

Roll No: -----



UNIVERSITY OF PETROLEUM & ENERGY STUDIES

End Semester Examination – December 2017

Program/course: B.A., LL.B. (Energy Law), B.Com. LL.B. (Taxation), B.A., LL.B. (Hons.) Criminal Law/Labour, B.B.A., LL.B. (Banking, Finance and Insurance/Int. Trade & Investment Law, B.B.A., LL.B.(Hons.) Corp. Laws

Subject: Constitutional Law - I
Code : LLBL 221
No. of page/s: 05

Semester – III
Max. Marks : 100
Duration : 3 Hrs

Section A (10 Marks) (Attempt Any Four- 2.5 Marks Each)

Short Answer type

- Q. 1 What do you mean by writ of *mandamus*?
- Q. 2 Explain the doctrine of eclipse?
- Q. 3 Define Secularism.
- Q. 4 Whether preamble is part of the Indian Constitution or Not?
- Q. 5 Is judiciary a state according to Article 12? Answer in brief.
- Q. 6 Define Right to life as interpreted by the Hon'ble Courts in India.
- Q. 7 Define Preventive Detention.
- Q. 8 Define Public Interest Litigation.

Section B (20 marks)

(Attempt Any Two)

(10 Marks Each)

Conceptual type

Q. 9 What do you mean by Double Jeopardy? Which is relevant article of Indian Constitution about Double Jeopardy? Provide the examples. **(10 Marks)**

Q. 10 Write a note on *Locus Standi* rule. What was the approach of Supreme Court regarding *Locus Standi*, Explain with the help of leading cases. **(10 Marks)**

Q. 11 Explain the concept of minorities under the Article 30 of Constitution of India? What is the extent of rights of minorities to administer their educational institutions? **(10 Marks)**

Q. 12 The Indian Constitution has been founded on the bedrock of the balance between Part III & IV. To give absolute primacy to one over the other is to disturb the harmony of the Constitution. This Harmony and balance between Fundamental Rights and Directive Principles is an essential feature of the Indian Constitution. Explain with the help of leading cases that how in pursuance of the above mentioned approach the Court has been trying to draw a balance and harmony between the fundamental rights and directive principles? **(10 Marks)**

Q. 13 The rule of beneficial construction required that even an *Ex-Post Facto Law* of the type involved in any case be applied to reduce the punishment. In lieu of the above statement explain the doctrine of *Ex- Post Facto Law* with the Help of Leading Cases. **(10 Marks)**

Section C (20 marks)

(Attempt Any Two)

(10 Marks Each)

Analytical type

Q. 14 “It is said that the due process clause of American Legal System entered through back door in Indian Legal System through the judicial creativity”.—

In the light of above statement examine, how due process clause rejected in interpretation of Article 21 in A.K. Gopalan vs. State of Madras (AIR 1951 SC 27) and was adopted later by Apex Court in Maneka Gandhi vs. Union of India (AIR 1978 SC 597)? **(10 Marks)**

Q. 15 “Article 14 of Indian Constitution permits ‘reasonable classification’ and prohibits ‘class legislation’”.—

In the light of above statement, how ‘reasonable classification’ is permitted and ‘class legislation’ is prohibited under Article 14 of Indian Constitution? **(10 Marks)**

Q. 16 Do the press enjoy freedom of speech and expression under the Constitution of India as a citizen? By a government’s notification, the newspaper undertakings were restrained from publishing more than 15 pages and containing more than 20 % space for advertisements. Is the law valid under Article 19 (1) (a) read with 19(2)? Explain with the help of proper reasoning, legal provisions and case laws? **(10 Marks)**

Q. 17 Both the writs of Prohibition and Certiorari have for their object the restraining of Inferior Courts from exceeding their jurisdiction and they could be issued not merely to courts but to authorities exercising judicial or quasi-judicial functions. Still there persists certain distinction between both the writs. Explain and differentiate between the writs of Certiorari and Prohibition also mention the grounds for issue of writ of Certiorari. **(10 Marks)**

Q. 18 No arrest can be made in a routine manner on a mere allegation of a commission of an offence made against a person. It would be prudent for a police officer in the interest of the protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bonafide of a complaint and a reasonable belief both as to the persons complicity and even so as to the need to effect arrest. Article 22 of the Indian Constitution guarantees certain rights to any person who is arrested. Examine the rights guaranteed with the help of leading cases. **(10 Marks)**

Section D (50 marks)
(Attempt 5 Questions)

Application based / Case study based type

Q. 19 Solve the questions given below based on the following facts and problem:

India i.e. Bharat which is Union of the States is having the diverse culture and different sects, communities and religions. Indian Territory and people have long history of the diverse culture and based on the same background Indian Constitution has also recognized the unity, integrity and common brotherhood including the secular structure of the governance.

Before independence of the country India and Indian people have seen the working of the British Empire of U.K. and their British rule. Freedom fighters had tried to release the Indian Territory from the clutches of the British Empire. In the struggle of the freedom, many freedom fighters had given up their lives for the nation. In this background on 15th August, 1947 India became independent from the British Empire. Constituent Assembly of the Indian formulated the Constitution to regulate governance and development of the country post-independence period.

After seven decades of the independence of the country, still it is being realized and recognized time to time even by the Apex Court of the country that constitutional goals have not yet been fully realized and fulfilled by the successive governments. Still poverty, illiteracy, unemployment is rampant in most of the part of the country.

Recently in the country it is also observed that many sections and sects of the states are demanding the reservations in government employment and educations

Institutions. The issue of the Patidar community, Jatt community etc has also come in the lime light and in media. Their demands regarding inadequate representation in the government jobs and educational institutions and social backwardness emphasize upon the reservation.

In the State of Tamil Nadu recently the issue of Jallikattu (bull fighting) festival where state of Tamilnadu brought the law prohibiting the Jallikattu practice had come before the Supreme Court challenging State action violating the freedom of religion.

For making the corruption free India and establishing the transparent economy based on white money present Government has enacted Aadhaar (Targeted Delivery of Financial and other Subsidies, benefits and services) Act, 2016. With this enactment the personal information and data repository will be with the State Authority. In different sections and NGOs has challenged this Aadhar card linkage with the bank account, SIM Cards and other services on the ground of violation of the privacy rights. Many organizations has challenged that personal information demand from the government is violation of the basic fundamental right of right to life and personal liberty without due process established by law.

The Law of the Land i.e. Indian Constitution has recognized the secularism and freedom of religion for professing, practicing and propagating the religion. Freedom of religion is also subject to public order, morality, health and Part III of Indian Constitution. Many practices which are not the essential or integral part of the religions can be regulated by the State. Recently in Shayara Bano case Supreme Court has stated that triple talaq, oral divorce practice in Muslims is constitutionally not valid. In further judgment of Justice K.S. Puttaswamy (Retd.) vs. Union of India Supreme Court of India has also emphatically stated that freedom of religion can be regulated based on the provisions stated in the Part III of Indian Constitution.

Parliament of the country recognized through its Constitutional Amendment Act right to education of the children of the age from six to fourteen years. Constitution also stated provision of right to education is mandatory duty of the state but still reality in the many of the parts of the country reflect that this constitutional goal of right to education has not become real reality. Still in many parts of the country including major States and their governmental education institutions' situation is more dilapidated. Schools are not having proper infrastructure, drinking water facility and good qualified teachers.

In view of the above facts and background, solve the following questions:

Q. 19 (a) Whether right to education is fundamental right of the citizens of the country? Where right to education is guaranteed in Indian Constitution? **(10 Marks)**

Q. 19 (b) What is constitutionally permitted for the reservation in governmental employment and in educational institutions? What is procedure and requirement as per constitution for any community to get reservation in public employment? **(10 Marks)**

Q. 19 (c) Whether the religious customary practices like jallikattu practice is covered under the freedom of religion guaranteed in Indian Constitution? Discuss based on the suitable cases and provisions of Indian Constitution? **(10 Marks)**

Q. 19 (d) Whether biometric information and personal data collection through Aadhar card come within the purview of right to privacy? Can citizens deny linking Aadhar Card with their bank account, SIM cards and other services? Whether right to privacy recognized by the Supreme Court under Article 21 is absolute right without any limitation? **(10 Marks)**

Q. 19 (e) What is the justification of Supreme Court of India declaring the triple talaq i.e. oral divorce practice against the dignity and equality rights of the women guaranteed in the part III of the Indian Constitution? **(10 Marks)**

Q. 19 (f) Article 27 of the Indian Constitution prohibits the levying of a tax the proceeds of which are meant specifically for the payment of expenses for the promotion or maintenance of any particular religion or religious denomination. But if the levy is in nature of the fee it does not fall within the prohibition of this Article. Analyze the above statement with the help of leading cases. **(10 Marks)**

Q. 19 (g) The question is not whether a particular religious belief or practice appeals to our reasons or sentiments but whether the belief is genuinely and conscientiously held as part of the profession or practice of religion. Our personal views or practices are irrelevant. If the belief is genuinely and conscientiously held it attracts the protection of Article 25 but subject, of course to the inhibitions contained therein. Analyze and examine the Articles in Indian Constitution that guarantees the right to profess, practice and propagate religion with the help of leading cases. **(10 Marks)**

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- Q. 9 Explain the concept of minorities under the Article 30 of Constitution of India? What is the extent of rights of minorities to administer their educational institutions?
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Q. 10 Whether “Right to Education” is a fundamental right or statutory right or both? Decide and elaborate with the help of leading case laws? **(10 Marks)**

Q. 11 The rule of beneficial construction required that even an *Ex-Post Facto Law* of the type involved in any case be applied to reduce the punishment. In lieu of the above statement explain the doctrine of *Ex- Post Facto Law* with the Help of Leading Cases. **(10 Marks)**

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