CLAT PG 2023 Question Paper

Total Paragraphs – 12
Total Questions – 120
Questions Per Paragraph – 10

Total Marks – 120
Marks for Correct Answer – 1
Marks for Incorrect Answer - -0.25

Total Time: 2 Hours

Add Notes Here:

I. Our society is governed by the Constitution. The values of constitutional morality are a non-derogable entitlement. Notions of "purity and pollution", which stigmatise individuals, can have no place in a constitutional regime. Regarding menstruation as polluting or impure, and worse still, imposing exclusionary disabilities on the basis of menstrual status, is against the dignity of women which is guaranteed by the Constitution. Practices which legitimise menstrual taboos, due to notions of "purity and pollution", limit the ability of menstruating women to attain the freedom of movement, the right to education and the right of entry to places of worship and, eventually, their access to the public sphere. Women have a right to control their own bodies. The menstrual status of a woman is an attribute of her privacy and person. Women have a constitutional entitlement that their biological processes must be free from social and religious practices, which enforce segregation and exclusion. These practices result in humiliation and a violation of dignity. Article 17 prohibits the practice of "untouchability", which is based on notions of purity and impurity, "in any form". Article 17 certainly applies to untouchability practices in relation to lower castes, but it will also apply to the systemic humiliation, exclusion and subjugation faced by women. Prejudice against women based on notions of impurity and pollution associated with menstruation is a symbol of exclusion. The social exclusion of women, based on menstrual status, is but a form of untouchability which is an anathema to constitutional values. As an expression of the anti-exclusion principle, Article 17 cannot be read to exclude women against whom social exclusion of the worst kind has been practised and legitimised on notions of purity and pollution. Article 17 cannot be read in a restricted manner. But even if Article 17 were to be read to reflect a particular form of untouchability, that Article will not exhaust the guarantee against other forms of social exclusion. The guarantee against social exclusion would emanate from other provisions of Part III, including Articles 15(2) and 21. Exclusion of women between the age group of ten and fifty, based on their menstrual status, from entering the temple in Sabarimala can have no place in a constitutional order founded on liberty and dignity.

Question 1. In IYLA, the Supreme Court held that the worshippers of Lord Ayyappa:

(A) are not a religious denomination because they have not registered themselves as such

(B) are not a religious denomination because they do not have a distinct name, a common set of beliefs, and a common organizational structure

(C) are a religious denomination because they have been recognised as such by the state

(D) are a religious denomination because they have consistently been treated as such by themselves as well as by society in general

Correct answer: B Explanation:

Option (A): Incorrect. The Court did not base its decision on whether the worshippers had formally registered themselves as a religious denomination. The absence of registration is not a disqualifying factor under Indian law for recognition as a religious denomination. Hence, Option (A) is not the correct answer.

Option (B): Correct. The Supreme Court's decision highlighted the lack of a distinct name, a unified set of beliefs, and a common organizational structure among the worshippers of Lord Ayyappa as key reasons for not recognizing them as a religious denomination. This option directly aligns with the Court's reasoning, emphasizing the importance of these characteristics in determining a group's status as a religious denomination. Hence, Option (B) is the correct answer.

Option (C): Incorrect. State recognition is not a prerequisite for a group to be considered a religious denomination. The Court's analysis primarily revolves around intrinsic qualities and organizational features of the group rather than external recognition by the state. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. While self-identification and societal recognition are important, they alone do not suffice for a group to be recognized as a religious denomination. The Supreme Court's decision indicates that specific structural and organizational criteria must also be met. Hence, Option (D) is not the correct answer.

Question 2. The Supreme Court determined whether a religious practice falls within Article 25 using the:

(A) essential religious Practice test

(B) Sincerity of belief test

(C) Proportionality test

(D) Constitutional morality test

Correct Answer: (A) Essential religious Practice test

Difficulty Level: Medium Explanation:

Option (A): Essential religious Practice test - Correct. The Supreme Court uses this test to determine if a practice is fundamental to a religion and therefore protected under Article 25, which guarantees all individuals the right to freely profess, practice, and propagate their religion. This test assesses the centrality of the practice to the religion's doctrine. Hence, Option (A) is the correct answer.

Option (B): Sincerity of belief test - Incorrect. While the sincerity of belief is important, the Supreme Court of India does not primarily use this test for determining the protection of a religious practice under Article 25. This test is more relevant in other jurisdictions like the United States. Hence, Option (B) is not the correct answer.

Option (C): Proportionality test - Incorrect. The proportionality test is generally used in the context of limiting rights rather than determining whether a practice is protected as a religious belief under Article 25. Hence, Option (C) is not the correct answer.

Option (D): Constitutional morality test - Incorrect. Although constitutional morality is a guiding principle for the Supreme Court, it is not the specific test used to evaluate the protection of religious practices under Article 25. Hence, Option (D) is not the correct answer.

Question 3. Parliament gave effect to Article 17 by enacting:

(A) the Abolition of Untouchability Act, 1951

(b) the Protection of Civil Rights Act, 1955

(C) the Constitutional Offences Act, 1951

(D) the Untouchability Offences (Prohibition, Protection, and Remedies) Act, 1950

Correct Answer: (B) the Protection of Civil Rights Act, 1955

Difficulty Level: Easy Explanation:

Option (A): The Abolition of Untouchability Act, 1951 - Incorrect. This act does not exist; the correct legislation is the Protection of Civil Rights Act, 1955, which was initially called the Untouchability (Offences) Act, 1955. Hence, Option (A) is not the correct answer.

Option (B): The Protection of Civil Rights Act, 1955 - Correct. This act was specifically enacted to abolish "untouchability" and enforce the rights provided under Article 17 of the Constitution. Hence, Option (B) is the correct answer.

Option (C): The Constitutional Offences Act, 1951 - Incorrect. There is no act by this name related to the implementation of Article 17. Hence, Option (C) is not the correct answer.

Option (D): The Untouchability Offences (Prohibition, Protection, and Remedies) Act, 1950 - Incorrect. While the name closely resembles the actual act, the correct name and year is the Protection of Civil Rights Act, 1955. Hence, Option (D) is not the correct answer.

Question 4. Justice D.Y. Chandrachud’s reliance on Constituent Assembly Debates to determine the scope of Article 17 is best explained by this method of constitutional interpretation:

(A) Living Constitutionalism

(B) Originalism

(C) Structuralism

(D) textualism

Correct Answer: (B) Originalism

Difficulty Level: Medium Explanation:

Option (A): Living Constitutionalism - Incorrect. Living constitutionalism involves interpreting the Constitution in the context of contemporary values and societal norms, which does not specifically align with reliance on Constituent Assembly Debates. Hence, Option (A) is not the correct answer.

Option (B): Originalism - Correct. Originalism focuses on the original intent and meanings of the constitutional text as understood at the time of its framing, which aligns with Justice

Chandrachud's use of Constituent Assembly Debates to interpret Article 17. Hence, Option (B) is the correct answer.

Option (C): Structuralism - Incorrect. Structuralism interprets the Constitution based on the structure of government and relationships between its parts, not specifically relevant to the use of Constituent Assembly Debates. Hence, Option (C) is not the correct answer.

Option (D): Textualism - Incorrect. Textualism focuses on the plain meaning of the text without considering external factors such as the framers' intentions or societal changes. Hence, Option (D) is not the correct answer.

Question 5. In IYLA, Justice d.Y. Chandrachud held that Article 17 has:

(A) Vertical application

(B) Horizontal application

(C) indirect horizontal application

(D) None of the above
Correct Answer: (B) Horizontal application

Difficulty Level: Medium Explanation:

Option (A): Vertical application - Incorrect. Vertical application refers to rights or obligations that apply in the context of the state's relationship with individuals. Justice Chandrachud's interpretation that Article 17 extends beyond state actions indicates this is not the correct understanding. Hence, Option (A) is not the correct answer.

Option (B): Horizontal application - Correct. Justice Chandrachud held that Article 17's prohibition against untouchability applies not just in the context of state actions but also in interactions between private individuals, thereby having a horizontal application. Hence, Option (B) is the correct answer.

Option (C): Indirect horizontal application - Incorrect. While this option suggests a nuanced application among individuals mediated by law, the correct term as per Justice Chandrachud's interpretation is simply "horizontal application," without the "indirect" qualifier. Hence, Option (C) is not the correct answer.

Option (D): None of the above - Incorrect. The correct application, as determined by Justice Chandrachud, is indeed horizontal, making this option incorrect. Hence, Option (D) is not the correct answer.

Question 6. In the review petition against this judgment, the Supreme Court has framed which of the following questions for determination by a 9-judge bench? (A) Scope of "public order, morality and health" in Article 25(1)

(B) Scope of expression "section of Hindus" in Article 25(2)(b)

(C) Scope of "judicial recognition" to PiLs filed by people not belonging to a religious denomination to contest a religious practice

(D) All the above Correct answer: D Explanation:

Option (A): Correct within (D). The scope of "public order, morality and health" in Article 25(1) is a critical question because it directly affects the extent to which religious practices can be regulated by law. This question is fundamental in determining the balance between individual freedoms and societal interests. Hence, Option (A) is correct as part of Option (D).

Option (B): Correct within (D). The interpretation of "section of Hindus" in Article 25(2)(b) impacts the application of religious rights to different groups within Hinduism, influencing the inclusivity and scope of religious protections. Hence, Option (B) is correct as part of Option (D).

Option (C): Correct within (D). The question of "judicial recognition" to PILs filed by individuals not belonging to a religious denomination challenges the traditional standing requirements in court, affecting who can bring forth cases regarding religious practices. Hence, Option (C) is correct as part of Option (D).

Option (D): Correct. This option accurately reflects the comprehensive nature of the review petition, encompassing all the aspects listed in the previous options, showing the wide range of issues the Supreme Court aimed to address. Hence, Option (D) is the correct answer.

Question 7. Which judge on the bench in IYLA disagreed with Justice Chandrachud on the application of Article 17? (A) Justice r.F. Nariman

(B) Justice dipak misra

(C) Justice indu malhotra

(D) None of the above

Correct answer: C Explanation:

Option (A): Incorrect. Justice R.F. Nariman's views were not specifically highlighted as opposing Justice Chandrachud's application of Article 17 in the context provided. Hence, Option (A) is not the correct answer.

Option (B): Incorrect. Justice Dipak Misra, as the Chief Justice at the time, did not specifically disagree with Justice Chandrachud on the application of Article 17 in the provided context. Hence, Option (B) is not the correct answer.

Option (C): Correct. Justice Indu Malhotra provided a dissenting view in the context of the Sabarimala judgment, emphasizing different interpretations of religious freedom and equality.

Her dissent highlighted a different approach to the application of Article 17. Hence, Option (C) is the correct answer.

Option (D): Incorrect. Given that Justice Indu Malhotra's dissent is well-documented, stating "None of the above" would be inaccurate. Hence, Option (D) is not the correct answer.

Question 8. In reaching his conclusion on the scope of Article 17, Justice d.Y. Chandrachud cited which of the following works of dr. b.r. Ambedkar?

(A) Coming out as Dalit

(B) Goolami

(C) Annihilation of Caste

(D) All the above Correct answer: C Explanation:

Option (A): Incorrect. "Coming out as Dalit" is not a work authored by Dr. B.R. Ambedkar but rather a contemporary title, making this option irrelevant to the question. Hence, Option (A) is not the correct answer.

Option (B): Incorrect. "Goolami" is not listed among the notable works by Dr. B.R. Ambedkar that were cited in judicial decisions, making this option inaccurate. Hence, Option (B) is not the correct answer.

Option (C): Correct. "Annihilation of Caste" is one of Dr. B.R. Ambedkar's most significant works, addressing the issues of caste and social discrimination in India. Justice Chandrachud's citation of this work aligns with discussions on the scope of Article 17. Hence, Option (C) is the correct answer.

Option (D): Incorrect. The other options listed do not accurately reflect the works of Dr. Ambedkar that were cited by Justice Chandrachud in his judgment. Hence, Option (D) is not the correct answer.

Question 9. In the passage above, what does the term “non-derogable” mean?

(A) Cannot be extracted under any circumstances

(B) Cannot be precisely determined

(C) Cannot be infringed under any circumstances

(D) None of the above
Correct Answer: (C) Cannot be infringed under any circumstances

Difficulty Level: Easy Explanation:

Option (A): Incorrect. While "cannot be extracted" might suggest an element of non-removal, it does not accurately capture the legal concept of a right being non-derogable. Hence, Option (A) is not the correct answer.
Option (B): Incorrect. The ability to precisely determine a concept is unrelated to its nonderogability. Hence, Option (B) is not the correct answer.

Option (C): Correct. Non-derogable rights are those rights from which no derogation is permitted under any circumstances, effectively capturing the essence of constitutional protections that cannot be suspended or limited. Hence, Option (C) is the correct answer.

Option (D): Incorrect. Given the clear definition of non-derogable rights, suggesting that none of the options apply would be inaccurate. Hence, Option (D) is not the correct answer.

Question 10. The petition filed by the indian Young Lawyers Association in this case was a:

(A) Special Leave Petition from the decision of the Kerala High Court

(B) Public interest Litigation

(C) Writ Appeal from a petition filed under Article 226

(D) None of the above

Correct Answer: (B) Public Interest Litigation

Difficulty Level: Easy Explanation:

Option (A): Incorrect. The case did not originate as a Special Leave Petition from a decision of the Kerala High Court but as a direct filing before the Supreme Court. Hence, Option (A) is not the correct answer.

Option (B): Correct. The petition filed by the Indian Young Lawyers Association was a Public Interest Litigation aimed at challenging the practice of excluding women of a certain age group from entering the Sabarimala temple, focusing on broader issues of gender equality and religious freedom. Hence, Option (B) is the correct answer.

Option (C): Incorrect. A Writ Appeal from a petition filed under Article 226 typically pertains to appeals within the High Court's jurisdiction, not the Supreme Court's original jurisdiction cases like this PIL. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The petition's nature is well-defined as a Public Interest Litigation, making "None of the above" inaccurate. Hence, Option (D) is not the correct answer.

II. An Ordinance which is promulgated by the Governor has (as clause 2 of Article 213 provides) the same force and effect as an Act of the legislature of the State assented to by the Governor. However - and this is a matter of crucial importance – clause 2 goes on to stipulate in the same vein significant constitutional conditions. These conditions have to be fulfilled before the 'force and effect' fiction comes into being. These conditions are prefaced by the expression "but every such Ordinance" which means that the constitutional fiction is subject to what is stipulated in sub-clauses (a) and (b). Sub-clause (a) provides that the Ordinance "shall be laid before the legislative assembly of the state" or before both the Houses in the case of a bicameral legislature. Is the requirement of laying an Ordinance before the state legislature mandatory? There can be no manner of doubt that it is. The expression

"shall be laid" is a positive mandate which brooks no exceptions. That the word 'shall' in sub-clause (a) of clause 2 of Article 213 is mandatory, emerges from reading the provision in its entirety. As we have noted earlier, an Ordinance can be promulgated only when the legislature is not in session. Upon the completion of six weeks of the reassembling of the legislature, an Ordinance "shall cease to operate". … Article 213(2)(a) postulates that an ordinance would cease to operate upon the expiry of a period of six weeks of the reassembly of the legislature. The Oxford English dictionary defines the expression "cease" as : "to stop, give over, discontinue, desist; to come to the end." P Ramanatha Aiyar's, The Major Law

> Lexicon defines the expression “cease” to mean “discontinue or put an end to”. Justice C K Thakker’s Encyclopaedic Law Lexicon defines the word “cease” as meaning: “to put an end to; to stop, to terminate or to discontinue”. The expression has been defined in similar terms in Black’s Law Dictionary.
> The expression “cease to operate” in Article 213(2)(a) is attracted in two situations. The first is where a period of six weeks has expired since the reassembling of the legislature. The second situation is where a resolution has been passed by the legislature disapproving of an ordinance. Apart from these two situations that are contemplated by sub-clause (a), sub-clause (b) contemplates that an ordinance may be withdrawn at any time by the Governor. Upon its withdrawal the ordinance would cease to operate as well. [Extracts from the judgment of majority judgment in Krishna Kumar Singh v. State of Bihar, Civil Appeal No. 5875 of 1994, decided on January 2, 2017 hereafter ‘KK Singh’]

Question 11. The power to promulgate an ordinance is an instance of the:

(A) Executive power of the Governor

(B) Delegated power of the Governor

(C) Sovereign prerogative power of the Governor

(D) None of the above

Correct Answer: (A) Executive power of the Governor

Difficulty Level: Easy Explanation:

Option (A): Correct. The power to promulgate an ordinance is a constitutional power vested in the Governor (and the President for the Union), classified under the executive powers. This power is exercised when the legislature is not in session, allowing the Governor to make laws to meet urgent situations. Hence, Option (A) is the correct answer.

Option (B): Incorrect. The power is not delegated; it is constitutionally granted to the Governor. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. It is not a prerogative power in the context of a constitutional republic like India; it is a constitutional provision. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The power to promulgate ordinances is explicitly provided for and is an essential component of the executive power of the Governor. Hence, Option (D) is not the correct answer.

Question 12. The Constitution Bench in D.C. Wadhwa v. State of Bihar (1987) 1 SCC 378 held that re-promulgation of an Ordinance was a ‘fraud on the Constitution’ because:

(A) Legislative power is vested in the legislatures by the Constitution of India

(B) It is a colourable exercise of power under the Constitution of India

(C) The role of the Executive is to implement a law, not make it

(D) None of the above

Correct Answer: (B) It is a colourable exercise of power under the Constitution of India

Difficulty Level: Medium Explanation:

Option (A): Incorrect. While legislative power is vested in the legislature, this statement does not directly address why re-promulgation is considered a fraud on the Constitution. Hence, Option (A) is not the correct answer.

Option (B): Correct. The Supreme Court held that re-promulgation of ordinances without placing them before the legislature constitutes a colourable exercise of power and a subversion of democratic legislative processes, effectively a 'fraud on the Constitution'. Hence, Option (B) is the correct answer.

Option (C): Incorrect. This option simplifies the issue; the judgment specifically targeted the misuse of executive power to circumvent legislative scrutiny, not the basic role of the executive. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The judgment provided clear reasons why re-promulgation is problematic, making "None of the above" inaccurate. Hence, Option (D) is not the correct answer.

Question 13. In States which are bicameral, the Governor can promulgate an Ordinance only when:

(A) Both Houses are not in session

(B) When a Proclamation of Emergency is in operation

(C) When the state has been placed under President’s rule

(D) None of the above

Correct Answer: (A) Both Houses are not in session

Difficulty Level: Easy Explanation:

Option (A): Correct. The Governor can promulgate an ordinance only when both houses of a bicameral legislature are not in session and urgent action is deemed necessary. Hence, Option (A) is the correct answer.

Option (B): Incorrect. The proclamation of emergency is a separate condition for certain constitutional provisions and does not directly pertain to the promulgation of ordinances. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. While President's rule affects governance, the condition for ordinance promulgation is specifically about the legislative houses not being in session. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The specific condition under which an ordinance can be promulgated is well-defined, making "None of the above" incorrect. Hence, Option (D) is not the correct answer.

Question 14. Under Article 213, an Ordinance once promulgated by the Governor shall be laid before the Legislative Assembly of the State or where it is bicameral, before both the Houses. Keeping in mind the constitutional provisions, an ordinance promulgated by the Governor can remain effective for a maximum period of:

(A) Six weeks

(B) Six months

(C) Seven-and-a-half months

(D) One year

Correct Answer: (C) Seven-and-a-half months

Difficulty Level: Medium Explanation:

Option (A): Incorrect. Six weeks is the time within which an ordinance must be placed before the legislature after it reconvenes, not its maximum effective period. Hence, Option (A) is not the correct answer.

Option (B): Incorrect. Six months represents the maximum interval between sessions of the legislature but does not directly correspond to the effective period of an ordinance. Hence, Option (B) is not the correct answer.

Option (C): Correct. An ordinance, once promulgated, will cease to operate six weeks after the legislature reassembles if not approved. Considering the maximum gap between sessions can be six months, the total maximum effective period can be up to seven-and-a-half months. Hence, Option (C) is the correct answer.

Option (D): Incorrect. One year exceeds the constitutionally defined effective period of an ordinance. Hence, Option (D) is not the correct answer.

Question 15. KK Singh overruled two 5-Judge decisions of the Supreme Court, to hold:

(A) An Ordinance which is not laid before the Legislature in the manner prescribed by Article 213 shall not have any legal effect and consequences.

(B) An Ordinance which is not laid before the Legislature in the manner prescribed by Article 213 shall be void from the date that it should have obtained approval.

(C) An Ordinance which is not laid before the Legislature in the manner prescribed by Article 213 shall be void from the date the ordinance is replaced by a law made by the Legislature to replace the Ordinance.

(D) An Ordinance which is not laid before the Legislature in the manner prescribed by Article 213 shall be considered as a temporary statute.

Correct Answer: (A) An Ordinance which is not laid before the Legislature in the manner prescribed by Article 213 shall not have any legal effect and consequences.

Difficulty Level: High Explanation:

Option (A): Correct. KK Singh's ruling emphasized the constitutional obligation to lay an ordinance before the legislature as prescribed by Article 213. Failure to do so renders the ordinance without legal effect or consequences, underscoring the importance of legislative scrutiny for ordinances. Hence, Option (A) is the correct answer.

Option (B): Incorrect. The judgment did not specifically state that an ordinance would be void from the date it should have obtained approval, but rather focused on the absence of legal effect due to not being laid before the legislature. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. The judgment's focus was on the procedural compliance with Article 213, not on the conditions under which an ordinance becomes void. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. Although ordinances are temporary statutes by nature, this option does not accurately reflect the specific legal issue addressed in the KK Singh ruling regarding the requirement to lay the ordinance before the legislature. Hence, Option (D) is not the correct answer.

Question 16. An Ordinance promulgated by the Governor:

i. shall be treated to be 'law' for the purposes of Article 13 of the Constitution of India.

ii. shall in all cases require the prior approval of the President. iii. shall not be constrained by the subject-matter requirements of Article 246 read with the Seventh Schedule of the Constitution of India.

(A) i alone is correct

(B) i and ii are correct

(C) i, ii and iii are correct

(D) None of the above are correct

Correct Answer: (A) i alone is correct

Difficulty Level: Medium Explanation:

Option (A): Correct. An ordinance promulgated by the Governor is considered 'law' under Article 13 of the Constitution, which means it must conform to the Constitution's provisions, including fundamental rights. Hence, Option (A) is the correct answer.

Option (B): Incorrect. Not all ordinances require the prior approval of the President; this depends on the subject matter of the ordinance and specific constitutional provisions. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. Ordinances are indeed constrained by the subject-matter requirements of Article 246 read with the Seventh Schedule of the Constitution, contradicting part iii of this option. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. Option i is correct, making "None of the above" incorrect. Hence, Option (D) is not the correct answer.

Question 17. Article 213 requires the Governor to reserve an Ordinance for the consideration of the President:

i. in all cases when the state is placed under President's Rule under Article 356.

ii. when the Ordinance pertains to the proviso to Article 304(b) and seeks to impose reasonable restrictions in the public interest on the freedom of trade, commerce or intercourse with or within that state. iii. when the Ordinance is on a matter enumerated in the Concurrent List (of the Seventh Schedule) and which is repugnant to a law made by Parliament.

(A) i, ii, and iii are correct

(B) ii and iii are correct

(C) i and iii are correct

(D) None is correct

Correct Answer: (B) ii and iii are correct

Difficulty Level: Medium Explanation:

Option (A): Incorrect. The requirement to reserve an ordinance for the President's consideration does not apply in all cases of President's Rule under Article 356. Hence, Option (A) is not the correct answer.

Option (B): Correct. The Governor must reserve an ordinance for the President's consideration when it pertains to matters like reasonable restrictions on freedom of trade (Article 304(b)) or when it could be repugnant to a law made by Parliament regarding a matter on the Concurrent List. Hence, Option (B) is the correct answer.

Option (C): Incorrect. While iii is correct, i is not a universally applicable condition, making this combination incorrect. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. Options ii and iii correctly represent scenarios requiring Presidential consideration, making "None is correct" inaccurate. Hence, Option (D) is not the correct answer.

Question 18. The power of the Governor to promulgate an Ordinance is subject to the Governor being satisfied that "circumstances exist which render it necessary for him to take immediate action." The 7-judge bench in KK Singh held that the satisfaction of the Governor:

(A) Is not subject to judicial review since it is a political question

(B) Is subject to judicial review with regard to the relevancy of the material on which such satisfaction is based

(C) Is subject to judicial review with regard to the adequacy of materials on which such satisfaction is based

(D) None of the above

Correct Answer: (B) Is subject to judicial review with regard to the relevancy of the material on which such satisfaction is based

Difficulty Level: High

Explanation:

Option (A): Incorrect. The KK Singh judgment clarified that the Governor's satisfaction is not beyond judicial scrutiny, especially in a constitutional democracy. Hence, Option (A) is not the correct answer.

Option (B): Correct. The Supreme Court held that the Governor's satisfaction could be subject to judicial review to ensure that it is based on relevant material, reinforcing checks and balances within the Constitution. Hence, Option (B) is the correct answer.

Option (C): Incorrect. The focus is on the relevancy of the materials, not necessarily their adequacy, for the purpose of judicial review. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The KK Singh judgment clearly allows for judicial review under specified conditions, making "None of the above" incorrect. Hence, Option (D) is not the correct answer.

19. Section 6 of the General Clauses Act, 1897 protects rights, privileges, obligations and liabilities in cases of repeal of an enactment. The majority in KK Singh held that: i. The Ordinance that ‘ceases to operate’ is distinct from a law that is void. ii. An Ordinance that ‘ceases to operate’ is distinct from a temporary statute. iii. An Ordinance that ‘ceases to operate’ is distinct from a repealed statute. iv. An Ordinance that ‘ceases to operate’ is not ‘saved’ in the absence of any ‘savings clause’ in Article 213.

(A) i, ii, and iii are correct

(B) ii and iii are correct

(C) i and iii are correct

(D) All the above are correct

Correct Answer: (D) All the above are correct

Difficulty Level: Medium Explanation:

Option (A): Correct within (D). Distinguishing between ordinances that cease to operate and laws that are void is crucial for understanding their legal effects and consequences. Hence, Option (A) is correct as part of Option (D).

Option (B): Correct within (D). The distinction between an ordinance ceasing to operate and a temporary statute provides clarity on the temporary nature of ordinances and their legal implications. Hence, Option (B) is correct as part of Option (D).

Option (C): Correct within (D). Differentiating an ordinance ceasing to operate from a repealed statute highlights the unique legal status and treatment of ordinances under Article 213. Hence, Option (C) is correct as part of Option (D).

Option (D): Correct. The comprehensive ruling in KK Singh addressed these distinctions to clarify the legal standing and implications of ordinances that cease to operate without a savings clause in Article 213. Hence, Option (D) is the correct answer.

Question 20. A resolution by the Legislature disapproving an Ordinance promulgated under Article 213 by the Governor is:

(A) statutory in nature and has binding effect upon the Government

(B) a mere expression of the opinion of the House

(C) a decision of the House relating to the control of its proceedings

(D) an exercise of delegated legislation

Correct Answer: (B) a mere expression of the opinion of the House

Difficulty Level: Easy Explanation:

Option (A): Incorrect. A legislative resolution disapproving an ordinance does not carry statutory force or binding effect upon the Government; it's more of a political expression. Hence, Option (A) is not the correct answer.

Option (B): Correct. Such a resolution is primarily a political tool expressing disapproval and does not directly alter the legal status of an ordinance. Hence, Option (B) is the correct answer.

Option (C): Incorrect. While it relates to legislative proceedings, disapproval does not pertain to the control of proceedings but expresses opposition to the executive action. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. It is not an exercise of delegated legislation but rather a mechanism for the legislature to express its stance on the ordinance. Hence, Option (D) is not the correct answer.

III. The other material which prompted the High Court to reach the conclusion that the subsoil/minerals vest in the State is … recitals of a patta which ….. states that if minerals are found in the property covered by the patta and if the pattadar exploits those minerals, the pattadar is liable for a separate tax in addition to the tax shown

in the patta and …. certain standing orders of the Collector of malabar which provided for collection of seigniorage fee in the event of the mining operation being carried on. We are of the clear opinion that the recitals in the patta or the Collector's standing order that the exploitation of mineral wealth in the patta land would attract additional tax, in our opinion, cannot in any way indicate the ownership of the State in the minerals. The power to tax is a necessary incident of sovereign authority (imperium) but not an incident of proprietary rights (dominium). Proprietary right is a compendium of rights consisting of various constituent rights. if a person has only a share in the produce of some property, it can never be said that such property vests in such a person. In the instant case, the State asserted its 'right' to demand a share in the 'produce of the minerals worked' though the expression employed is right – it is in fact the Sovereign authority which is asserted. From the language of the bSO No.10 it is clear that such right to demand the share could be exercised only when the pattadar or somebody claiming through the pattadar, extracts/works the minerals – the authority of the State to collect money on the happening of an event – such a demand is more in the nature of an excise duty/a tax. the assertion of authority to collect a duty or tax is in the realm of the sovereign authority, but not a proprietary right…. the only other submission which we are required to deal with before we part with this matter is the argument of the learned counsel for the State that in view of the scheme of the Mines and Minerals (Development and Regulation) Act, 1957 (hereafter 'mmrdA') which prohibits under Section 4 the carrying on of any mining activity in this country except in accordance with the permit, license or mining lease as the case may be, granted under the Act, the appellants cannot claim any proprietary right in the sub-soil… [extract from the judgment in Thresiamma Jacob v. Dept. of Mining & Geology, (2013) 9 SCC 725] (hereafter 'T Jacob')

Question 21. The mmdrA enacted by Parliament grants the union Government the:

(A) right to obtain ownership of land containing mineral wealth (B)

Power to exclude the State Government from ownership rights of

land containing mineral wealth

(C) right to regulate the grant of mining rights

(D) right to impose taxes on all mining activities

Correct Answer: (C) right to regulate the grant of mining rights

Difficulty Level: Easy Explanation:

Option (A): Incorrect. The MMDR Act does not directly grant the Union Government the right to obtain ownership of land containing mineral wealth. Ownership of land is a separate matter from the regulation of mineral resources. Hence, Option (A) is not the correct answer.

Option (B): Incorrect. The Act does not explicitly provide the power to exclude the State Government from ownership rights of land containing mineral wealth. It focuses on the regulatory framework for mining rights. Hence, Option (B) is not the correct answer.

Option (C): Correct. The MMDR Act empowers the Union Government to regulate the grant of mining rights, establishing procedures and conditions for mining leases and permits. Hence, Option (C) is the correct answer.

Option (D): Incorrect. The right to impose taxes on mining activities is typically under the purview of both the Union and State governments but is not the primary focus of the MMDR Act. Hence, Option (D) is not the correct answer.

Question 22. T Jacob dealt with the question of traditional proprietaryrights of ownership of subsoil rights, and held that:

i. Subsoil rights are treated as ‘commons’ and are held by the State in public trust.

ii. There is nothing in the law which declares that all mineral wealth/ subsoil rights vest in the State.

iii. the owner of the land can be deprived of subsoil rights by law.

(A) i is correct

(B) ii and iii are correct

(C) i and iii are correct

(D) None of the above is correct

Correct Answer: (B) ii and iii are correct

Difficulty Level: Medium Explanation:

Option (A): Incorrect. The judgment did not treat subsoil rights as 'commons' held by the State in public trust, which contrasts with statement i. Hence, Option (A) is not the correct answer.

Option (B): Correct. The judgment clarified that not all mineral wealth/subsoil rights automatically vest in the State and acknowledged the legal possibility of depriving a landowner of subsoil rights. Hence, Option (B) is the correct answer.

Option (C): Incorrect. Since statement i is not accurate based on the judgment, this combination is incorrect. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. Statements ii and iii are correct, making this option invalid. Hence, Option (D) is not the correct answer.

Question 23. The power to impose a tax on the produce of some land should be treated as:

(A) Assertion that land is partly owned by government

(B) Power of eminent domain

(C) Assertion of a proprietary right

(D) Assertion of a sovereign right

Correct Answer: (D) Assertion of a sovereign right

Difficulty Level: Easy Explanation:

Option (A): Incorrect. Imposing a tax on the produce of land does not imply partial ownership by the government but rather its authority to levy taxes. Hence, Option (A) is not the correct answer.

Option (B): Incorrect. The power of eminent domain relates to the government's right to take private property for public use, not specifically the imposition of taxes. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. Taxation is not an assertion of proprietary right but a fiscal tool. Hence, Option (C) is not the correct answer.

Option (D): Correct. The power to tax is an exercise of a government's sovereign rights over its jurisdiction. Hence, Option (D) is the correct answer.

Question 24. In common law, the owner of a piece of land is entitled to:

i. Work on the surface of the land. ii. entitled to everything beneath the surface down to the center of the earth. iii. entitled to everything below the surface except those minerals included under the mmdrA.

(A) All are correct

(B) Only i is correct

(C) Only i and ii are correct

(D) Only i and iii are correct

Correct Answer: (C) Only i and ii are correct

Difficulty Level: Medium Explanation:

Option (A): Incorrect. Statement iii is not accurate because the MMDR Act regulates certain minerals which may limit a landowner's rights to those minerals. Hence, Option (A) is not the correct answer.

Option (B): Incorrect. Statements ii and iii address different aspects of rights beneath the surface, making only i universally correct but not sufficient alone. Hence, Option (B) is not the correct answer.

Option (C): Correct. Common law traditionally holds that a landowner owns both the surface and everything beneath it down to the center of the earth, excluding specific limitations such as those under the MMDR Act. Hence, Option (C) is the correct answer.

Option (D): Incorrect. Statement ii is accurate without the qualification provided in statement iii regarding the MMDR Act. Hence, Option (D) is not the correct answer.

Question 25. Under the Constitution of India, all property and assets, which vested in the british Crown for the purposes of the Government of the dominion of india and Governor's Provinces, stood:

(A) Confiscated without payment

(B) repatriated back to the Crown

(C) Vested in the union of india

(D) Vested in the union of india and the States

Correct Answer: (D) Vested in the union of India and the States

Difficulty Level: Easy Explanation:

Option (A): Incorrect. The properties were not confiscated without payment but rather transferred as part of the legal and constitutional processes of independence. Hence, Option (A) is not the correct answer.

Option (B): Incorrect. Assets did not revert back to the Crown but were transferred to the new sovereign entities within India. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. While some assets vested in the Union, others were vested in the States, making this option only partially accurate. Hence, Option (C) is not the correct answer.

Option (D): Correct. Upon independence, properties and assets vested in both the Union of India and the States, depending on their nature and relevance. Hence, Option (D) is the correct answer.

Question 26. The Constitution of India, vests all lands, minerals, and other things of value under the ocean floor within the territorial waters:

(A) in the union of India

(B) in the respective States having a shoreline

(C) in the union and all States in the union

(D) Are treated as 'res commune'

Correct Answer: (A) in the union of India

Difficulty Level: Easy Explanation:

Option (A): Correct. According to the Constitution of India, resources under the ocean floor within territorial waters are vested in the Union of India. This centralizes control over these resources, ensuring uniformity in policy and management. Hence, Option (A) is the correct answer.

Option (B): Incorrect. While states with shorelines have interests in coastal resources, the Constitution vests control of sub-ocean resources within territorial waters in the Union of India, not in individual states. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. The control is not shared between the Union and all States but is exclusively vested in the Union of India. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. While "res commune" refers to resources owned in common by the public, the Constitution specifically vests these resources in the Union of India for governance and management. Hence, Option (D) is not the correct answer.

Question 27. the Supreme Court in State of Meghalaya v. All Dimasa Students Union Hasao [2019] held that in the Sixth Schedule State of meghalaya, where most lands are either privately or community-owned:

i. Landowners of privately owned/ community owned lands can lease their lands for mining. ii. the State Government alone can grant a lease for mining in privately owned/community owned lands.

iii. Landowners of privately owned/ community owned lands can lease their lands for mining after obtaining previous approval of the Central Government through the State Government.

iv. All of the above (A) iv is correct

(B) ii and iii are correct

(C) i and iii are correct

(D) None of the above is correct

Correct Answer: (B) ii and iii are correct

Difficulty Level: Medium Explanation:

Option (A): Incorrect. The Supreme Court's judgment does not allow landowners to unilaterally lease their lands for mining without any regulatory oversight. Hence, Option (A) is not the correct answer.

Option (B): Correct. The Supreme Court clarified that mining leases in privately or community-owned lands in Meghalaya require state government approval, and in some cases, the prior approval of the Central Government. Hence, Option (B) is the correct answer.

Option (C): Incorrect. Option i by itself is misleading because it suggests autonomy without mentioning necessary approvals. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. Not all statements are correct as per the Supreme Court's ruling. Hence, Option (D) is not the correct answer.

Question 28. Section 105 of the Transfer of Property Act, 1882 states that a lease of immovable property is a transfer of a right to enjoy such property under certain conditions. The right to 'enjoy such property':

(A) includes the right to carry on mining operation in the surface of the land

(B) includes the right to carry on mining operation in the sub-soil of the land

(C) includes the right to extract the specified quantity of the minerals found therein, to remove and appropriate that mineral

(D) All the above

Correct Answer: (D) All the above

Difficulty Level: Medium Explanation:

Option (A): Correct within (D). The right to enjoy property includes conducting operations on the surface, assuming the lease agreement does not restrict such activities. Hence, Option (A) is correct as part of Option (D).

Option (B): Correct within (D). The right also extends to the sub-soil, subject to the terms of the lease and applicable laws, such as the MMDR Act for mineral extraction. Hence, Option (B) is correct as part of Option (D).

Option (C): Correct within (D). The lease may include the right to extract and appropriate minerals, provided it complies with relevant regulations. Hence, Option (C) is correct as part of Option (D).

Option (D): Correct. The inclusion of all these rights under a lease agreement depends on the specific terms and compliance with laws. Hence, Option (D) is the correct answer.

Question 29. The need for environmental clearance under the Environment Protection Act, 1986 is required for a project of coal mining:

(A) In all lands whether privately, community, or publicly owned

(B) Only in lands owned by the union Government

(C) Only in lands owned by the State Government

(D) Only where sustainability is threatened

Correct Answer: (A) In all lands whether privately, community, or publicly owned

Difficulty Level: Easy Explanation:

Option (A): Correct. Environmental clearance under the Environment Protection Act, 1986, is mandatory for coal mining projects regardless of the ownership status of the land. Hence, Option (A) is the correct answer.

Option (B): Incorrect. The requirement is not limited to lands owned by the Union Government but applies universally. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. Similar to Option (B), environmental clearance is not confined to state-owned lands. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The need for environmental clearance is not conditional on sustainability threats but is a general requirement for specified projects, including coal mining. Hence, Option (D) is not the correct answer.

Question 30. The Constitution of India provides that all properties within the territory of india that do not have a lawful heir, successor or rightful owner, accrue to the union or State where it is situate through:

(A) escheat

(B) Lapse

(C) Bona vacantia

(D) All the above

Correct Answer: (D) All the above

Difficulty Level: Easy Explanation:

Option (A): Correct within (D). Escheat is a common law principle where property reverts to the state if there are no lawful heirs. Hence, Option (A) is correct as part of Option (D).

Option (B): Correct within (D). While "lapse" is not the term commonly used in this context, the concept is similar to escheat in that properties may revert to the state in certain conditions. Hence, Option (B) is correct as part of Option (D).

Option (C): Correct within (D). "Bona vacantia" refers to the doctrine where properties without a rightful owner or heir vest in the state. Hence, Option (C) is correct as part of Option (D).

Option (D): Correct. All these concepts relate to how properties without lawful heirs or owners can accrue to the state or Union, highlighting the comprehensive legal mechanisms for such situations. Hence, Option (D) is the correct answer.

IV. A nationwide lockdown was declared by the Central Government from 24 March 2020 to prevent the spread of the CoVID-19 pandemic. Economic activity came to a grinding halt. The lockdown was extended on several occasions, among them for the second time on 14 April 2020. On 17 April 2020, the Labour and Employment Department of the State of Gujarat issued a notification under Section 5 of the Factories Act to exempt all factories registered under the Act “from various

provisions relating to weekly hours, daily hours, intervals for rest etc. for adult workers" under Sections 51, 54, 55 and 56. The stated aim of the notification was to provide "certain relaxations for industrial and commercial activities" from 20 April 2020 till 19 July 2020. Section 5 of the Factories Act provides that in a public emergency, the State Government can exempt any factory or class or description of factories from all or any of the provisions of the Act, except Section 67. Section 5 is extracted below: "5. Power to exempt during public emergency. — In any case of public emergency the State Government may, by notification in the Official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act except section 67 for such period and subject to such conditions as it may think fit: Provided that no such notification shall be made for a period exceeding three months at a time. Explanation— For the purposes of this section 'public emergency' means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance." (emphasis supplied) The notification in its relevant part is extracted below: "... NOW, THEREFORE, in exercise of the powers conferred by Section 5 of the Factories Act, 1948, the 'Factories Act' PART B Government of Gujarat hereby directs that all the factories registered under the Factories Act, 1948 shall be exempted from various provisions relating to weekly hours, daily hours, intervals for rest etc. of adult workers under section 51, section 54, and section 55 and section 56 with the following conditions from 20th April till 19th July 2020, – (1) No adult worker shall be allowed or required to work in a factory for more than twelve hours in any day and Seventy Two hours in any week. (2) The Periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed six hours and that no worker shall work for more than six hours before he has had an interval of rest of at least half an hour. (3) No Female workers shall be allowed or required to work in a factory between 7:00 PM to 6:00 AM. (4) Wages shall be in a proportion of the existing wages (e.g. If wages for eight hours are 80 Rupees, then proportionate wages for twelve hours will be 120 Rupees)." [Extract from judgment of the Supreme Court in Gujarat Mazdoor Sabha v. The State of Gujarat decided on 1 October, 2020, (hereafter 'GMS')]

Question 31. Section 5 of the Factories Act, 1948 provides for the power of exemption from certain provisions of the Act due to the occurrence of a public emergency. In GMS, the Supreme Court held that:

i. Situations of grave emergency require an actual threat to the security of the state. ii. Emergency powers can be used to avert the threat posed by war, external aggression or internal disturbance.

iii. Emergency powers must not be used for any other purpose.

(A) Only i and iii are correct

(B) Only ii is correct

(C) Only i and ii are correct

(D) All the above statements are correct

Correct Answer: (D) All the above statements are correct

Difficulty Level: High Explanation:

Option (A): Correct within (D). The Supreme Court has indicated that a grave emergency necessitating the use of emergency powers should involve an actual threat to the security of the state, not merely economic or administrative difficulties. Hence, Option (A) is correct as part of Option (D).

Option (B): Correct within (D). Emergency powers are intended for use in situations that pose a direct threat to the state's security, such as war, external aggression, or severe internal disturbances, not for circumventing labor laws under normal circumstances. Hence, Option (B) is correct as part of Option (D).

Option (C): Correct within (D). The use of emergency powers must be strictly confined to their intended purpose and should not be extended to situations outside their scope, ensuring they are not misused for other objectives. Hence, Option (C) is correct as part of Option (D).

Option (D): Correct. The Supreme Court's rulings emphasize that emergency powers granted by laws such as the Factories Act must be exercised within the strict boundaries intended by the legislature, ensuring that they are not exploited for purposes beyond dealing with genuine emergencies. Hence, Option (D) is the correct answer.

Question 32. In order for a Proclamation of Emergency to be made under Article 352 of the Constitution of India, the President must be satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened:

(A) by war or external aggression or internal disturbance

(B) by war or external aggression or financial instability

(C) by war or external aggression or armed rebellion

(D) by war or armed rebellion or internal disturbance

Correct Answer: (C) by war or external aggression or armed rebellion

Difficulty Level: Easy Explanation:

Option (A): Incorrect. "Internal disturbance" was replaced by "armed rebellion" in the Constitution (Forty-fourth Amendment) Act, 1978, to raise the threshold for declaring an emergency. Hence, Option (A) is not the correct answer.

Option (B): Incorrect. "Financial instability" is not a condition mentioned under Article 352 for the proclamation of an emergency. Hence, Option (B) is not the correct answer.

Option (C): Correct. Following the Forty-fourth Amendment, the conditions for declaring an emergency were specified as war, external aggression, or armed rebellion, making this the accurate reflection of the constitutional provision. Hence, Option (C) is the correct answer.

Option (D): Incorrect. This combination is not specified in the Constitution as valid grounds for an emergency proclamation under Article 352. Hence, Option (D) is not the correct answer.

Question 33. Following the Constitution (Forty-fourth Amendment) Act, 1978, in order for a Proclamation of Emergency to be issued, such decision has:

(A) to be taken by the Prime Minister and conveyed to the President

(B) to be taken by the Council of Ministers of Cabinet rank and approved by both Houses of Parliament

(C) to be taken by the Council of Ministers of Cabinet rank and communicated to the President in writing

(D) to be taken by the Council of Ministers of Cabinet rank and approved by at least half the State Legislatures

Correct Answer: (C) to be taken by the Council of Ministers of Cabinet rank and communicated to the President in writing

Difficulty Level: Medium Explanation:

Option (A): Incorrect. While the Prime Minister is a key figure in the process, the decision must be collective and involve the Council of Ministers. Hence, Option (A) is not the correct answer.

Option (B): Incorrect. Approval by both Houses of Parliament is required after the proclamation, not before. Hence, Option (B) is not the correct answer.

Option (C): Correct. The Constitution (Forty-fourth Amendment) Act, 1978, requires that the decision for a proclamation of emergency must be taken by the Council of Ministers, communicated in writing to the President, ensuring a democratic process within the executive branch. Hence, Option (C) is the correct answer.

Option (D): Incorrect. There is no requirement for approval by at least half the State Legislatures for a proclamation of emergency. Hence, Option (D) is not the correct answer.

Question 34. Article 355 of the Constitution of India casts a duty upon the Union to protect every state against, inter alia, internal disturbance. The Supreme Court has noted that the Sarkaria Commission recognised a range of situations which could amount to internal disturbance, including:

(A) Situations of financial exigencies

(B) Breaches of public peace

(C) Inefficient administration

(D) None of the above

Correct Answer: (B) Breaches of public peace

Difficulty Level: Medium Explanation:

Option (A): Incorrect. Situations of financial exigencies are not typically included under the scope of "internal disturbance" as recognized by the Sarkaria Commission. Hence, Option (A) is not the correct answer.

Option (B): Correct. The Sarkaria Commission, in its interpretation of internal disturbance, included breaches of public peace among the scenarios that could necessitate federal intervention under Article 355. Hence, Option (B) is the correct answer.

Option (C): Incorrect. Inefficient administration, while a concern, is not categorized as "internal disturbance" for the purposes of Article 355. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The Commission did recognize specific situations that could amount to internal disturbance, making "None of the above" incorrect. Hence, Option (D) is not the correct answer.

Question 35. The Supreme Court in Sarbananda Sonowal v. Union of India, AIR 2005 SC 2920, held that the duty of the Union to protect every state against external aggression and internal disturbance extends to:

(A) Situations where there are large-scale cases of illegal migrants from other countries

(B) Situations where there are large-scale cases of migration from other parts of India

(C) Cases of external aggression which are similar to ‘war’

(D) None of the above

Correct Answer: (A) Situations where there are large-scale cases of illegal migrants from other countries

Difficulty Level: Medium Explanation:

Option (A): Correct. In Sarbananda Sonowal v. Union of India, the Supreme Court held that the duty of the Union to protect states extends to situations involving large-scale illegal migration from other countries, as it poses a threat to the country's demographic structure and security. Hence, Option (A) is the correct answer.

Option (B): Incorrect. Large-scale migration from other parts of India does not constitute external aggression or internal disturbance in the context of this case. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. While the duty does extend to cases of external aggression similar to war, this option does not specifically address the issue of illegal migration addressed in the case. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The Supreme Court specifically addressed the situation of illegal migrants as a concern under the Union's duty to protect states. Hence, Option (D) is not the correct answer.

Question 36. In deciding whether the CoVID-19 pandemic and the ensuing lockdown imposed by the Central Government to contain the spread of the pandemic, have created a public emergency as defined by the explanation to Section 5 of the Factories Act, 1948 the Supreme Court in GMS held:

i. The economic slowdown caused by the pandemic constitutes a public emergency. ii. The situation created by the Covid-19 pandemic was similar to a national emergency caused by external aggression or war. iii. The economic slowdown created by the CoVID-19 pandemic qualifies as an internal disturbance threatening the security of the state.

(A) Only i and iii are correct

(B) Only ii and iii are correct

(C) Only i and ii are correct

(D) None of the above statements are correct

Correct Answer: (D) None of the above statements are correct

Difficulty Level: High Explanation:

Option (A): Incorrect. The Supreme Court in GMS did not specifically rule that the economic slowdown due to the pandemic constitutes a public emergency as defined in the Factories Act, 1948. Hence, Option (A) is not the correct answer.

Option (B): Incorrect. The comparison to a national emergency caused by external aggression or war was not made in the context of defining a public emergency under the Factories Act, 1948. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. While the pandemic had severe economic impacts, it was not classified under the specific legal definition of "internal disturbance" threatening state security in the context of the Factories Act. Hence, Option (C) is not the correct answer.

Option (D): Correct. The statements provided do not accurately reflect the Supreme Court's findings in the context of the Factories Act and the COVID-19 pandemic's classification as a public emergency. Hence, Option (D) is the correct answer.

Question 37. The Supreme Court in Ram Manohar Lohia v. State of Bihar, AIR 1966 SC 740, Arun Ghosh v. State of West Bengal, 1970 SCR 288, and later cases, has indicated that matters affecting law and order can be determined:

(A) Not by the nature of the act alone e.g., a case of stabbing of one person by another

(B) The degree to which public tranquility is disturbed

(C) Whether the even tempo of life of a community continues undisturbed or not

(D) All the above

Correct Answer: (D) All the above

Difficulty Level: Medium Explanation:

Option (A): Correct within (D). The Supreme Court has indicated that the nature of the act alone, such as a stabbing, does not determine its impact on law and order. Hence, Option (A) is correct as part of Option (D).

Option (B): Correct within (D). The degree to which public tranquility is disturbed is a crucial factor in determining the impact on law and order. Hence, Option (B) is correct as part of Option (D).

Option (C): Correct within (D). Whether the even tempo of life of a community continues undisturbed is another significant aspect in assessing the impact on public tranquility. Hence, Option (C) is correct as part of Option (D).

Option (D): Correct. The Supreme Court's approach to law and order involves a nuanced analysis of the nature of the act, its impact on public tranquility, and the continuity of community life. Hence, Option (D) is the correct answer.

Question 38. The Supreme Court has indicated that matters that affect public order are to be determined:

i. By looking at the nature of the act, how violent it is irrespective of its context.

ii. The degree and effect any action has on the life of the community.

iii. By consideration of factors related to the maintenance of law and order.

(A) Only i and iii are correct

(B) Only ii is correct

(C) Only i and ii are correct

(D) All the above statements are correct

Correct Answer: (B) Only ii is correct

Difficulty Level: High Explanation:

Option (A): Incorrect. The nature of the act and its inherent violence do not solely determine its impact on public order without considering its effect on community life. Hence, Option (A) is not the correct answer.

Option (B): Correct. The degree and effect of an action on the life of the community are critical in assessing its impact on public order, as this directly relates to the disruption of public tranquility and safety. Hence, Option (B) is the correct answer.

Option (C): Incorrect. While both the nature of the act and its community impact are relevant, Option i's emphasis on violence irrespective of context does not align with the Supreme Court's guidance. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The comprehensive approach to determining matters affecting public order involves more than just assessing violence; it requires evaluating the broader impact on community life and public tranquility. Hence, Option (D) is not the correct answer.

Question 39. The Factories Act, 1948, stipulates the maximum number of hours that can be worked per week and also that overtime wages need to be double the normal wage rate. In GMS the exemption relied upon by State government to extend the working hours to 12 hours a day and at the usual wage rate without payment of overtime across all factories was deemed to be:

i. Justified in view of the grave emergency cause by the Covid-19 pandemic.

ii. Violative of the rule of law. iii. Violative of just and humane conditions

of work.

(A) Only i and iii are correct

(B) Only ii is correct

(C) Only ii and iii are correct

(D) All the above statements are correct

Correct Answer: (C) Only ii and iii are correct

Difficulty Level: High Explanation:

Option (A): Incorrect. The Supreme Court did not find the extension of working hours without overtime pay during the pandemic to be justified solely on the basis of the emergency. Hence, Option (A) is not the correct answer.

Option (B): Incorrect as a standalone statement. While the court found issues with the action, saying only ii is correct oversimplifies the court's findings. Hence, Option (B) is not the correct answer.

Option (C): Correct. The court held that such exemptions were violative of the rule of law and just and humane conditions of work, emphasizing the need to uphold labor rights even in emergencies. Hence, Option (C) is the correct answer.

Option (D): Incorrect. The court did not justify the exemptions under the emergency caused by the pandemic, making the statement i incorrect within this context. Hence, Option (D) is not the correct answer.

Question 40. The rationale of the Factories Act, 1948 in providing double the wage rate for periods of overtime work is based on:

i. Compensating the worker for the extra strain on their health in doing overtime work.

ii. Enabling the worker to maintain proper standard of health and stamina.

iii. Protecting the worker against exploitation.

(A) i, ii, and iii are correct

(B) Only i and iii are correct

(C) Only ii is correct

(D) Only ii and iii are correct

Correct Answer: (A) i, ii, and iii are correct

Difficulty Level: Easy Explanation:

Option (A): Correct. The Factories Act's provision for double wage rates for overtime work aims to compensate workers for additional physical strain, ensure they can maintain their health and stamina, and protect them from exploitation by providing adequate financial incentive for extended work hours. Hence, Option (A) is the correct answer.

Option (B): Incorrect as it suggests only two of the reasons are valid. All three reasons provided are integral to understanding the Act's rationale for double overtime pay. Hence, Option (B) is not the correct answer.

Option (C): Incorrect as it isolates one reason without acknowledging the comprehensive rationale behind the provision. Hence, Option (C) is not the correct answer.

Option (D): Incorrect as it excludes the compensatory aspect of overtime work, which is a key rationale for the provision. Hence, Option (D) is not the correct answer.

V. In view of various counter claims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. in such a situation, registration of a Fir is mandatory. However, if no cognizable offence is made out in the information given, then the Fir need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. but, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register a Fir forthwith. Other considerations are not relevant at the stage of registration of Fir, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible etc. these are the issues that have to be verified during the investigation of the Fir. At the stage of registration of a Fir, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. if, after investigation, the information

given is found to be false, there is always an option to prosecute the complainant for filing a false Fir. [excerpted from the judgment delivered by Sathasivam, C.J.i. in Lalita Kumari v. State of Uttar Pradesh, (2014) 2 SCC 1 (hereafter 'Lalita Kumari')

Question 41. In the concluding part of the judgment excerpted above, preliminary inquiries were permitted for which of the following class or classes of cases?

(A) Offences related to matrimonial disputes

(B) Allegations of corruption against public officers

(C) Where the information was received after substantial delay, such as more than three months after the alleged incident

(D) All the above

Correct Answer: (D) All the above

Difficulty Level: Medium Explanation:

Option (A): Correct within (D). Preliminary inquiries may be allowed in offences related to matrimonial disputes to prevent misuse of legal provisions. Hence, Option (A) is correct as part of Option (D).

Option (B): Correct within (D). Allegations of corruption against public officers often require preliminary inquiries to ascertain the factual basis before proceeding with formal charges. Hence, Option (B) is correct as part of Option (D).

Option (C): Correct within (D). In cases where information is received after a substantial delay, preliminary inquiries help in determining the credibility and relevance of such delayed complaints. Hence, Option (C) is correct as part of Option (D).

Option (D): Correct. The judgment allows for preliminary inquiries in all the mentioned classes of cases to ensure the judicious use of legal procedures. Hence, Option (D) is the correct answer.

Question 42. in the recent judgment of the Supreme Court in Netaji Achyut Shinde (Patil) v. State of Maharashtra, (2021) SCC Online SC 247, a three-judge bench of the Court reiterated which of the following principles relating to a Fir?

(A) that a cryptic phone call, without complete details and information about the commission of a cognizable offence cannot always be treated as a F.i.r.

(B) that non-reading-over of the recorded complaint by the police to the informant will vitiate the recording of the F.i.r.

(C) that F.i.r.s are substantive pieces of evidence at the trial and can be duly proved to establish the facts in issue at a trial.

(D) that F.i.r.s are necessarily hearsay statements and cannot be relied upon to prove the truth of the matters asserted therein.

Correct Answer: (A) That a cryptic phone call, without complete details and information about the commission of a cognizable offence cannot always be treated as an F.I.R.

Difficulty Level: Medium Explanation:

Option (A): Correct. The Supreme Court reiterated that an FIR must contain sufficient detail about the commission of a cognizable offence; cryptic or vague information may not meet the threshold for registration as an FIR. Hence, Option (A) is the correct answer.

Option (B): Incorrect. Non-reading-over of the complaint to the informant does not necessarily vitiate the FIR, and this was not the principle reiterated in the mentioned case. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. FIRs are not treated as substantive pieces of evidence but as information to set the investigation into motion. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. FIRs are not necessarily hearsay; this statement misrepresents the legal status and use of FIRs in criminal proceedings. Hence, Option (D) is not the correct answer.

Question 43. Upon receipt of a complaint disclosing the commission of a cognizable offence from an informant, the station house officer of a police station proceeds to record the substance of the complaint in the Station House diary. thereafter, he proceeds to conduct investigation by going to the spot of the incident, collecting materials from the scene, and recording statements of persons he believes have information about the alleged crime. On the next day, he calls the informant to the police station again, and this time, proceeds to record a formal F.i.r. for the offences. He then gives a copy of the registered F.i.r. to the informant and sends him home. The duly registered F.i.r. can be challenged on which of the following grounds?
(A) that the police officer has not followed the mandatory procedure of sending a copy of the F.i.r. to the jurisdictional magistrate upon registration.

(B) that the statement recorded as the F.i.r. is a hearsay statement made by the police officer himself and therefore cannot be admissible in evidence.

(C) that the recorded F.i.r. becomes a statement under Section 161, Code of Criminal Procedure, 1973, because the Station House diary entry will be considered the F.i.r.

(D) that the procedure set out in Section 190, Code of Criminal Procedure, 1973 has been violated by the police officer.

Correct Answer: (C) that the recorded F.I.R. becomes a statement under Section 161, Code of Criminal Procedure, 1973, because the Station House diary entry will be considered the F.I.R.

Difficulty Level: High Explanation:

Option (A): Incorrect. The mandatory procedure issue relates to procedural lapses but is not the core issue if the FIR itself is substantively valid. Hence, Option (A) is not the correct answer.

Option (B): Incorrect. A statement made by a police officer based on investigation findings does not render the FIR hearsay or inadmissible. Hence, Option (B) is not the correct answer.

Option (C): Correct. If the substance of the complaint has been recorded in the station house diary before the formal FIR, that initial entry may be considered as the FIR, affecting the formal FIR's legal status. Hence, Option (C) is the correct answer.

Option (D): Incorrect. Violation of Section 190 is more related to the magistrate's powers and does not directly challenge the FIR's procedural recording. Hence, Option (D) is not the correct answer.

Question 44. In the case of Aghnoo Nagesia v. State of Bihar, Air 1966 SC 119, the accused himself walked to the police station and registered an F.i.r. against himself for the murder of his family members. there was no formal information of the commission of the offence prior to the accused himself having the F.i.r. registered. Per the judgment in the case, such an F.i.r. would be considered:

(A) Violative of right against self-incrimination under Article 20(3) of the Constitution of India.

(B) A statement that cannot be proved as a confession hit by Section 25, Indian Evidence Act, 1872.

(C) A statement that can be used as substantive evidence against its maker, since there was no accusation against him at the time he made the statement.

(D) A statement that can be retracted by the accused person at the time of trial, and thereafter the commission of the offence cannot be proved.

Correct Answer: (B) A statement that cannot be proved as a confession hit by Section 25, Indian Evidence Act, 1872.

Difficulty Level: Medium Explanation:

Option (A): Incorrect. The act of the accused walking into the police station to register an FIR against himself does not directly invoke the right against self-incrimination under Article 20(3) as this provision specifically applies to being compelled to be a witness against oneself, not voluntary admissions. Hence, Option (A) is not the correct answer.

Option (B): Correct. An FIR lodged by the accused against himself for the commission of an offence is not considered a confession under the Indian Evidence Act, 1872. Section 25 prevents confessions made to police officers from being proved against a person, emphasizing the protection against self-incrimination. Hence, Option (B) is the correct answer.

Option (C): Incorrect. While an FIR made by the accused could potentially be used as evidence, it does not categorically become substantive evidence against its maker due to the legal protections against self-incrimination and the rules regarding confessions to police officers. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The ability to retract a statement at trial does not nullify the possibility of proving the commission of the offence through other evidence. The option oversimplifies the legal process and implications of retractions. Hence, Option (D) is not the correct answer.

Question 45. in the case of Pakala Narayanaswami v. King Emperor, 1939 Cri LJ 364 (PC), the Privy Council held that a statement would be a confession if it:

(A) Admitted the commission of the offence in the terms of the offence.

(B) Admitted the commission of the ingredients for the commission of the offence.

(C) Either (A) or (b) (D) both (A) and (b)

Correct Answer: (C) Either (A) or (b)

Difficulty Level: Medium Explanation:

Option (A): Correct as part of (C). Admitting the commission of the offence in terms aligns with one aspect of what constitutes a confession. Hence, Option (A) is correct within the context of Option (C).

Option (B): Correct as part of (C). Admitting to the commission of the ingredients necessary for an offence also qualifies as a confession. Hence, Option (B) is correct within the context of Option (C).

Option (C): Correct. The Privy Council held that a statement would qualify as a confession if it either admits the act constituting the offence or the ingredients of the offence, offering a broader interpretation of confession. Hence, Option (C) is the correct answer.

Option (D): Incorrect. The correct interpretation is that a statement can be a confession if it meets either criterion, not necessarily both. Hence, Option (D) is not the correct answer.

Question 46. In the excerpt above, the Supreme Court refers to the standard of ex facie. Such a standard in law can be explained as:

(A) refers to a standard where a document by its stated terms displays the sought fact.

(B) refers to a standard where a document by very simple perusal displays the sought fact.

(C) refers to a standard which calls for an application of mind by the finder of fact to infer a conclusion.

(D) refers to a standard which requires no consideration unless proved otherwise by the opposite side.

Correct Answer: (A) refers to a standard where a document by its stated terms displays the sought fact.

Difficulty Level: Medium Explanation:

Option (A): Correct. "Ex facie" means "from the face of it"; thus, if a document by its stated terms clearly shows the sought fact, it meets the ex facie standard. Hence, Option (A) is the correct answer.

Option (B): Incorrect. While a simple perusal can reveal facts, this description does not capture the essence of the ex facie standard as precisely as Option (A). Hence, Option (B) is not the correct answer.

Option (C): Incorrect. The ex facie standard does not necessarily call for inferential reasoning by the fact-finder but rather the clear presentation of facts within the document itself. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. This option misrepresents the ex facie standard by suggesting a presumption of truth unless contested, which is not the accurate interpretation. Hence, Option (D) is not the correct answer.

Question 47. In Lalita Kumari the Supreme Court provides a timeline for the completion of preliminary inquiries by the police prior to the registration of the F.i.r. As per the Court, such an inquiry should be concluded:

(A) Within a period not exceeding fifteen days

(B) Within a period not exceeding seven days

(C) As expeditiously as possible but the Court did not specify a timeline

(D) Within such time as may be permitted by the jurisdictional magistrate

Correct Answer: (A) Within a period not exceeding fifteen days

Difficulty Level: Easy Explanation:

Option (A): Correct. The Supreme Court in Lalita Kumari specified a timeline for preliminary inquiries to ensure prompt action in the interest of justice, setting a maximum period of fifteen days for completion. Hence, Option (A) is the correct answer.

Option (B): Incorrect. The specified period was not limited to seven days, but up to fifteen days. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. While expediency is emphasized, the Court did specify a timeline, contrary to the option's implication. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The Supreme Court provided a specific timeline, not leaving it to the discretion of the jurisdictional magistrate. Hence, Option (D) is not the correct answer.

Question 48. An F.i.r. is considered the first information of the commission of a cognizable offence. Where the information discloses the commission of both cognizable offences as

well as non-cognizable offences as part of the same facts, such information must be treated in the following manner:

(A) the entire information will be treated as disclosing cognizable offences and registered as an F.i.r.

(B) the police officer will sever the parts disclosing non-cognizable offences and shall only register the parts disclosing cognizable offences.

(C) the police officer shall refer the informant to the jurisdictional magistrate for a direction to register the F.i.r., and thereafter, once such direction is received, register the F.i.r.

(D) the F.i.r. registered, which contains information of non-cognizable offences, is subject to confirmation by a magistrate under Sections 156 and 157 of Cr.P.C.

Correct Answer: (A) the entire information will be treated as disclosing cognizable offences and registered as an F.i.r.

Difficulty Level: Easy Explanation:

Option (A): Correct. When information discloses both cognizable and non-cognizable offences stemming from the same set of facts, the entire information is treated as disclosing cognizable offences for the purpose of FIR registration. Hence, Option (A) is the correct answer.

Option (B): Incorrect. The police do not sever parts of the information but treat the entire information as cognizable if it contains any element of a cognizable offence. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. Direct referral to the magistrate is not the standard procedure for information disclosing both types of offences. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. Confirmation by a magistrate is not a requirement for FIR registration based on the nature of offences disclosed. Hence, Option (D) is not the correct answer.

Question 49. the power of the police to launch an investigation is provided for under Sections 154 and 157 of Cr.P.C. the threshold to be met for launching an investigation under Section 157, according to Lalita Kumari, is

(A) Cogent and reliable information disclosing the commission of a cognizable offence.

(B) Higher than the requirement under Section 154 of Cr.P.C. as the Section uses the term “reason to suspect the commission of an offence”.

(C) Precisely the same standard under Section 154 of Cr.P.C. and the police have no discretion in the matter.

(D) At the same standard as for a non-cognizable complaint being scrutinised by a Judicial magistrate.

Correct Answer: (B) Higher than the requirement under Section 154 of Cr.P.C. as the Section uses the term “reason to suspect the commission of an offence”.

Difficulty Level: Medium Explanation:

Option (A): Incorrect. While cogent and reliable information is necessary, the distinction made in Lalita Kumari emphasizes the procedural aspects and thresholds for action under Sections 154 and 157, rather than the nature of the information itself. Hence, Option (A) is not the correct answer.

Option (B): Correct. Lalita Kumari clarifies that for launching an investigation under Section 157, the information must give the police a reason to suspect the commission of an offence, which is a slightly higher threshold than merely receiving information about a cognizable offence under Section 154. Hence, Option (B) is the correct answer.

Option (C): Incorrect. Lalita Kumari does not equate the standards of Section 154 and 157 but delineates the process, indicating a nuanced approach to initiating an investigation. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The comparison to the standard for a non-cognizable complaint scrutinized by a judicial magistrate does not accurately reflect the judgment's implications on the police's investigative powers under Section 157. Hence, Option (D) is not the correct answer.

Question 50. According to the decision of the Supreme Court in Lalita Kumari, the police may not consider the genuineness of information disclosing the commission of a cognisable offence at the time of registering an F.i.r. What does this mean?

(A) that the informant must be believed for the purposes of registering the F.i.r.

(B) that the information must be taken as true for the purposes of registering the F.i.r.

(C) that the police cannot reject any information disclosing the commission of a cognisable offense on the basis of it being false.

(D) All the above

Correct Answer: (D) All the above

Difficulty Level: Easy Explanation:

Option (A): Correct within (D). The Supreme Court in Lalita Kumari underscored the obligation to register an FIR based on the information provided by the informant without prejudging the truthfulness of the information. Hence, Option (A) is correct as part of Option (D).

Option (B): Correct within (D). The decision implies that for the purpose of FIR registration, the information provided must be accepted as true, initiating the investigation process to ascertain the facts. Hence, Option (B) is correct as part of Option (D).

Option (C): Correct within (D). Lalita Kumari mandates that police cannot refuse to register an FIR on the basis of preliminary doubts about the information's genuineness. Hence, Option (C) is correct as part of Option (D).

Option (D): Correct. The collective interpretation of Lalita Kumari's ruling is that at the FIR registration stage, the police are to proceed on the assumption that the information disclosing the commission of a cognizable offence is genuine, ensuring that the investigation process is not thwarted at the outset. Hence, Option (D) is the correct answer.

VI. The non-obstante clause in sub-section (1) of the Indian Evidence Act, 1872 makes it clear that when it comes to information contained in an electronic record, admissibility and proof thereof must follow the drill of Section 65B, which is a special provision in this behalf — Sections 62 to 65 being irrelevant for this purpose. However, Section 65B(1) clearly differentiates between the "original" document — which would be the original "electronic record" contained in the "computer" in which the original information is first stored and the computer output containing such information, which then may be treated as evidence of the contents of the "original" document. All this necessarily shows that Section 65B differentiates between the original information contained in the "computer" itself and copies made therefrom – the former being primary evidence, and the latter being secondary evidence.

Quite obviously, the requisite certificate in sub-section (4) of the Indian Evidence Act is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, a computer tablet or even a mobile phone, by stepping into the witness box and proving that the concerned device, on which the original information is first stored, is owned and/or operated by him. In cases where "the computer", as defined, happens to be a part of a "computer system" or "computer network" (as defined in the Information Technology Act, 2000) and it becomes impossible to physically bring such network or system to the Court, then the only means of proving information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4). This being the case, it is necessary to clarify what is contained in the last sentence in paragraph 24 of Anvar P.V. (supra) which reads as "... if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act ...". This may more appropriately be read without the words "under Section 62 of the Evidence Act, ...". With this minor clarification, the law stated in paragraph 24 of Anvar P.V. (supra) does not need to be revisited. [Excerpted from the judgment delivered by R.F. Nariman, J., in Arjun Panditrao Khotkar v. Kailash K. Gorantyal, (2020) 7 SCC 1.]

Question 51. The Supreme Court judgment excerpted above held that compliance with Sections 65A and 65B of the Indian Evidence Act, 1872 for admitting secondary evidence of electronic records is:

(A) Mandatory as held in the case of Anvar v. Basheer, (2014) 10 SCC 473

(B) Discretionary upon the trial court judge to insist or waive the requirement

(C) To be read together with the mode of proof of non-electronic documents under Sections 62-65, Indian Evidence Act, 1872

(D) None of the above

Correct Answer: (A) Mandatory as held in the case of Anvar v. Basheer, (2014) 10 SCC 473

Difficulty Level: Medium Explanation:

Option (A): Correct. The Supreme Court in Anvar v. Basheer clearly held that compliance with Sections 65A and 65B of the Indian Evidence Act, 1872, is mandatory for admitting secondary evidence of electronic records. This ruling established a strict procedural requirement to ensure the authenticity of electronic evidence. Hence, Option (A) is the correct answer.

Option (B): Incorrect. The trial court judge does not have discretion to waive the requirement under Sections 65A and 65B for electronic records. The Supreme Court's judgment in Anvar v. Basheer makes compliance mandatory. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. While Sections 62-65 deal with the proof of documents in general, Sections 65A and 65B specifically address electronic records, and their requirements cannot be merely read together with non-electronic document provisions without adhering to the mandates of Sections 65A and 65B. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The Supreme Court has explicitly outlined the necessity of complying with Sections 65A and 65B for electronic records, leaving no room for interpretations that would render these sections optional or discretionary. Hence, Option (D) is not the correct answer.

Question 52. In Indian evidence law, the proof of the contents of documents must necessarily follow a sequence of procedure; this sequence (not necessarily covering all stages) can be illustrated as:

(A) Admitting the document, marking the document, authenticating the document

(B) Authenticating the document, receiving evidence of its contents, marking the document

(C) Proving the contents of the document, authenticating the document, marking the document

(D) Marking the document, authenticating the document, receiving the document as evidence

Correct Answer: (B) Authenticating the document, receiving evidence of its contents, marking the document

Difficulty Level: Medium Explanation:

Option (A): Incorrect. The sequence mentioned reverses the typical process required for the admission of documents into evidence. Authentication usually precedes marking. Hence, Option (A) is not the correct answer.

Option (B): Correct. The proper sequence for handling documents in evidence law involves authenticating the document to establish its genuineness, receiving evidence of its contents to

ascertain relevance and materiality, and then marking the document as an exhibit for identification and reference during trial. Hence, Option (B) is the correct answer.

Option (C): Incorrect. While proving the contents is essential, authentication typically precedes this process, and marking is the final step once the document's authenticity and relevance have been established. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. Marking the document before authenticating and formally receiving it as evidence puts the cart before the horse in procedural terms. Hence, Option (D) is not the correct answer.

Question 53. Where the original document, such as the original computer device containing the electronic record is produced before the court, the provisions of Section 65B(4) of the Indian Evidence Act, 1872 need not be complied with. However, the owner of the device must be present as a witness and testify that the device belongs to them. This function by a witness is most appropriately understood as:

(A) The act of authentication of a document

(B) The act of proving contents of a document

(C) The act of corroborating the evidence of a document

(D) The act of solving the problem of hearsay associated with documents

Correct Answer: (A) The act of authentication of a document

Difficulty Level: Easy Explanation:

Option (A): Correct. When the original device containing the electronic record is produced, authenticating the device and its ownership is crucial. The owner's testimony that the device belongs to them serves as authentication of the document (electronic record), confirming its origin and integrity. Hence, Option (A) is the correct answer.

Option (B): Incorrect. Proving the contents is a separate step that involves demonstrating that the information contained within the electronic record is accurate and unaltered, not just that the device belongs to the witness. Hence, Option (B) is not the correct answer.

Option (C): Incorrect. Corroboration typically involves supporting evidence that strengthens the initial evidence, which is distinct from the foundational act of authentication. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. Authentication does not specifically address the hearsay problem; it's about establishing the genuineness of the record's source. Hence, Option (D) is not the correct answer.

Question 54. Under the Indian Evidence Act, 1872, oral evidence as to the contents of documents:

(A)Cannot be admitted

(B)Generally cannot be admitted except when accepted as admissible secondary evidence

under Section 65, Indian Evidence Act, 1872

(C)Generally can be admitted except when barred by the rule against hearsay

(D)Generally can be admitted except when considered unreliable due to impeachment

of the witness

Correct Answer: (B) Generally cannot be admitted except when accepted as admissible secondary evidence under Section 65, Indian Evidence Act, 1872

Difficulty Level: Medium Explanation:

Option (A): Incorrect. Oral evidence can be admitted under specific circumstances, contrary to a blanket prohibition. Hence, Option (A) is not the correct answer.

Option (B): Correct. The Indian Evidence Act, 1872, generally prohibits oral evidence to prove the contents of documents unless it qualifies as admissible secondary evidence under conditions specified in Section 65 and other relevant provisions. Hence, Option (B) is the correct answer.

Option (C): Incorrect. The rule against hearsay is a separate evidentiary principle that restricts the use of statements made out of court to prove the truth of the matter asserted. It does not directly govern the admissibility of oral evidence of document contents. Hence, Option (C) is not the correct answer.

Option (D): Incorrect. The reliability of a witness or their impeachment affects the weight of the evidence, not the admissibility of oral evidence regarding document contents. Hence, Option (D) is not the correct answer.

Question 55. Where primary evidence of an electronic record cannot be produced in court, and the secondary evidence is not accompanied by a certificate required under Section 65B(4), Indian Evidence Act, 1872, the court may:

(A) Never admit such evidence

(B) May only admit such evidence where it is satisfied that procuring such a certificate for the party adducing the document into evidence would result in unfair prejudice, and where the document is crucial evidence

(C) May admit such evidence if satisfied that the party adducing such evidence was unable to procure the certificate despite best efforts and that it was impossible for them to do so

(D) Admit such evidence after a scrutiny of the fact it purports to prove, and only do so for the proof of relevant facts, and never for the proof of facts in issue as defined under Section 3, Indian Evidence Act, 1872.

Correct Answer: (C) May admit such evidence if satisfied that the party adducing such evidence was unable to procure the certificate despite best efforts and that it was impossible for them to do so

Difficulty Level: High Explanation:

Option (A): Incorrect. The Indian Evidence Act does not categorically state that secondary electronic evidence can never be admitted without the Section 65B(4) certificate under any circumstances.

Option (B): Incorrect. While the court must ensure fairness, the explanation does not accurately reflect the nuanced approach the law takes towards the admissibility of such evidence.

Option (C): Correct. The Supreme Court has allowed for flexibility under exceptional circumstances where the party has made best efforts to procure the certificate but was unable to do so, emphasizing the principle of fairness and justice over procedural technicalities.

Option (D): Incorrect. The distinction between facts in issue and relevant facts does not directly influence the admissibility of electronic records without the Section 65B(4) certificate.

Question 56. A plaintiff seeks to adduce a secondary electronic record into evidence and does not comply with the requirements under Section 65B, Indian Evidence Act, 1872, for the same. The respondent does not object to the admission of such evidence at trial. Subsequently, upon appeal, a ground is taken by the original respondent that such evidence should not have been admitted as it did not comply with the procedure under Section 65B. Relying on the Supreme Court's judgment in Sonu v. State of Haryana, (2017) 8 SCC 570, the court should hold:

(A) An appellate court should declare the evidence inadmissible in line with the mandatory nature of Section 65B.

(B) An appellate court should remand the matter to trial declaring the said evidence inadmissible.

(C) An objection to the method of proof cannot be raised at the appellate stage as the original plaintiff cannot rectify the error.

(D) Since the respondent did not object to the admissibility of the evidence, the document is held to be proved.

Correct Answer: (C) An objection to the method of proof cannot be raised at the appellate stage as the original plaintiff cannot rectify the error

Difficulty Level: Medium Explanation:

Option (A): Incorrect. The Supreme Court in Sonu v. State of Haryana emphasized the importance of raising objections at the appropriate stage in the trial, not retrospectively.

Option (B): Incorrect. Remanding the matter to trial solely for this reason would contradict the principle that objections regarding the admissibility of evidence should be raised at the earliest opportunity.

Option (C): Correct. The principle of fair trial and procedural justice requires that objections to the admissibility of evidence be raised during the trial, allowing the other party the opportunity to rectify any errors.

Option (D): Incorrect. While the failure to object can lead to the evidence being considered admitted, this option oversimplifies the legal nuances involved in admitting electronic evidence.

Question 57. The Supreme Court in Anvar v. Basheer, (2014) 10 SCC 473, overruled the decision of State (NCT of Delhi) v. Navjot Sandhu, (2005) 11 SCC 600, on which of its holdings?

(A) That in cases of criminal conspiracy, the method of proof of the conspiracy is controlled by Section 10, Indian Evidence Act, 1872, and not Section 65B.

(B) That irrespective of compliance with Section 65B, contents of electronic documents could be proved through Sections 62-65 of the Indian Evidence Act, 1872.

(C) That electronic documents being a special class of general documents, had to be proved through expert opinion under Section 45, Indian Evidence Act, 1872.

(D) That the document sought to be proved must first be marked and then admitted into evidence for its contents, and that this sequence may not be reversed.

Correct Answer: (B) That irrespective of compliance with Section 65B, contents of electronic documents could be proved through Sections 62-65 of the Indian Evidence Act, 1872

Difficulty Level: Medium Explanation:

Option (A): Incorrect. The overruling did not specifically address the method of proof of conspiracy under Section 10.

Option (B): Correct. Anvar v. Basheer clarified that for electronic records, compliance with Section 65B is mandatory, overruling Navjot Sandhu to the extent it suggested electronic records could be proved without adhering to Section 65B requirements.

Option (C): Incorrect. The overruling focused on the admissibility of electronic records, not the necessity of expert opinion for their proof.

Option (D): Incorrect. The sequence of marking and admitting documents was not the core issue addressed in the overruling.

Question 58. The judgment of the Supreme Court in Tomaso Bruno v. State of u.P., (2015) 3 SCC (Cri) 54, has been held to be per incuriam. In law, a judgment is per incuriam when:

(A) The judgment is against binding precedent of a higher court or larger bench.

(B) The judgment is against binding provisions of law applicable to the subject.

(C) Both (A) and (B)

(D) Neither (A) nor (B)

Correct Answer: (C) Both (A) and (B)

Difficulty Level: Easy Explanation:

Option (A): Correct as part of (C). A judgment can be considered per incuriam if it overlooks binding precedent.

Option (B): Correct as part of (C). It can also be considered per incuriam if it contravenes applicable legal provisions.

Option (C): Correct. Per incuriam refers to judgments rendered without consideration of pertinent laws or precedents, making both (A) and (B) accurate.

Option (D): Incorrect. Per incuriam judgments are specifically those that fall under conditions (A) and/or (B).

Question 59. X gets his Will made. The final Will is drawn up by a scribe who takes down the dictation of the terms and averments of the document, and thereafter, the Will is executed by the testator. The execution of the Will is also attested to by two witnesses. Upon the death of X, the Will falls into controversy. Y, one of X's sons, challenges the validity of the Will. To prove due execution of the document, Z, X's other son, who supports the Will, calls one of the attesting witnesses to court. This witness states that he does not remember the due execution of the Will nor does he remember attesting the Will. Thereafter, Z seeks to examine the scribe who wrote the Will as a witness to its execution. Can the scribe be examined at this stage?

(A) Yes, since one of the attesting witnesses has not recalled the execution, any other evidence is now admissible to prove execution under Section 71, Indian Evidence Act, 1872.

(B) No, since there is another attesting witness who has not been summoned to court, that witness must be first examined under Section 68, Indian Evidence Act, 1872.

(C) No, since one attesting witness has denied the execution, no other evidence can prove the execution of the Will.

(D) Yes, since the scribe is a direct witness to the execution of the Will, and his evidence is admissible under Section 60, Indian Evidence Act, 1872.

Correct Answer:

(B) No, since there is another attesting witness who has not been summoned to court, that witness must be first examined under Section 68, Indian Evidence Act, 1872.

Explanation of Each Option:

Option (A):

- This option suggests that the failure of one attesting witness to recall the execution allows for any other evidence to prove execution under Section 71 of the Indian Evidence Act. However, this interpretation overlooks the mandate of Section 68, which requires the examination of attesting witnesses for documents like Wills. Therefore, before seeking alternative evidence, all available attesting witnesses should be examined, making Option (A) incorrect in this context.

Option (B) (Correct Answer):

- Section 68 of the Indian Evidence Act mandates that the execution of certain documents, such as Wills, must be proved by at least one attesting witness. Since one witness has failed to recall the execution, the law requires that any other attesting witness must be summoned and examined before moving to other forms of evidence, like the testimony of a scribe. This procedural step ensures the due diligence in proving the Will's execution according to the legal requirements, making Option (B) the correct choice.

Option (C):

- This option incorrectly suggests that the denial or inability of one attesting witness to remember the execution completely bars the use of other evidence to prove the Will's execution. The Indian Evidence Act allows for flexibility in proving documents under certain conditions, and while the preference is for attesting witnesses, it does not categorically eliminate the possibility of using other evidence when procedural requirements are met.

Option (D):

- Although the scribe is a direct witness to the execution of the Will, the law prioritizes the testimony of attesting witnesses for the purpose of proving the execution of Wills under Section 68. The scribe's testimony might be relevant, but it does not supersede the need to examine all available attesting witnesses first. Therefore, while the scribe's evidence could potentially be admissible under different circumstances, in this specific context, the correct procedure involves summoning the second attesting witness before considering the scribe's testimony, making Option (D) incorrect.

Question 60. In terms of the time when the certificate required under Section 65B(4) of the Indian Evidence Act, 1872 must be produced, and specifically in the context of criminal trials, the Supreme Court has held:

(A) That the certificate must generally be produced at the time of production of documents, which would mean filing of the chargesheet in a criminal case.

(B) That the documents, if missing, or deficient, can be supplied at a later stage in the trial and the court can be asked to take them on record.

(C) That generally speaking, any application during trial to take additional documents on record must be examined as to not cause unfair prejudice to the accused.

(D) All the above Correct Answer:

(D) All the above.

Explanation of Each Option:

Option (A) Explanation:

- This option reflects the principle that ideally, the certificate under Section 65B(4) should be produced at the time when the electronic evidence is introduced, which is

typically at the stage of filing the chargesheet in criminal cases. This ensures that the evidence is accompanied by the necessary certification to establish its authenticity from the outset, providing a clear foundation for its admissibility.

Option (B) Explanation:

- Recognizing the practicalities of legal proceedings, this option acknowledges that there may be circumstances where documents or their certifications are missing or deficient at the initial stages of the trial. The Supreme Court has allowed for such documents or certificates to be supplied later in the trial, provided that it is done in a manner that does not prejudice the rights of the defense. This flexibility ensures that the administration of justice is not unduly hindered by procedural lapses, as long as they can be rectified without causing harm to the accused.

Option (C) Explanation:

- This option emphasizes the court's duty to balance the introduction of new evidence or documents during the trial with the rights of the accused. Any application to introduce additional documents or evidence must be scrutinized to ensure it does not unfairly prejudice the accused. This is a critical consideration, ensuring that the trial remains fair and just, and that both parties have adequate opportunity to present their case.

Option (D) (Correct Answer) Explanation:

- This option correctly summarizes the Supreme Court's stance by incorporating all the considerations outlined in options (A), (B), and (C). It reflects a comprehensive understanding of the court's approach to the timing and admissibility of electronic evidence under Section 65B(4). By acknowledging the need for initial certification, allowing for later supplementation of evidence or certification, and ensuring that such actions do not prejudice the accused, this option encapsulates the nuanced and flexible approach adopted by the courts in dealing with electronic evidence in criminal trials.

VII. There are two different ways we can think about law and law-making. To put it crudely: we can think of law as partisan, as nothing more than the expression in legislative terms of the particular ideology or policies of a political party; or we can think of law as neutral, as something that stands above party politics, at least in the sense that once passed it ought to command the obedience and respect of everyone... [Political] Parties compete for control of Parliament because they want their values, their ideology, and their programme to be reflected in the law of the land… …no-one doubts that the Commons stage is the most important, and the reason surely is that the House of Commons is the institution most subject to popular control. If laws passed by one Parliament turn out to be unpopular, the electorate can install a majority that is sworn to repeal them. That is what elections and representative politics are all about. On this model, it is simply fatuous to pretend that law is somehow ‘above’ politics. Maybe there are some laws on which everyone agrees, no matter what their ideology. Everyone agrees there should be a law against murder, for example, and that there should be basic rules of the road. But as soon as we turn to the fine print, it is surprisingly difficult to find a consensus

on the detail of any legislative provision. And in many cases, even the fundamental principles are the subject of fierce political dispute… What this model stresses, then, is that legislative attitudes are necessarily partisan attitudes. So long as there is tight party discipline in Parliament, legislative decisions will be taken on the basis of the ideology of the leadership of the party in power. The partisan model stresses the legitimacy of these attitudes and this form of decision-making… By contrast, what I call 'the neutral model' enjoins a certain respect for law and lawmaking which goes beyond purely partisan views. According to this model there is something special about law, and it carries with it special non-partisan responsibilities. Proponents of the neutral model do not deny that laws are made by party politicians, and that legislation is often motivated by disputed values and ideologies… …their view is that when a law is being made, something solemn is being decided in Parliament in the name of the whole society. Though it is reasonable for bills to be proposed and debated along partisan lines, the decision procedures of Parliament are designed to indicate not merely which is the stronger party, but what is to be the view of society as a whole on some matter for the time being… …the result, the outcome, is a decision of the House as a whole: it is, literally, an act of Parliament, not merely an act of the Conservative party or an act of the Labour party, whichever commands the majority. By virtue of the parliamentary process, it transcends partisan politics, and presents itself as a norm enacted for and on behalf of the entire community… …on the neutral model, the social function idea tends to receive more emphasis than the political provenance. For this reason, the neutral model often focuses on aspects of the legal system that do not involve explicitly partisan initiatives. It focuses on those areas of law where there is something approaching unanimity (such as the fundamental principles of the criminal law and some of the basic tenets of private law). And it focuses particularly on 'the common law'... ...when common law doctrine strikes out in new directions, the change is usually presented as the product of reasoning which is independent of politics, as though there were an evolving 'logic' of the law which could proceed untainted by partisan values or ideology.

Question 61. Partyland is a democratic republic that has a federal legislative body called the Senate. The Senate is the most powerful legislative body in the country, and its decisions cannot be overruled by the judiciary. The Personal Party wins the general elections by an overwhelming majority and implements several of its policies through legislation during its term in power. In the next general elections, the Public Party wins an overwhelming majority at the polls and passes several legislation reversing the Personal Party's changes. It also introduces new laws to implement its own policies. Which of the following is Waldron most likely to agree with?

(a) Partyland is not an actual democracy

(b) The situation in Partyland is an illustration of the neutral model of law

(c) The situation in Partyland is an illustration of the partisan model of law

(d) Partyland is not an actual republic

Correct Answer: (c) The situation in Partyland is an illustration of the partisan model of law

Explanation:

Option (a): Incorrect. Waldron's critique of democracy does not necessarily hinge on the fluctuation of power between parties but rather on how laws are made and applied. The scenario described does not inherently negate Partyland's democratic status.

Option (b): Incorrect. The neutral model of law posits that law should be above partisan politics, serving the interests of justice impartially. The described legislative swings based on party power suggest a deviation from this ideal.

Option (c): Correct. Waldron might see the described scenario as embodying the partisan model of law, where legislative power is used to enact policies that reflect the ruling party's ideology rather than neutral principles.

Option (d): Incorrect. The description provided does not directly relate to whether Partyland qualifies as a republic, which is more about the form of government than the legislative process's neutrality or partisanship.

Question 62. The Public Party wins a second term in power and introduces sweeping changes to Partyland's laws. Judges now have limited or no discretion in deciding cases but are expected to apply the codified laws of the country strictly. Which of the models of law described in the passage do these changes align most closely with?

(a) The neutral model of law

(b) The partisan model of law

(c) Equally with both, the neutral and the partisan model of law

(d) With neither the neutral nor the partisan model of law

Correct Answer: (a) The neutral model of law Explanation:

Option (a): Correct. The imposition of strict codification and limited judicial discretion aligns with the neutral model's emphasis on law as a set of clear rules that should be applied uniformly, minimizing personal or ideological influence.

Option (b): Incorrect. The partisan model suggests that law can be a tool for furthering specific political or ideological goals, which is contrary to limiting judges' discretion to strictly apply codified laws.

Option (c) & (d): Both incorrect as the changes specifically align with the neutral model by emphasizing rule-based adjudication over judicial interpretation or discretion.

Question 63. The Public Party now introduces new laws that require all workers to pay a "workers' tax" equal to 10% of their earnings. The amount collected from this tax would be deposited into a fund for the welfare of workers. Partyland is divided into several states, and there are separate elections to the legislatures of states. The Worker's Party is in power in one state, and it announces that the new law is "anti-worker". The Worker's Party refuses to implement the new law in that state. Which of the models of law described in the passage does the Worker's Party's conduct most closely align with?

(a) The partisan model of law

(b) The neutral model of law

(c) Equally with both, the neutral and the partisan model of law

(d) With neither the neutral nor the partisan model of law

Correct Answer: (a) The partisan model of law Explanation:

Option (a): Correct. The Worker's Party's refusal based on ideological disagreement exemplifies the partisan model, where law and its implementation can be influenced by political beliefs and party agendas.

Option (b): Incorrect. The neutral model advocates for law-making and implementation based on impartiality and justice, which is not reflected in the Worker's Party's actions.

Option (c) & (d): Both incorrect as the actions clearly reflect a partisan approach to law, prioritizing ideological alignment over a neutral application of law.

Question 64. Based on the information provided in the passage, which of the following is the most accurate as regards the Basic Structure doctrine in Indian constitutional law?

(a) As it places limits on the amending power of Parliament, it is closer to the partisan rather than the neutral model of law.

(b) As it emerged from a series of judicial decisions rather than legislation, it is a product of partisan rather than neutral law-making.

(c) It does not reflect any of the attributes of either the neutral or partisan model of law.

(d) As it places limits on the amending power of Parliament, it is closer to the neutral rather than the partisan model of law.

Correct Answer: (d) As it places limits on the amending power of Parliament, it is closer to the neutral rather than the partisan model of law.

Explanation:

Option (a): Incorrect because the Basic Structure doctrine aims to preserve the core principles of the Constitution beyond the reach of transient parliamentary majorities, which is a feature of the neutral model that seeks to safeguard the law from partisan manipulation.

Option (b): Incorrect because the doctrine's emergence from judicial decisions does not necessarily make it a product of partisan law-making. Judicial review is an essential aspect of maintaining the Constitution's integrity, aligning more with neutral principles.

Option (c): Incorrect as the doctrine clearly reflects the attributes of the neutral model by placing an impartial check on Parliament's power to ensure the preservation of fundamental constitutional values.

Option (d): Correct as it accurately captures the essence of the Basic Structure doctrine, which is to impose a non-partisan limit on Parliament's amending powers to protect the Constitution's core values, aligning with the ideals of the neutral model of law.

Question 65. Based on the passage above, which of the following is Waldron most likely to agree with?

(a) Legislators always make laws based on their party's ideology, rather than any non-partisan interests

(b) Legislators make laws based on non-partisan considerations

(c) Laws are made on the basis of the needs and demands of society from time to time

(d) Law and law-making can be understood using the partisan or the neutral model

Correct Answer: (d) Law and law-making can be understood using the partisan or the neutral model

Explanation:

Option (a): Incorrect as Waldron's extensive work on jurisprudence suggests a nuanced understanding of law-making that acknowledges the influence of both partisan ideologies and neutral principles.

Option (b): Incorrect because while Waldron acknowledges non-partisan considerations in lawmaking, he also recognizes the impact of political ideologies, making this option too narrow.

Option (c): Incorrect as it oversimplifies Waldron's view, which encompasses a more comprehensive understanding of the interplay between societal needs, partisan politics, and neutral legal principles.

Option (d): Correct because it reflects Waldron's perspective that law-making is a complex process influenced by both the ideological biases of the ruling parties (partisan model) and the attempt to adhere to principles of fairness and justice (neutral model).

Question 66. Which of the following most strongly supports the neutral model of law and lawmaking?

(a) The fact that once enacted, a legislation is regarded as an act of Parliament as a whole, rather than any political party

(b) The fact that party whips ensure party members vote in accordance with their party's ideological position

(c) The fact that social welfare legislation are enacted for the benefit of the weaker sections of society

(d) The fact that elections to legislatures are hotly contested

Correct Answer: (a) The fact that once enacted, a legislation is regarded as an act of Parliament as a whole, rather than any political party Explanation:

Option (a): Correct as it highlights the ideal that laws, once passed, represent the will of the entire legislative body rather than the interests of a specific party, embodying the principle of neutrality in law.

Option (b): Incorrect because party whips enforcing party-line voting illustrates the influence of partisan politics in law-making, contrary to the neutral model.

Option (c): Incorrect as while social welfare legislation may seem neutral, the decision on what constitutes welfare can be influenced by partisan ideologies.

Option (d): Incorrect because the competitive nature of elections underscores the political and partisan dynamics in legislative processes, not the neutrality of law-making.

67. Which of the following is a proponent of the neutral model of law-making most likely to agree with?

(a) Everyone agrees that democracy is desirable, and the fact that the voter turnout in recent years has increased tremendously shows that law-making is non-partisan.

(b) Everyone agrees that legislators should represent their constituents' interests, and so, they should vote only for laws that their party has promised to the electorate in the election manifesto.

(c) Everyone agrees that child pornography is heinous, and that fact that politicians across parties have voted for strong punishments to be imposed on child pornographers shows that law-making is non-partisan.

(d) Everyone agrees that judges are not elected, and so, they should not have any law-making powers, directly through legislation or indirectly through interpretation.

Correct Answer: (c) Everyone agrees that child pornography is heinous, and that fact that politicians across parties have voted for strong punishments to be imposed on child pornographers shows that law-making is non-partisan.

Explanation:

Option (a): Incorrect as increased voter turnout reflects political engagement and does not directly relate to the non-partisan nature of law-making.

Option (b): Incorrect because adherence to party manifestos in legislative decisions is indicative of partisan, not neutral, law-making.

Option (c): Correct as it demonstrates an instance where lawmakers across the political spectrum unite to address an issue based on universal moral standards, embodying the nonpartisan spirit of the neutral model.

Option (d): Incorrect as the role of judges in law-making (through interpretation) and their nonelected status is a separate issue from the neutrality or partisanship of legislative processes.

Question 68. Which of the following arguments most strongly supports the partisan model of law-making?

(a) Calling a legislation an act of Parliament rather than the act of a political party shows that it is the view of society as a whole on some matter, and thus deserving of respect by members of all political parties.

(b) Merely calling a legislation an act of Parliament does not take away from the fact that it is partisan, since it was introduced by a political party, and voted for by its members on the party's directions, in furtherance of the party's ideological agenda.

(c) Calling a legislation an act of Parliament indicates that politicians have the liberty to vote for or against legislation on the basis of their idea of the rule of law, rather than on the basis of their party's ideological agenda.

(d) The mere act of calling a legislation an act of Parliament shows that it is the result of the collective effort of legislators from different political parties, and therefore, non-partisan in nature.

Correct Answer: (b) Merely calling a legislation an act of Parliament does not take away from the fact that it is partisan, since it was introduced by a political party, and voted for by its members on the party's directions, in furtherance of the party's ideological agenda.

Explanation:

Option (a): Incorrect as this argument tries to present legislation as a societal consensus, which aligns more with the neutral model's aspirations rather than the partisan reality.

Option (b): Correct because it directly addresses how legislation often reflects the partisan interests and ideologies of the ruling party, even when presented as the collective will of Parliament, aligning with the partisan model's view of law-making.

Question 69. General elections are held again in Partyland, and yet again, the Public Party wins power. It now introduces a new law, which provides that legislators who vote against their party whip may not be disqualified from membership of their party for that reason alone. Which of the models of law described in the passage does this new law align most closely with?

(a) The neutral model of law

(b) The partisan model of law

(c) Equally with both, the neutral and the partisan model of law

(d) With neither the neutral nor the partisan model of law

Correct Answer: (a) The neutral model of law Explanation:

Option (a): Correct. By allowing legislators to vote against their party whip without facing disqualification, this law encourages lawmakers to act based on their individual judgment or the interests of their constituents rather than strictly following party lines. This aligns with the neutral model of law, which emphasizes law-making based on principles of justice and the common good rather than partisan interests.

Option (b): Incorrect. The partisan model of law emphasizes law-making that reflects the ideological positions of political parties. This new law moves away from strict adherence to party ideology, thus not aligning with the partisan model.

Option (c): Incorrect. Although laws can sometimes reflect aspects of both models, this particular law specifically encourages a move away from strict party-line voting, making it more aligned with the neutral model.

Option (d): Incorrect. The law directly impacts how legislation is passed and how legislators vote, making it relevant to discussions of the neutral versus partisan models of law.

Question 70. Which of the following, if true, would most weaken the neutral model of law's arguments about the common law?

(A) Common law doctrine evolves over time, and in some instances may take much longer to evolve than the passage of a legislation.

(B) Common law doctrine only evolves based on a form of reasoning specific to the law and is not affected by the personal values or ideologies of judges.

(C) The evolution of common law doctrine proceeds in a purely logical manner and is not affected by any partisan values or ideology.

(D) The evolution of common law doctrine is directed by the partisan interests of judges and is not divorced from political values or ideology.

Correct Answer: (D) The evolution of common law doctrine is directed by the partisan interests of judges and is not divorced from political values or ideology.

Explanation:

Option (A): Incorrect. The fact that common law evolves over time does not necessarily weaken the neutral model's arguments. The evolution could be seen as a strength, allowing the law to adapt to changing societal norms and values.

Option (B): Incorrect. If common law evolves based on a specific form of legal reasoning and is not affected by personal values or ideologies, this would support, not weaken, the neutral model's arguments about the law being an objective and impartial system.

Option (C): Incorrect. The logical progression of common law, unaffected by partisan values or ideology, would actually reinforce the neutral model's perspective that the law operates independently of political influences.

Option (D): Correct. If the evolution of common law is influenced by the partisan interests or political values of judges, this would undermine the neutral model's claim that law and lawmaking are divorced from political ideology and operate on a purely logical or objective basis. This scenario suggests that even in common law systems, legal development can be subject to the same partisan influences found in legislative law-making, thus challenging the neutral model's assertion of law as an impartial and non-partisan entity.

VIII. If a person enters into a transaction which is surely likely to result in loss, he cannot be accused of insider trading. In other words, the actual gain or loss is immaterial, but the motive

for making a gain is essential. The words, "likely to materially affect the price" appearing in the main part of Regulation 2(ha) gain significance for the simple reason that profit motive, if not actual profit should be the motivating factor for a person to indulge in insider trading. This is why the information in Item No.(vii) of the Explanation under Regulation 2(ha) may have to be examined with reference to the words "likely to materially affect the price". Keeping this in mind let us now come back to the facts of the case. Gammon Infrastructure Projects Limited ("GIPL") was awarded a contract for the execution of a project, whose total cost was admittedly ` 1,648 crores. Simplex Infrastructure Limited ("SIL") was awarded a contract for a project whose cost was ` 940 crores. Both GIPL and SIL created Special Purpose Vehicles and then they entered into two shareholders Agreements. Under these Agreements, GIPL and SIL will have to make investments in the Special Purpose Vehicles created by each other, in such a manner that each of them will hold 49% equity interest in the other's project. It means that GIPL could have acquired 49% equity interest in the project worth ` 940 crores and SIL would have acquired 49% equity interest in a project worth ` 1,648 crore. In arithmetical terms, the acquisition by GIPL, of an equity interest in SIL's project was worth ` 460 crores approximately. Similarly, the acquisition by SIL, of the equity interest in GIPL's project was worth ` 807.52 crores. Therefore, the cancellation of the shareholders Agreements resulted in GIPL gaining very hugely in terms of order book value. In such circumstances an ordinary man of prudence would expect an increase in the value of the shares of GIPL and would wait for the market trend to show itself up, if he actually desired to indulge in insider trading. But the respondent did not wait for the information about the market trend, after the information became public. The reason given by him, which is also accepted by the Whole-Time Member ("WTM") and the Tribunal is that he had to dispose of his shares as well as certain other properties for the purpose of honouring a Corporate Debt Restructuring ("CDR") package. It is on record that if the CDR package had not gone through successfully, the parent company of GIPL namely, Gammon India Ltd., could have gone for bankruptcy. Therefore, the Tribunal was right in thinking that the respondent had no motive or intention to make undeserved gains by encashing on the unpublished price sensitive information that he possessed.

As a matter of fact, the Tribunal found that the closing price of shares rose, after the disclosure of the information. This shows that the unpublished price sensitive information was such that it was likely to be more beneficial to the shareholders, after the disclosure was made. Any person desirous of indulging in insider trading, would have waited till the information went public, to sell his holdings. The respondent did not do this, obviously on account of a pressing necessity. [Excerpted from the judgment delivered by Ramasubramanian, J., in Securities and Exchange Board of India v. Abhijit Rajan, CA No. 563 of 2020 (hereafter 'A Rajan')]

71. In A Rajan, which of the following are essential prerequisites for an insider to fall within the mischief of "insider trading" under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 (the "Insider Trading Regulations")?

- (a) Lack of access to price sensitive information
- (b) A profit motive
- (c) Mens rea

- (d) Abstaining from dealing in securities of a company about which the insider has price sensitive information Correct Answer: (b) A profit motive Explanation:
- (a) Incorrect because having access to price sensitive information is actually a characteristic of insider trading, not its absence.
- (b) Correct as per the passage, the motive to make a gain (profit motive) is essential for an action to be considered insider trading, irrespective of the actual profit or loss resulting from the transaction.
- (c) Incorrect because while mens rea (a guilty mind) is often a component of criminal activities, the passage specifically emphasizes the importance of a profit motive over the actual presence of mens rea for insider trading.
- (d) Incorrect because the passage does not list abstaining from dealing as a prerequisite; rather, it focuses on the intent behind dealing in securities when one has price sensitive information.

72. Which of the following are the key facts in A Rajan?

- (a) The respondent sold the shares of the company about which he had unpublished price sensitive information ("UPSI") after the rise in price of the shares consequential to the disclosure of the UPSI.
- (b) The respondent did not possess any UPSI about the company whose shares he sold.
- (c) The respondent sold the shares of the company about which he had UPSI before the rise in price of the shares consequential to the disclosure of the UPSI in his possession.
- (d) The respondent did not sell any shares of the company about which he had UPSI.

Correct Answer: (c) The respondent sold the shares of the company about which he had UPSI before the rise in price of the shares consequential to the disclosure of the UPSI in his possession.

Explanation:

- (a) Incorrect because the respondent sold his shares before the information was disclosed and the market could react, not after.
- (b) Incorrect as the respondent did indeed possess UPSI related to the company whose shares he sold.
- (c) Correct because the passage describes how the respondent sold his shares before the disclosure of the UPSI, which would have likely increased their value had he waited.
- (d) Incorrect as the respondent did sell shares of the company about which he had UPSI, doing so before the rise in share price that followed the disclosure of that information.

73. Based on the passage, what is 'insider trading' under the Insider Trading Regulations?

- (a) Dealing in the securities of a company about which one does not have UPSI, without any desire to make a profit.
- (b) Dealing in the securities of a company about which one has UPSI, without any desire to make a profit.
- (c) Dealing in the securities of a company about which one does not have UPSI, with the desire to make a profit.
- (d) Dealing in the securities of a company about which one has UPSI, with the desire to make a profit.

Correct Answer: (d) Dealing in the securities of a company about which one has UPSI, with the desire to make a profit.

Explanation:

- (a) Incorrect because dealing in securities without UPSI is not insider trading, regardless of the profit motive.
- (b) Incorrect because having UPSI and dealing in securities without the intent to profit does not align with the typical understanding of insider trading; the profit motive is crucial.
- (c) Incorrect as dealing in securities without UPSI, even with a profit motive, does not constitute insider trading.
- (d) Correct because the definition of insider trading involves dealing in securities based on possession of UPSI with the intent to profit, as highlighted in the passage.

74. Based on the passage, what was the impact of the cancellation of the shareholders' agreements between SIL and GIPL?

- (a) There was a decrease in the closing prices of the shares after this information was disclosed.
- (b) There was an increase in the closing prices of the shares after this information was disclosed.
- (c) There was no change in the closing prices of the shares after this information was disclosed.
- (d) The company's securities were delisted from the stock exchange.

Correct Answer: (b) There was an increase in the closing prices of the shares after this information was disclosed.

Explanation:

- (a) Incorrect because the passage explicitly states that the share price rose following the disclosure, not decreased.
- (b) Correct as the passage mentions that the disclosure of the information led to an increase in the share prices, indicating positive market reaction.

- (c) Incorrect because there was a significant change in the share prices following the disclosure.
- (d) Incorrect as there is no mention of delisting; the focus is on the positive impact on share prices following the disclosure.

75. Which of the following approaches has been adopted in several jurisdictions, including India, to determine cases of insider trading?

- (a) Parity of information
- (b) Lifting the corporate veil
- (c) Indoor management
- (d) Constructive notice

Correct Answer: (a) Parity of information Explanation:

- (a) Correct because the parity of information approach aims to ensure that all market participants have equal access to material information, a principle central to the regulation of insider trading.
- (b) Incorrect because lifting the corporate veil is a legal principle used to hold the directors or shareholders personally liable for the company's actions, not specifically related to insider trading.
- (c) Incorrect as the doctrine of indoor management deals with the internal affairs of a company and the protections afforded to external parties dealing with the company, not insider trading.
- (d) Incorrect because constructive notice relates to the legal assumption that individuals are aware of the law, which does not directly pertain to the specific mechanisms of regulating insider trading.

76. What reason did A Rajan give for selling his shares in the company about which he had UPSI?

- (a) He expected a huge rise in the share price of GIPL upon the disclosure of the UPSI in his possession.
- (b) It was a compulsory requirement under the shareholders' agreement with SIL.
- (c) He needed funds to buy the securities of SIL.
- (d) He needed funds to honour a CDR package.

Correct Answer: (d) He needed funds to honour a CDR package.

Explanation:

- (a) Incorrect as the passage does not suggest that Rajan sold his shares with the expectation of a price rise due to the disclosure of UPSI.

- (b) Incorrect because the need to sell shares was not stipulated as a requirement under the shareholders' agreement with SIL.
- (c) Incorrect as there is no indication that Rajan needed the funds specifically to buy securities of SIL.
- (d) Correct because the passage explicitly states that Rajan sold his shares (and other properties) to meet the financial obligations of a Corporate Debt Restructuring package, indicating financial distress rather than a profit motive related to insider trading.

77. Which of the following did the court in A Rajan say was clarified in SEBI v. Kanaiyalal Baldevbhai Patel, (2017) 15 SCC 1, as regards the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (the "FUTP Regulations")?
    - (a) That mens rea is an indispensable requirement to attract the rigour of the FUTP Regulations
    - (b) That mens rea is not an indispensable requirement to attract the rigour of the FUTP Regulations
    - (c) That mens rea is not an indispensable requirement to attract the rigour of the Insider Trading Regulations
    - (d) That mens rea is an indispensable requirement to attract the rigour of the Insider Trading Regulations

Correct Answer: (b) That mens rea is not an indispensable requirement to attract the rigour of the FUTP Regulations Explanation:

- (a) Incorrect because the court clarified that mens rea, or a guilty mind, is not a necessary element to establish a violation under the FUTP Regulations.
- (b) Correct as the passage mentions this clarification, indicating that the regulations can apply even without the traditional requirement of mens rea, focusing instead on the actions and their impact.
- (c) Incorrect because the statement pertains to the FUTP Regulations, not the Insider Trading Regulations.
- (d) Incorrect as the passage does not discuss the necessity of mens rea for the Insider Trading Regulations within the context of SEBI v. Kanaiyalal Baldevbhai Patel.

78. The Insider Trading Regulations are no longer in force. Which of the following is the current set of regulations governing insider trading in India?
    - (a) The FUTP Regulations
    - (b) The SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018
    - (c) The SEBI (Prohibition of Insider Trading) Regulations, 2015

- (d) The SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015

  Correct Answer: (c) The SEBI (Prohibition of Insider Trading) Regulations, 2015

  Explanation:

- (a) Incorrect because the FUTP Regulations deal with fraudulent and unfair trade practices, not specifically insider trading.
- (b) Incorrect as these regulations pertain to the issuance of capital and disclosure requirements by companies seeking to list or are already listed, not insider trading.
- (c) Correct because the SEBI (Prohibition of Insider Trading) Regulations, 2015, replaced the older 1992 regulations to provide a more updated framework for addressing insider trading.
- (d) Incorrect as these regulations govern the obligations and disclosure requirements of listed companies but do not specifically address insider trading.

79. What did A Rajan hold regarding the information related to the termination of the shareholders' agreements between GIPL and SIL?

- (a) It was not in the respondent's possession
- (b) It had no impact on the closing price of GIPL's shares
- (c) It was not price sensitive information
- (d) It was price sensitive information Correct Answer: (d) It was price sensitive

  information Explanation:

- (a) Incorrect because the passage indicates that the respondent did possess the information.
- (b) Incorrect as the passage clearly states that the information had a positive impact on the share prices after its disclosure.
- (c) Incorrect because the passage confirms the information was price sensitive, given its impact on the market.
- (d) Correct as the passage explicitly mentions that the unpublished price sensitive information, once disclosed, led to an increase in share prices, indicating its nature as price sensitive.

80. In A Rajan, the court opined that a person who wanted to indulge in insider trading would have:

- (a) Held on to the shares, and only sold them after the news about the termination of the shareholders' agreements with SIL was made public.
- (b) Sold the shares before the news about the termination of the shareholders' agreements with SIL was made public.

- (c) Held on to the shares and not sold them under any circumstances whatsoever.
- (d) Never have bought GIPL's shares in the first place.

Correct Answer: (a) Held on to the shares, and only sold them after the news about the termination of the shareholders' agreements with SIL was made public.

Explanation:

- (a) Correct as the passage suggests that a person intending to profit from insider trading would have waited for the market to react to the disclosure of the UPSI before selling, to maximize gains.
- (b) Incorrect because selling before the public disclosure would not align with the motive of capitalizing on the price-sensitive information.
- (c) Incorrect as the passage does not suggest that holding onto the shares indefinitely is a strategy for insider trading; it specifically mentions the timing of the sale in relation to the disclosure.
- (d) Incorrect because the purchase of shares is not relevant to the court's reasoning about the behavior expected of someone intending to engage in insider trading.

XI. The Russian Federation's specific claims alleging genocide, and invoking that alleged genocide as the basis for military action against Ukraine, include: a. On 21 February 2022, the President of the Russian Federation stated in an official address that there was a "genocide" occurring in Ukraine, "which almost 4 million people are facing."… c. The President of the Russian Federation then announced a "special military operation" and stated that "[t]he purpose of this operation is to protect people who, for eight years now, have been facing humiliation and genocide perpetrated by the Kiev regime."… f. In an interview on 25 February 2022, the Russian Ambassador to the European Union was asked about President Putin's reference to genocide as justification for Russia's unlawful acts against Ukraine and said "[w]e can turn to the official term of genocide as coined in international law. If you read the definition it fits pretty well." Ukraine has emphatically denied that any act of genocide has occurred in the Luhansk and Donetsk oblasts or elsewhere in Ukraine, and that Russia has any lawful basis whatsoever to take action in and against Ukraine for the purpose of preventing and punishing genocide… …Therefore, the parties' dispute over first, the existence of acts of genocide, and second, Russia's claim to legal authority to take military action in and against Ukraine to punish and prevent such alleged genocide, is a dispute that concerns the interpretation, application or fulfilment of the [1] Convention. Accordingly, the Court should recognize its jurisdiction on a prima facie basis for purposes of indicating provisional measures. [Excerpted from: Request for the Indication of Provisional Measures Submitted by Ukraine, February 26, 2022, in Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), International Court of Justice]

Question 81. Ukraine filed the application excerpted above concerning "a dispute . . . relating to the interpretation, application and fulfilment of " an international convention (the

"Convention"), whose name has been replaced with '[1]' in the excerpt above. What is the full name of the Convention?

(a) Convention on the Elimination of All Forms of Discrimination against Women, 1979

(b) Convention on the Prevention and Punishment of the Crime of Genocide, 1948

(c) International Covenant on Civil and Political Rights, 1966

(d) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

Correct Answer: (b) Convention on the Prevention and Punishment of the Crime of Genocide, 1948

Explanation:

(a) Incorrect because this Convention focuses on eliminating discrimination against women, not on genocide.

(b) Correct because the excerpt discusses disputes related to allegations of genocide, which are addressed within this Convention.

(c) Incorrect because this Covenant focuses on civil and political rights rather than genocide.

(d) Incorrect because this Convention addresses torture and other cruel treatment, not genocide.

Question 82. Article IX of the Convention provides that disputes between Contracting Parties relating to the interpretation, application or fulfilment of the Convention, shall be submitted to the International Court of Justice (the "ICJ") at the request of:

(a) The United Nations High Commissioner for Refugees

(b) Any State not party to the dispute

(c) The Secretary-General of the United Nations

(d) Any of the parties to the dispute

Correct Answer: (d) Any of the parties to the dispute Explanation:

(a) Incorrect because the United Nations High Commissioner for Refugees deals primarily with refugees, not general disputes under conventions.

(b) Incorrect because it specifies states not party to the dispute, which is not the case here.

(c) Incorrect because the Secretary-General of the United Nations has broader responsibilities that do not specifically include requesting ICJ interventions in such disputes.

(d) Correct as it allows any party directly involved in a dispute under the Convention to request the ICJ's intervention.

Question 83. Article II of the Convention defines ‘genocide’ to mean certain acts, “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group”. Which of the following is not included in the list of such acts under Article II of the Convention?

(A) Killing members of the group

(B) Promoting the cultural activities of the group

(C) Imposing measures intended to prevent births within the group

(D) Forcibly transferring children of the group to another group Correct Answer: (B) Promoting the cultural activities of the group

Explanation:

(A) Incorrect because killing members of the group is explicitly mentioned as an act of genocide.

(B) Correct because promoting the cultural activities of a group is not considered an act of genocide; rather, it's a positive action.

(C) Incorrect as imposing measures intended to prevent births within the group is recognized as an act of genocide.

(D) Incorrect because forcibly transferring children of the group to another group is listed as an act of genocide.

Question 84. The ICJ held hearings for provisional measures in response to Ukraine’s application excerpted above on March 7, 2022. Which of the following did the Russian Federation do in relation to these hearings?

(A) It appeared before the ICJ, and also submitted written pleadings objecting to the ICJ’s jurisdiction over the matter

(B) It chose not to appear before the ICJ, and did not submit any written pleadings either

(C) It chose not to appear before the ICJ, and submitted written pleadings objecting to the ICJ’s jurisdiction over the matter

(D) It appeared before the ICJ, but chose not to submit any written pleadings

Correct Answer: (C) It chose not to appear before the ICJ, and submitted written pleadings objecting to the ICJ’s jurisdiction over the matter Explanation:

(A) Incorrect because the Russian Federation did not appear before the ICJ.

(B) Incorrect as the Russian Federation did not appear but did submit written pleadings.

(C) Correct because the Russian Federation chose not to appear but submitted written pleadings objecting to the ICJ's jurisdiction.

(D) Incorrect because it suggests the Russian Federation appeared, which it did not.

Question 85. Which of the following relates to the conditions under which States may resort to war or the use of armed force in general?

(A) Jus gentium

(B) Jus ad bellum

(C) Jus in bello

(D) Jus cogens

Correct Answer: (B) Jus ad bellum Explanation:

(A) Incorrect because Jus gentium refers to the law of nations or international law in general, not specifically to the conditions under which states may resort to war.

(B) Correct as Jus ad bellum deals with the conditions under which states may resort to war or use armed force.

(C) Incorrect because Jus in bello refers to the laws that govern the conduct of parties during armed conflict.

(D) Incorrect as Jus cogens refers to peremptory norms of general international law from which no derogation is permitted.

Question 86. Who among the following is the author of the work Mare Liberum, and is also often called the ‘Father’ of modern international law?

(A) Jeremy Bentham

(B) Baruch Spinoza

(C) Hugo Grotius

(D) Mohamed ElBaradei Correct Answer: (C) Hugo Grotius Explanation:

(A) Incorrect because Jeremy Bentham is known for his contributions to philosophy and law, but not as the 'Father' of modern international law.

(B) Incorrect as Baruch Spinoza was a philosopher with no direct link to being called the 'Father' of modern international law.

(C) Correct because Hugo Grotius authored Mare Liberum and is often regarded as the 'Father' of modern international law.

(D) Incorrect as Mohamed ElBaradei is known for his work with the International Atomic Energy Agency, not for contributions to the foundational aspects of international law.

Question 87. Article 38(1) of the Statute of the International Court of Justice recognises certain sources of law that it must apply in deciding disputes submitted to it. Which of the following is or are included under Article 38(1)?

(A) International conventions, whether general or particular, establishing rules expressly recognised by the contesting states

(B) International custom, as evidence of a general practice accepted as law

(C) The general principles of law recognized by civilized nations

(D) All the above

Correct Answer: (D) All the above Explanation:

(A) Correct because international conventions are a recognized source of law for the ICJ.

(B) Correct as international custom is also a recognized source of law for the ICJ.

(C) Correct because the general principles of law recognized by civilized nations are considered by the ICJ.

(D) Correct as all the mentioned sources are included under Article 38(1) of the ICJ Statute.

Question 88. Article 38(2) of the Statute of the International Court of Justice provides that Article 38 “shall not prejudice the power of the Court to decide a case ex aequo et bono, if the parties agree thereto”. Which of the following is the meaning of the phrase ex aequo et bono?

(A) The thing speaks for itself

(B) According to the right and good

(C) By that very fact or act

(D) Towards all

Correct Answer: (B) According to the right and good Explanation:

(A) Incorrect because "The thing speaks for itself" translates to "Res ipsa loquitur," which is a different legal principle.

(B) Correct as "ex aequo et bono" means deciding a case based on what is fair and good, not strictly according to law.

(C) Incorrect as "By that very fact or act" translates to "Ipso facto," which is a different concept.

(D) Incorrect because "Towards all" does not accurately translate or represent the concept of ex aequo et bono.

Question 89. Which among the following was established by the General Assembly of the United Nations in 1947, to undertake the mandate of the Assembly, under article 13(1)(a) of the Charter of the United Nations to “initiate studies and make recommendations for the purpose of ... encouraging the progressive development of international law and its codification”?

(A) The International Law Commission

(B) The International Court of Justice

(C) The International Criminal Court

(D) The World Trade Organisation

Correct Answer: (A) The International Law Commission Explanation:

(A) Correct because the International Law Commission was established for the purpose of developing and codifying international law.

(B) Incorrect as the International Court of Justice was established to adjudicate disputes between states.

(C) Incorrect because the International Criminal Court deals with the prosecution of individuals for international crimes.

(D) Incorrect as the World Trade Organisation is concerned with global trade rules, not specifically with the development or codification of international law.

Question 90. Who among the following first coined the term ‘genocide’?

(A) Hersch Lauterpacht

(B) Judge Radhabinod Pal

(C) Raphael Lemkin

(D) Mirjan Damaška

Correct Answer: (C) Raphael Lemkin Explanation:

(A) Incorrect because Hersch Lauterpacht made significant contributions to international law but did not coin the term 'genocide'.

(B) Incorrect as Judge Radhabinod Pal is known for his dissenting opinion in the Tokyo Trials, not for coining the term 'genocide'.

(C) Correct because Raphael Lemkin is credited with coining the term 'genocide' and played a key role in the establishment of the Convention on the Prevention and Punishment of the Crime of Genocide.

(D) Incorrect as Mirjan Damaška is known for his work in comparative law and criminal procedure, not for coining the term 'genocide'.

X. Food Corporation of India (“FCI” or “Corporation”), the Appellant herein, procures and distributes foodgrains across the length and breadth of the country as a part of its statutory duties. In the process, it enters into many contracts with transport contractors. In one such contract, the subject matter of present appeals, the Corporation empowered itself (under clause XII (a)) to recover damages, losses, charges, costs and other expenses suffered due to the contractors’ negligence from the sums payable to them. The short question arising for consideration is whether the demurrages imposed on the Corporation by the Railways can be, in turn, recovered by the Corporation from the contractors as “charges” recoverable under

clause XII (a) of the contract. In other words, does contractors' liability for "charges", if any, include demurrages?

"XII [Road Transport Contract]. Recovery of losses suffered by the Corporation (a) The Corporation shall be at liberty to reimburse themselves for any damages, losses, charges, costs or expenses suffered or incurred by them, or any amount payable by the Contractor as Liquidated Damages as provided in Clauses X above…." Interpretation of contracts concerns the discernment of the true and correct intention of the parties to it. Words and expressions used in the contract are principal tools to ascertain such intention. While interpreting the words, courts look at the expressions falling for interpretation in the context of other provisions of the contract and also in the context of the contract as a whole. These are intrinsic tools for interpreting a contract. As a principle of interpretation, courts do not resort to materials external to the contract for construing the intention of the parties. There are, however, certain exceptions to the rule excluding reference or reliance on external sources to interpret a contract. One such exception is in the case of a latent ambiguity, which cannot be resolved without reference to extrinsic evidence. Latent ambiguity exists when words in a contract appear to be free from ambiguity; however, when they are sought to be applied to a particular context or question, they are amenable to multiple outcomes….". It observed that "….Extrinsic evidence, in cases of latent ambiguity, is admissible both to ascertain where necessary, the meaning of the words used, and to identify the objects to which they are to be applied. The Corporation in the present contract has chosen not to include the power to recover demurrages and as such the expression "charges" cannot be interpreted to include demurrages. Demurrage is undoubtedly a charge, however, such a textual understanding would not help us decipher the true and correct intention of the parties to the present contract". After examining the contract in its entirety, including its nature and scope, the Court concluded that the contractors' liability in the present contract was clearly distinguishable from other contracts entered into by the Corporation in 2010 and 2018, which included loading and unloading of foodgrains from the railway wagons within the scope of contractors' duties, thereby necessitating the inclusion of demurrages as a penalty for nonperformance of contractual duties. [Extracted from: Food Corporation of India v. Abhijit Paul, (CA 8572-8573/2022). Judgment of Justices A.S. Bopanna and P.S. Narasimha, 18 November 2022]

Question 91. According to the Court, how was this Road Transport Contract different from FCI's earlier contracts with transport contractors?

(A) FCI's earlier contracts had expired

(B) The present contract did not include loading and unloading of foodgrains from the railway wagons within the scope of contractor's duties

(C) Earlier contracts were executed by FCI with contractors who were both handlers and transporters

(D) Earlier contracts were not validly executed

Correct Answer: (C) Earlier contracts were executed by FCI with contractors who were both handlers and transporters Explanation:

Option (A): Incorrect. The expiration of earlier contracts does not inherently distinguish the nature or scope of the new contract from the old.

Option (B): Incorrect. While specific duties like loading and unloading might vary, this option doesn't directly address the fundamental nature of how the contracts differed in terms of the roles assigned to contractors.

Option (C): Correct. This option highlights a substantial difference in the nature of the contracts. If earlier contracts involved contractors who played dual roles as handlers and transporters, and the current contract delineates these roles more clearly or shifts the responsibility, it represents a significant shift in FCI's contractual approach.

Option (D): Incorrect. The validity of contract execution does not pertain to the nature of the contract's duties or scope.

Question 92. What is the extrinsic evidence that the Court used?

(A) Work order under the Road Transport Contract

(B) FCI’s Handling and Transport Contracts of 2010 and 2018

(C) Tender documents filed by the contractors

(D) FCI’s Handbook on Movement Operations

Correct Answer: (B) FCI’s Handling and Transport Contracts of 2010 and 2018 Explanation:

Option (A): Incorrect. While work orders are important, they are part of the contract execution process rather than extrinsic evidence used to interpret the contract's terms.

Option (B): Correct. Previous contracts serve as extrinsic evidence to understand the context and evolution of contractual obligations, providing insight into standard practices and expectations between FCI and its contractors.

Option (C): Incorrect. Tender documents might inform the bidding process but are less likely to be used as extrinsic evidence for interpreting specific contract terms.

Option (D): Incorrect. Although handbooks can provide operational context, they are not directly tied to the contractual agreement between FCI and its contractors and thus less likely to serve as extrinsic evidence in a legal analysis.

Question 93. The Court referred to Union of India v. Raman Iron Foundry (1974), to explain that contractual terms cannot be interpreted in isolation, following strict etymological rules or be guided by popular connotation of terms, at variance with the contractual context. This principle of interpretation of contracts is known as

(A) Ejusdem generis

(B) Mischief rule

(C) Literal rule

(D) Rule of contextual interpretation

Correct Answer: (D) Rule of contextual interpretation Explanation:

Option (A): Incorrect. Ejusdem generis is a principle of statutory interpretation that relates to the interpretation of general words in the context of specific words, not contracts.

Option (B): Incorrect. The mischief rule aims to discover the law's intention; it's more relevant to statutory than contract interpretation.

Option (C): Incorrect. The literal rule focuses on the plain meaning of words, without considering the broader contractual context.

Option (D): Correct. This option correctly identifies the principle that contractual terms should be interpreted within their full contextual and situational framework, not in isolation or purely by literal meanings.

Question 94. In Clause XII (Road Transport Contract), discussed in the extract above, the FCI may reimburse itself for damages etc., as Liquidated Damages. What does the term 'liquidated damages' mean?

(A) Stipulated amount payable on breach of contract

(B) Amount payable for actual damage caused due to breach

(C) Amount intended to secure performance of contract

(D) Damages payable for breach, where the exact amount is not pre-agreed

Correct Answer: (A) Stipulated amount payable on breach of contract Explanation:

Option (A): Correct. Liquidated damages refer to a predetermined sum agreed upon by the parties at the time of contract formation, payable as compensation for specific breaches.

Option (B): Incorrect. While actual damage caused by a breach is a consideration in many contracts, liquidated damages specifically refer to a pre-agreed sum, not an amount calculated based on the actual damage post-breach.

Option (C): Incorrect. Though ensuring performance is a function of liquidated damages, this option does not accurately define them.

Option (D): Incorrect. Liquidated damages are, by definition, pre-agreed upon, distinguishing them from damages that are not predetermined.

Question 95. The High Court had held that the Corporation was only entitled to recover losses that were incurred due to the contractor's dereliction of duties under Section 73 of the Indian Contract Act, 1872. What does Section 73 provide for?

(A) Obligation of parties to perform their promise

(B) Compensation for breach of contract where penalty stipulated for

(C) Compensation for loss or damage caused by breach of contract

(D) Effect of refusal of party to perform promise wholly

Correct Answer: (C) Compensation for loss or damage caused by breach of contract

Explanation:

Option (A): Incorrect. The obligation of parties to perform their promises is a general principle of contract law but not the specific provision of Section 73.

Option (B): Incorrect. While related to consequences of breach, Section 73 directly addresses compensation rather than the enforcement of penalties.

Option (C): Correct. Section 73 provides for compensation for any loss or damage caused to the aggrieved party by the breach of a contract, not limited by any stipulation of penalty. Hence, Option (C) is the correct answer.

Option (D): Incorrect. This option refers to consequences of a party's refusal to perform but does not accurately describe Section 73's focus on compensation for breach.

Question 96. The Court used the expression “Ex praecedentibus et consequentibus optima fit interpretatio”. What does this mean?

(A) Of the same kind

(B) The best interpretation is made from the context

(C) An exception proves the rule

(D) No action arises on an immoral contract

Correct Answer: (B) The best interpretation is made from the context Explanation:

Option (A): Incorrect. "Of the same kind" relates more to ejusdem generis, a principle of statutory interpretation, not to contextual interpretation.

Option (B): Correct. This Latin maxim emphasizes that the best interpretation of a document or statement is achieved by considering the context and surrounding circumstances. Hence, Option (B) is the correct answer.

Option (C): Incorrect. "An exception proves the rule" is a separate legal maxim not relevant to the principle of contextual interpretation.

Option (D): Incorrect. This option, concerning the legality of contracts, does not relate to the maxim's focus on interpretation.

Question 97. In the case excerpted above, the Court used the following as an internal aid to interpret the contract:

(A) Schedule

(B) Title

(C) Words and expressions

(D) Proviso

Correct Answer: (C) Words and expressions Explanation:

Option (A): Incorrect. Schedules can provide context but are generally considered more as appendices or supplementary information rather than the primary source for interpreting the contract's core terms.

Option (B): Incorrect. The title of a contract provides a general overview but does not serve as a detailed aid for interpreting specific contractual terms.

Option (C): Correct. The specific words and expressions used within the contract itself are primary sources for understanding its intent and meaning. Hence, Option (C) is the correct answer.

Option (D): Incorrect. While a proviso can clarify or impose conditions, it is not as broad in scope for interpretation as the contract's main text.

Question 98. What was the latent ambiguity in the contract discussed in the case excerpted above?

(A) if the parties had capacity to perform the contract

(B) if the parties intended to execute the contract

(C) whether the term “charges” was exclusive of liability for demurrages

(D) whether the Corporation can recover charges under the contract

Correct Answer: (C) whether the term “charges” was exclusive of liability for demurrages

Explanation:

Option (A): Incorrect. The parties' capacity to perform the contract is a fundamental aspect of contract formation, not a latent ambiguity in terms of interpretation.

Option (B): Incorrect. The intention to execute the contract is about the agreement's formation rather than an ambiguity in its terms.

Option (C): Correct. A latent ambiguity arises when terms that appear clear on the surface become uncertain in application. The specific question about the inclusivity of "charges" concerning liability for demurrages represents such an ambiguity. Hence, Option (C) is the correct answer.

Option (D): Incorrect. The ability of the Corporation to recover charges underlines a contractual right but doesn't directly imply a latent ambiguity without context.

Question 99. What does the term ‘latent ambiguity’ mean?

(A) A glaring ambiguity, obvious from the face of the contract

(B) A contractual term is reasonably, but not obviously, susceptible to more than one interpretation

(C) A contractual term written in plain language and clearly understood

(D) A contractual term that is illegal and against the public good

Correct Answer: (B) A contractual term is reasonably, but not obviously, susceptible to more than one interpretation Explanation:

Option (A): Incorrect. A glaring or obvious ambiguity is typically referred to as a patent ambiguity, not latent.

Option (B): Correct. Latent ambiguity refers to uncertainties in a contract that emerge only when attempting to apply the contract's terms to specific situations. Hence, Option (B) is the correct answer.

Option (C): Incorrect. This describes clear and unambiguous terms, opposite of a latent ambiguity.

Option (D): Incorrect. The legality of terms is separate from their clarity or ambiguity.

Question 100. Which one of the following cases is a key precedent on contextual interpretation of contracts?

(A) Louisa Carlill v. Carbolic Smoke Ball Company, [1892]

(B) Dunlop Pneumatic Tyre Co. Ltd. v. New Garage & Motor Co. Ltd., [1914]

(C) Investors Compensation Scheme Limited v. West Bromwich Building Society, [1997]

(D) Home Office v. Dorset Yacht Co. Ltd., [1970]

Correct Answer: (C) Investors Compensation Scheme Limited v. West Bromwich Building Society, [1997] Explanation:

Option (A): Incorrect. While a landmark case, it focuses on contract formation and the validity of offers, not specifically on contextual interpretation.

Option (B): Incorrect. This case concerns the principles of damages for breach of contract, particularly in relation to agreed penalties, rather than contextual interpretation.

Option (C): Correct. This case is a key precedent for the importance of considering the whole context in contractual interpretation, making it a foundational case for understanding the rule of contextual interpretation. Hence, Option (C) is the correct answer.

Option (D): Incorrect. This case deals with negligence and the duty of care, not contract interpretation.

XI. The Plaintiff is a world-renowned company, carrying on business in the field of sealants and adhesives, construction and paint chemicals, art materials, industrial adhesives, industrial and textile resins and organic pigments and preparations since at least 1969. The mark M-SEAL was conceived and adopted by the Plaintiff’s predecessors in title… in or about the year 1968, and has been continuously, extensively and in an uninterrupted manner used since then. The said mark and the artistic representation thereof have been acquired by the Plaintiff pursuant to

agreement dated 27 March 2000, together with the goodwill thereof and the Plaintiff is the registered proprietor of the mark M-SEAL and/or marks consisting of M-SEAL as one of its leading, essential and distinctive features. Plaintiff's earliest trade mark registration bearing no. 282168 [is] in respect of the mark M-SEAL, dated 16th August 1972, claiming use from 1st December 1968… The registrations are valid and subsisting and the entries appearing on the register of trade marks including the dates of use thus constitute prima facie evidence of such facts.

It is stated that the Plaintiff's M-SEAL registration bearing No. […] contains a disclaimer with regard to the word PHATAPHAT, however the mark as a whole is registered and to that extent all features taken as a whole stand protected by the registration. Further, it is stated that registration bearing no. […] contains a disclaimer with regard to the word SEAL and the registrations bearing nos. […] have a condition imposed on it viz "Registration of this trade mark shall give no right to the exclusive use of all other descriptive matters appearing on the label". However, the Plaintiff states that these conditions do not limit the rights of the Plaintiff including for reasons set out hereinafter and in any event the rest of the M-SEAL registrations have no conditions/limitations. The unique and distinctive artistic representation of M-SEAL i.e., (including in particular the unique line below the mark which is an extension from the first letter of the mark) as well as the M-SEAL Labels are original artistic works in respect of which copyrights subsist and such copyrights are owned by the Plaintiff. The Plaintiff states that in or about December 2020, the Plaintiff was shocked and surprised to come across sealant products of the Defendant being sold under the mark R-SEAL, which mark is deceptively similar to the Plaintiff's registered trade mark M-SEAL... The said product of the Defendant is identical to the M-SEAL product of the Plaintiff and the Defendant's product also bears an impugned packaging/labels/ trade dress which is a reproduction of and/or in appearance, almost identical or deceptively similar to the M-SEAL products of the Plaintiff, and the M-SEAL Labels… The impugned products of the Defendant also bear the impugned identification mark JHAT-PAT that is deceptively similar to the Plaintiff's identification mark PHATAPHAT. In comparing rival marks / labels to consider whether they are similar, the Supreme Court in Cadilla Healthcare Limited v. Cadilla Pharmaceuticals Limited, 2001 (2) PTC 541 SC10 lays down that attention and stress is to be given to the common features in the two rather than on differences in essential features. [Source: Pidilite Industries Limited v. Riya Chemy 1-IA (L) 15502 of 2021 in Comm. IP. Su. 147 of 2022. Decision of Justice R. I. Chagla of the Bombay High Court, 11 November, 2022]

Question 101. The main complaint against the Defendant in the case excerpted above is that their mark is "_____" to the Plaintiff's registered trademarks.

(A) reasonably close in expression

(B) same as

(C) different from

(D) deceptively similar

Correct Answer: (D) deceptively similar Explanation:

Option (A): Incorrect. "Reasonably close in expression" could imply similarity but lacks the legal specificity often required to establish trademark infringement.

Option (B): Incorrect. While direct copying ("same as") is a strong basis for infringement claims, trademark law particularly concerns itself with the likelihood of confusion, which is more specifically addressed by deceptiveness.

Option (C): Incorrect. Being "different from" the plaintiff's trademarks would not constitute a basis for a complaint of infringement.

Option (D): Correct. "Deceptively similar" is a legal standard used to evaluate potential trademark infringement, indicating that the defendant's mark is so similar to the plaintiff's registered trademarks that it could deceive or cause confusion among consumers. Hence, Option (D) is the correct answer.

Question 102. In order to prove infringement of copyright here, the Defendant's work:

(A) should be the exact reproduction of the Plaintiff's work/label

(B) looks similar to or like a copy or is reproduction of substantial part of the Plaintiff's work

(C) bears no resemblance to the Plaintiff's work/label

(D) should be created only by the Defendant or its authorised agents

Correct Answer: (B) looks similar to or like a copy or is reproduction of substantial part of the Plaintiff's work Explanation:

Option (A): Incorrect. Exact reproduction is not the only standard for copyright infringement; significant or substantial similarity can also constitute infringement.

Option (B): Correct. Copyright law protects the expression of ideas, and infringement can occur if the defendant's work is substantially similar to the plaintiff's, suggesting copying of a substantial part. Hence, Option (B) is the correct answer.

Option (C): Incorrect. No resemblance would negate claims of infringement.

Option (D): Incorrect. The creation of the work by the defendant or its agents is not directly relevant to whether infringement occurred.

Question 103. Which one of the following is not part of the Plaintiff's claim for infringement in this

case?

(A) trademark

(B) tagline

(C) patent

(D) trade dress

Correct Answer: (C) patent

Explanation for Each Option:

Option (A): Trademark - Trademark claims are common in infringement cases where brand identity is contested. This would logically be part of the plaintiff's claim. Hence, Option (A) is not the correct answer.

Option (B): Tagline - Taglines, as part of the brand's identity, can also be protected under trademark law, making them a plausible part of infringement claims. Hence, Option (B) is not the correct answer.

Option (C): Patent - Patents protect inventions, not brand identity or marketing elements like trademarks or trade dress, making it less relevant in a typical trademark infringement case. Hence, Option (C) is the correct answer.

Option (D): Trade dress - Trade dress involves the visual appearance of a product or its packaging that signifies the source of the product to consumers. It's commonly included in trademark infringement claims. Hence, Option (D) is not the correct answer.

Question 104. What is the test of prior use of trademark?

(A) open, continuous, extensive, uninterrupted use and promotion for a long time

(B) owner waives rights over trademark and permits subsequent use of the mark

(C) reasonable parody, comment of a registered trademark

(D) use of trademark in good faith mainly for a descriptive purpose

Correct Answer: (A) open, continuous, extensive, uninterrupted use and promotion for a long time

Explanation for Each Option:

Option (A): This option correctly outlines the criteria for establishing prior use of a trademark, which can grant rights to the mark. Hence, Option (A) is the correct answer.

Option (B): Waiving rights over a trademark for subsequent use is a specific legal action rather than a test of prior use. Hence, Option (B) is not the correct answer.

Option (C): Reasonable parody or commentary involves different legal considerations, like fair use, and does not pertain to establishing prior use of a trademark. Hence, Option (C) is not the correct answer.

Option (D): Use of a trademark in good faith for descriptive purposes may relate to defenses against infringement claims but does not establish prior use rights. Hence, Option (D) is not the correct answer.

Question 105. Section 29 of the Trademarks Act, 1999, applicable in this case, considers which of the following as an infringement of a trademark?

(A) Misrepresentation of ownership of a trademark

(B) Infringement of an unregistered trademark

(C) Interference with exclusive right to use a registered trade mark

(D) Infringement of a registered trademark by use of an identical or deceptively similar trademark in relation to identical or similar goods

Correct Answer: (D) Infringement of a registered trademark by use of an identical or deceptively similar trademark in relation to identical or similar goods Explanation for Each Option:

Option (A): Misrepresentation of ownership concerns false claims about owning a trademark but does not directly address trademark infringement under Section 29, which focuses on unauthorized use of a trademark. Hence, Option (A) is not the correct answer.

Option (B): While the infringement of unregistered trademarks can be actionable under certain circumstances like passing off, Section 29 specifically deals with the infringement of registered trademarks. Hence, Option (B) is not the correct answer.

Option (C): Interference with the exclusive right to use a registered trademark broadly captures the essence of infringement but does not precisely articulate the conditions under Section 29. Hence, Option (C) is not the correct answer.

Option (D): This option directly aligns with the provision in Section 29 that considers it an infringement to use an identical or deceptively similar mark for related goods or services, potentially confusing consumers. Hence, Option (D) is the correct answer.

Question 106. Use of a trademark violates exclusive rights of the prior user or proprietor when:

(A) usage has introduced differences or changes in the work

(B) usage is likely to cause confusion and deception amongst members of the trade and public

(C) usage of the work is authorised by the user or proprietor

(D) the trademark enjoys goodwill

Correct Answer: (B) usage is likely to cause confusion and deception amongst members of the trade and public

Explanation for Each Option:

Option (A): Introducing differences or changes might actually mitigate infringement concerns by distinguishing the marks more clearly. Hence, Option (A) is not the correct answer.

Option (B): The likelihood of causing confusion or deception is a key criterion for trademark infringement, directly impacting the trademark owner's exclusive rights. Hence, Option (B) is the correct answer.

Option (C): Authorized use by the trademark owner negates any infringement claim, as it is permitted by the rights holder. Hence, Option (C) is not the correct answer.

Option (D): While goodwill is an important aspect of trademark value, its mere existence does not address how unauthorized use violates exclusive rights. Hence, Option (D) is not the correct answer.

Question 107. Dilution of a brand by the Defendant would result in commission of which of the following?

(A) a civil wrong

(B) not actionable per se

(C) a criminal wrong

(D) violates fundamental rights

Correct Answer: (A) a civil wrong Explanation

for Each Option:

Option (A): Brand dilution, which weakens the distinctiveness of a mark even without causing confusion, is recognized as a civil wrong, subject to legal remedies. Hence, Option (A) is the correct answer.

Option (B): Brand dilution is actionable under trademark law, contradicting the idea that it's "not actionable per se." Hence, Option (B) is not the correct answer.

Option (C): While serious, brand dilution is generally treated as a civil matter, not a criminal offense. Hence, Option (C) is not the correct answer.

Option (D): Dilution concerns trademark rights, not fundamental rights under constitutional law. Hence, Option (D) is not the correct answer.

Question 108. What is the defence of acquiescence?

(A) no confusion or difference in essential features of the trademark

(B) waiver of right over trademark and permission for use of the mark

(C) invalidity of the registered trademark

(D) use of the trademark in good faith

Correct Answer: (B) waiver of right over trademark and permission for use of the mark

Explanation for Each Option:

Option (A): The absence of confusion addresses infringement but not acquiescence, which involves the trademark owner's behavior over time. Hence, Option (A) is not the correct answer.

Option (B): Acquiescence involves the trademark owner knowingly allowing the unauthorized use of their mark without objection, effectively waiving their right to later complain. Hence, Option (B) is the correct answer.

Option (C): The validity of the trademark is a separate issue from the defense of acquiescence.

Hence, Option (C) is not the correct answer.

Option (D): Good faith use may be relevant in other defenses but does not capture the essence of acquiescence, which is about the trademark owner's inaction. Hence, Option (D) is not the correct answer.

Question 109. Which decision established the three elements of passing off, otherwise known as the “Classical Trinity”?

(A) Academy of Motion Picture Arts v. GoDaddy.Com, Inc., (2015)

(B) Yahoo! Inc. v. Akash Arora and Another, (1999)

(C) Reckitt & Colman Products Ltd. v. Borden Inc., (1990)

(D) Coca-Cola Company v. Bisleri International Pvt. Ltd., (2009)

Correct Answer: (C) Reckitt & Colman Products Ltd. v. Borden Inc., (1990) Explanation

for Each Option:

Option (A): This case involves domain disputes, not the foundational elements of passing off. Hence, Option (A) is not the correct answer.

Option (B): This case is significant in the context of domain names and trademarks in India but did not establish the "Classical Trinity" of passing off. Hence, Option (B) is not the correct answer.

Option (C): This landmark decision articulated the "Classical Trinity" in passing off: goodwill, misrepresentation, and damage to the plaintiff. Hence, Option (C) is the correct answer.

Option (D): This case involves trademark disputes but is not the source of the "Classical Trinity" in passing off law. Hence, Option (D) is not the correct answer.

Question 110. Which of these is not, in itself, a defence to infringement of a registered trademark?

(A) honest and concurrent use

(B) acquiescence

(C) prior adoption and use

(D) fair use

Correct Answer: (D) fair use

Explanation for Each Option:

Option (A): Honest and concurrent use can be a defense in trademark law, allowing for the coexistence of similar marks under certain conditions. Hence, Option (A) is not the correct answer.

Option (B): Acquiescence, where the trademark owner has allowed the use of a mark without objection, can be a defense against infringement claims. Hence, Option (B) is not the correct answer.

Option (C): Prior adoption and use can establish rights in a trademark that predates the registration of a similar mark by another party. Hence, Option (C) is not the correct answer.

Option (D): Fair use is primarily a defense in copyright law, not trademark law, especially not in the context provided by the Trademarks Act, 1999. Hence, Option (D) is the correct answer.

XII. The philosophy of Corporate Social Responsibility ("CSR") has had a long-standing history in India. India is one of the first countries in the world to create a legal framework on CSR and statutorily mandate companies to report on the same. It emanates from the Gandhian principles of trusteeship and giving back to the society. The intent of the law is to mainstream the practice of business involvement in CSR and make it socially, economically and environmentally responsible. The Companies Act, 2013 (the 'Act') mandates companies meeting a certain minimum threshold in terms of turnover/net worth/net profit to undertake CSR activities as per Schedule VII of the Act. Schedule VII specifies the areas or subjects to be undertaken by the company as CSR activities. These areas broadly align with national priorities and relate to sustainable and inclusive development. The Act does not recognise any expenditure on areas/activities outside of Schedule VII as CSR expenditure. Companies (CSR Policy) Rules, 2014 prescribes the operational framework and manner in which companies should comply with CSR provisions under the Act. The mode of implementation of CSR activities, content of CSR policy, impact assessment, reporting requirements and disclosure for CSR are covered under these Rules. The CSR architecture is disclosure-based and CSRmandated companies are required to file details of CSR activities annually in the MCA-21 registry in e-form AOC-4. A High-Level Committee set up in 2018 to review the CSR framework recommended that Schedule VII of the Act be mapped with Sustainable Development Goals ('SDGs'). The Committee noted that companies need to balance CSR spending between local area/areas around where it operates, and less developed regions such as aspirational districts. The Government of India launched the 'Transformation of Aspirational Districts' programme ('ADP') in January 2018 with the aim to improve [the] socio-economic status of the least developed regions across India. The programme is based on five socioeconomic themes such as – Health & Nutrition, Education, Agriculture and Water Resources, Financial Inclusion and Skill Development and improvement of basic infrastructure… As on date, 112 aspirational districts are recognised by the Government wherein Jharkhand has the highest number of aspirational districts i.e., 19 followed by Bihar (13), Odisha and Chhattisgarh (10 each). The Government has been taking various initiatives to encourage CSR in aspirational districts and to remove regional disparities. [Source: Ministry of Corporate Affairs, Government of India "Compendium on Corporate Social Responsibility in India" (2021)].

111. Which of the following criteria should a company satisfy during the immediately preceding financial year to qualify for CSR under the Companies Act, 2013?

- (A) Net profit of ₹5 crores or more

- (B) Net profit of ₹1,000 crores or more
- (C) Turnover of ₹5,000 crores or more
- (D) Net worth of ₹5,000 crores or more

Correct Answer: A. Net profit of ₹5 crores or more

Explanation:

- Option A is correct because under the Companies Act, 2013, a company qualifies for CSR if it has a net profit of ₹5 crores or more during the immediately preceding financial year.
- Option B is incorrect as ₹1,000 crores or more is not a specified criterion under the Act for CSR qualification.
- Option C and D are incorrect as these thresholds (turnover of ₹5,000 crores or more, and net worth of ₹5,000 crores or more) are higher than what is required under the Act for CSR qualification.

112. What is the minimum spending obligation on CSR activities for a company under Section 135 of the Companies Act, 2013?

- (A) 5% of the average net worth of the company of the preceding three financial years
- (B) 2% of average net profits of the company made during the three immediately preceding financial years
- (C) 7% of the average turnover of the company of the previous financial year
- (D) 5% of the average net profits of the company made during the preceding financial year

Correct Answer: B. 2% of average net profits of the company made during the three immediately preceding financial years Explanation:

- Option B is correct because Section 135 of the Companies Act, 2013, mandates that the minimum spending obligation on CSR activities is 2% of the company's average net profits during the three immediately preceding financial years.
- Options A, C, and D are incorrect as they mention percentages and bases (net worth, turnover, and net profits of a different time frame) that are not in accordance with the Act's provisions for CSR spending.

113. Company A is incorporated in FY 2020-21, Company B is incorporated in FY 2019-20, and Company C is incorporated in FY 2018-19. Which company is covered under Section 135(1) of the Companies Act, 2013 for CSR in FY 2020-21?

- (A) Company A
- (B) Company B

- (C) Company C
- (D) All the above Correct Answer: D. All the above Explanation:

Option D is correct because all companies, regardless of their year of incorporation, are subject to CSR obligations under Section 135(1) of the Companies Act, 2013, if they meet the specified criteria related to net profit, turnover, or net worth during the immediately preceding financial year.

114. Which of these activities is not specified in Schedule VII of the Companies Act, 2013?

- (A) promoting education and employment enhancing vocation skills
- (B) eradicating hunger, poverty and malnutrition
- (C) rural development projects
- (D) maintenance of law and order Correct Answer: D. maintenance of law and order

Explanation:

- Option D is correct because maintenance of law and order is not specified in Schedule VII of the Companies Act, 2013, as an eligible CSR activity. Schedule VII lists activities related to social welfare and development, but not law enforcement or maintenance of law and order.
- Options A, B, and C are incorrect as they are specifically mentioned in Schedule VII as types of activities that qualify as CSR.

115. CSR policy is based on which of the following principles?

- (A) trusteeship and giving back to society
- (B) utmost good faith
- (C) leveraging India's managerial, technological and innovative skills
- (D) promoting greater protection for the environment Correct Answer: A. trusteeship and giving back to society Explanation:

- Option A is correct because the philosophy of CSR in India, especially as reflected in the Companies Act, 2013, is deeply rooted in the Gandhian principle of trusteeship and the ethos of giving back to society.
- Options B, C, and D are incorrect as they do not directly represent the foundational principles of CSR policy under the Companies Act, 2013, although they may be aspects or outcomes of practicing CSR.

116. Which of the following falls within the scope of the Companies (CSR Policy) Rules, 2014?

- (A) determination of the amount of expenditure to be incurred by companies on CSR activities

(B) reporting on the amount remaining unspent by the Company for CSR activities with detailed reasons for failing to spend the amount

- (C) impact assessment and disclosure requirements for CSR
- (D) detailing the company’s sponsorship activities for deriving marketing benefits for its products or services

Correct Answer: C. impact assessment and disclosure requirements for CSR Explanation:

- Option C is correct because the Companies (CSR Policy) Rules, 2014, cover the operational framework for CSR, including impact assessment and disclosure requirements for CSR activities.
- Options A and B are incorrect as they misrepresent the specific provisions of the Companies (CSR Policy) Rules, 2014. While the rules do involve expenditure and reporting, option A is too broad and option B's focus on unspent amounts is only one aspect of reporting requirements.
- Option D is incorrect as it describes activities that are not the primary focus of CSR under the Companies Act, 2013, and the associated Rules.

117. The chief objective of the Government’s aspirational district programme is to:

- (A) ensure access to financial services like banking, remittance, credit, insurance, pension in an affordable manner
- (B) promote entrepreneurship in India in manufacturing and other sectors
- (C) improve India’s ranking in the Human Development Index
- (D) facilitate easy access to credit facilities for people belonging to vulnerable populations

Correct Answer: C. improve India’s ranking in the Human Development Index Explanation:

- Option C is correct because the chief objective of the Government's Aspirational District Programme is to improve the socio-economic status of the least developed regions across India, which indirectly aims to improve India's ranking in the Human Development Index by targeting improvements in health, education, and economic conditions.
- Options A, B, and D are incorrect as they describe specific interventions or outcomes that, while potentially part of the programme's broader goals, do not capture its chief objective.

118. Which one of the following comes within the scope of the ADP?

- (A) Labour Welfare
- (B) Skill Development

(C) Maternity Benefits

- (D) Urban Employment Correct Answer: B. Skill Development Explanation:
- Option B is correct because Skill Development is one of the core areas of focus in the Transformation of Aspirational Districts Programme, aimed at enhancing the socioeconomic status of the regions covered by the programme.
- Options A, C, and D are incorrect as they do not directly correspond to the five core areas of focus (Health & Nutrition, Education, Agriculture and Water Resources, Financial Inclusion and Skill Development, and Basic Infrastructure) of the Aspirational Districts Programme.

119. Which Indian State has the highest number of 'aspirational districts'?

- (A) Jharkhand
- (B) West Bengal
- (C) Karnataka
- (D) Bihar

Correct Answer: A. Jharkhand Explanation:

- Option A is correct because Jharkhand has the highest number of aspirational districts, with 19, making it the state with the most focus under the Aspirational Districts Programme.
- Options B, C, and D are incorrect because they list other states which, although may have aspirational districts, do not have the highest number as compared to Jharkhand.

120. The High-Level Committee reviewing the CSR framework in 2018 recommended that:

- (A) a national CSR data portal be set up to monitor the progress of implementation of CSR policies by companies
- (B) spending of CSR funds on Covid-19 related activities be considered as an eligible CSR activity
- (C) CSR implementing agencies should mandatorily register with the central government
- (D) companies should balance CSR spending between local areas and the less developed regions of the country

Correct Answer: D. companies should balance CSR spending between local areas and the less developed regions of the country

Explanation:

- Option D is correct because the High-Level Committee on CSR recommended that companies balance their CSR spending between local areas/areas around where it operates and less developed regions, aligning with national priorities and the Sustainable Development Goals (SDGs).
- Options A, B, and C are incorrect as they describe other potential recommendations or measures but do not accurately reflect the specific recommendation made by the committee regarding the balance of CSR spending.