Odisha Judicial Service (Mains) 2023

Jurisprudence and Constitution of India · optional paper

3 hours · 150 marks

The figures in the right-hand margin indicate marks. Answer six questions, selecting three questions from each Section. All questions carry equal marks.

Section—A

1. According to Prof. H. L. A. Hart, "Few questions concerning human society have been asked with such persistence and answered by serious thinkers in so many diverse, strained and even paradoxical ways as to the question 'what is law'?" With reference to the above statement, critically examine the meaning, nature and scope of law in modern times. Also, give your own opinion regarding the nature and scope of law in contemporary times in India. Support your answer with relevant juristic views, examples and case laws. [25 marks]

2. According to Sir Henry Maine, "the unit of ancient society was the family while that of the modern society was the individual". Explain this statement with reference to the development of the law of property and the law of contract. [25 marks]

3. Elaborate Pound's classification of interests. What is the program devised by Pound to balance the competing interests in any society? Critically examine its applicability and relevance with the help of suitable examples. [25 marks]

4. "A custom to be legally recognizable and enforceable must fulfil several requisites such as certainty, reasonableness, antiquity etc." Critically analyse the statement by exploring the importance of customs in different personal laws of India. [25 marks]

5. What do you understand by 'Feminist Legal Theory'? Elucidate with the help of legal provisions and judicial pronouncements. Also provide your view on whether law has contributed towards women's empowerment or has helped women come at par with men. [25 marks]

6. As per Salmond, "A person is any being whom the law regards as capable of rights or duties." With reference to the above statement, critically examine the meaning of 'Person' and discuss the legal status of Idols, Gods, Mosques and Holy Books in the present times. Support your answer with relevant examples and case laws. [25 marks]

Section—B

7. "The word 'law' in the expression procedure established by law in Article 21 of the Indian Constitution has been interpreted to mean in Maneka Gandhi vs. Union of India, AIR 1978 SC 597 that the law must be right, just and fair and not arbitrary, fanciful or oppressive." Explain the above statement with the help of judicial pronouncements. [25 marks]

8. Critically examine the judicial pronouncements on Articles 29 and 30 regarding right to establish and administer educational institutions and the extent of state control in both aided and non-aided including minority run educational institutions. [25 marks]

9. Explain 'freedom of conscience'. Does this freedom include a person's right not to be converted into a religion not his own, or to be an atheist? Discuss in the light of decisions of the Supreme Court of India. [25 marks]

10. When can the President of India issue a proclamation of emergency? Can such a proclamation be challenged in the court of law? What are the effects of proclamation of emergency on Fundamental Rights? [25 marks]

11. Discuss the ambit of the advisory jurisdiction of the Supreme Court of India with the help of constitutional provisions and decided cases. Can the Supreme Court refuse to give its advisory opinion? Is the advisory opinion given by the Supreme Court is binding on the President of India? [25 marks]

12. A federal Government is a legalistic Government, a characteristic feature of which is the allocation of powers between the Centre and the States. Although the division of legislative powers in a federal Constitution is a complicated and sensitive matter. Explain how this has been carried out in the Constitution of India by examining the provisions of the Indian Constitution. Also substantiate your answer with the help of cases. [25 marks]

De Facto IAS