

2018

**CIVIL LIBERTIES AND JUDICIAL
PROCESS**

Paper : 2001

Full Marks : 80

Time : Three hours

***The figures in the margin indicate
full marks for the questions.***

1. The Right to Equality is provided for under the Constitution as a fundamental right wherein the Apex Court has elucidated on the theory of reasonable classification. Very recently, in Navtej Singh Johar and ors Vs Union of India, it held that there was no intelligible differentia between people "who supposedly engage in 'natural' intercourse and those who engage in 'carnal' intercourse against the order of nature". Furthermore it held that any ground of discrimination, whether direct or indirect, which is founded on a particular understanding of the role of sex, constitutes discrimination under Article 15.

Explain the above statements throwing gloss on the constitutional text. 16

Contd.

OR

Article 21 provides for the protection of life and personal liberty as a fundamental right. Over the years, the apex court has interpreted it to extend to the right to live with dignity; the right to privacy; and the right to autonomy.

Elucidate taking recourse to decisional laws, including the seminal Justice K. S. Puttaswamy judgment. 16

2. A catena of decisional laws has highlighted the significance of the constitutional mandate of the right against exploitation.

Analyse the foundation of the constitutional mandate traversing through decisional laws on the issue highlighting the prohibitions on trafficking in human beings and protection against exploitation and against moral and material abandonment. 16

OR

"Even if it is a part of Hindu religious custom to exclude any particular category from entering the temple, the state has been empowered (by the Constitution) to enact a law to throw open temples to all categories of persons" Justice Chandrachud.

In the above context, discuss the fundamental constitutional tenets bearing upon the right to freedom of religion. 16

OR

The Constitution of India provides for the educational and cultural rights under the chapter on fundamental rights. Analyse the said provisions and discuss the extent to which it has furthered the cause meant to be promoted. 16

3. While providing for the republic, the framers of the constitution has cast upon the judiciary certain responsibility to ensure a balancing act while promoting the justice delivery system.

Do you feel that the pedestal has only facilitated judicial overreach or has rightly provided for judicial review and the said provision has been amply justified through the working of the higher judiciary? Embellish your answer with reasoned views. 16

OR

The judiciary in the country in spite of being bogged down with mounting arrear of cases is considered to have carved out a niche for itself in its effective functioning facilitated by non interference and security of tenure. Nonetheless, it has witnessed certain strains in the recent past as attributed to the press conference in the early part of the year. Notwithstanding the same by and large it is considered to be one amongst the most independent in the world.

Attempt an analysis of the independence of the working of the judiciary in the country reflecting upon the historicity and proffer suggestions that you may have to further insulate it from any possible interference from the other organs. 16

4. Writ jurisdiction has been considered constitutional mandate which can be taken recourse to for ventilating grievances in the nature of a fundamental right or a legal right. It is considered to provide for an efficacious remedy since the day of coming into force of the constitution. However, it

has a history of its own that can be traced to the granting of prerogative writs by the monarch in England.

Attempt an analysis of the various writs or orders in the nature of writs that one could avail with in the country from August 1947 till the coming into being of the Republic.

16

OR

Write short notes on **any two** of the following providing specific decisional laws on : 8x2=16

- (A) Writ of Prohibition
- (B) Writ of Quo Warranto
- (C) Writ of Certiorari.

5. The founding fathers have given unto the people of the country a constitution that is said to be a living organism. What is the process laid down to so determine its working? Reflect on the above, delving into the constitutional provisions through its text and context. 16

OR

Diverse views have been expressed on the nature of the Constitution, primarily based on the manner of its interpretation. Analyse the various provisions facilitating its growth and the modus operandi adopted. Reflect on the amendability process adopted by the legislature as facilitated by the core document and the judicial sheen placed thereon by the Supreme Court since *Keshavananda Bharati*, till the present time.

16