to ward off Sandeep. Moreover, her act was intentional.</li> </ol>	

	<p><b>Ans d</b></p> <p style="text-align: center;">OR</p> <p>A was sitting on a chair reading a book. His friend, B decided to play a practical joke on him. Accordingly, he pulled the chair from under him. As a result of which, A landed on the floor.</p> <p>(a) B's act amounts to a battery  (b) B's act amounts to an assault  (c) B's act amounts to an assault till the time A lands on the floor  (d) B's act amounts to neither battery nor assault because there was no intention</p> <p><b>Ans a</b></p>	
12.	<p>Brij was caught red handed while travelling without a ticket in a train by the Travelling Ticket officer.</p> <p>a. Brij has to pay a fine as the TT officer is compounding the offence.  b. Brij has to be imprisoned as this is a non-compoundable offence.  c. Brij can't pay a fine at all but has to be imprisoned by the officer.  d. The Travelling Ticket officer can allow Brij to travel without a ticket.</p> <p><b>Ans. a</b></p>	
13.	<p>The defendant's, who are employees of the Municipal Corporation, opened a manhole in the street. In the evening they left the manhole open and unattended, just covered it by a canvass shelter and surrounded it by warning lamps. The plaintiff, an eight year old boy, took one of the lamps into the shelter and was playing with it there, when he stumbled over it and fell into the manhole. A violent explosion followed and the plaintiff suffered burn injuries. The defendants are</p> <p>(a) Not liable because the injury to plaintiff is not foreseeable  (b) Liable because they should have completed the work before they left  (c) Not liable because they acted reasonably  (d) Liable because they acted unreasonably</p>	

	<b>Ans d</b>	
14.	<p>This form of discharge of Contract takes place when one of the parties fails or refuses to perform their part of the promise. In this event, the party that suffers due to the other party's non performance of promise becomes entitled to monetary compensation.</p> <p>What is the name given to the monetary compensation for the loss suffered by the injured party in this form of discharge?</p> <ol style="list-style-type: none"> <li>Remuneration</li> <li>Damages</li> <li>Discharges</li> <li>Consideration</li> </ol> <p><b>Ans: b. Damages</b></p>	
15.	<p>Divya purchased a bottle of orange juice from a retailer. As she consumed more than 3/4 of the contents of the bottle, she found decomposed remains of a snail in the bottle. After seeing the remains of a snail, she fell sick on the thought of what she consumed.</p> <p>Can Divya sue the manufacturer?</p> <ol style="list-style-type: none"> <li>Divya cannot sue the manufacturer in the absence of a contract</li> <li>Divya can sue the manufacturer as he had duty to take care to see that bottles did not contain any other substance than the juice and hence liable to have broken that duty</li> <li>There is no remedy available to Divya.</li> <li>None of the above</li> </ol> <p><b>Ans b</b></p>	
16.	Prabhav graduated in 5 year BA LLB. programme from NLU , Delhi. He applied for registering as an	

	<p>Advocate to the Bar Council Of India, Delhi Office. His application was not considered. What can be the probable reason for the same?</p> <p>a. 5 year law programme is not recognized in Delhi.  b. Application for enrolment is to be made to State Bar Council.  c. Both a and b  d. None of the above</p> <p><b>Ans b</b></p>	
17.	<p>Ayan in an online transaction did a purchase of Rs. 500/-. Within an hour of the transaction, he received a message of a transaction of Rs.one lakh done on his card. Ayan realized that someone had fraudulently used his card for online shopping. He immediately reported the matter to the bank manager. The manager expressed his inability to resolve the matter due to lock down leading to poor service.</p> <p>a. Identify the best remedy available to Ayan:</p> <p>I. File a civil case  II. File a complaint with Ombudsman  III. File a complaint with Lokpal  IV. There is no remedy</p> <p><b>Ans. II</b></p> <p>b. The typical duties of the above are:</p> <p>I. To resolve disputes by sending them to LokAdalat</p>	4

II. To resolve disputes through Arbitration

III. To resolve disputes through Mediation

IV. To protect the interest of the institution against people's complaints

**Ans. III**

c. Under the Lokpal and Lokayukta Act, 2013, the powers of the Lokpal can be related to which of the following personnel?

I. Lokpal has the inquiry and investigative powers of the Central Vigilance Commission.

II. Lokpal has powers equivalent to that of the President of India.

III. Lokpal is not a strong institution and has no powers.

IV. Lokpal can only recommend to the government of India to initiate enquiry like a civil body.

**Ans. I**

d. Match Part A with Part B with the most suitable option:

Part A:

I. Ombudsman

II. Lokpal

III. Lokayukta

IV. The Lokpal and Lokayukta Act

Part B:

	<p>A. Ombudsman in India</p> <p>B. Legislation to combat acts of bribery and corruption</p> <p>C. Ombudsman in Indian States</p> <p>D. Chief Vigilance Officer in the banking sector</p> <p>Options:</p> <ol style="list-style-type: none"> <li>1. I.-A; II-B; III-C; IV-D</li> <li>2. I.-B; II-D; III-C; IV-A</li> <li>3. I.-D; II-A; III-C; IV-B</li> <li>4. I.-A; II-D; III-B; IV-C</li> </ol> <p><b>Ans. 3</b></p>	
18.	<p>Article 19 also provides “reasonable restrictions”; on these freedoms, which means that these rights are conditional.”</p> <p>1. Identify the right guaranteed under Article 19.</p> <ol style="list-style-type: none"> <li>a. Right to freedom</li> <li>b. Right to life</li> <li>c. Right to education</li> <li>D. Right against exploitation</li> </ol> <p><b>Ans. a</b></p>	

2. The State wanted to prohibit Ajit from making a speech because Ajit wanted to mobilize people to commit riots.

- a. The state can prohibit someone from making inciting speeches that may provoke others to commit violence
- b. The state cannot restrict anyone from making speeches
- c. The state is sovereign and thus can restrict anyone from making any speeches
- d. The state cannot restrict Ajit because he is an influential person.

**Ans. a**

3. Smita was an author who published a book on the independence struggle of our country. A few people were not happy with the content of the book and thus the state restricted the sale of this book.

- a. The state has absolute authority to restrict the sale of this book
- b. The state can restrict the sale of book on the ground of defamation
- c. The state cannot restrict the sale of a book because of a few unruly protestors
- d. The state cannot restrict the sale of a book because freedom of speech and expression is absolute

**Ans. c**

4. Match the following freedoms with appropriate restrictions:

- 1. Freedom to practise any profession
- 2. Freedom to move freely throughout the territory of India
- 3. Freedom to assemble peacefully and without arms
- 4. Freedom of speech and expression

- A. Protection of interest of scheduled tribes
- B. State prescribed professional or technical qualification
- C. public order
- D. Defamation

- a. 1-B,2-A,3-C,4-D
- b. 1-A, 2-B,3-C,4-D

- c. 1-D, 2-C, 3-B, 4-A
- d. 1-D, 2-B, 3-A, 4-C

**Ans. a**

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”

A. Identify the article:

- a. Article 21
- b. Article 12
- c. Article 14
- d. Article 15

**Ans. a**

B. Right to life includes:

- a. Right to dignity
- b. Right to freedom of religion
- c. Right to vote
- d. Right to stand in elections

**Ans. a**

C. A person can be deprived of his right to life and personal liberty :

- a. By the state in an absolute manner
- b. By the Courts without any reason
- c. only by procedure established by law
- d. This right cannot be taken away

**Ans. c**

D. Which of the following is not true with respect to death

	<p>penalty:</p> <p>a. death penalty is awarded only in rarest of rarest cases, and</p> <p>b. there should not be delay in executing the prisoner waiting in death row.</p> <p>c. Indian Penal Code allows for appeal where the wait period is longer than five years.</p> <p>d. Death penalty is not allowed in India</p> <p><b>Ans. d</b></p>	
19	<p>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> <p>a. Which two sister institutions are being discussed in the above excerpt?  <b>Ans: The World Bank, instituted as the International Bank for Reconstruction and Development (IBRD-the World Bank) and the IMF (International Monetary Fund) are being discussed in the above excerpt</b></p> <p>b. Evaluate their role in today's time.  <b>Ans: In the present times, they aid member states by providing loans to them for the purpose of development and raise funds by way of the world's financial markets.</b></p>	1+1=2
20	<p>Explain any 2 opportunities for the law graduates in India.</p> <p><b>Ans: i. Litigation: Graduates may practice as an advocate in a court of law. This can be achieved by working under experienced advocates or being attached to litigation departments of law firms or companies in order to practice in the Courts of India</b></p> <p><b>ii. 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 (such as Intellectual Property Rights and Tax law), to mid- sized law firms as well as large law firms which are full service law firms with different</b></p>	1X2=2

practice groups such as general corporate, mergers and acquisitions, employment law, taxation, international trade, insurance, intellectual property, and project finance and infrastructure.

**iii. Corporate Sector:** Large corporations often have an in-house legal practice. An inhouse 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 and when required will bring in external lawyers.

**iv. Public Policy:** Lawyers have an important role in formulating and advising on public policy. Several organizations employ law graduates for policy making and have institutionalized fellowships where law graduates can be Research Assistants.

**v. Legal Research and Academia:** Graduates may attach themselves with Research Centres and think tanks. Law graduates may take up teaching and research as a profession.

**vi. Non-Governmental Organizations:** Not-for-profit organizations, especially organizations with a social justice orientation have positions for law graduates. These range from small grass-root level organizations to large well-funded organizations.

**vii. Judicial Services/clerkships:** The court system provides several avenues to law graduates. The higher judiciary, that is judges of the High Courts and Supreme Courts have law clerks cum research assistants who assists a judge in researching for cases, maintaining paperwork etc.

(Any two )

OR

What is the importance of PIL filed by AK Balaji in Madras High Court regarding legal profession in India.

**Ans: The PIL filed by AK Balaji was pertinent to the issue of liberalisation of legal profession. The Madras High Court, in response to a PIL filed by A.K. Balaji, permitted foreign lawyers to practice**

	<b>in India on a "fly in and fly /out" basis.</b>	2									
21	<p>“ Prevention is better than cure.” Substantiate on the given statement with reference to pre litigation legal services.</p> <p><b>Ans: Pre- litigation legal services are more useful than post litigation legal services as it reduces the burden on judiciary.</b>  <b>Pre-litigation services include a. Legal education; b. Legal advice; c. Legal awareness; d. pre-litigation settlement.</b></p>	1+1=2									
22	<p>Give any 2 points of differences between Admission and Confession.  OR  Give any 2 points of differences between Warrants and Summons Case.</p> <table border="1"> <thead> <tr> <th>S.No</th> <th>Admission</th> <th>Confession</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Admission usually relates to civil transaction and comprises all statements amounting to admission defined under section 17 of Indian Evidence Act and made by person mentioned under section 18, 19 and 20 of Indian Evidence Act .</td> <td>Confession is a statement made by an accused person which is sought to be proved against him in criminal proceeding to establish the commission of an offence by him.</td> </tr> <tr> <td>2</td> <td>Admissions are not conclusive as to the matters admitted but it may operate as an estoppel.</td> <td>Confession if deliberately and voluntarily made may be accepted as conclusive of the matters confessed.</td> </tr> </tbody> </table>	S.No	Admission	Confession	1.	Admission usually relates to civil transaction and comprises all statements amounting to admission defined under section 17 of Indian Evidence Act and made by person mentioned under section 18, 19 and 20 of Indian Evidence Act .	Confession is a statement made by an accused person which is sought to be proved against him in criminal proceeding to establish the commission of an offence by him.	2	Admissions are not conclusive as to the matters admitted but it may operate as an estoppel.	Confession if deliberately and voluntarily made may be accepted as conclusive of the matters confessed.	1+1
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**OR**

S.No	Warrants Case	Summons Case
1	A warrant case relates to offences punishable with death, imprisonment for life or imprisonment for a term greater than two years.	A summons case means a case relating to an offence that is not a warrant case, i.e. cases relating to offences punishable with imprisonment of less than two years.
2	The CrPC provides for two types of procedure for the trial of warrant cases by a magistrate: -those instituted upon a police report -those instituted upon complaint. In both cases, if the accused is not discharged, the magistrate holds a regular trial after "framing the charge".	In summons cases, there is no need to frame a charge. The court gives the substance of the accusation, which is called 'notice' to the accused when the person appears before the court.

23	<p>Comment upon the evolution of legal aid in Criminal Law in India with relevant case laws.</p> <p><b>Ans: 1. Section 340(1) of the Code of Criminal Procedure, 1898, provided that if a man was charged with an offence punishable with death, the court could provide him with counsel upon his request. This was subjected to a twisted interpretation by the Supreme Court by classifying it as a privilege rather than the duty of the magistrate in Tara Singh v. State (1951 AIR 441).</b></p>	2+2
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	<p><b>2. India in the Code of Criminal Procedure, 1973, facilitated statutory implementation of free legal aid subsequently. 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.</b></p>	
24	<p>For adoption of International Treaties into domestic law, UK and India follow different practices in accordance with their legal provisions.</p> <p>a) State the practices followed in UK and India.</p> <p><b>Ans: In the United Kingdom, there is a doctrine of transformation that states that before any international agreement can be considered applicable domestically it must be transformed into municipal law. This means that the provisions of the treaty need to be transformed into local law, passing a domestic legislation with concurrent provisions as the international obligations.</b></p> <p><b>India has dealt with the interplay of international law as fits the need of the day. While any restriction of rights requires the need for an amendment by legislature, enhancing or broadening the scope of such rights is allowed as long as there is nothing to the contrary or similar in domestic law. India generally follows that merely affirming a treaty by way of ratifying it by the assent of the executive is sufficient, unless the treaty requires ratification by way of an act of the legislature.</b></p> <p>b) With reference to Maganbhai Patel v/s Union of India, explain how the Supreme Court of India implemented this practice.</p> <p><b>Ans: There has been an evolution of the philosophy of the role of international treaties to which India is party to with relation to the Indian Constitution.</b></p> <p><b>In the case of Magan Bhai Patel v Union of India, the Supreme 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. E.g. 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 a domestic legislation regarding prohibition of the killing of</b></p>	<p>1+1=2</p> <p>2</p>



	<p><b>officer of the country. The Attorney General of India is appointed by the President of India under Article 76 of the Constitution, which states that he can hold the office during the pleasure of the President.</b></p>	<p><b>Advocate General is appointed by the Governor of the respective state and holds his office during pleasure of the Governor.</b></p>	
	<p><b>The Attorney General must be a person qualified to be appointed as a Judge of the Supreme Court.</b></p>	<p><b>The qualification required for appointment as an Advocate General is similar to that of a judge of a High Court</b></p>	
	<p><b>It is the duty of the Attorney General for India to give advice to the Government of India upon legal matters and to perform other duties of legal character as may be referred or assigned to him by the President</b></p>	<p><b>The Advocate General is the chief legal advisor of the State and performs duties of a legal character including representing the State before the courts.</b></p>	
	<p><b>He is assisted by Solicitor General and Additional Solicitor General</b></p>	<p><b>He is assisted by Additional Advocate General</b></p>	
<p>26</p>	<p>Why the issue of allowing advertising and solicitation by lawyers requires balancing of interest? State the guidelines for advocates in India as given by the Bar Council of India for advertising.</p> <p><b>Ans: 1. The issue of allowing advertising and solicitation by lawyers requires balancing the interest of the public which includes getting information on legal rights and services through advertisements and enhancement of access to justice and the legal profession on one hand and the possible misuse of advertising techniques by lawyers which may lead to a loss of credibility of the profession as a whole.</b></p> <p><b>2. In India advertising by lawyers has been strictly restricted by the Bar Council of India. An</b></p>		<p>1X4=4</p>

	<p>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.</p> <p>3.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.</p> <p>4.However, 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.</p>	
27	<p>What are the conditions required to satisfy the tort of False imprisonment? State its exception as well.</p> <p><b>Ans: The intentional tort of false imprisonment is satisfied whenever there is intent to unlawfully confine or restrain the claimant in a bounded area.</b>  <b>When this actually causes the claimant to be knowingly confined or restrained in a bounded area unlawfully.</b>  <b>Even if the claimant is unaware that he is trapped but suffers injury, the tort of false imprisonment is satisfied.</b></p> <p><b>Exception to the Tort of False imprisonment: The claimant should not be trapped willingly and consensually.</b></p> <p style="text-align: center;">OR</p> <p>What is the principle of Absolute Liability? What did Justice PN Bhagwati hold in the famous 1987 case of MC Mehta v. Shri Ram Foods and Fertilizers Industries regarding this principle?</p> <p><b>Ans: 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.</b></p> <p><b>Justice PN Bhagwati in the famous 1987 case of MC Mehta v. Shri Ram Foods and Fertilizers Industries held that</b>  <b>i. hazardous or inherently dangerous activity in which an enterprise is engaged must be conducted</b></p>	<p>1+3=4</p> <p>1+3</p>

	<p><b>with the highest standards of safety</b></p> <p><b>ii. if any harm is done on account of such activity, the enterprise must be absolutely liable to compensate for such harm</b></p> <p><b>iii. 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.</b></p>	
28	<p>Why are customs a disputed source of international law?</p> <p><b>Ans:1. International custom generally refers to a State practice, but only such practice as is accepted by the States themselves as legally required. Once a certain practice is understood to be customary law, States are obliged to act as the rule of customary international law prescribes. This description of International custom has been criticised for its exact formulation.</b></p> <p><b>2. According to Article 38 of its Statute, the International Court of Justice 'whose function is to decide in accordance with international law such disputes as are submitted to it,' has to apply, inter alia, 'international custom.'</b></p> <p><b>3. This source of public international law is described, in the same Article, as 'evidence of a general practice accepted as law.'</b></p> <p><b>4. International customary law is probably the most disputed and discussed source of international law. The reason for this is that it is not clear when a particular State practice becomes a legally binding State practice. It is also unclear how one can identify a rule of international custom, or how one can prove its existence.</b></p>	1X4=4
29	<p>What features of the fundamental rights give them a high pedestal in the Constitutional framework.</p> <p><b>Ans: The features of fundamental rights that give them a high pedestal in the Indian Constitution are:</b></p> <p><b>1. They are enforceable by the higher courts in India. Article 32 provides the right to the aggrieved ones, whose fundamental rights have been violated or denied, to petition the Supreme Court for the enforcement of fundamental rights.</b></p>	2X3=6

2. **Article 13 elevates the authority of fundamental rights. It ensures that the State or other competent authority do not make laws that contradicts or takes away or breaches the fundamental rights.**
3. **Fundamental rights are mostly enforceable against the State and in some cases against private persons.**

OR

State any 2 features of Directive Principles of State Policy. Also give 3 differences between Fundamental Rights and Directive Principles of State Policy.

2

**Ans: Two features of Directive Principle of State Policy are:**

1. **It is the duty of the State to apply these principles in making laws and policies on social and human development.**
2. **These principles are largely of the nature of economic and social rights.**
3. **The provisions of directive principles 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.**
4. **Supreme Court has raised the status of many provisions of directive principles to that of fundamental right by suggesting they violate one's right to life (Art. 21).**
5. **Directive principles aim at promoting the welfare of the people. They intend to secure and protect social, economic and political justice of its citizens.**
6. **These principles endeavor to minimize income inequalities and to eliminate inequalities based on status, facilities, and opportunities amongst both individuals and groups of people.(Any 2)**

**Difference between Fundamental rights and DPSPs are:**

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<b>FUNDAMENTAL RIGHTS</b>	<b>DIRECTIVE PRINCIPLES OF STATE POLICY</b>
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	<p><b>Basic, inalienable rights guaranteed by the Constitution to citizens and at times non citizen of the Country</b></p>	<p><b>Aspirations or goals drafted in the Constitution which the State should aim to achieve</b></p>	
	<p><b>The are mentioned in Part III(Article 12-35)</b></p>	<p><b>They are mentioned in Part IV(Article 36-51)</b></p>	
	<p><b>They are enforceable by the Higher Courts in India</b></p>	<p><b>They are non enforceable in nature</b></p>	
	<p><b>They are largely civil and political in nature</b></p>	<p><b>They are social and economical in nature</b></p>	
<p>30</p>	<p>Comment with reasons on the type of ADR that can be most effective in resolving the following situations-</p> <p><b>a.</b> Two disputing parties who are located in different cities want to engage a mediator who is located in yet another city. The parties to the dispute and the mediator are unable to meet each other due to geographic distance and situation arising out of Covid 19. Which type of mediation should they resort to?</p> <p><b>Ans. The parties will resort to <i>Online Mediation</i>.</b></p> <p><b>Online mediation employs online technology to provide disputants access to mediators and each other despite geographic distance, disability or other barriers to direct meeting.</b></p> <p><b>b.</b> A labour dispute arose between migrant labour’s union and the management of a construction company. The disputing parties agreed to engage the services of Mr. Kulkarni, a neutral third party in resolving the dispute. Mr. Kulkarni suggested possible solutions to resolve dispute and claims.</p>		<p>1x6=6</p>

**Ans. The labour dispute between migrant labour's union and the management of a construction company can be best resolved through *Conciliation* because Mr. Kulkarni has suggested possible solutions to resolve the dispute and claims.**

**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.**

c. A dispute arose between Medico Care Pharmaceutical Company, India and Healthwill Incorporation, China over the supply of faulty PPE and testing kits. Both the companies want to resolve the dispute as per the guidelines of UNCITRAL.

**Ans. The dispute between Medico Care Pharmaceutical Company, India and Healthwill Incorporation, China can be resolved through *International Commercial Arbitration* as one of the disputing parties is a resident/body corporate of China.**

**In International Commercial arbitration at-least one of the disputing parties is a resident/body corporate of a country other than India.**

d. A dispute arose between Buildcon Construction Company and A+Architectural Design Company with respect to some technical issues relating to engineering design. They want to resolve their dispute but also want to keep matters confidential and their business secrets protected.

**Ans. The dispute between Buildcon Construction Company and A+Architectural Design Company can be best resolved through *Arbitration* as both the companies want to keep the matters confidential and their business secrets protected.**

**The process of dispute resolution through arbitration is confidential. In commercial disputes the business secrets revealed during the process of dispute resolution are protected and preserved. The companies can maintain their commercial reputation, as they can prevent the general public or their customers from discovering the details of their on-going legal disputes.**

	<p>e. Radha buys an air conditioner and realizes it isn't cooling as it is defective. She tries to return it or have the company fix it, but doesn't succeed. She talks with the salesperson, speaks with the manager, and writes mails to the company, and still she is not satisfied with the company's response. The disputing parties agree to refer the dispute to a neutral third party, Mr. Rangnathan who evaluates their case and directs them towards settlement.</p> <p><b>Ans. The ADR method that has been used by Mr. Ranganathan to settle the dispute between Radha and the air-conditioner company is <i>Evaluative Mediation</i>. Evaluative mediation is focused on providing the parties with an evaluation of their case and directing them toward settlement.</b></p> <p>f. Ritika and Rohan face marital discord but owing to the well being of their daughter, they refer the dispute to an Institution which gives a binding decision without being bound by any procedural formality. This institution uses a social worker in its panel.</p> <p><b>Ans. Ritika and Rohan have approached <i>Lok Adalat</i> to settle their matrimonial dispute.</b></p> <p><b>-In Lok Adalat there is <i>no strict application of the procedural laws</i> and the disputing parties can directly interact with the judges.</b>  <b>-The decision of Lok Adalat is <i>binding on the parties</i> and its order is capable of execution through legal process.</b>  <b>- Lok Adalat is presided over by a sitting or retired judicial officer such as the chairman, with usually two other members- a lawyer and a <i>social worker</i>.</b></p>	
31	<p>Vidya Bharti Appliances Ltd. was a manufacturer of laptops. It claimed to have developed a laptop which did not need to be charged for 7 days if it was charged overnight as per directions. It put up an advertisement offering a reward of Rs. 10,000/- to anyone who had a contrary experience after charging the laptop in the prescribed manner.</p> <p>Mr. Ramakant bought the said laptop, and charged it as per directions but the battery did not last for even 2 days. He claimed the reward offered by Vidya Bharti appliances Ltd, but the company refused to pay the amount, saying that no offer was made to Mr. Ramakant. Mr. Ramakant sued the company for the amount. Giving valid reasons decide if Mr. Ramakant is entitled to compensation.</p>	2X3=6

	<p><b>Ans: Mr. Ramakant is entitled to compensation as decided in the case Carlill V. Carbolic Smoke Ball Co.</b></p> <p><b>In this case, the company was the manufacturer of a medicine called smoke ball which was used for the treatment of influenza. The company believed that the medicine completely cured 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 100 pounds was deposited in a Bank, namely, Alliance Bank for paying the reward if such situation arose. Seeing the advertisement, Mrs. Carlill bought the smoke ball medicine and used it as per the directions provided. Mrs. Carlill got a fresh episode of influenza. Mrs. Carlill sued the company for the reward of 100 pounds. The manufacturing company stated that:</b></p> <p><b>(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;</b></p> <p><b>(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;</b></p> <p><b>(3) acceptance by the offeree had not been communicated, and so there was no binding contract.</b></p> <p><b>The Court rejected these contentions of the company and allowed Mrs. Carlill's claim for 100 pounds.</b></p> <p><b>1.The Court also stated that deposit of 1000 pounds 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.</b></p> <p><b>2.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. 3.Merely fulfilling the conditions of the offer itself is treated as acceptance to create a contract.</b></p> <p><b>In the case in question, Vidya Bharti Appliances made a general offer which is a valid offer, and Mr. Ramakant, by fulfilling the conditions of the offer, accepted it. Hence there was a valid contract, and Mr. Ramakant was entitled to compensation.</b></p>	
32	<p>Explain the scope of judicial review in:</p> <p>a. Centre State relations</p>	2X3=6

**Ans \*Article 246 of the Constitution provides that the Parliament has exclusive powers to make laws with respect to matters itemized in the 'Union List.**

**\*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'**

**\*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'**

**\*Judicial review helps demarcate the legislative competencies and ensures that Centre does not exert its supremacy over the statematters and likewise states do not encroach upon matters within the ambit of the Centre.**

b. Fairness in executive action

**\*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**

**\*There is a Latin phrase audi alteram partem, which literally means 'listen to the other side'. This phrase is an established principle in the Indian law practice and was applied by the Supreme Court in several cases including the landmark decision of Maneka Gandhi v. Union of India.**

**\*To deal with the questions of secrecy and related inefficiency and corruption in the administration, courts have adopted the judicial method of requiring disclosure of reasons in support of any order or decision delivered by the administration.**

**\*The courts have often used the principle of reasonableness in most cases that involve state action. The realm of contract law offers an example.**

**\*Another principle frequently utilized by courts in administrative law, especially in service matters, is the principle of proportionality. Essentially, judicial review offers safeguards to the aggrieved against any sentence or punishment that is disproportionate and burdensome.**