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# **INTRODUCTION TO LAW**

**N-338**

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*Based on*

**N.I.O.S. Class – XII**  
National Institute of Open Schooling

*By : Prieti Gupta*



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of the  
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# Solved Sample Paper - 1

Based on NIOS (National Institute of Open Schooling)

## Introduction to Law - XII

Time : 3 Hours

Maximum Marks : 100

- Note :** (i) This Question Paper consists of *two* Sections, viz., 'A' and 'B'.  
(ii) All the questions of Section 'A' are compulsory.  
(iii) Section 'B' has two options. Candidates are required to attempt questions from one option only.  
(iv) Marks allotted are indicated against each question.

### SECTION-A

- Q. 1. Define the term Legislation.**  
**Ans. Ref.:** See Chapter-3, Page No. 3, Q. No. 3 (Intext Questions 1.3).
- Q. 2. What do you mean by pleading?**  
**Ans. Ref.:** See Chapter-7, Page No. 36, Q. No. 1.
- Q. 3. Why did the Parsis adopt the local customs of India? Give one reason.**  
**Ans. Ref.:** See Chapter-4, Page No. 20, Q. No. 2 (Intext Questions 4.1).
- Q. 4. Define 'Conciliation'.**  
**Ans. Ref.:** See Chapter-5, Page No. 25, Q. No. 3 (Intext Questions 5.4).
- Q. 5. Define Central Laws.**  
**Ans. Ref.:** See Chapter-9, Page No. 47, Q. No. 1 (Intext Questions 9.2).
- Q. 6. Enlist the two defects in the existing Judicial System in India.**  
**Ans. Ref.:** See Chapter-13, Page No. 69, Q. No. 1 (Intext Questions 13.8).
- Q. 7. Define what is Judgement.**  
**Ans. Ref.:** See Chapter-14, Page No. 73, Q. No. 2 (7).
- Q. 8. List any two duties enshrined in the Constitution of India.**  
**Ans. Ref.:** See Chapter-19, Page No. 98, Q. No. (Intext Questions 19.6).
- Q. 9. Define 'Custom' and also identify the essentials of a valid custom.**  
**Ans. Ref.:** See Chapter-1, Page No. 2, Q. No. 2 (Intext Questions 1.3).
- Q. 10. List some activities of Public Interest Litigation (PIL).**  
**Ans. Ref.:** See Chapter-7, Page No. 37, Q. No. 2 (Intext Questions 7.6).
- Q. 11. Discuss the scope of decentralization with reference to 73rd Constitutional Amendment Act.**  
**Ans. Ref.:** See Chapter-9, Page No. 48, Q. No. 1, (Intext Questions 9.5).
- Q. 12. Write about appointment of High Court Judges.**  
**Ans. Ref.:** See Chapter-23, Page No. 118, Q. No. 1 (Intext Questions 23.5).
- Q. 13. What are essential characteristic of a Federal State?**  
**Ans. Ref.:** See Chapter-17, Page No. 89, Q. No. 3 (Intext Questions 17.5 and 17.6).
- Q. 14. What are fundamental rights? How many are they? Write about Right to equality.**  
**Ans. Ref.:** See Chapter-19, Page No. 96, 'Chapter At A Glance'.
- Q. 15. How many types of writs are there to enforce fundamental rights? Write about 2 writs.**  
**Ans. Ref.:** See Chapter-19, Page No. 99, Q. No. 6.
- Q. 16. Criminal matters start with FIR and ends at judgement or sentence. Write about FIR, investigation, filing of charge sheet, arguments and judgement.**  
**Ans. Ref.:** See Chapter-14, Page No. 74, Q. No. 3.
- Q. 17. Write about some Directive principles of state policy which have been implemented so far by 73rd, 86th amendments.**  
**Ans. Ref.:** See Chapter-20, Page No. 103, Q. No. 1.
- Q. 18. Write about proclamation of National Emergency by the President of India.**  
**Ans. Proclamation of Emergency:** (1) If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or armed rebellion, he may, by Proclamation, make a declaration to that effect in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation.  
Explanation-A Proclamation of Emergency declaring that the security of India or any part of the

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territory thereof is threatened by war or by external aggression or by armed rebellion may be made before the actual occurrence of war or of any such aggression or rebellion, if the President is satisfied that there is imminent danger thereof.

Provisions have been made in the Constitution for dealing with extraordinary situations that may threaten the peace, security, stability and governance of the country or a part thereof.

The Constitution of India has provided for imposition of emergency caused by war, external aggression or internal rebellion. This is described as the National Emergency. This type of emergency can be declared by the President of India if he is satisfied that the situation is very grave and the security of India or any part thereof is threatened or is likely to be threatened either, by war or external aggression by armed rebellion within the country. The President can issue such a proclamation even on the ground of threat of war or aggression. According to the 44th Amendment of the Constitution, the President can declare such an emergency only if the Cabinet recommends in writing to do so.

**Q. 19. Write in short powers and jurisdiction of the Supreme Court.**

**Ans.** The Supreme Court is the interpreter and guardian of the Constitution of India. It can annul the unconstitutional laws and orders of the Union and the State Governments. Judiciary has been provided with the Writ jurisdiction for protection of Fundamental Right of the people. Judiciary is provided with various powers which helps it to constitute as the guardian of the Constitution. Public Interest Litigation has been evolved as an instrument of social revolution, that has helped in providing justice to the vulnerable and downtrodden. The primary aim of 'PIL' is to bring justice within the reach of the poor masses and give them access to the Courts to obtain legal redress. Judicial activism means that instead of judicial restraint, the Supreme Court and other lower courts become activists and compel the authority to act and sometimes also direct the government and government policies and also administration. Judicial activism has arisen mainly due to the failure of the executive and legislatures to act and due to the non-activity of the other organs of the government.

**Q. 20. What is plea bargaining? What is importance of this in present time?**

**Ans. Ref.:** See Chapter-16, Page No. 83, Q. No. 1 (Intext Questions 16.2) and Page No. 84, Q. No. 1 (Intext Questions 16.3).

**Q. 21. What do you know about marriage and divorce under the Muslim law? Write in short.**

**Ans.** According to Muslim Law, marriage is considered as a civil contract. The object of Muslim marriage is procreation and legitimization of children. The essential requirements for Muslim marriage are as follows:

- (i) Every Muslim of a sound mind and having minimum age of 15 years, may enter into a contract of marriage.

- (ii) There should be a proposal made by or on behalf of one of the parties and acceptance of that proposal by or on behalf of the other party at the same time.
- (iii) The two Muslim male witnesses must be present at the time of proposal and acceptance of marriage. In Shia law witnesses are not required.
- (iv) The words used in proposal and acceptance must be clear and unequivocal so as to fulfil the intention of marriage.
- (v) Neither writing nor any religious ceremony is required.
- (vi) Proposal and acceptance must be reciprocal to each other *i.e.*, to say, the acceptance must be exactly for the proposal and nothing else.
- (vii) There must be consideration in terms of dower.

Islam emphasize on subsistence of marriage but under some conditions divorce may be given either by the act of husband or wife. A husband may divorce his wife by repudiating the marriage without giving any reason. Ily this done by *talaaq*. But he may also divorce by Ila and Zihar which differ from *talaaq* only in form, not in substance. Initially wife cannot divorce her husband of her own accord. But the Dissolution of Muslim Marriages Act, 1939 lays down several other grounds on the basis of which a Muslim wife may get her divorce decree passed by the order of the court.

**SECTION - B**

**OPTION - I**

**(Environmental Law & Sustainable Development)**

**Q. 22. What do you know about Bhopal Disaster?**

**Ans. Ref.:** See Chapter-25, Page No. 134, Q. No. 10 .

**Q. 23. List any two functions of state pollution control board.**

**Ans. Ref.:** See Chapter-24, Page No. 123, Q. No. 2 (Intext Questions 24.6).

**Q. 24. Where a person aggrieved by any order, decision or award of NGT can go in appeal?**

**Ans. Ref.:** See Chapter-27, Page No. 139, Q. No. 4 (Intext Questions 27.1).

**Q. 25. What is the need for 'Sustainable Development'? List any two factors that are important for attaining sustainable development.**

**Ans. Ref.:** See Chapter-25, Page No. 130, Q. No. 1 (Intext Questions 25.3).

**Q. 26. Discuss the role of PIL in ensuring clean Environment.**

**Ans. Ref.:** See Chapter-27, Page No. 141, Q. No. 2 and 3 (Intext Questions 27.6).

**Q. 27. Write about composition and jurisdiction of NGT (National Green Tribunal).**

**Ans. Ref.:** See Chapter-27, Page No. 141, Q. No. 1 (Terminal Questions) and Page No. 142, Q. No. 2.

**OPTION-II**

**(Consumer Protection Act & Right to Information)**

**Q. 22. Name the Consumer Court at District and National Level.**

# **Sample Preview of The Chapter**

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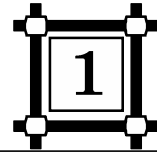


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# INTRODUCTION TO LAW

## Module-I: Concept of Law



### Meaning of Law

#### CHAPTER AT A GLANCE

Law is a binding custom or practice of a community. In other words, law is the system of rules which a particular country or community recognizes as regulating the actions of its members and which it may enforce by the imposition of penalties. Law can be defined by its basis in nature, reason, religion or ethics; by its sources like customs, precedent and legislation; by its effect on the life of the society; by the method of its formal expression or authoritative application and by the ends that it seeks to achieve. Many people had defined Law in their own perspective. According to Salmond, "Law is body of Principles recognised and applied by the State in the administration of justice." Broadly, 'Law' may be classified into International Law and Municipal (National) Law which can be further divided into Public and Private Law and then Substantive and Procedural Law. Some other varieties of law include natural law, conventional law, customary law, civil law, etc. In order to understand the concept of Law it is necessary to understand the sources of law. The sources of law refer to the source from where rules of human conduct came into existence and derive legal force of binding character. Broadly, sources of law can be divided into custom, judicial precedent and legislation. Custom is an embodiment of those principles which have commended themselves to the natural conscience as principles of justice and public utility. Antiquity, continuance, reasonableness, obligatory character, certainty, consistency and conformity with statutory laws are the essentials of a custom. Judicial precedent means the process whereby judges follow previously decided cases where the facts are of sufficient similarity. The doctrine of judicial precedent involves an application of the principle of *Stare Decisis i.e.*, to stand by the

decided. In practice, this means that inferior courts are bound to apply the legal principles set down by superior courts in earlier cases. This provides consistency and predictability in the law. The *ratio decidendi* of a case is the principle of law on which a decision is based. When a judge delivers judgement in a case he outlines the facts which he finds have been proved on the evidence. Then he applies the law to those facts and arrives at a decision, for which he gives the reason (*ratio decidendi*). The judge may go on to speculate about what his decision would or might have been if the facts of the case had been different. This is an *obiter dictum*. The term 'Legislation' is derived from the word '*legis*' meaning 'law and *latum*' which means to make or set. Thus, the word 'legislation' means making of law for human conduct. 'Legislation' is a deliberate process of legal evolution which consists in the formulation of norms of human conduct in a set form through a prescribed procedure by agencies designated by the Constitution.

With the growth of the society during the process of civilization, a system was required that could regulate the human behaviour and minimize the friction among them on the basis of set principles of justice and fair play. Thus, a legal system with the legal principles and norms was formed in order to provide protection and secured life to the people of the society. Our courts provide a forum to resolve disputes and to test and enforce laws in a fair and rational manner. The courts are an impartial forum and judges are the crusaders of Justice. They are the persons who administer justice without fear or favour. Advocates are the key functionaries assisting the judges in the administration of justice. Civil society plays an important role in bringing good governance by creating 'pressure group'. The participation of people in various matters brings transparency, accountability and responsiveness in the government.



### INTEXT QUESTIONS 1.1

**Q. 1. Define the term 'Law'?**

**Ans.** Laws are the principles and regulations established in a community by some authority and applicable to its people, whether in the form of legislation or of custom and policies recognized and enforced by judicial decision. 'Law' is based mainly on general principles of justice, fair play and convenience. The laws are generally formed by governmental bodies to regulate human activities. In wider sense, 'Law' indicates the whole process by which organized society, through government bodies and personnel attempt to apply rules and regulations to establish and maintain peaceful and orderly relations amongst the people in the society.

**Q.2. Name the five basis on which Law can be generally described.**

**Ans.** The five basis on which Law can be generally described are given below:

- (i) by its basis in nature, reason, religion or ethics;
- (ii) by its sources like customs, precedent and legislation;
- (iii) by its effect on the life of the society;
- (iv) by the method of its formal expression or authoritative application and
- (v) by the ends that it seeks to achieve.

**Q. 3. Pick up and write any of the two definitions of Law given in this lesson which you like most.**

**Ans.** Two important definitions of Laws liked by me are given below:

- (i) The first definition was proposed by Austin. According to Austin, "Law is the command of Sovereign." Rules laid down by political superiors to political inferiors *i.e.*, body of command by a sovereign member or members of an independent society wherein the author of law is supreme.
- (ii) The second definition liked by me is of Roscoe Pound. He states that "Law is a social control through systematic application of force in a politically organised society." Law is an instrument to satisfy the maximum wants in a society with the minimum of friction and waste.

### INTEXT QUESTIONS 1.2

**Q. 1. Make out a distinction between Public and Private Law.**

**Ans.** Municipal or national laws can be classified into Public and Private Law.

**Public Law:** Public laws are the laws that regulate the organization and functioning of the State and determine the relations of the State with its subjects. It may be divided into three classes which are constitutional law, administrative law and criminal law.

**Private Law:** Private law regulates and governs the relations of citizens with each other within a community. It includes Personal Law *e.g.*, Hindu Law and Muslim Law.

**Q.2. Distinguish between Substantive and Procedural Law.**

**Ans.** Substantive Law deals with rights and obligations of the individuals against the State and prescribes the offences and punishments for the commission of such offences. *For example*, Indian Penal Code, 1860 contains 511 Sections on various offences and corresponding punishments for those offences.

Procedural Law deals with the practice and procedure having its objective to facilitate the administration of justice. It is a process necessary to be undertaken for enforcement of the legal rights and liabilities of the litigating parties by a Court of Law. *For example*, the Criminal Procedure Code, 1973 enshrines the procedures to be followed to impose punishment on the criminal.

**Q. 3. Describe the main objective of Criminal Law.**

**Ans.** Criminal Law is associated with offences and it prescribes punishment for them. Its main objective is the prevention of and punishment for offences because in civilized societies, 'crime' is considered to be a wrong not against the individual but against the society.

### INTEXT QUESTIONS 1.3

**Q. 1. Identify the different sources of 'Law'.**

**Ans. There are three different sources of law:**

- (i) Custom
- (ii) Judicial precedent
- (iii) Legislation.

**Q. 2. Define 'Custom' and also identify the essentials of a valid 'Custom'.**

**Ans.** 'Custom' is the oldest and most important source of Law. It includes the rules of habitual conduct within a community. 'Custom' is an embodiment of those principles which have commended themselves to the natural conscience as principles of justice and public utility. The essentials of a valid custom are:

- (i) **Antiquity:** A custom must be in existence from time immemorial. However, India law does not fix any particular year to test the antiquity of custom.
- (ii) **Continuance:** A custom must be practiced without interruption; continuity is an essential feature of the custom. Continuity does not mean that it should be in operation all the time. It means that there should be a continuous availability of the terms of the customs to deal with particular rule of conduct with which it deals.
- (iii) **Reasonableness:** A custom should be reasonable, *i.e.*, it must be reasonable in its application to the circumstances of the individual cases. It must not be imprudent, harsh or inconvenient.
- (iv) **Obligatory Character:** The custom must have obligatory force. It must have been supported by the general public opinion and enjoyed as a matter of right.
- (v) **Certainty:** Custom must be certain. If the nature of the custom is not certain then it loses its validity.
- (vi) **Consistency:** A custom must not be in conflict with other prevailing customs. The customs must be in consistency with other custom.
- (vii) **Conformity with Statutory law and Public policy:** Custom should be conformity with statute law and public policy. A legislative enactment can abrogate a custom. In case of inconsistency between custom and statutory provision, former must give way to the latter. Thus, custom yield legislative enactment.

**Q.3. Define the term 'Legislation'.**

**Ans.** The term 'Legislation' is derived from the word '*legis*' meaning '*law and latum*' which means to make or set. Thus, the word 'legislation' means making of law. 'Legislation' is a deliberate process of legal evolution which consists in the formulation of norms of human conduct in a set form through a prescribed procedure by agencies designated by the Constitution. 'Legislation' means to make rules for human conduct.

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**INTEXT QUESTIONS 1.4**

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**Q.1. What is the importance of Constitution?**

**Ans.** The Constitution is important because it protects individual freedom and its fundamental principles that govern the state. The Constitution places the government's power in the hands of the citizens. It

limits the power of the government and establishes a system of checks and balances.

**Q. 2. How does Civil Society helps in bringing good-governance? (T.Q. No. 9)**

**OR**

**Describe the role of Civil Society in good-governance.**

**Ans.** Civil Society plays pivotal role in good governance. They create 'Pressure Groups' for seeking attention of the legislature and the government. Civil Society can influence policy and project formulation through membership of committees, submission of memoranda directly or through elected representatives, and interactive rule-making in the implementation of policies, projects and schemes affecting citizens. People's effective participation brings transparency, accountability and responsiveness in the government.

**Q. 3. Analyse the role of Advocates in the administration of Justice. (T.Q. No. 8)**

**OR**

**Explain the role of Advocate in administration of Justice.**

**Ans.** In the tradition of India, the advocates have contributed to the development of the legal system and thus in some way to the development of society, mainly as judges, advocates and jurists. Advocates are the key functionaries assisting the judges in the administration of justice. In the absence of the expert assistance of the advocates or lawyer on either side of a dispute, judges will find it difficult to find the truth on disputed facts in issue and interpretation of law. Thus, advocates play an important role in the administration of justice.

**Q. 4. Discuss briefly the role of Judges in the administration of Justice.**

**OR**

**Analyse the role of 'Judges' in the administration of Justice. (T.Q. No. 7)**

**Ans.** The Judges are the crusaders of Justice and thus, they are the persons who administer justice without fear or favour. Judges play many roles. Judges are independent of both Executive and Legislature in a Democratic set-up. They interpret the law, assess the evidence presented and control how hearings and trials unfold in their courtrooms. Most important of all, judges are impartial decision-makers in the pursuit of justice after proper inquiry.

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**TERMINAL QUESTIONS**

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**Q. 1. Define the term 'Law'.**

**Ans.** The principles and regulations established in a community by some authority and applicable to its

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people, whether in the form of legislation or of custom and policies recognized and enforced by judicial decisions are called 'Laws'. In other words, any written rules or collection of rules prescribed under the authority of the state or nation, as by the people in its Constitution are termed as laws. The idea of law is as old as the existence of the civilized society. Nowadays, the relevance of law to human behaviour has become so intimate that every person has his/her own perspective. Some of the important definitions as provided by some famous people are as follows:

- (i) According to Paton "Law consists of a body of rules which are seen to operate as binding rules in the community by means of which sufficient compliance with the rules may be secured to enable the set of rules to be seen as binding."
- (ii) According to A. V. Dicey, "Law is the reflection of Public opinion."
- (iii) Ihering defines Law as "the form of the guarantee of the conditions of life, of society, assured by State's power of Constraints."
- (iv) Salmond proposed that "Law is body of Principles recognised and applied by the State in the Administration of Justice" *i.e.*, principles recognized and applied by the State in the administration of justice.

**Q. 2. Identify the various Sources of Law.**

**Ans.** By the term 'source of law', we mean the source from where rules of human conduct came into existence and derive legal force of binding character. Broadly, sources of law can be divided into custom, judicial precedent and legislation.

**Custom:** Custom is an embodiment of those principles which have commended themselves to the natural conscience as principles of justice and public utility. Antiquity, continuance, reasonableness, obligatory character, certainty, consistency and conformity with statutory laws are the essentials of a custom.

**Judicial Precedent:** A Judicial Precedent is an independent source of law, where precedent is meant by set pattern upon which future conduct may be based.

**Legislation:** Legislation means to make rules for human conduct. It is a source of Law which consists in declaration of legal rules by competent authority.

**Q. 3. Identify the different kinds of Law.**

**Ans.** Broadly, Law may be classified into International Law and Municipal (National) Law which can be further divided into Public and Private Law.

- (i) **International Law:** International Law deals with the rules which regulate relations between

States or Nations. International Law is a body of customary and conventional rules which are considered to be legally binding by civilized Nations in their intercourse with each other that are bound to treaties between civilized Nations. These laws are further classified into public international law and private international law.

Public international laws are the rules that govern the conduct and relations of State with other States while private international laws are the rules according to which the cases having foreign elements are decided.

- (ii) **Municipal Law or National Law:** Municipal law deals with the rules that are applied within a State. These laws are also further divided into public and private laws.

Public laws deals with the regulation of the organization and functioning of the State and determines the relations of the State with its subjects. Public laws include constitutional law, administrative law and criminal laws. Constitutional Law is the fundamental law of the State, which determines the nature of State and the structure of the Government. Administrative law deals with the structure, powers and functions of the organs of administration. Criminal law is associated with the offences and it determines punishment for them.

Private law regulates and governs the relations of citizens with each other. It includes Personal Law *e.g.*, Hindu Law and Muslim Law.

- (iii) **Substantive Law:** Substantive Law deals with rights and obligations of the individuals against the State and prescribes the offences and punishments for the commission of such offences.
- (iv) **Procedural Law:** Procedural law deals with the practice and procedure having its objective to facilitate the administration of justice. It is a necessary process for enforcement of the legal rights and liabilities of the litigating parties by a Court of Law.
- (v) **Natural Law:** Natural laws are based upon the principle of right and wrong.
- (vi) **Conventional Law:** Conventional Law deals with the system of rules agreed upon by persons for regulation of their conduct towards each other.
- (vii) **Customary Law:** When a Custom is firmly established, the rules are enforced by the State as law because of its general approval by the people.