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Paper-1-Constitutional Law

PART - A

Answer any 5 of the following:

(5 x 5 = 25)

1. Briefly discuss the ratio of *Kesavananda Bharati v. State of Kerala* AIR 1973 SC 1461.

2. Describe the circumstances under which a national emergency can be declared in India according to the Constitution. What constitutional rights are suspended or altered during such emergencies?

3. What do you understand by 'legislative competence'? Which provisions of the Constitution deal with legislative competence.

4. Discuss the significance of Directive Principles of State Policy in the Indian Constitution. How are they different from Fundamental Rights, and what role do they play in governance?

5. How many writs are recognised under the constitution of India, and under which provision, name the writs and summarize them.

6. What are the restrictions placed by the Indian Constitution on the right to freedom of religion?

PART - B

Answer any 3 of the following:

(3x 15 = 45)

7. Outline the procedure for amending the Constitution of India. Discuss any significant limitations or safeguards in place to prevent arbitrary or hasty changes to the Constitution.

8. Discuss the federal structure of the Indian Constitution. Provide an overview of the distribution of powers between the Union and the States. Evaluate the challenges and dynamics of center-state relations in India, citing specific examples and constitutional provisions. Critically assess the effectiveness of the current federal structure in addressing regional aspirations and promoting unity.

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9. Discuss the concept of judicial review in the context of the Indian Constitution. Analyze the role of the judiciary in interpreting the Constitution, with a focus on landmark cases where the judiciary has played a crucial role in shaping constitutional principles. Additionally, examine the challenges and advantages of a judiciary-centric approach to constitutional interpretation in India.

10. How has the concept of 'procedure established by law' in the Indian constitution undergone transformations? Discuss.

PART - C

Answer any 1 of the following:

(1 x 30 = 30)

11. (a) Discuss the fundamental rights guaranteed under Part III of the Indian Constitution. Explain the scope and limitations of any five fundamental rights with relevant case examples. (15 marks)

    (b) Discuss the role and independence and reforms brought in by the Election Commission of India. (15 marks)

Or

12. (a) Explain the composition and powers of the Executive under the Indian Constitution. Analyze two key Supreme Court judgments related to the powers of the Executive. (15 marks)

    (b) Analyze the significance of the fundamental rights in realizing the goals of the Preamble of the Indian Constitution. (15 marks)

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Paper-2-Contract Law & Negotiable Instruments Act

PART - A

Answer any *five* of the following.

(5 x 5 = 25)

1. Define a contra
2. ct. List the essential elements required for a valid contract according to the Indian Contract Act, 1872.

2. Explain the following terms as per the Indian Contract Act: (i) Quasi-contract (ii) Breach of contract (iii) Remedies for breach of contract.

3. Explain the liabilities of the following parties to a Negotiable Instrument: (i) Maker of a Promissory Note (ii) Acceptor of a Bill of Exchange.

4. Define the concept of a "holder in due course" in the context of negotiable instruments.

5. Examine the role of transfer of property in the sale of goods and its significance under Indian law.

6. What remedies are available to the buyer for breach of contract in the sale of goods?

PART - B

Answer any *three* of the following.

(3 x 15 = 45)

7. Discuss the various modes of discharge of a contract under the Indian Contract Act. Explain the circumstances in which a contract can be discharged by agreement, performance, operation of law, and breach.

8. Write short notes on the following terms as per the Indian Contract Act:
   a) Damages as a remedy for breach of contract
   b) Specific performance of contract
   c) Wagering agreements
   d) Contract of indemnity
   e) Bailment (3 marks for each part)

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9. A furniture store delivered a set of chairs to Priya's residence. Upon inspection, Priya discovered that one of the chairs was damaged. Discuss the provisions of the Sale of Goods Act, 1930 regarding acceptance and rejection of goods. What steps can Priya take to address the issue?

10. Critically analyse the provisions related to dishonour of cheques under Section 138 of the Negotiable Instruments Act, 1881. Explore the criminal liability imposed on the drawer in case of dishonour and the remedies available to the payee. Consider recent legal developments and case law to support your analysis.

PART - C

Answer any *one* of the following.

(1 x 30 = 30)

11. Mr. A puts up a notice in a local newspaper offering a reward of ₹10,000 to anyone who finds and returns his lost laptop. Mr. B, unaware of the reward offer, finds the laptop and returns it to Mr. A. When Mr. B learns about the reward, he approaches Mr. A to claim it. However, Mr. A refused to pay, arguing that there was no contract between them. Analyze the situation based on the principles of unilateral contracts and discuss whether Mr. B has a valid claim for the reward.

12. Mr. X promised to transfer his ancestral property to his son, Mr. Y, as a token of love and affection. In reliance on this promise, Mr. Y spends a significant amount of money renovating and maintaining the property. However, later, Mr. X changes his mind and refuses to transfer the property, stating that there was no consideration for the promise. Examine the validity of Mr. X's argument in light of the principles of consideration in contract law.

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Paper-3-Company Law

PART - A

Answer any *five* of the following.

(5 x 5 = 25)

1. Discuss the concept and procedures and requirements for the alteration of the memorandum of association and articles of association of a company under the Companies Act, 2013.

2. Explain the powers and functions of the Registrar of Companies (RoC) as outlined in the Companies Act, 2013. How does the RoC contribute to the regulatory framework for companies?

3. Analyze the provisions related to the declaration and payment of dividends by companies under the Companies Act, 2013. What safeguards are in place to protect the interests of shareholders?

4. Elaborate on the concept of "one person company" (OPC) introduced by the Companies Act, 2013. What are the advantages and limitations of OPCs in the Indian corporate framework?

5. Discuss the implications and procedures for the voluntary winding up of a company under the Companies Act, 2013. How does the Act ensure a fair and transparent process in such cases?

6. Explain the concept of auditor's independence under the Companies Act, 2013.

PART - B

Answer any *three* of the following

(3 x 15 = 45)

7. Explore the regulatory framework for mergers and acquisitions in India. Discuss the role of the Competition Commission of India (CCI) in regulating M&A transactions. Highlight any recent trends or amendments in M&A laws.

8. XYZ Ltd., a company incorporated in India, has been facing financial difficulties, and its board of directors is considering various options to address the company's financial challenges. The board is contemplating a scheme of arrangement under Section 230-232 of the Companies Act, 2013. The proposed scheme involves the demerger of one of the business divisions of XYZ Ltd. into a new entity, ABC Pvt. Ltd.

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As a legal advisor to XYZ Ltd., provide a comprehensive analysis of the legal and procedural aspects involved in implementing a demerger under the Companies Act, 2013. In your response, cover the following key points:

a. Explain the relevant provisions of the Companies Act, 2013, pertaining to schemes of arrangement and specifically demergers. Discuss the statutory requirements and procedures that XYZ Ltd. needs to adhere to for a demerger.

b. Outline the approval process for the proposed demerger, including the role of shareholders, creditors, and the National Company Law Tribunal (NCLT). What are the key documents that need to be prepared and submitted during this process?

c. Analyze the safeguards in place to protect the interests of shareholders, creditors, and other stakeholders during the demerger process. How can dissenting shareholders or creditors voice their concerns, and what remedies are available to them?

d. Briefly discuss the tax implications of the demerger, both for XYZ Ltd. and the newly formed entity ABC Pvt. Ltd. Highlight any specific provisions or considerations related to taxation in the context of demergers.

e. After the demerger is approved and implemented, what are the ongoing compliance requirements for XYZ Ltd. and ABC Pvt. Ltd.? Discuss any reporting obligations or filings that the companies need to fulfill post-demerger.

9. Discuss the importance of corporate governance in Indian companies. Analyze the key principles and mechanisms in place to ensure effective corporate governance. Highlight any recent changes in the regulatory framework concerning corporate governance.

10. Explain the provisions related to appointment and qualifications of directors under the Companies Act, 2013. Discuss the roles and responsibilities of directors as per the Act.

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PART - C

Answer any *one* of the following.

(1 x 30 = 30)

11. The M. P. Electricity Duty Act, 1949 (hereinafter referred as 'the act') was introduced to levy duty on consumption of electrical energy. The object of the act stated that, tax levied will be calculated according to the quantity of electricity consumed. An amendment was made in 1959, according to which an exemption from paying electricity duty was provided to consumers in a scheduled industry, this schedule included "Metallurgical Industries". In 1971, another amendment took place, and it was stated that,

    An electricity duty will be levied on the licensee for the energy sold to a consumer.

    An electricity duty will be levied on the licensee for the consumption of energy in or upon residential or commercial premises

    There would be a duty on consumption of electricity by any other person from "his own source of generation.

    The ABC Company Ltd., established an aluminium factory at Pithampur (M. P.) in 1959. In 1964, DEF Co Ltd., a wholly owned subsidiary of the ABC Co., was incorporated. On 12th November 1964, DEF had acquired sanction from the state government under the Indian Electricity Act, 1910 to supply electricity to the ABC Co. Ltd. Hence DEF Co. became the licensee eligible to pay electricity duty. The DEF Co. Ltd. wrote an application to the state government to grant exemption to DEF Co. Ltd. for payment of electricity duty. This application was rejected by the government on the ground that imposition of electricity duty is not an unbearable burden on DEF Co, and it would be against the public interest to grant exemption. Discuss the validity of decision of Government with the help of relevant provisions and decided cases.

12. XYZ is a registered housing finance Company. In December, 2022 the XYZ became a public listed Company and its shares were listed on the Stock Exchange. XYZ was seeking to raise its capital in the past two years but such efforts could not materialise. In March, 2022 Shubhlabh Bank, which is the largest shareholder, holding 33% of the shareholding of the XYZ"s Company, intimated XYZ that it cannot provide funding as regulatory approval from Reserve Bank of India was not obtained. On the other hand, some of the existing shareholders along with others jointly offered to pump in funds by way of preferential allotment of shares. Based on the offer given by the aforesaid shareholders, the Board of Directors of the XYZ Company passed a resolution

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dated 31st May, 2022 approving the raising of capital through preferential allotment of shares to the proposed allotees at a price of Rs.390/ per share. The resolution resolved to convene an Extra Ordinary General Meeting for approval of the resolution of the board by the shareholders. Accordingly, a notice was issued to all shareholders intimating that an Extra Ordinary General Meeting would be convened on 22nd June, 2022 to consider various items and item no. 1 related to the issue of allotment of shares by way of preferential allotment on private placement basis for cash consideration. The aforesaid resolution of the Board of Directors and the subsequent issue of the notices to the shareholders were intimated to the Stock Exchanges, pursuant to which, the Stock Exchanges from 11th to 15th June, 2022 sought various information/responses from the Company which was duly supplied. Based on the responses, the Stock Exchanges submitted a joint report to SEBI especially on the issue whether all applicable methods of valuation were considered by the Board of Director while ascertaining the share price. The company XYZ gave it's reply on 18th June, 2022 and, thereafter, on the same date, i.e. 18th June, 2022, SEBI issued a communication. By this communication it was held that agenda no.1 being ultra vires of Article of Association shall not be acted upon until XYZ obtained a report from the registered valuer in terms of Article 19(2) of the Articles of Association. It was stated that the resolution is ultra vires since valuation by the registered valuer had not been factored while determining the price of the preferential issue and that the Articles of Association as it stands as on date requires the Board of Directors to consider the valuation report of a registered valuer This is also to be noted that Article 19(2) of the Articles of Association of the company provides:

Notwithstanding anything contained in sub-clause (1) hereof, the further shares aforesaid may be offered to any persons (whether or not those persons include the persons referred to in clause (a) of sub-clause (1) hereof) if authorized by special resolution either for cash or for consideration other than cash, if the price of such shares is determined by the valuation of a registered valuer. Decide the validity of aforesaid board resolution with the help of relevant statutory provisions and decided cases.

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Paper-4-Civil Procedure Code and Limitation Act
(21.12.2023)
PART - A

Answer any *five* of the following.

(5 x 5 = 25)

1. Explain the legal principles of res sub judice and res judicata. When can a foreign judgement be considered conclusive?

2. What is the difference between order, judgement and decree? How many decrees does CPC recognise.

3. Discuss the provisions related to appeals under the CPC. When can an appeal be filed against a decree/order?

4. Explain the concept of "limitation period" under the Indian Limitation Act, 1963. Provide examples of situations where the Act is applicable and discuss the importance of adhering to these limitation periods in legal proceedings.

5. Discuss the factors that determine the appropriate place for suing, such as jurisdiction and objections to jurisdiction. When can a case be transferred or withdrawn?

6. Discuss the provisions related to execution of decrees under the CPC. What are the different modes of execution?

PART - B

Answer any *three* of the following.

(3 x 15 = 45)

7. Write a short note on the scope and objectives of CPC 1908.

8. Discuss the procedures that take place during the hearing of a case, including appearance and consequences of non-appearance, ex-parte procedure, discovery and inspection, interrogatories, admission and production of documents.

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9. Write a short note on how a decree conclusively determines the rights and duties of parties.

10. What are the essential features of a plaint? How does a plaint differ from a written statement.

PART - C

Answer any *one* of the following.

(1 x 30 = 30)

11. Examine the procedures in particular cases related to suits by/against government, suits by/against minors, suits by indigent persons and interpleader suits. Also discuss arrest and attachment before judgment and temporary injunction.

12. Explain the procedures related to affidavit, judgment, decree, costs, interest, appointment of receiver, their powers and duties, removal and restitution. Also discuss abatement and withdrawal of suits.

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Paper-5-Criminal Procedure Code
(22.12.2023)
PART - A

Answer any *five* of the following.

(5 x 5 = 25)

1. Explain the constitution and hierarchy of criminal courts in India. Discuss the jurisdiction and powers of different criminal courts.

2. Discuss the role and powers of juvenile courts and juvenile welfare boards in the criminal justice system.

3. Explain the powers of an appellate court to deal with criminal appeals as per the provisions of the Code of Criminal Procedure. Also briefly discuss the other remedies of revision, reference and transfer of cases.

4. Recently, a group of villagers assembled near a disputed plot of agricultural land to protest against its demarcation by the local authorities. This led to a law and order situation in the area. Explain the powers of the executive magistrate in such a situation to disperse the unlawful assembly and maintain public order as per the Code of Criminal Procedure.

5. Ajay was accused of committing theft in Delhi in January 2020. The police filed a charge sheet in September 2022 before a court in Mumbai in relation to the offence. Explain whether the court in Mumbai can validly take cognizance of the offence committed by Ajay in light of the provisions of ordinary place of inquiry/trial and limitation prescribed for taking cognizance under the Code of Criminal Procedure.

6. Rani filed an application in the Family Court in Delhi seeking maintenance from her estranged husband Rahul under Section 125 of CrPC. Rahul argued that the court does not have jurisdiction to entertain the application since he resides in Mumbai. Examine the maintainability of Rani's application in light of the provisions related to jurisdiction of courts and procedure for maintenance under Section 125 of CrPC.

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PART – B

Answer any *three* of the following.

(3 x 15 = 45)

7. Harish was accused of theft but has been avoiding appearing in court on the scheduled hearing dates. The police need to compel his appearance in court so that the case can proceed further. Which of the following procedures outlined in the criminal procedure code should the police first try in order to summon Harish to court - serving him a summons, issuing a proclamation and order of attachment, obtaining an arrest warrant, or serving a special summons? If the first procedure does not work, what should be the next step as per the code? Apart from compelling Harish's appearance, under what circumstances can cases be committed to a sessions court or consolidated into a single case as per the criminal procedure code?

8. Raj was arrested by the police on suspicion of committing theft in a house in his neighborhood. During the investigation, the police searched Raj's home and seized some documents and jewellery suspected to have been stolen. Raj was produced before the magistrate and sent to judicial custody.

   Analyze the above case and criminal procedure in detail.

   The answer should include the following points:

   i. Classify the offence of theft as cognizable/non-cognizable and bailable/non-bailable based on the code. (1 marks)
   ii. Explain the pre-trial procedure that would be followed by the police and magistrate after Raj's arrest. (3 marks)
   iii. Discuss the rights of the arrested person Raj as per the provisions of the code. (2 marks)
   iv. Examine the steps taken by police to produce Raj before the magistrate and ensure his presence for trial. (3 marks)
   v. Evaluate the search and seizure conducted at Raj's home and the impounding of documents by the police. Cite relevant sections. (3 marks)
   vi. Highlight the duties of public to give information and assist the police/magistrate during investigation and trial. (2 marks)

vii. Conclude by stating that the case has been analyzed thoroughly covering the relevant criminal procedures. (1 mark)

9. The body of Kirti was found under mysterious circumstances near a river in the outskirts of the town. The police registered a case of unnatural death and started investigation. During the investigation, the police examined several witnesses, recorded their statements. They also visited the crime scene, collected evidence and recorded observations in the police diary. Upon completion of investigation, the Investigating Officer submitted a report to the magistrate.

Analyze the police investigation procedures undertaken in the above case.

The answer should include the following points:

i. Explain the procedures to be followed by police for the investigation of unnatural/suspicious deaths as per the Code. (3 marks)
ii. Discuss the powers of police to investigate cognizable cases and examine witnesses. (2 marks)
iii. Highlight the importance of recording statements during the investigation and its evidentiary value. (3 marks)
iv. Describe the purpose and importance of maintaining a police diary. (2 marks)
v. Analyze the contents to be included in the final investigation report submitted to the magistrate. (2 marks)
vi. Examine whether the investigation procedures undertaken by police were as per the Code. (2 marks)
vii. Conclude by stating that all relevant investigation procedures have been critically analyzed. (1 mark)

10. Pintu was accused of theft and arrested by the police. During the investigation and trial, his lawyer argued that Pintu had a history of mental illness and was not mentally fit to stand trial. However, the court did not consider this and proceeded with framing of charges and examination of witnesses. Pintu was ultimately convicted of the charged offence.

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Critically examine whether Pintu received a fair trial in accordance with the principles of natural justice and relevant provisions of the Code.

The answer should include the following points

i. Explain the rights of accused at trial as per Code. (3 marks)
ii. Analyze the treatment and procedures for persons of unsound mind as per Code. (3 marks)
iii. Evaluate the court's actions regarding framing of charges and alteration of charges. (3 marks)
iv. Discuss the protection against self-incrimination and double jeopardy as per Code. (3 marks)
v. Critically examine if Pintu's mental health was adequately considered. (2 marks)
vi. Conclude stating if Pintu received a fair trial as per principles of natural justice and provisions of Code. (1 mark)

PART - C

Answer any *one* of the following.

(1 x 30 = 30)

11. Rajesh was arrested in January 2023 for allegedly assaulting his neighbor during a dispute over a property boundary issue. The police claimed to have recovered the blood-stained lathi from Rajesh's house.

Rajesh's lawyer filed an application for anticipatory bail in the Sessions Court in February 2023 apprehending his arrest in the case. However, the court rejected the application.

In March 2023, Rajesh was arrested in the case and sent to judicial custody by a magistrate court. His lawyer filed a bail application which was also rejected. An appeal was filed before the High Court.

Analyze the anticipatory bail application process undertaken in Rajesh's case and the bail application process after his arrest keeping in view the relevant provisions of the CrPC.

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12. Ravi was accused of theft and his case was committed to the Court of Sessions by a Magistrate. During the trial in Sessions Court, the Public Prosecutor examined all witnesses and closed the evidence.

When examined under Section 313 CrPC, Ravi denied all charges and did not give any explanation. He was ultimately convicted by the Sessions Court.

Ravi has now appealed in the High Court arguing that the trial was not conducted as per the Code and his rights were violated.

Examine whether the trial conducted by the Sessions Court was in accordance with the provisions of CrPC relating to trial procedure, rules of evidence and examination of accused. Discuss the merits of Ravi's appeal.

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Paper-6-Indian Legal Profession and Code of Ethics
(23.12.2023)

PART - A

Answer any *five* of the following.

(5 x 5 = 25)

1. Can the Bar Council of India, after the transfer of a disciplinary proceeding under Section 36B(1) of the Advocates Act, 1961, from the State Bar Council, choose to send it back to the State Bar Council for disposal rather than conducting its own inquiry and adjudication? Explain and analyze, supported by relevant judgments of the Supreme Court of India, the provisions of the Advocates Act, 1961, and the Rules of the Bar Council of India established under the Act.

2. (a) In case, the State Bar Council after consideration of a complaint filed by a Complainant against an Advocate, prima-facie does not find merit in the complaint and dismisses the same, under which provision does the remedy lie to the complainant and to which authority.

   (b) If it is found that an Advocate is enrolled with the State Bar Council by misrepresentation, fraud, concealment of an important fact etc. under what provisions of the Advocates Act, 1961 and by which authority can his name be removed from the rolls of the State Bar Council.

3. Consider whether the following actions amount to professional or other misconduct:

   a. An advocate assaults his opposing Advocate with a knife and gun within the court premises during lunchtime.

   b. An Advocate fabricates a false affidavit concerning the conduct of a marriage that never took place.

   c. An Advocate is involved in managing a canteen center within the court compound.

   d. An Advocate distributes pamphlets containing only his mobile number, omitting his name, and outlines various legal areas he practices in.

   e. A client pays Rs. 5000 to an Advocate for representation regarding fraud in the purchase of a mobile phone. When the Advocate decides there is no case to pursue and informs the client, the client seeks a refund, which the Advocate does not provide.

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4. Ramesh had engaged Advocate B to represent him in a matrimonial matter pending before the family court. Ramesh was not satisfied with B's performance and wanted to engage another Advocate. However, B refused to give Ramesh a no-objection certificate (NOC) as well as hand over case files/briefs, stating that the full agreed fees was not paid. Analyze the above situation with help of judicial decisions, and Bar Council of India Rules.

5. During the hearing of a case, some Advocates appearing before the court got agitated and annoyed as the court did not grant relief as per their desire. They abused the court, used intemperate language and levalled allegations. What action/s can be initiated/taken against them?

   (a) Whether they can be prosecuted by the Court under the Contempt of Court Act, or

   (b) Whether they can be prosecuted by the Court under the Advocates Act, 1961, or

   (c) Whether action can be taken under both the laws. i.e. the Contempt of Court Act and Advocates Act, 1961.

   Explain the above statement with case law?

6. An Advocate was engaged by a client in a property dispute matter. After the matter was decided, the Advocate purchased the same disputed property from the client at a rate lower than the market rate. Then, the Advocate sold this property to a third party at a higher rate. The Advocate's stand is that he is no longer connected to the property as he has sold it to a third party, and hence is not guilty of any professional or other misconduct under Advocates Act and the Bar Council of India rules. Is the stand taken by the Advocate correct? Analyze and give your view on the same considering the principles of the Advocates Act and Bar Council of India Rules.

PART - B

Answer any *three* of the following.

(3 x 15 = 45)

7. Mr. and Mrs. Kumar, a couple married for 12 years with two children, aged 9 and 7, believe that their marriage has not been thriving for the past four years. Seeking a divorce, they have approached Advocate Kapil Sharma for legal assistance. The couple, still considering each other as friends, have agreed on a custody arrangement. Mr. Kumar will have custody of their 9-year-old son, while Mrs. Kumar will have custody of their daughter. Additionally, Mrs. Kumar has proposed Rs. 20,000 a month for child maintenance, a proposal to which Mr. Kumar has agreed without hesitation. Both parties wish to avoid engaging separate Advocates due to cost concerns.

Evaluate whether Advocate Kapil Sharma should accept the case and agree to represent both parties. Additionally, identify potential challenges that may arise in joint representation.

8. Explore the responsibilities of a lawyer in the following scenarios:

   a. A client, A, confides in B, an Advocate, stating, "*I have committed forgery and I am seeking your legal representation for my defense.*"

   b. A client, A, discloses to B, an Advocate, saying, "*I intend to acquire possession of property through the utilization of a forged deed, and I am seeking your legal assistance to pursue a lawsuit.*"

9. (a) Are Advocates permitted to engage in advertising, and if so, what specific information can an Advocate publish on a website?

   (b) Provide a critical examination of the limitations imposed on Advocates concerning alternative employments. Consider the case of Mr. Mohan, currently employed in a government position and pursuing a 3-year LL.B. Degree course in a college located 200 km away. Mr. Mohan has obtained due permission from his department to pursue an LL.B degree, with the condition, that it does not adversely affect his office responsibilities. He only applies for leaves during examination periods. Please elucidate whether Mr. Mohan has the right to be enrolled as an Advocate while in service or post-retirement.

10. (a) Provide an explanation of the procedural requirements for establishing a new Center of Legal Education in accordance with the Rules of Legal Education. Highlight the role of the Bar Council of India and its Committee in overseeing and facilitating this process.

   (b) Can students graduating from a college or university that lacks approval or recognition from the Bar Council of India be admitted for enrollment as Advocates?

   (c) Illustrate the scenario where a prospective Center of Legal Education, following the procedures outlined in the Rules of Legal Education, has applied to the Bar Council of India. However, an inspection by the Bar Council of India has not yet taken place, and the institution has admitted students without the requisite approval of affiliation. Explore the implications for the students in terms of their ability to be enrolled as Advocates after obtaining their LL.B. Degree from such a college or university.

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PART - C

Answer any *one* of the following.

(1 x 30 = 30)

11. Consideration before Enrolment as an Advocate, before entering the Legal profession, involves an evaluation of an individual's qualifications, character, ethical conduct , baseline level of competence, integrity etc fitness to practice law by the Enrolment Committee. The committee examines whether the applicant understands the boundaries of professional expression and refrains from engaging in conduct that will be unbecoming of the profession of Advocacy, once he joins such profession.

The Constitutional Bench of 5 Hon'ble judges of the Supreme Court in Bar Council of India vs Bonni Foi held that the objective of the legislature while giving wide powers to the Bar Council of India under section 49 of the Advocates Act, which gives it the power to prescribe rules read with clause (d) of sub-section (3) of Section 24, which gives it the power to prescribe norms for entitlement to be enrolled as an Advocate under the Rules of the Bar Council of India, leads the Court to the conclusion that these are adequate powers with the Bar Council of India under the said Act to provide for such norms and rules. [Section- 49 (1) (ag)(ah) (c)].

The State Bar Council has the power to make rules(Section 24 (1) stipulating conditions subject to which a person may be admitted as an Advocate on any such roll,(Section 28 (1) (d)), however no such rules made by any State Bar Council shall have effect unless they have been approved by the Bar Council of India as per the Advocates Act(Section 28(2) . The Bar Council of India is empowered to exercise general supervision and control over State Bar Councils as per the Advocates Act (Section 7 (1) (g) and has power to issue directions to State Bar Councils which will be given effect to even by overiding rules framed by State Bar Councils. (Section 48B(1) & (2).

As per the Bar Council of India vs AK Balaji judgment passed by Supreme Court of India, in 2018, individual lawyers, groups of individual lawyers, bar associations, Companies, law firms, even bpo companies who, if in pith and substance are doing practise of law, regardless of their nomenclature, as well as foreign lawyers, if they practice in India, they all fall under the regulatory regime of the Bar Council of India.

The following is the standards of professional conduct and etiquette expected of an Advocate.

"An Advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and normal for a person who is not a member of the Bar, or for a member of the Bar in his nonprofessional capacity may still be improper for an advocate.Any conduct that in any way renders an Advocate unfit for the exercise

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of his profession, may be considered to amount to misconduct. The liberty of free expression is not to be confounded or confused with licence to make baseless or unfounded allegations and/or resorting to illegal and unlawful means for seeking to enforce one's stand. Malafidely and mischievously imputing and stating and/or publishing, false, incorrect, derogatory, and defamatory allegations against any individual or organisation with an aim to attempt to disgrace, defame and lower and harm the character, name, reputation, esteem, dignity, credibility, moral and intellectual character tantamounts to libel and slander, and misconduct, and further using of intemperate language, showing disrespect to court, opponents, clients, colleagues, regulatory authorities, and/or to high offices, is an conduct unbecoming of an Advocate. Maintaining a level of civility and respect in language, and following due procedure of law and due procedure established by law, contributes to a more constructive and cooperative environment, facilitates understanding, and upholds standards of professional conduct."

Note-The rules on professional conduct and etiquette of Bar Council of India, mentions contain canons of conduct and etiquette adopted as general guides, yet the specific mention thereof shall not be construed as a denial of the existence of others equally imperative though not specifically mentioned.

Examine the aforementioned in detail from the context of the standards anticipated from individuals aspiring to enroll in the esteemed field of Advocacy. Additionally, analyze the expected professional conduct and etiquette from all those who come under the regulatory mechanism of the Bar Council of India, which they must maintain and uphold to prevent instances of professional or other misconduct, as delineated in the Advocates Act, 1961.

12. (a) Outline the qualifications stipulated by the provisions of the Advocates Act, 1961 for an individual to attain the status of an Advocate. Furthermore, elucidate the disqualifications that may prevent a person from being enrolled, taking into account the provisions of the Advocates Act, Bar Council of India Rules, and established norms. (10 Marks)

(b) Elaborate on the concept and procedure of complaints related to professional and other misconduct and define both and differentiate between both (15 Marks)

(c) Clarify the eligibility criteria for appearing in the All India Bar Exam (AIBE).If an Advocate has not appeared and passed the AIBE, assess whether such an Advocate is entitled to practice in a court of law. (5 Marks)

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