Uttarakhand Civil Judge (Mains) 2025 · The Present Day — Solution

Time allowed: Three Hours · Maximum Marks: 150

Candidate should attempt all the five questions. The Marks and word limit are mentioned in front of each question.

1(a) To what extent the 'legal personality as a jurisprudential concept' is applicable to rivers in India ? Examine in the light of recent case-law. (Maximum Words : 200) **[15 marks]**

Legal personality permits the law to treat an entity as the holder of interests that representatives can assert in court. For a river, the practical idea is to challenge pollution or diversion on behalf of the river itself, without making relief depend entirely on injury to a particular landowner.

In Mohd. Salim, the Uttarakhand High Court declared the Ganga and Yamuna legal persons and identified public officials to represent them. This translated an ecological interest into a legal relationship: the river would have a representative capable of seeking protection. The Supreme Court subsequently stayed the order. It would therefore be incorrect to treat that declaration as an operative, nationwide rule conferring personality on every river.

The difficulties are concrete. A river crosses boundaries, several governments exercise powers over it, and officials asked to represent it may also approve projects affecting it. Liability for a naturally occurring flood illustrates the danger of treating all human obligations as attributes of a river. Effective recognition requires defined rights, accountable representatives and workable remedies alongside existing environmental regulation.

1(b) How far Hohfeld's analysis of rights-duty jural relationship applied in Indian right-duty context of the Indian Constitution ? (Maximum Words : 200) **[15 marks]**

Hohfeld distinguishes four relationships. A claim correlates with another's duty, a liberty with another's absence of a claim, a power with another's liability to legal change, and an immunity with another's disability to effect that change. These distinctions help identify who can demand what from whom under the Constitution.

A person's claim to equal protection imposes an obligation on the State. A citizen's freedom of expression protects a sphere of choice, accompanied by a claim against unjustified state interference. A legislature has power to alter legal relations within its constitutional field. A prohibition on laws abridging fundamental rights correspondingly limits that power. Even a single constitutional guarantee may therefore contain several Hohfeldian positions.

The analysis also shows why a fundamental duty is not automatically the counterpart of a particular citizen's enforceable claim. Citizens have a duty to protect the environment, but a particular remedy depends on applicable rights, legislation and jurisdiction. Hohfeld clarifies a legal relationship after its parties and content have been identified. He does not determine how competing freedoms should be balanced or what remedy a constitutional court should grant.

2(a) Examine the advisory opinion of International Court of Justice rendered in 'pro bono publico' matters. (Maximum Words : 200) **[15 marks]**

The International Court of Justice can clarify legal questions of public importance through its advisory jurisdiction. The expression pro bono publico describes the public interest served. It does not give an individual, campaign group or state a right to file an advisory petition directly with the Court.

The General Assembly and Security Council may request opinions on legal questions. Other authorised UN organs and specialised agencies may do so within their fields of activity. The Court must examine the requesting body's authority, the legal character of the question and, where applicable, its connection to that body's functions. Political consequences do not by themselves deprive a question of its legal character.

Advisory proceedings do not impose a binding judgment between a claimant and a respondent in the ordinary way. Their authority nevertheless matters. Opinions on decolonisation or climate obligations can identify applicable law, clarify responsibilities and guide action by UN organs and states. The distinction protects both sides of the institution: access to legal guidance on collective problems and the safeguards governing contentious litigation against an individual state.

2(b) 'The International Court of Justice (ICJ) of its advisory opinion on climate change and human rights in digital age set the course of international law and justice.' In the above context, examine the status of international law. (Maximum Words : 200) **[15 marks]**

The 2025 climate advisory opinion illustrates how existing legal obligations can govern a problem whose effects cross borders and generations. The Court examined climate treaties alongside customary duties of cooperation and due diligence to prevent significant environmental harm. Responsibility depends on identifying an obligation, a breach attributable to a state and, for compensation, the requisite connection to injury. An advisory opinion clarifies this law without itself awarding damages to affected populations.

Digital technology poses a related question about applying established rights to new conditions. Privacy and freedom of expression retain their significance when states collect communications data, restrict online speech or deploy automated systems. Relevant scrutiny includes legal authority, legitimate purpose, necessity, proportionality and an effective means of challenge.

These are distinct propositions. The identifiable ICJ opinion concerns climate change. Digital rights illustrate the continuing application of human-rights law and should not be presented as a second ICJ holding without an identifiable decision. International law operates through treaties, custom, adjudication, domestic implementation and cooperation. Its capacity to articulate obligations exceeds its capacity to enforce them uniformly.

3(a) 'The contemporary landscape of international law reflects a profound enforcement mechanism and legalization of global governance and cooperation.' Elucidate with reference to international organization and justice. (Maximum Words : 200) **[15 marks]**

International organisations convert some forms of cooperation into defined procedures with legal consequences. Under the UN Charter, the Security Council can adopt binding enforcement measures. Treaty organisations may require reporting, peer review or dispute settlement. These mechanisms differ in the authority making the decision, the states it binds and the consequences of non-compliance.

Judicial institutions illustrate the distinction. The International Court of Justice determines disputes between states where a basis of jurisdiction exists. Its contentious judgment binds the parties to that case. International criminal jurisdiction, by contrast, addresses individual responsibility and depends heavily on cooperation for arrests and evidence. A treaty monitoring body may scrutinise state conduct without possessing either court's powers.

The resulting order is more structured than diplomacy alone, but enforcement remains uneven. The Security Council veto, limits on consent to jurisdiction and dependence on domestic implementation affect what an institution can achieve. An assessment of international justice should therefore ask three questions: who has undertaken the obligation, which institution can determine breach, and who can give practical effect to the decision?

3(b) 'The international law shifted focus from sovereignty over natural resources to collective responsibility for the planet by sustainable development and governance.' Comment with the help of treaties and case law. (Maximum Words : 200) **[15 marks]**

A state retains authority over natural resources within its jurisdiction. International environmental law qualifies how it exercises that authority where activities threaten other states or areas beyond national jurisdiction. The relevant standard is often due diligence: investigate serious risks, regulate the activity, cooperate where required and take reasonable preventive measures.

The Pulp Mills dispute shows how this works. Where an industrial project risks significant adverse transboundary impact, prior environmental impact assessment has a place in the state's duty of care. Procedure and substance must be examined separately. Breach of a notification or consultation obligation does not by itself prove that the project caused the alleged pollution.

Climate treaties add a collective dimension. Under the Paris Agreement, nationally determined contributions operate within a framework of reporting, review and progressively renewed commitments. National choice therefore coexists with duties of preparation, communication and cooperation. Sustainable development asks how economic benefits, ecological risk and the interests of future generations are weighed in real decisions. It does not transfer ownership of all natural resources to the international community. It does require states to account for consequences that domestic title alone cannot resolve.

4(a) To what extent the right to privacy in the digital age is safeguarded by Article 21 of Indian Constitution ? (Maximum Words : 200) **[15 marks]**

Informational privacy protects a person's ability to retain meaningful control over personal information. In the nine-judge privacy judgment, the Supreme Court located privacy in life, liberty and dignity under Article 21 and in the freedoms protected elsewhere in Part III. A communication, location record or biometric identifier can disclose intimate matters even though it is stored electronically or held by an intermediary.

Constitutional scrutiny asks whether an intrusion has a basis in law, pursues a legitimate purpose and is proportionate. A request for limited records about an identified incident differs from collecting an entire population's movement history indefinitely. Relevance, retention periods, access controls, oversight and an effective remedy can determine whether the interference is justified.

The right also has a protective dimension when private organisations hold sensitive data. The State may need to establish safeguards and avenues of redress. Article 21 supplies the constitutional standard, while statutory and institutional arrangements do much of the practical work. Privacy is consequently enforceable in the digital environment without amounting to an absolute prohibition on all collection or lawful disclosure.

4(b) Discuss the notion of constitutional morality adopted by Supreme Court of India to do complete justice with the people. (Maximum Words : 200) **[15 marks]**

Constitutional morality requires public institutions to exercise power consistently with constitutional commitments, including liberty, equality, dignity and accountable government. It supplies reasons for judicial decisions that can be tested against the Constitution. Popular disapproval of a minority's choices is not by itself a constitutional justification for restricting them.

The distinction matters both for rights and for institutional authority. When a court examines a discriminatory penal law, it must ask whether the distinction genuinely serves a constitutional purpose or preserves a stereotype. When two constitutional officers dispute control of administration, the answer depends on the distribution of power and the obligation to respect representative government. In each setting constitutional morality disciplines the exercise of authority.

Complete justice also has a specific remedial meaning. Article 142 permits the Supreme Court to make orders necessary to do complete justice in a cause or matter before it. This power must be distinguished from the interpretive principle of constitutional morality. Neither authorises substitution of the judge's personal morality for law. A sound order identifies the violation, gives a reasoned remedy and respects the roles assigned to other institutions.

5(a) The Right to Education (RTE) Act, 2009 proved catalysts for India to reap its much anticipated "demographic dividend" along with 'No Detention Policy' under Right to Free and Compulsory Education (Amendment) Act, 2019. Comment and analyse. (Maximum Words : 200) **[15 marks]**

A large working-age population becomes a demographic dividend only if young people can participate productively in economic and civic life. The constitutional entitlement to free and compulsory elementary education addresses a basic condition for that participation. Removing financial and admission barriers can keep children in school. The quality of teaching determines how far attendance produces literacy, numeracy and wider opportunity.

The premise about detention requires qualification. The 2009 framework originally protected children against being held back during elementary education. The 2019 amendment changed that arrangement by providing for regular examinations in Classes V and VIII, additional instruction and an opportunity for re-examination. It allowed the appropriate government, subject to the statutory conditions, to permit holding a child back after failure in the re-examination. It did not introduce an unqualified national rule of automatic promotion.

Assessment can identify children who need help, but repetition without support may increase dropout. Conversely, promotion without checking learning may conceal serious gaps. Remedial teaching, accessible schools and protection against exclusion connect the right to education with the skills on which a demographic dividend actually depends.

5(b) Outline the constitutional ramifications of Joseph Shine v. Union of India [(2018) 2 S.C.C. 189] in regard to personal liberty and gender equality. (Maximum Words : 200) **[15 marks]**

The Supreme Court invalidated the adultery offence in section 497 of the Indian Penal Code. The offence depended on a married woman's sexual relationship with another man without her husband's consent or connivance. The wife was exempt from punishment even as an abettor. These features disclosed an underlying assumption that the husband controlled her sexuality.

The exemption could not be defended as a benefit to women while resting on their supposed lack of agency. Equal citizenship and dignity continue within marriage. The law also interfered with intimate choice through a criminal prohibition that depended on the sex and marital position of the participants. The associated procedural restriction fell to the extent that it enforced this offence.

The decision removed a penal inequality without requiring a court to approve adultery or ignore its consequences. A spouse could still invoke matrimonial remedies under applicable law. Independently criminal conduct remains subject to its own ingredients and evidence. The constitutional point is that marriage does not license the State to enforce a proprietary conception of one spouse's entitlement over the other.
