

**LEGAL REASONING SECTIONAL TEST**

**Directions(Q.1-Q.40):** Read the comprehension and answer the questions:

**Passage(Q.1-Q.5):** A court in Gujarat convicted Indian National Congress leader Rahul Gandhi in a defamation case for his remark that “all thieves have Modi as their surname”, in reference to fugitive businessmen Nirav Modi and Lalit Modi along with Prime Minister Narendra Modi, and sentenced him to two years of imprisonment, which is the maximum punishment under Sections 499 and 500 of the Indian Penal Code (IPC).

As per media reports, the court suspended the sentence imposed upon Gandhi for 30 days to enable him to file an appeal against the conviction.

Section 8(3) of the Representation of the People Act, 1951 states that “a person convicted of any offence and sentenced to imprisonment for not less than two years shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.”

Thus, the disqualification is triggered by the conviction itself, and not by the Lok Sabha notification. The notification is merely a formal notice to Rahul, who was in Lok Sabha on Friday before the House was adjourned.

The Supreme Court in its ruling in Lok Prahari v Union of India (2018) clarified that a disqualification triggered by a conviction will be reversed if the conviction is stayed by a court. “Once the conviction has been stayed during the pendency of an appeal, the disqualification which operates as a consequence of the conviction cannot take or remain in effect,” the ruling said.

The notification by the House Secretariat regarding Rahul will cease to be in effect if and when his conviction is stayed.

Article 102 of the Constitution deals with grounds for disqualification of a parliamentarian. Sub-clause (e) of Article 102(1) says an MP will lose his membership of the House “if he is so disqualified by or under any law made by Parliament”. The law in this case is the RP Act. Section 8 of the RP Act deals with disqualification of a lawmaker for conviction in certain offences. The provision is aimed at “preventing criminalization of politics and keeping ‘tainted’ lawmakers from contesting elections.

1. Choose the correct statement(s):
    - I. Sub-clause (e) of Article 102 provides for disqualification under any law made by Parliament, and it includes the Representation of the People Act.
    - II. Parliament had the power to enact laws providing for disqualification of MPs on various grounds, including criminal convictions.
    - III. The disqualification under the Representation of the People Act was not automatic but was subject to the discretion of the Speaker or the Chairman of the House.
    - IV. Disqualification due to a conviction could not be reversed even if the conviction was stayed by a higher court.
- (a) I and II                      (b) I, II and III                      (c) II and IV                      (d) I and III

2. Rajesh, a Member of Legislative Assembly from a prominent political party, was convicted of a criminal offence by a lower court and sentenced to three years in prison. The Speaker of the Legislative Assembly disqualified Rajesh from his membership under Article 102 of the Constitution, which deals with grounds for disqualification of a Parliamentarian. Rajesh challenged his disqualification. Will Rajesh win?
- (a) Yes, as the disqualification do not satisfies the condition mentioned in section 8 of the Representation of the People Act, 1951.
  - (b) No, since he was convicted of a criminal offence, his membership stands disqualified.
  - (c) Yes, as his disqualification is not valid under Article 102 of the Constitution.
  - (d) No, as his disqualification is valid as Section 8 of the RP Act deals with disqualification of a lawmaker for conviction in certain offences.
3. Rahul, a Member of Parliament (MP) from a prominent political party, was found guilty of corruption charges by a court of law. The court sentenced him to three years in prison and imposed a fine of Rs. 50 lakhs. The opposition parties demanded Rahul's disqualification from Parliament under Article 102 of the Constitution. The Speaker of the Lok Sabha referred the matter to the Ethics Committee, which recommended Rahul's disqualification under sub-clause (e) of Article 102(1). The committee argued that since Rahul had been convicted of a criminal offence, he was disqualified under the Representation of the People Act, 1951, which provides for disqualification of MPs convicted of criminal offences. Is the reasoning given for the disqualification of Rahul valid?
- (a) Yes, as the disqualification could only be made by a law made by Parliament and not under any other law.
  - (b) Yes, as Parliament has the power to enact laws providing for disqualification of MPs on various grounds, and such laws could include the Representation of the People Act.
  - (c) Yes, as he will be disqualified under section 8 of the RP Act deals with disqualification of a lawmaker for conviction in certain offences.
  - (d) No, as he will be disqualified under section 8 of the RP Act and not under sub-clause (e) of Article 102(1).
4. Mr. X is a Member of Parliament (MP) representing a constituency in a northern state of India. He has been a member of the Lok Sabha for two years and has actively participated in parliamentary proceedings. Recently, Mr. X was tried by a lower court in a criminal case relating to financial irregularities the minimum punishment for which is five years. The Speaker of the Lok Sabha received information about Mr. X's trial and issued a notification of his disqualification to this effect in the Lok Sabha. The notification informed the House that Mr. X was disqualified from his membership in the Lok Sabha with immediate effect. Choose a correct answer:
- (a) Mr. X is not disqualified as a member of parliament since he was only being tried in court.
  - (b) Mr. X is disqualified as a member of parliament until the court issues its final decision.
  - (c) Mr. X is disqualified because he has been accused of a crime punishable by more than two years in jail.
  - (d) None of the Above .
5. Suppose, Mr. X was convicted by a lower court in a criminal case relating to financial irregularities. He was sentenced to imprisonment for three years. As a result of the conviction, Mr. X's disqualification as an MP was triggered under Article 102 of the Constitution. The Speaker of the Lok Sabha received information about Mr. X's conviction and disqualification and issued a notification to this effect in the Lok Sabha. The notification informed the House that Mr. X was disqualified from his membership in the Lok Sabha with immediate effect. Mr. X challenged his disqualification in the High Court, arguing that his conviction was based on false evidence and that he had been wrongly disqualified. During the pendency of the appeal Mr. X was not allowed to enter in the parliament. Choose a correct answer based ruling given by SC in Lok Prahari's case.
- (a) While the matter was on appeal, preventing Mr. X from joining the assembly was invalid.
  - (b) The injunction barring Mr. X from entering the legislative assembly is valid since he was disqualified following his conviction by the lower court.
  - (c) Refraining Mr. X from entering the assembly is unconstitutional since his conviction was not stayed while his appeal was pending.

- (d) The order barring Mr. X from entering the assembly is legal since his conviction was not stayed while his appeal was pending.

**Passage(Q.6-Q.10):** The National Security Act, 1980 has been invoked in the case of Amritpal Singh, the self-styled Sikh preacher and leader of Waris Punjab De. This was confirmed by Punjab Advocate General Vinod Ghai during a hearing at the Punjab and Haryana High Court on a habeas corpus petition filed by the legal advisor of Waris Punjab De.

The Act allows the state to detain a person without a formal charge and without trial to prevent them from acting in any manner prejudicial to the defence of India, relations of India with foreign powers or the security of India. Among others, it can also be applied to prevent a person from acting in any manner prejudicial to the maintenance of supply and services essential to the community. An individual can be detained without a charge for a maximum period of 12 months. It is an administrative order passed by the Divisional Commissioner or the District Magistrate, and not detention ordered by police based on specific allegations or for a specific violation of the law.

The Indian Constitution allows both preventive detention and the right of protection against arrest and detention in certain cases, enshrined under Article 22 of the Constitution. However, Article 22(3) provides that the rights available to an arrested person will not be applicable in case of preventive detention. One crucial procedural safeguard under the NSA is granted under Article 22(5), where all the detained persons have the right to make an effective representation before an independent advisory board, which consists of three members, chaired by a member who is, or has been, a judge of a high court.

6. John, a resident of the state of India, was detained by the authorities. Reasons given by the authorities for John's detention was that he is considered a potential threat to national security due to his alleged involvement in extremist activities and his affiliation with a group that had been linked to terrorist organizations in the past. John denied all the allegations and maintained that he had no involvement in any illegal activity. He argued that his detention was arbitrary and violated his fundamental rights to liberty and due process. The case went to court, and the judge had to decide whether John's detention was legal and justified under the National security act. Choose the correct answer:
- (a) John's detention was illegal and not justified as the authorities had not presented sufficient evidence to show that he posed a threat to national security to detain him without a formal charge and trial.
  - (b) John's detention was illegal and unjustified; there was no proof that the group John was associated with had any ongoing ties to terrorist groups.
  - (c) John's detention was legal and justified as the Act provided for preventive detention, which was a measure aimed at preventing harm rather than punishing an offense.
  - (d) John's detention was legal and justified as it was necessary to prevent him from carrying out any activity that could harm national security.
7. Suppose the District Magistrate and the police conducted an investigation into John's activities and found evidence of his involvement in a plot to carry out a terrorist attack in the state. John was subsequently detained under the Act to prevent him from acting in a manner prejudicial to the defense of India. However, during his detention, John was subjected to inhumane conditions. He was kept in a small cell without proper ventilation or access to basic amenities such as food, water, and medical care. John's lawyers argued that his detention was illegal and violated his fundamental rights given in the Indian Constitution, which guarantees the protection of life and personal liberty. Will it affect the validity of his detention under Article 22 of the Constitution?
- (a) Yes, as Article 22 of the Indian Constitution lays down the procedure for preventive detention and provides safeguards to the individual who has been detained.
  - (b) No, as Article 22 does not specifically address the issue of inhumane conditions of detention while providing certain safeguards in cases of preventive detention.

- (c) Yes, as the conditions of detention must not be cruel, inhuman or degrading and any violation of this principle would amount to a violation of the individual's fundamental rights.
- (d) No, as Article 22 of the Indian Constitution lays down the procedure for preventive detention and provides certain safeguards to the individual who has been detained.
8. Mark is a resident of a small town in India that is heavily dependent on electricity supply for its daily activities. Mark had been protesting against the frequent power cuts in the town and had been actively involved in organizing demonstrations and strikes against the local electricity board. One day, the police received information that Mark was planning to disrupt the power supply to the town by organizing a major protest that would block the entrance to the electricity board's office. The police acted on this information and arrested Mark. Mark was taken into custody without any formal charge or trial, and the police justified his detention on the basis of the information they had received about his plans to disrupt the power supply. Mark challenges his detention and claims it as illegal and unjustified under the National security Act. Decide
- (a) His arrest is not justified as it was a mere a peaceful protest so that he can bring the attention of the necessary authorities to the frequent power cuts in the town.
- (b) His arrest is justified as his detention on the basis of the information they had received about his plans to disrupt the power supply.
- (c) His arrest is justified as the police had reasonable grounds to believe that he was planning to disrupt the power supply, which was an essential service to the community.
- (d) His arrest is not justified as it is not made as per the procedure laid down in the National security Act.
9. Suppose Mark was detained on 10Th January 1997, without a formal charge and without trial on ground of preventing a person from acting in any manner prejudicial to the maintenance of supply and services essential to the community. On 21st January 1997 mark's parents file a complaint stating that mark's detention is violation of safeguard provided in article 22(5) stating that the police has not yet finalized the charges against mark and also mark has not been given a chance to make an to make an effective representation of his case. The police on the other hand claim defence under national security act and Article 22. Which of the following statements is most appropriate in the light of the information given in the passage?
- (a) Police will succeed as an individual can be detained without a charge for a maximum period of 12 months.
- (b) Mark's parent will succeed as mark was not given a chance to represent his case as it his right under Article 22(5).
- (c) Police will not succeed as they fail produce mark before the magistrate.
- (d) Police's stand is correct as to the non-framing of charges and Parent's stand is correct as to violation of effective representation given as a procedural safeguard in Article 22(5).
10. Rajesh, a 30-year-old businessman, was arrested and detained under the National Security Act (NSA).Rajesh's family was shocked to learn about his detention, and they had no idea why he was being held. Rajesh's family immediately filed a Habeas Corpus petition in the High Court, challenging his detention under the NSA. The court issued a notice to the DM, seeking a response to the petition. The DM filed a reply stating that Rajesh was detained based on credible intelligence inputs suggesting that he had links with a foreign organization that was planning to carry out a terrorist attack in India. The court directed the DM to produce Rajesh before it and explain the basis of his detention in the court. During the hearing, Rajesh's lawyers argued that there was no concrete evidence against him, and his detention was arbitrary and illegal. The DM, on the other hand, claimed that the intelligence inputs were reliable and that Rajesh's detention was necessary to prevent a potential threat to national security. On hearing the DM the court quashed the petition filed by Rajesh's parents. Keeping the factual situation in mind, will this case make a situation where the right of accused under article 22(5) stands violated?
- (a) Yes, as the Act allows the state to detain a person without a formal charge and without trial to prevent them from acting in any manner prejudicial to the defence of India, relations of India with foreign powers or the security of India.
- (b) No, as the present situation do not calls for the violation of article 22(5). .
- (c) Yes, as no petition of habeas corpus can be filed in cases of preventive detention.
- (d) No, there are no right available to an arrested person in cases of preventive detention.

**Passage(Q.11-Q.15):** The “work from home” culture has numerous advantages but with utmost certainty, has the same drastic fallouts too. One of the drastic fallout - the rising trends of sexual harassment cases. To understand the concept, it is imperative to note that other than the relevant provision of the IPC, the realm of “sexual harassment at workplace” is governed by the “Sexual Harassment of Women at Workplace( Prevention, Prohibition and Redressal) Act, 2013(“POSH Act)

It says —“(1) No woman shall be subjected to sexual harassment at any workplace.

(2) The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment at workplace :—

- i. Implied or explicit promise of preferential treatment in her employment; or
- ii. Implied or explicit threat of detrimental treatment in her employment; or
- iii. Implied or explicit threat about her present or future employment status; or
- iv. Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- v. humiliating treatment likely to affect her health or safety”

Section 2(f) defines the term “Employee”. Employee includes every female who is working or attached directly or indirectly with the workplace for the purpose to earn remuneration for the temporary time or permanent, with or without the knowledge of the principal contractor. It includes co-workers, trainees, apprentices, etc.

11. Shalini, due to the Covid-19 pandemic, was working from home. One of her seniors, while communicating with her through video calls, used to insist that she turn on her camera. Even though Shalini was not comfortable with this, her senior kept insisting on it, leading to her feeling uncomfortable and harassed. Will he be liable under POSH ACT?
  - (a) Yes because she was subjected to sexual harassment through non physical behaviour.
  - (b) No, because she wasn't subjected to sexual harassment as there was no physical contact between the accused and the victim.
  - (c) No, because asking to turn on her camera on a video call is not sexual harassment.
  - (d) Yes because he created a hostile work environment for her.
12. When Shalini raised her voice and accused the employee of sexual harassment her senior employee claimed that home is not a workplace under the POSH ACT. Is he correct? Decide.
  - (a) No, because home is a workplace.
  - (b) Yes because home is the workplace.
  - (c) No, because home is not a workplace
  - (d) Can't be determined from the passage.
13. Assume the senior employee suspected Shalini of misleading the team by claiming to be working while she was actually on holiday. As a result, he firmly and repeatedly asked Shalini to switch on her video camera in an online team meet. Will the employee now be held accountable under POSH?
  - (a) No the employee will not be held liable as he did not intent to harass Shalini by any means.
  - (b) Yes, as frequent requests to switch on the camera made Shalini feel uncomfortable and harassed.
  - (c) No, because sexual harassment claims under POSH may only be made against an employer, not an employee.
  - (d) Yes, he created a hostile work environment for her.
14. Trapti wasn't getting the job because she was unskilled and did not know how to work. When she approached Santosh, manager of the firm, for the job. He told her that they can keep her only to learn and they'll not pay her because she is incapable of doing any work. Santosh made her assistant of Rajeev because Rajeev had got 10 promotions because of his work. One day at work Rajeev misbehaved with intent to sexually harass her. Will Rajeev be liable under POSH ACT?
  - (a) No, because she was not subjected to sexual harassment.
  - (b) Yes because she was subjected to sexual harassment.
  - (c) No, because she wasn't the employee
  - (d) No, because the firm wasn't workplace



15. Suppose Santosh treated her very nicely and taught her nicely due to which she learned many new things. Now, she applied for a job in the same firm along with many other women who were equally or more qualified than her, but she has been offered the job. Doubting this preferential treatment in her employment she wants to make Santosh liable under POSH Act?
- (a) Yes because he had given preferential treatment in her employment
  - (b) No, because she was not subjected to sexual harassment
  - (c) Yes because there was interference with her work
  - (d) No, because he had helped her to gain employment.

**Passage(Q.16-Q.21):** The Transgender Persons (Protection of Rights) Bill, 2019 was passed by a voice vote amid noisy protests by some opposition parties over Congress leader Adhir Ranjan Chowdhury not being allowed to speak on his adjournment notice.

Replying on the Bill, Minister of State for Social Justice Ratanlal Kataria said it makes provision for establishing a national authority for safeguarding rights of transgender persons.

The Transgender Persons (Protection of Rights) Bill, 2018 criminalised begging, a chief source of income for several members of the trans community who are unable to obtain employment. The 2018 Bill also stipulated a punishment of only up to two years for sexual violence against a trans person as opposed to seven years of imprisonment for sexual violence against non-trans women.

In addition, a crucial demand of the activists for reservation and affirmative action was not incorporated into the 2018 version of the Bill. The Supreme Court took note of this issue of the discrimination faced by members of the trans community in its 2014 NALSA judgement and called for affirmative action measures. The Bill also mandated the imposition of screening committees and stripped members of the trans community of the right to self-determination of their gender identity. But in the same section, it adds that a transgender person must make an application to the district magistrate to receive an identity certificate.

Members of the trans community also opposed the provision in the 2018 Bill that required members of the community to reside with their birth family or be placed at a rehabilitation centre. Section 5 of Transgender Persons (Protection of Rights) Bill, 2019 states- “A transgender person may make an application to the District Magistrate for issuing a certificate of identity as a transgender person”.

Answer all the following questions assuming that Transgender bill is passed by the parliament and has come into force.

16. The state of Peshawar rolled out a policy decision granting 25% reservation in the state services examination to all transgender holding certificates. Reshma who was born as a girl always found it difficult to subscribe to the standard gender roles. She soon realized that she was more of a man than a woman. However, she was too afraid to disclose it to her parents and continued with her hidden identity. She would dress up in her father's clothes when no one was home. Once, she moved to her college she found the environment to be more accepting and eventually came out. However, her identity remained hidden from her friends and family at home and she did not get an identity certificate either. After her graduation she took the State service exams and cleared the cut-off set for transgenders. However, the state refused to consider her eligible.
- (a) Reshma will be denied reservation as she fails to hold a transgender certificate issued by the authorities.
  - (b) Reshma will be denied reservation in absence of transgender certificate but can challenges the legislation for being discriminatory in nature.
  - (c) Reshma will be granted reservation as per SC ruling in NALSA case where self-identification as a transgender was recognized.
  - (d) Reshma will be denied reservation as she hasn't disclosed her identity and it is difficult to consider her as a part of transgender community.

17. Leesha was born as a trans-gender person and she lived her life as a female and also identified as one. One day in college she was subject to physical and sexual abuse for being a trans-woman. She filed an offence against the perpetrators. Decide the punishment that can be awarded to the perpetrators in Leesha's case considering that the 2019 bill is passed by the parliament-
- (a) The perpetrators will be punished for not more than two years of imprisonment.
  - (b) The perpetrators can be punished up to seven years of imprisonment as provided under the act.
  - (c) The perpetrators will only be punished with imprisonment if Leesha is able to prove her case.
  - (d) Leesha cannot seek relief under Transgenders Act but can seek relief under Indian Penal Code.
18. Alex, an Indian national, challenged his kin in the court of law for banishing her from the inherited property on the grounds of her being a transgender. Her kin, however, claims that the complainant does not hold any right on the family property since the complainant is transgender. And the will clearly state the beneficiary to be he or she. Based on the information provided in the above passage, will Alex's kin succeed?
- (a) No. One's sexual preference is a matter of personal preference and is covered by the right to privacy.
  - (b) Yes. Alex may not be a third gender, but being a homosexual nullifies her claim on the family inheritance.
  - (c) Yes. The will is a document of law and must be abided in all conditions. If it says that Alex holds no claim, it must be right.
  - (d) Cannot be determined
19. Varun Shohar works in an MNC and was constantly being tormented by his manager ever since he stepped out of his closet as a transgender person. Varun was sexually assaulted by his manager to help him become a straight person. Tormented by the criminal act, Varun Shohar raised a complaint with upper management and threatened to drag the manager in the court of law if it went unheeded. Based on the information given in the passage, can Varun Shohar do that?
- (a) No. When Varun Shohar made his sexual orientation public, he waived his right to privacy.
  - (b) Yes, as he was sexually assaulted by his manager.
  - (c) No. Section 377 has been surely decriminalised, however, it's the company's internal matter. Varun Shohar holds no basis to file a lawsuit against his company.
  - (d) Yes. But it could be done but only after he submits an affidavit before the health ministry declaring himself homosexual..
20. Yashika was born as a female. At 19 years of age she got herself enrolled into a medical university availing the reserved quota for females. The university provided for a separate female quota both for entrance as well as placements. In the third year of her college, she came out to the public as a queer person and underwent a sex-reassignment surgery, post which she surgically got her genitals changed to that of a male's. She later took up the pronouns they/them. Their certificate for identification as a male was accepted by the District magistrate. Their batchmates challenged her continuation as a university student as she was now legally a male and had been admitted on the grounds of the women's quota.
- (a) Yashika's continuation with the university will be terminated.
  - (b) Yashika is no longer a female as her identity certificate now calls her a male. Therefore, she has to forego the benefit that she availed when she was a female.
  - (c) Her admission to the university cannot be challenged on the given grounds.
  - (d) Cannot be determined.
21. Varamullupu was born as a trans-person and she lived her life as a female and also identified as one. One day in family get together she was subject to physical abuse for being a trans-woman. She decided to move out and live alone in the city as she can fend for self and her family has not been very supportive of her. She was not allowed to move out as by her family. She approaches the local authorities.
- (a) Varamullupu will have to reside with her family, she can live separately only if her family abandons her.
  - (b) Varamullupu can leave her family and reside in a rehabilitation centre.
  - (c) She can only reside separately if her family allows her to do so.
  - (d) Varamallupu has to go under IPC for relief

**Passage(Q.22-Q.26):** Armed forces would be at liberty to initiate disciplinary proceedings against serving officers and personnel for adultery notwithstanding that the Supreme Court had decriminalised the offence in 2018. The Supreme Court's 5-Judge Constitutional bench presided by Justice K.M Joseph has ruled that armed forces can take action against their officers for adulterous acts, while stating that decriminalization of adultery does not apply to Armed Forces. In the 2018 judgment, the SC was concerned only with the validity of Section 497 of the IPC and Section 198(2) of the CrPC dealing with adultery, and had "no occasion whatsoever to consider the effect" with respect to the Army, Navy and Air Force Acts. "It is not as if this court approved of adultery. This court held that it is a civil wrong and will continue to be a ground for securing dissolution of marriage," the bench, also comprising Justices Ajay Rastogi, Aniruddha Bose, Hrishikesh Roy, and CT Ravikumar, said. "In view of the fact that the scheme of the Acts in the context particularly of Article 33 of the Constitution did not fall for the consideration of this court, we are of the clear view that we must observe and clarify that the judgment of this court was not at all concerned with the effect and operation of the relevant provisions in the Acts which have been placed before us by applicants," the bench said. "In others words, this court was neither called upon nor has it ventured to pronounce on the effect of sections 45 and 63 of the Army Act as also the corresponding provisions in other Acts. We only make this position clear and dispose of the application," the court added. The Bench delivered the final Order in the case, clarifying that the Joseph Shine Judgment did not apply to serving members of the armed forces who are accused of 'conduct unbecoming' and dismissed the application. In September 2018, in the Joseph Shine Judgment, the SC struck down Section 497 of the IPC that criminalised adultery, ruling that it was unconstitutional and violated women's right to equality in treating them as inferior to their husbands.

22. Which of the following statements cannot be concluded from the given passage?
- (a) Even if the Supreme Court decriminalised adultery as a crime in 2018, the armed forces would be free to begin disciplinary actions against officers and staff for the offence.
  - (b) The decriminalisation of adultery does not apply to the Armed Forces, according to the Constitutional bench chaired by Justice K.M. Joseph, who also decided that the armed forces can punish their commanders for adulterous conduct.
  - (c) The court was not asked to rule on the implications of Sections 45 and 63 of the Army Act or the similar provisions in other Acts, nor has it ventured to do so.
  - (d) The Joseph Shine Judgment, the Bench as emphasized in the passage, also applies to military personnel accused of "conduct unbecoming," and hence the application was denied.
23. P worked as an Army officer in Jammu and Kashmir. When his family was in Chennai, he was drafted for three years. After serving for seven months, he got sexually involved with a local married woman after falling in love with her. P was held accountable for adultery when his head marshal learned of this. He asserts that since adultery is no longer a crime, he will not be considered accountable for it. Comment.
- (a) P shall not be held responsible because the law equally applies to all people.
  - (b) Since the military is an exception to the decriminalization of adultery, P will be held accountable.
  - (c) P will be held accountable because he committed an illegal act while on duty, rendering him guilty.
  - (d) P will only be held accountable if his wife files a legal complaint against him.
24. J committed adultery with his neighbour in 2019 after being married for the past 8 years. Meanwhile, he'd applied for a job in the Navy. His application was accepted two weeks after his sexual act with his neighbour, and he was appointed vice admiral. When this was revealed three months into his appointment, he was fired from his position. Comment on whether his dismissal was legal in light of the Joseph Shine judgment.
- (a) J will be held accountable because the decriminalization of adultery does not apply to the Armed Forces.
  - (b) J is not liable because only the army is exempt from the decriminalization of adultery, whereas J was employed by the navy services.
  - (c) J will not be held liable because he was hired after committing the adulterous act.
  - (d) J will be held accountable because he had already applied for the job when he committed such an act.



25. In 1993, W was hired as a pilot. He retired in 2021 after twenty-eight years of service. He became sexually involved with one of his retired colleagues after two years of retirement. This was deemed to be a very negative example for the younger generation, and he was thus charged with adultery. He claimed that the provision did not apply to him after he retired. What are your thoughts on his assertion?
- (a) W shall be held liable because he was once in the navy and thus shall be held liable for adultery.
  - (b) His contention is correct. Since W had already retired, the verdict in the Joseph Shine case will be applicable in his case..
  - (c) If the female was still in the air force, W would have been held liable for adultery.
  - (d) Since W had already retired, the verdict in the Joseph Shine case will not apply.
26. G was supposed to marry in 2019, but because he was immediately drafted due to the war in Afghanistan, he had to postpone his wedding. During the war, he fell in love with one of the survivor's wife, C who cared for him and later G became sexually involved with her. He returned in 2022 and married B. His 2019 act was later discovered, and he was dismissed for adultery. Determine the veracity of the accusation.
- (a) The accusation is baseless because G was not married when he became sexually involved in 2012.
  - (b) The charge is valid because the decriminalization of adultery does not apply to the Armed Forces.
  - (c) G's employment will not be terminated because it was his personal decision and he cannot be controlled in exercising his rights.
  - (d) G will be terminated because he is establishing a poor example for future generations.

**Passage(Q.27-Q.31):** Evidence by way of Test Identification Parade (TIP) is taken as per Section 9 of the Indian Evidence Act. When the witness knows and recognizes the accused there is no need of TIP, in other words when the FIR is registered against a known/named accused person there is no need to go through the process of conducting TIP.

However when the crime is committed by an unknown, TIP is used as a tool to test the accuracy of the witness to identify the unknown person whom the witness had seen at the place of occurrence on the time of offence. The TIP is to be conducted without any delay as the main purpose of the TIP is to identify the accused person before the memory of the witness fades.

The unexplained delay in conducting TIP may be fatal to the case of the prosecution. The TIP is to be conducted by the investigating agency in presence of the magistrate, it is through these identification parades the investigating agency ascertains whether the suspect of the crime is the real culprit or not.

After the identification of the accused, it is relevant that the witness identifies the accused person before the Court as well and it is then the TIP becomes substantive evidence. In plethora of judgment, the Apex Court has observed that “without prior TIP, first time identification in the Court is considered as very weak evidence”

In *State of Maharashtra v. Syed Umar Sayed Abbas*, the incident of firing occurred in broad daylight, however not much time was there with the witnesses to clearly see the accused and there was delay in TIP, hence the Court acquitted the accused on the ground that it is highly doubtful whether the eye witness could have remembered the face of the accused after such a long time.

In yet, another case *Raman Bhai Naran Bhai Patel v. State of Gujarat*, Apex Court dismissed the appeal and upheld the conviction on the observation that:- “offence was committed in broad daylight and hence eye witness could easily remember and identify the accused person.”

27. Akash collapsed in the middle of a street due to being hit by a blunt surface. He could not see the face of the accused exactly but noticed a lot of identification marks about him. He woke up in a hospital after three weeks; upon interrogation he explained the appearance of the accused to the police. On suspicion, Police arrested one Mohit who was present near the street that day. After Akash recovered he was called upon by the prosecution to identify the witness in the court. Akash identified Mohit according to what he remembered. The court, however, dismissed the case and acquitted Mohit for paucity of evidence at the end of the prosecution. Decide the correct option.
- (a) The court could dismiss the case and acquit Mohit as there was no other evidence but the identification by the victim for his conviction.
  - (b) The court could not dismiss the case and acquit Mohit as the identification parade was conducted after three weeks and the memory of Akash was blurred.
  - (c) The court could dismiss the case and acquit Mohit as he was first identified by Akash in the court without any prior TIP conducted by the Police.
  - (d) The court could not dismiss the case and acquit Mohit as he has been identified by Akash as the actual perpetrator in the court before a magistrate and thus identification in a parade is a mere procedure.
28. A case of rape was reported in the Thane police station. The station in charge formed a team to exclusively work on the said case. Inspector Prakash Gaitonde, the investigating officer began the arrest of the possible suspects upon the description of the victim. Police lined up all the suspects for the test identification parade and called upon the victim for identification. The victim had doubts about a suspect but confirmed his name as the perpetrator. However, when the accused was produced before the court, the victim failed to identify the suspect as the rapist. Choose what you would decide in the light of the above context.
- (a) Suspect cannot be convicted solely on the grounds of identification in the test parade. If the accused is not identified in the court after TIP that is not a substantive evidence enough to convict the accused.
  - (b) Suspect can be convicted as the accused herself has identified the accused in the TIP as the perpetrator, which is evidence enough for the conviction.
  - (c) Suspect cannot be convicted on the basis of the TIP itself, as the identification in the TIP was marked by doubts. The identification was not devoid of confusion and thus not reliable.
  - (d) Suspect can be convicted as the identification in the TIP suffices as the evidence. The failure to identify the accused before the court was only due to the reason of fading of memory which has no bearing on the evidentiary value of the identification.
29. The facts remaining the same as the above case. Decide whether the accused could be convicted after he was identified in TIP after 2 years of the incident because of lackadaisical attitude of the police during the investigation.
- (a) Accused shall be convicted as the delay in the procedure by the Police would have no bearing on the evidentiary value of the identification if the victim is confident and not doubtful about it.
  - (b) Accused shall not be reasonable convicted as the delay in the present case is an unreasonable one, which would aid to fading of the memory of the victim
  - (c) Accused shall be convicted as legal procedure, if followed properly, even with delay leads to the same conclusion. The court shall rely on the identification and convict the accused.
  - (d) None of the Above.

30. A riot broke out in Shaharanpur district of Uttar Pradesh after a speech given by a local leader. The rioters started identifying people of a certain community and destroyed their houses and businesses. The riots led to a whopping loss of both property and claimed some lives as well. Police was reluctant to investigate the case to prevent further unrest. However, after an order by a magistrate to investigate the case Police conducted a test identification parade. Random people were lined up and made suspects as victims were forced to identify certain people as accused. The process being filled with irregularities was conducted without a magistrate. The trial against these accused has been started. Decide whether TIP can be a ground for conviction in the present case.
- (a) The accused cannot be convicted solely on the grounds of the results of the TIP as without the presence of the magistrate, a suspect cannot be ascertained to being the actual culprit.
  - (b) The accused can be convicted as the accused have already been identified in the TIP, they can be convicted if they are identified by the victims and witnesses in the court as well.
  - (c) The accused cannot be convicted on the grounds of the result of the TIP as the victims and witnesses were forced to identify the accused as the culprits by the police.
  - (d) The accused can be convicted on the grounds of the results of the TIP. The procedure of TIP was proceeded with the order of the magistrate and thus was conducted under the supervision of the magistrate.
31. Which of the following is not a requisite of identification of an accused, in the light of the above context?
- (a) The TIP shall be conducted in presence of a magistrate.
  - (b) The TIP shall be conducted within a week of the incident being reported in a police station.
  - (c) The TIP need not be conducted where the accused is known or has already been identified in the FIR.
  - (d) An accused shall also be identified in the court after being identified in a TIP by the victim or the witness.

**Passage(Q.32-Q.36):** Read the following passage and in the light of the same answer the questions that follow. Trespass to land means interference with the possession of land without lawful justification. In trespass, the interference with the possession is direct and through some tangible object. If the interference is not direct but consequential, the wrong may be a nuisance. Trespass could be committed either by a person himself entering the land of another person or doing the same through some material object. It is, however, no trespass when there is no inference with the possession and the defendant has been merely deprived of certain facilities. Going beyond the purpose for which a person has entered certain premises and crossing the boundary where he has the authority to go or staying after being declined the permission amounts to trespass. Trespass is a wrong against possession rather than ownership. Therefore, a person in actual possession can bring an action even though, against the true owner, his possession was wrongful. Trespass is possible not only on the surface of the land, it is equally possible by an intrusion on the subsoil. Trespass is actionable per se and the plaintiff need not prove any damage for an action of trespass. Neither use of force nor showing any unlawful intention on the part of the defendant are required. When a person enters certain premises under the authority of some law and after having entered there, abuses that authority by committing some wrongful act there, he will be trespasser ab initio to that property. If a person's possession has been disturbed by a trespasser, he has a right to use reasonable force to get trespass land vacated.

[Source

[https://www.lkouniv.ac.in/site/writereaddata/siteContent/202004120812185040satish\\_chandra\\_law\\_TRESPASS\\_TO LAND.pdf](https://www.lkouniv.ac.in/site/writereaddata/siteContent/202004120812185040satish_chandra_law_TRESPASS_TO LAND.pdf)]

32. Shina invited Meena to show her newly renovated drawing room. The drawing room was constructed keeping in mind the open-floor concept and so there was no wall between the kitchen and the drawing room. While Shina was outside watering her plants, Meena entered her kitchen to look at her kitchen appliances. Shina sued her for trespassing. In the given situation, which of the following statements is true?
- (a) There is a trespass to land since Meena was only invited to the drawing room.
  - (b) There is a trespass to land since Meena went to the kitchen without Shina's permission.
  - (c) There is no trespass to land since Meena did not enter the kitchen with a bad intention.
  - (d) There is no trespass to land since the boundary between the drawing room and the kitchen was not marked properly.

33. Bheem was a local police officer. He receives an intel from some person that Raju is growing weed in his garden. Bheem visits Raju's place and checks the garden but does not find anything there. He gets amazed by seeing Raju's lavish house and enters his Room secretly and steals his imported Vase. Raju sues Bheem of trespass. In the given situation, which of the following statements is true?
- (a) Bheem will be not liable of trespass since he entered Raju's property under lawful authority.
  - (b) Bheem will be liable of trespass from the moment he entered Raju's room.
  - (c) Bheem will be liable of trespass from the very beginning.
  - (d) Bheem will not be liable of trespass but theft.
34. Ramu gives his house on lease to Hari for 4 months. One day, Munna gets into a fight with Hari's son and to seek revenge, throws stone at their house. When Hari sees this, he sues Munna of trespass to land but Munna says that Hari cannot sue him as his possession is unlawful since Ramu's house is a government property and hence even his ownership is void. In the given situation, which of the following statements is true?
- (a) Hari cannot sue Munna for trespass since he himself is not the owner of the property.
  - (b) Hari can sue Munna as the property is in his actual possession.
  - (c) Hari cannot sue Munna since Ramu's ownership is void.
  - (d) Hari can sue Munna since the property is governments.
35. Hamida and Sakina are neighbours living adjacent to each other. Both of them often gets into fights due to some or the other reason. One day, Sakina was having some electricity work done in her home and one of the workers tied the wrong wires together due to which a short-circuit happened at Hamida's home and she was deprived of electricity for 20 hours. Hamida sues Sakina of trespass. In the given situation, which of the following statements is true?
- (a) Sakina will not be liable of trespass since Hamida was merely deprived with electricity.
  - (b) Sakina will be liable as her act caused a hindrance to Hamida's comfort.
  - (c) Sakina will be liable as Hamida's electricity went due to Sakina's mistake.
  - (d) None of the Above
36. Taj Mahal is a famous monument in Agra, India. The government charges a nominal fee of rupees 50 from the visitors to enter the monument for which the entry is allowed only till 6 in the evening. Krish buys a ticket and enters the monument but is caught by the authorities, plucking flower from the prohibited garden. The authorities ask him to leave the place but he does not do so. In the given situation, which of the following statements is true?
- (a) He will be liable of trespass since he did not leave the place after being told by the authorities.
  - (b) He will not be liable of trespass since he entered the place through the ticket.
  - (c) He will not be liable of trespass since the monument was a public place.
  - (d) He will be liable of trespass since he plucked the flower.

**Passage(Q.37-Q.40):** Article 13 expressly lays down the supremacy of the Fundamental Rights over any other law if there is any inconsistency between the two. It prevents the legislature from making any law in contravention of Part III of the Constitution i.e., the Fundamental Rights. Article 13 of the Indian Constitution has four clauses. As per clause (1) any law that had been in force in the country before the commencement of the constitution if found to be inconsistent with the fundamental rights, would be declared void to the extent of its inconsistency. Clause (2) of relates to post constitutional laws i.e., those laws that were made after the commencement of the constitution. As per this clause, the state cannot make any law that abridges or takes away the fundamental right of a person and if it does so, then such law would be void to the extent of its contravention. It must be observed that Article 13 does not make entire act inoperative, but only that part is held inoperative which is inconsistent with the fundamental rights. Doctrine of severability says that when some provisions of an act are inconsistent with the fundamental rights and if such provisions can be severed from the rest of the statute, then only the offending provision would be declared void by the court and not the entire act. The doctrine of eclipse says that any existing law which is inconsistent with the fundamental rights is not completely invalid, but is overshadowed by the fundamental rights and remain dormant but not dead. Till the time, the law violates the



fundamental right, it remains dormant, but if by an amendment such law no more violates the fundamental rights, then the law becomes alive and operative. This doctrine was earlier applicable on just pre constitutional law but now it can also be extended to even post constitutional law to some extent.

[Source-<https://www.sbhambriadvocates.com/post/article-13-of-the-indian-constitution-explained> ]

37. A new bill was passed in the parliament which gave the power to the police to arrest without a warrant, those people who post anything on social media which criticizes the government. The bill was challenged in the court saying that it violated the article 19 of the Indian Constitution which gives all citizens of India certain rights regarding freedom of speech. Will the bill become void under Article 13 of the Constitution?
- (a) Yes, since it abridges the fundamental rights of citizens.
  - (b) Yes, but only for the Indian citizens.
  - (c) No, since article 19 is subject to certain limitations.
  - (d) No, since there is no violation of article 19.
38. The state of Maharashtra passes an act for the registration of marriage between a couple of different religion and caste. One of the sections in the act make it compulsory for the couple to give a notice in the newspaper about their marriage, 20 days before the registration. A couple files a plea saying that this section is a violation of their fundamental right to privacy. In the given situation, which of the following statements is true?
- (a) The whole act will become void as the section is an important part of it.
  - (b) Only the section in that act will become void and not the whole act as per doctrine of severability.
  - (c) Neither the act nor the section will become void as there is no violation of fundamental right.
  - (d) The section will become void under the doctrine of eclipse.
39. The state of Gujarat passed an act which gave the government companies to fire a pregnant woman if she does not come to the office for more than 10 days before the start of her maternity leave. Sukhita who had a complicated pregnancy was fired from her job for not coming to the office for 15 days. She reached the court saying that the act violates her legal right under the Maternity Benefit Act, 1961 and hence violates article 13. Decide.
- (a) There is a violation of article 13 since the act violates her legal right.
  - (b) There is no violation of article 13 since the act does not violate a fundamental right.
  - (c) There is a violation of article 13 as the legal right is absolute.
  - (d) There is no violation of article 13 as the act was justified.
40. The government of India passed an Employment Act in the year 1925. Section 5 of the act debarred any person from getting employed in the type I sector who belongs to the lower caste. Section 17 of the act said that pregnant women will not be allowed to work. In the present time, Smita contested that these two sections should be declared void as section 5 of the act is violative of fundamental rights and Section 17 of the act is violative of legal right under maternity benefits act. Both sections violate article 13. In the given situation, which of the following statements is true?
- (a) Both the sections will be declared void for being pre-constitutional.
  - (b) Both the sections will be declared void for violating Article 13 of the constitution.
  - (c) Only section 5 will be declared void for being inconsistent with the fundamental rights.
  - (d) The whole act will be struck down by applying the doctrine of severability.

ANSWER KEY							
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
A	C	C	A	D	D	B	D
<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>
D	B	C	A	A	C	B	A
<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>
A	D	B	D	B	D	B	C
<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>	<b>32</b>
B	B	C	A	B	A	B	D
<b>33</b>	<b>34</b>	<b>35</b>	<b>36</b>	<b>37</b>	<b>38</b>	<b>39</b>	<b>40</b>
C	B	A	A	A	B	B	C

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