

Marking Scheme - SQP- 2023-24
Legal Studies (Code- 074)
Class XII

Time Allotted: 3 Hrs

Maximum Marks - 80

S.no.	SECTION A	Typo	Unit	Marks
1	Answer: a. All children in the 0 to 18 years age group	K	5 B	1
2	Answer: c. Hong Kong	A	7	1
3	Answer: d. C-D-A-B	A	1	1
4	Answer: a. Both, A and R, are true and R is the correct explanation of A	A	1	1
5	Answer: c. No, as B cannot accept one property and reject other in the same document	A	3C	1
6	Answer: c. Arbitrator has jurisdiction	U	2	1
7	Answer: c. confession, admission	A	4C	1
8	Answer: a. Yes because he has inherited the rights of ownership from the original creator, his father	A	3D	1
9	Answer: a. Not enforceable as the agreement involves the fraudulent act of cheating	A	3A	1
10	Answer: b. Both, A and R, are true but R is not the correct explanation of A	K	1	1
11	Answer: c. 1-C ; 2- A; 3- D; 4- B	U	3C	1
12	Answer: a. It is easier for the company to raise capital through the sale of shares to the public	U	4B	1
13	Answer: c- Acceptance by performing conditions of the offer.	K/U	3A	1

14	Answer: a. Both, A and R, are true and R is the correct explanation of A	A	5 A	1
15	Answer: c. Trademark	A	3D	1
16	Answer: b. Facilitative Mediation	A	2	1
17	Answer: d. Assertion (A) is false but Reason (R) is true	AEC	5A	1
18	Answer: d. State Bar Association	AEC	7	1
19	Answer: b. Santhanam committee	A	2	1
20	Answer: c. No, intention and preparation alone do not give rise to any criminal liability.	AEC	4C	1
SECTION B				
21	Inquisitorial System. The main advantages of an inquisitorial system include a) The system offers procedural efficiency as the active role of judges prevents delays and prolonged trials. b) The system preserves equality between the parties as even the stronger party with more resources and expert lawyers may not be able to influence the judges.	A	2	1+0.5+0.5
22	In the USA, law graduates need to meet all requirements, including writing the Bar Examination of a particular State to be eligible to practice in that State. Foreign lawyers may appear for Bar Examinations in the US; however, laws from state- to state vary in this matter. Students who have completed an LLM may qualify to sit for the bar exam in New York. The criteria for eligibility to take the bar examination are set by each state's bar association. Some states may allow foreign-educated lawyers to take the bar examination without earning their degree locally. In such a case, foreign-educated lawyers must begin the process by getting their law degree reviewed by the American Bar Association (ABA). Once reviewed, the application is either accepted or deferred. If accepted, foreign lawyers are allowed to sit for that state's bar exam in much the same way a domestic applicant would.	A	7	1+1

25	<p>Type- Lease Features- (Any two)</p> <ol style="list-style-type: none"> 1. Rent is earned as return 2. The possession of the property transfers for a specific period 3. The ownership of the property does not transfer 	A	3C	1+0.5+0.5
26	<p>Trade secrets can include a wide range of confidential information that is important for the success and survival of a business. This information can be in the form of strategies, designs, client databases, formulas, programs, or any other confidential information that must be kept secret to maintain the competitive advantage of the business. Since the recipe is information exclusive to your client, it can be classified as trade secret</p>	A	3C	1+1
27	<p>The Sustainable Development Goals (SDGs) and human rights are interlinked as over 90 percent of the SDGs relate to human rights obligations. When a State makes progress towards achieving SDGs they move forward to fulfil their human rights obligations.</p> <p>An example of SDG that is linked to human rights is: Gender Equality SDG</p>	AEC	5 A	1+1
28	<p>There are several advantages to operating as a Limited Liability Partnership (LLP). (Any two)</p> <ol style="list-style-type: none"> 1. The terms and conditions of an LLP are based on a mutually agreed LLP agreement, providing greater flexibility and ease. 2. The cost of registering an LLP is lower than incorporating a public or private limited company. 3. Partners are only liable up to their agreed contribution, and there is no joint liability created by the actions of another partner. 4. The registration process is simpler compared to that of a company. 5. Remuneration, voting rights, and other aspects are clear and defined in the LLP agreement, with no restrictions on partner remuneration as long as it is authorized by the agreement. 	AEC	4B	1+1

	<p>d) A mentally ill or otherwise disabled person; A person under circumstances or under circumstances of underserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or</p> <p>e) An industrial workman; or</p> <p>f) In custody, including custody in protective home</p> <p>b. Section 304(1) of CrPC, 1973 provides that: In a trial before the sessions judge, if the accused does not have sufficient means to engage a pleader, the court should assign a pleader for his defense at the expense of the State.</p>			
31.	<p>a) The institution is the International Court of Justice (ICJ), also known as the World Court. It is the principal judicial organ of the United Nations. Members of the World Court- Under Article 93 of the United Nations Charter -All members of the UN are party to the statute of the ICJ by default and non-members may also become parties under this Article.</p> <p>b) The ICJ settles legal disputes submitted to it by states in accordance with international law and gives advisory opinions on international legal issues from U.N. bodies and agencies.</p> <p>c) Jurisdiction of ICJ: The judgment by the ICJ is final, binding on the parties to a case and without appeal.</p> <p>d) The ICJ has no enforcement powers, but if states don't comply, the Security Council, the organ of the UN primarily responsible for maintaining peace and security, may take action.</p>	K	6	1+1+1
32	<p>NCPCR stands for The National Commission for Protection of Child Rights</p> <p>Aims and objectives of NCPCR-</p> <p>The commission's mandate is to ensure that all laws, policies, programs and administrative systems conform to the vision of the rights of the child as enunciated in the Constitution of India as well as the United Nations Convention on the Rights of the Child. A child is defined as a person falling in the age group of 0 to 18 years.</p> <p>NCPCR emphasises the principle of universality and inviolability of child rights and recognises the tone of urgency in all the child related policies of the country.</p>	U	5B	1+1+1

33	<p>State Bar Council- The Advocates' Act, 1961 has created a State Bar Council in each State with the Advocate General of the State as an ex- officio member, and 15-25 members elected for a period of five years. Two members are to be nominated by the Bar Council of India from amongst advocates on the electoral roll of the State Bar Council, to discharge the functions of the State Bar Council. Application for enrolment is made to the State Bar Council. Every State Bar Council shall prepare and maintain a roll of advocates in which shall be entered the names and addresses of all who are admitted to be advocates on the roll of the State Bar Council under this Act on or after the appointed day.</p> <p>The functions of a State Bar Council are—</p> <ol style="list-style-type: none"> a) to admit persons as advocates on its roll; b) to prepare and maintain such roll; c) to entertain and determine cases of misconduct against advocates on its roll; d) to safeguard the rights, privileges and interests of advocates on its roll; e) to promote the growth of Bar Associations for the purposes of effective implementation of the welfare schemes f) to promote and support law reform; g) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and paper of legal interest; h) to organise legal aid to the poor in the prescribed manner; i) to manage and invest the funds of the Bar Council; j) to provide for the election of its members; k) to visit and inspect Universities <p>(Any three to be given)</p> <p>Bar Council of India- The Indian legal profession includes both the practice of law and legal education. To regulate both, The Advocates Act established an All India Bar Council, with the Attorney-General and Solicitor General of India as ex-officio members of the Bar Council. The All India Bar Council has one member elected to it by each State Bar Council and it elects its own Chairman and Vice Chairman. The Bar Council of India performs the regulatory function by prescribing standards of professional conduct and etiquette and by exercising disciplinary jurisdiction over the bar. It also sets standards</p>	AEC	7	1+1+1
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for legal education and grants recognition to Universities whose degree in law will serve as qualification for enrolment as an advocate. It regulates the content, syllabus, duration of the law degree, subject to which every University can lay down its own provisions. The Council has a Legal Education Committee for this purpose. State Council rules need to be approved by the Bar Council, however the Central Government has overriding power to make rules. In addition, it performs certain representative functions by protecting the rights, privileges and interests of advocates and through the creation of funds for providing financial assistance to organise welfare.

The statutory functions of the Bar Council of India are:

1. To lay down standards of professional conduct and etiquette for advocates.
2. To lay down the procedure to be followed by its disciplinary committee and the disciplinary committees of each State Bar Council. To safeguard the rights, privileges and interests of advocates.
3. To promote and support law reform.
4. To deal with and dispose of any matter which may be referred to it by a State Bar Council.
5. To promote legal education and to lay down standards of legal education. This is done in consultation with the Universities in India imparting legal education and the State Bar Councils.
6. To recognise Universities whose degree in law shall be a qualification for enrolment as an advocate. The Bar Council of India visits and inspects Universities, or directs the State Bar Councils to visit and inspect Universities for this purpose.
7. To conduct seminars and talks on legal topics by eminent jurists and publish journals and papers of legal interest.
8. To organise legal aid to the poor.
9. To recognise on a reciprocal basis, the foreign qualifications in law obtained outside India for the purpose of admission as an advocate in India.
10. To manage and invest the funds of the Bar Council.
11. To provide for the election of its members who shall run the Bar Councils.

(Any three to be given)

35	<p>Dying Declaration is a legal concept that refers to the statement which is made by a dying person explaining the circumstances of his death. It is a statement by a person who is conscious and knows that death is imminent concerning what he believes to be the cause or circumstances of his death. It is also considered credible and trustworthy evidence based upon the general belief that most people who know that they are about to die “do not lie”. Hence Aman can be convicted solely on the basis of the dying declaration given by his wife Ritu.</p> <p>The propositions laid down by the Supreme Court in K.R. Reddy v. The Public Prosecutor SC 1976 AIR 1994 are as follows:</p> <ol style="list-style-type: none"> 1. The Court must be satisfied that the deceased was in a fit state of mind to make the statement after the deceased had a clear opportunity to observe and identify his assailants and that he was making the statement without any influence. 2. Once the Court is satisfied that the dying declaration is true and voluntary it can be sufficient to found the conviction even without any further corroboration 	A	4C	1+1+1
36	<ol style="list-style-type: none"> a) Yes, as the transfer is made during the pending litigation. b) b. B is a third party in the transaction, The SC observed that Section 52 of the Act does not declare a pendente lite transfer by a party to the suit as void or illegal, but only makes the pendente lite purchaser bound by the decision of the pending litigation. (Hardev Singh V Gurmail Singh) 	A	3C	1+2
SECTION D				
37	<ol style="list-style-type: none"> a) 1. Rio Declaration- The United Nations Conference on Environment and Development (UNCED), also known as the ‘Earth Summit’ was held in Rio de Janeiro, Brazil in 1992. The Conference marked the 20th anniversary of the first ever International Human Environment Conference in Stockholm, Sweden, 1972. The Conference was attended by representatives from 179 countries to discuss the impact of human socio-economic activities on the environment. <p>The objective of Rio ‘Earth Summit’ was to formulate a blueprint for global action on environment and development issues. It recognised that integrating and balancing the</p>	K	4	2+3

economic, social and environmental concerns in meeting our needs is vital for sustaining human life on the planet Earth. This triggered action on part of governments from across the globe on how to ensure sustainability with development.

The Earth Summit resulted in some major actions by countries from across the globe in the form of conventions and resolutions.

To name a few:

Agenda - 21

UNFCCC - United Nations Framework Convention on Climate Change

Convention on Biological Diversity

The Declaration on the Principles of Forest Management

Commission on Sustainable Development

2. Agenda 21 was one of the most daring programs calling for action strategies. It focussed on new methods of education, new ways of preserving natural resources and new ways of participating in a sustainable economy. The implementation of Agenda -21 was reaffirmed in the World Summit on Sustainable Development held in Johannesburg, in 2002.

Agenda 21 focuses on Community Participation as one of the major prerequisites for sustainable development. Attaining sustainability therefore requires addressing the fundamental issues and challenges pertaining to development at local, regional and global levels simultaneously by all segments of society. Thus the key objective of sustainable development being, to improve human well-being and to sustain these improvements over a period of time, remains the focus of Agenda - 21.

(b)

- Advise the Central Government on any matter concerning prevention and control of water and air pollution and improvement of the quality of air.
- Plan and cause to be executed a nation-wide program for the prevention, control or abatement of water and air pollution;
- Coordinate the activities of the State Board and resolve disputes among them;
- Provide technical assistance and guidance to the State Boards, carry out and sponsor investigation and research relating to problems of water and air pollution,

and for their prevention, control or abatement;

- Plan and organise training of persons engaged in programme on the prevention, control or abatement of water and air pollution;
- Organise through mass media, a comprehensive mass awareness programme on the prevention, control or abatement of water and air pollution;
- Collect, compile and publish technical and statistical data relating to water and air pollution and the measures devised for their effective prevention, control or abatement;
- Prepare manuals, codes and guidelines relating to treatment and disposal of sewage and trade effluents as well as for stack gas cleaning devices, stacks and ducts;
- Disseminate information in respect of matters relating to water and air pollution and their prevention and control;
- Lay down, modify or annul, in consultation with the State Governments concerned, the standards for stream or well, and lay down standards for the quality of air; and
- Perform such other functions as may be prescribed by the Government of india.

(any three functions)

Or

SOLE PROPRIETORSHIP ADVANTAGE

- a) Quick decision making
- b) confidentiality of information
- c) Owner receives all the profits
- d) Owner makes all decisions and is in complete control of the company
- e) Easiest and least expensive form of ownership to organiz
- f) easy of formation and closure
- g) The business does not pay separate taxes. All income passes directly to the owner and is taxed at the owner's personal tax rate.

	<p>SOLE PROPRIETORSHIP DISADVANTAGES</p> <ul style="list-style-type: none"> a) Unlimited liability if anything happens in the business b) Limited in raising funds c) No separate legal status a) limited funds and resources b) limited skills and managerial ability of the proprietor <p>PARTNERSHIP ADVANTAGES</p> <ul style="list-style-type: none"> a) Easy to establish (with the exception of developing a partnership agreement) b) Separate legal status to give liability protection c) Partners may have complementary skills d) Low start up cost e) More capital is available for business <p>PARTNERSHIP DISADVANTAGES</p> <ul style="list-style-type: none"> a) Partners are jointly and individually liable for the actions of the other partners b) Profits must be shared with the partners c) Divided decision making d) Business can suffer if the detailed partnership agreement is not in place <p>Methods of dissolution</p> <p>Sole proprietorship - As the business is owned and controlled by one person, death, insanity, imprisonment, physical / mental incapacity or bankruptcy will have a direct impact on the business and lead to its closure.</p> <p>Partnership - Partnership firm can be dissolved by way of compulsory dissolution or by way of agreement.</p>			
38	<p>a) The mode of entering into a treaty is Consent by Ratification.</p> <p>Ratification is the act by which a State establishes its consent to be bound by a treaty on the international plane. This was initiated as a measure to ensure that the representative who signed a treaty had due authority, by seeing whether the state agrees to 'ratify' the same.</p>	A	6	

Ratification differs from country to country but usually requires a sign that the state consents to follow the provisions of the treaty. This could be established by:

- assent by the President of the State or
- require a vote of a majority in the legislature

In **multilateral treaties**, involving a number of countries, ratification is usually the most preferred method of expressing assent where one party collects the ratification of the others.

b) Consent by signature

In certain cases, treaties may be given force by way of **signatures of representatives** who have been given the full powers, i.e. authorization in writing from their state to be able to take decisions on its behalf.

c) Any restriction of rights requires the need for an amendment by legislature.

In the case of *Magan Bhai Patel v Union of India*, the court held that if a treaty or international agreement restricts the rights of the citizens or modifies the laws of the state, it would be required 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 such turtle species.

OR

The North Sea Continental Shelf Cases confirmed that both State practice (the objective element) and *opinio juris* (the subjective element) are essential pre-requisites for the formation of a customary law rule. This is consistent with Article 38 (1) (b) of the Statute of the ICJ.

The jurisprudence of the North Sea Continental Shelf Cases sets out the dual requirement for the formation of customary international law: (1) State practice (the

	<p>objective element) and (2) opinio juris (the subjective element). In these cases, the Court explained the criteria necessary to establish State practice – widespread and representative participation. It highlighted that the practices of those States whose interests were specially affected by the custom were especially relevant in the formation of customary law. It also held that uniform and consistent practice was necessary to demonstrate opinio juris – opinio juris is the belief that State practice amounts to a legal obligation. The North Sea Continental Shelf Cases also dispelled the myth that duration of the practice (i.e. the number of years) was an essential factor in forming customary international law.</p> <p>Customary international law is comprised of two elements:</p> <ol style="list-style-type: none"> 1. consistent and general international practice by states- it is the widespread repetition of similar international acts over time by states (State practice) and 2. a subjective acceptance of the practice as law by the international community - the requirement that the acts must occur out of a sense of obligation (opinio juris) <p>International custom generally refers to a description of State practice, but only such practice as is accepted by the States themselves as legally required. In the context of international law, State practice refers to the practice followed by a state’s sense of legal obligation. It develops from a general and consistent practice of states followed by them from a sense of legal obligation. Once a certain practice is understood to be customary law, States are obliged to act as the rule of customary international law prescribes.</p> <p>The test of the existence of a customary rule of law is the extent to which it is observed in the practice and behaviour of states.</p> <p>In nutshell, to determine the existence and content of a rule of particular customary international, it is necessary to ascertain whether there is a general practice among the states concerned that is accepted by them as law (opinio juris) among themselves.</p>			
39	<p>Legal Aid means to give legal assistance to people with economic and other disability. Under adversarial system, the legal process is complex with many formalities and paper</p>	U	8	1+1+1+1+1

	<p>work and fees of the Advocate. If there is no provision for free legal aid that would keep the people who cannot afford the legal assistance away from justice which can lead to unrest in the society.</p> <ol style="list-style-type: none"> 1. In 1973, in the second phase, the Union Government constituted a committee under the chairmanship of Justice Krishna Iyer to develop a legal aid scheme for states. The Committee devised a strategy in a decentralized mode with legal aid committees in every district, state, and center. A committee on judicature was set up under the chairmanship of Justice P N Bhagwati to implement the legal aid scheme. This Committee suggested legal aid camps and nyayalayas in rural areas and recommended the inclusion of free legal aid provisions in the Constitution. 2. In 1976 India ratified ICCPR and as a result Article 39A was inserted as DPSP in the Constitution that makes the state responsible to create new rules, laws and other legislations to provide free legal aid to people with economic and other disabilities 3. In 1980, the Committee on National Implementation of Legal Aid was constituted with Justice Bhagwati as its head. 4. The Parliament enacted the Legal Services Authorities Act, 1987 to provide free legal aid to certain categories of citizens. 							
40	<table border="1" style="width: 100%;"> <thead> <tr> <th data-bbox="277 1040 940 1130">CONFESSION</th> <th data-bbox="940 1040 1524 1130">ADMISSION</th> </tr> </thead> <tbody> <tr> <td data-bbox="277 1130 940 1461">1 Sections 24 to 30 of Indian Evidence Act deal with confession. A confession is only a species of admission.</td> <td data-bbox="940 1130 1524 1461">1. Sections 17 to 31 of Indian Evidence Act deal with admission. Since the provisions relating to confessions occur under the heading "admission", it follows that the word "admission" is more comprehensive and includes a confession also.</td> </tr> </tbody> </table>	CONFESSION	ADMISSION	1 Sections 24 to 30 of Indian Evidence Act deal with confession. A confession is only a species of admission.	1. Sections 17 to 31 of Indian Evidence Act deal with admission. Since the provisions relating to confessions occur under the heading "admission", it follows that the word "admission" is more comprehensive and includes a confession also.	U	4C	1+1+1+1+ 1
CONFESSION	ADMISSION							
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2. If a statement is made by a party charged with crime, in criminal proceedings it will be called confession.	2. If a statement is made by a party in civil proceedings it will be called admission.
3. The expression 'Confession' means a statement made by an accused admitting his guilt. Confession is a statement made by an accused person which is sought to be proved against him in criminal proceedings to establish the commission of an offence by him.	3. The expression 'Admission' means "voluntary acknowledgment of the existence or truth of a particular fact".
4. If the Confession made is free and voluntary then it may be accepted as conclusive proof of the matters confessed.	4. Admissions are not conclusive proof as to the matters admitted.
5. Confessions always go against the person making it.	5. Admissions may be used on behalf of the person making it.
6. By virtue of the provision in Section 30 the confession of an accused person is relevant against all his co-accused who are being tried with him for the same offence.	6. In admission, statements of a co-plaintiff or those of a co-defendant are no evidence against the others.

OR

The meaning of doing an act intentionally in criminal law means something that is done wilfully and not accidentally or mistakenly. The person doing the act is well aware of the consequences or the outcomes of his action or omission. That is all that is required for affixing criminal liability. It does not matter, as we say in ordinary language, whether an act was done with good intent or bad intent. If the act which is prohibited (actus reus) is done wilfully, knowingly or with awareness of the resulting consequences then the same

will cause liability in criminal law. Motive, on the other hand, is the ulterior objective behind doing an act. It is the driving force behind intention or commission of an act. The criminal law does not take into account motive in affixing criminal liability or in determining criminal culpability. This is the reason why the criminal law does not care whether one has stolen a loaf of bread to feed a starving person or stolen medicine to save someone's life, as long as it is a prohibited act, done knowingly.

1. In *Re Sreerangayee* case (1973) 1 MLJ 231, the woman in sheer destitution and impoverishment attempted to kill herself after failing in all the ways to arrange for food for her starving children, but since she knowingly (*mens rea*) did a prohibitive act of attempting suicide (*actus reus*), she was held guilty by the court
2. In *Nathuni Yadav and Ors vs State of Bihar and another* 1997 SC the Court held that "Motive for doing a criminal act is generally a difficult area for prosecution. One cannot normally see into the mind of another. Motive is the emotion which impels a man to do a particular act. Such impelling causes need not necessarily be proportionally grave to do grave crimes. Many a murder have been committed without any known or prominent motive". The Court further stated that Motive is a psychological phenomenon. Merely because failing to translate the mental state of the accused does not mean that no such mental condition existed in the mind of the assailant. The motive for an offence need not be necessarily proportionately grave to commit the grave offence. Therefore, establishing a sufficient motive for committing the offence is not a prerequisite for conviction