

Name:	
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, December 2018

Course: Constitutional Law I Course Code: CLCC 2001

Semester: III

Programme: BBA, LL.B. (Hons.) Banking, Insurance and Finance / International Trade and Investment Law 2017, BA., LL.B. (HONS.) CRIMINAL/LABOUR LAW/CONSTITUTIONAL LAW 2017, BA., LL.B. (HONS.) ENERGY LAWS 2017, B.COM.,LLB. (Hons.) Taxation Laws 2017, BBA, LL.B. (Hons.) Corporate Laws 2017

Time: 03 hrs.

Max. Marks: 100

Instructions:

SECTION A

S. No.	(Solve any FOUR Questions)	Marks	CO
Q 1	Which article of the constitution contains the directive for free legal aid?	2.5	CO1
Q. 2	Which writ is meant for rectification of jurisdictional errors?	2.5	CO1
Q. 3	Which one is not included within the right to life? (i) right to privacy, (ii) right to shelter, (iii) right to die, (iv) right to speedy trial	2.5	CO1
Q. 4	Which article provides the freedom to form association?	2.5	CO1
Q. 5	Which amendment to the Constitution added the directive to conserve the environment?	2.5	CO1

SECTION B

(Solve any Two Questions)

Q 1	If a labourer is engaged in some work and is paid less than the minimum wages, which fundamental right is violated? Discuss and justify your answer.	10	CO2
Q. 2	Res judicata applies on the constitutional remedies. Is there any exception to it? Discuss.	10	CO2
Q. 3	Discuss in detail the essential religious practices test.	10	CO2

SECTION-C
(Solve any Two Questions)

Q. 1	<p>“Reservation was introduced in educational institutions and public offices to fight past injustices, however, presently reservation has become a much controversial debatable issue attracting judicial scrutiny.”</p> <p>Reflect on this statement using case law.</p>	10	CO3
Q. 2	<p>“Due Process Clause of American Constitution entered through back door in Indian Constitutional Jurisprudence and in Article 21” Analyze your answer in the context of said statement.</p>	10	CO3
Q. 3.	<p>Why accused persons are provided with certain protections under Article 20 of Indian Constitution? Justify your answer with examples.</p>	10	CO3

SECTION-D
Solve any TWO Questions

Q. 1	<p>Case Study/Problem</p> <p>In Kaithal, Haryana, the rule of khap panchayat prevails. They have imposed rules and restrictions on the residents of Kaithal. Sagotras i.e. people who have common clan are not allowed to marry, irrespective of the fact that sagotra marriages are legal. For women, inter-caste and inter-religious marriages are also prohibited. Girls are not allowed to have mobiles, wear jeans or talk to boys. They are prescribed to dress in a way which is “acceptable to society” as according to khaps, western apparel encourages ‘eve-teasing’. No complaints are registered against men engaged in violence against women as the stereotype prevalent in Kaithal is that men can do no wrong and ‘women of loose morals cannot be believed’. People who violate the rules are sexually assaulted or killed. Such killings are commonly referred to as ‘honour killings’. More often, it is women who are raped and killed.</p> <p>Chitra, a 20 year old college student in Kaithal falls in love with Nicholas, a 25 year old Christian. Out of fear, she elopes with him to Sonapat where they marry under Special Marriage Act. Few days later, Chitra’s relatives abduct her. When Nicholas tries preventing the abduction he is assaulted. He files FIRs against them. Fearing that she will be another victim of honour killings, he files a writ of habeas corpus against</p>	25	CO4
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	<p>them under Article 32 of the Constitution in the Chandigarh High Court and contends that Chitra’s rights under Article 19 and 21 have been violated.</p> <p>Meanwhile, a NGO named, ‘Women’s Rights Initiative’ files a writ against the khap panchayat alleging sex discrimination on the grounds of Articles 14, 15, 19 and 21.</p> <p>Both the petitions are before you. Write your judicial opinion accordingly.</p>		
<p>Q. 2</p>	<p>Case Study/Problem</p> <p>Recently. due to the clash of political factions on ideological and religious differences, incidents of communal violence were reported to have broken out in certain parts of Kolkata and its suburbs. Although the situation was quickly brought under control, various media reports loosely connected the incidents to the Ram Janmabhoomi-Babri Masjid issue and the forthcoming Apex Court judgment. While most print media published strongly worded criticisms or opinions, one English Daily in particular “The Watchdog” published an article that could easily be discerned as one inciting violence and communal hatred. Two days later the publisher and the editor of “The Watchdog” received an order from the Commissioner of Kolkata Police, which required them to submit for scrutiny, in duplicate, before publication, till further orders, all communal matter, news and views as far as they relate to the incidents that took place or the issues underlying the same including photographs or cartoons, other than those derived from official sources or news agencies (such as Associated Press, Reuters etc.) to the Superintendent of Press Branch, Lalbazar Head Quarters, Kolkata. The Commissioner had issued this ‘Order’ in exercise of the powers conferred on him by section 7 (1) (c) of the West Bengal Public Safety Act, 1949 that provides that:</p> <p><i>The Government or any authority authorized by it in this behalf, if satisfied that such action is necessary for preventing or combating any activity prejudicial to the public safety or the maintenance of public order may, by order in writing addressed to a printer, publisher or editor require that any matter relating to a particular subject or class of subjects shall before publication be submitted for scrutiny.</i></p> <p>Both the publisher and the editor of “The Watchdog” have approached the Supreme Court under Article 32 of the Constitution of India contending that this provision infringes the fundamental right to Freedom of Speech and Expression conferred upon them by Article 19 (1) (a) of the Constitution inasmuch as it authorizes the imposition of a restriction on the publication of matter/articles which is not justified under clause</p>	<p>25</p>	<p>CO4</p>

	<p>(2) of that Article. It amounts to pre-censorship on a journal and restriction on the freedom of the press.</p> <p>Is pre-censorship valid in print media? Will the Apex Court uphold the petitioners' claim?</p>		
<p>Q. 3</p>	<p>Case Study/Problem</p> <p>Mr Anurag Mishra, the Executive Trustee of the Consumer Education & Research Centre, Delhi after undertaking research into the working of the Infinite Life Insurance Company (ILIC), a statutory body, published and circulated a study paper titled "Fraud on Policy Holders" portraying the discriminatory practice adopted by ILIC which adversely affected the interest of a large number of policy holders. The underlying idea was to point out that unduly high premiums were charged by the ILIC from those taking out life insurance policies thereby denying access to insurance coverage to a vast majority of people who cannot afford to pay the high premiums. A certain member of the ILIC prepared a counter to this study paper and published the same as an article titled 'ILIC and its policy-holders' in 'The Hindu' a daily newspaper, challenging the conclusions reached in the study paper. Mr. Mishra, prepared a rejoinder 'Tough Luck for Policy Holders' which too was published in the same newspaper. Thereafter, ILIC published its member's article, which was, as already mentioned, in the nature of a counter to the study paper in its magazine 'Yugantar'. On learning about the same, Mr. Mishra requested that in all fairness his rejoinder, which was already published in 'The Hindu' should also be published in the said magazine to present a complete picture to the reader. The ILIC refused his request on the ground that the magazine was an in-house magazine circulated amongst subscribers who were policy-holders, officers, employees and agents of the Company and it is not put up in the market for sale to the general public.</p> <p>Mr. Mishra has filed a writ petition in the Delhi High Court contending that refusal by ILIC to publish his rejoinder in 'Yugantar' was arbitrary and violated his fundamental rights under Article 14 and Article 19(1)(a).</p> <p>Will Mr. Sharma succeed in his petition? Justify giving reasons.</p>	<p>25</p>	<p>CO4</p>

SECTION-C
(Solve any Two Questions)

Q. 1	What are the minority rights under Indian Constitution? Why these rights are enshrined in Indian Constitution?	10	CO3
Q. 2	“Due Process Clause of American Constitution entered through back door in Indian Constitutional Jurisprudence and in Article 21” Analyze your answer in the context of said statement.	10	CO3
Q. 3	Why accused persons are provided with certain protections under Article 20 of Indian Constitution? Justify your answer with examples.	10	CO3

SECTION-D
(Solve any TWO Questions)

Q. 1	<p>Based on the following fact/problem solve the questions given below:</p> <p>On 15th August, 1947 after struggle of freedom, India got its independence from the British Rule. In Independent India, citizens of the country guaranteed with fundamental rights. It was indeed recognition of the obligation of State to protect and uplift fundamental rights for the betterment of society. 26th January, 1950, fundamental rights came into enforcement. These rights were indeed obligation on the part of state as defined in the Indian Constitution. India adopted concept of welfare state and reflected the same in the directive principles of state policy.</p> <p>In this background, on March, 2018, Parliament of India brought the legislation named Public Order (Maintenance and Regulation) Act, 2018 that specifically stated the provision in section 5 that: “<i>Whoever will adversely comment on facebook, whatsapp and social media against the ruling government will be fined with 5000 INR at first instance and at second instance will be imposed with imprisonment upto 2 years</i>”.</p> <p>Mr. Sanjay Tondon who criticized the ruling government on whatsapp and facebook page based on the 2018, Act was charged with the offence under Section 5 and imposed with the fine of 5000 INR. The charge upon which Mr. Sanjay Tondon was imposed with the fine of 5000 INR was that Mr. Sanjay Tondon shown through facebook and Whatsapp many documents of many State Governments and many ruling parties who were not taking care of the local government. Mr. Sanjay Tondon claimed through whatsapp and facebook circulation of documents that pathetic conditions of the hygiene and environment degradation in many areas of Indian States including Delhi Union Territory is prevailing. It is disturbing the right to life of citizens of many States, Mr. Sanjay Tondon written this in his whatsapp messages and shared in every groups and his friends including facebook pages.</p> <p>Mr. Sanjay Tondon challenged the 2018 Act as in violation of Article 19(1)(a) and Article 21 of Indian Constitution in Supreme Court.</p>	25	CO3, CO4
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	<p>Whether Mr. Sanjay Tondon will succeed before Supreme Court? Justify your answer with examples and cases.</p>		
<p>Q. 2</p>	<p>Case Study/Problem</p> <p>Recently, due to the clash of political factions on ideological and religious differences, incidents of communal violence were reported to have broken out in certain parts of Kolkata and its suburbs. Although the situation was quickly brought under control, various media reports loosely connected the incidents to the Ram Janmabhoomi-Babri Masjid issue and the forthcoming Apex Court judgment. While most print media published strongly worded criticisms or opinions, one English Daily in particular “The Watchdog” published an article that could easily be discerned as one inciting violence and communal hatred. Two days later the publisher and the editor of “The Watchdog” received an order from the Commissioner of Kolkata Police, which required them to submit for scrutiny, in duplicate, before publication, till further orders, all communal matter, news and views as far as they relate to the incidents that took place or the issues underlying the same including photographs or cartoons, other than those derived from official sources or news agencies (such as Associated Press, Reuters etc.) to the Superintendent of Press Branch, Lalbazar Head Quarters, Kolkata. The Commissioner had issued this ‘Order’ in exercise of the powers conferred on him by section 7 (1) (c) of the West Bengal Public Safety Act, 1949 that provides that:</p> <p><i>The Government or any authority authorized by it in this behalf, if satisfied that such action is necessary for preventing or combating any activity prejudicial to the public safety or the maintenance of public order may, by order in writing addressed to a printer, publisher or editor require that any matter relating to a particular subject or class of subjects shall before publication be submitted for scrutiny.</i></p> <p>Both the publisher and the editor of “The Watchdog” have approached the Supreme Court under Article 32 of the Constitution of India contending that this provision infringes the fundamental right to Freedom of Speech and Expression conferred upon them by Article 19 (1) (a) of the Constitution inasmuch as it authorizes the imposition of a restriction on the publication of matter/articles which is not justified under clause (2) of that Article. It amounts to pre-censorship on a journal and restriction on the freedom of the press.</p> <p>Is pre-censorship valid in print media? Will the Apex Court uphold the petitioners’ claim?</p>	<p>25</p>	<p>CO4</p>

<p>Q. 3</p>	<p>Case Study/Problem</p> <p>Mr Anurag Mishra, the Executive Trustee of the Consumer Education & Research Centre, Delhi after undertaking research into the working of the Infinite Life Insurance Company (ILIC), a statutory body, published and circulated a study paper titled "Fraud on Policy Holders" portraying the discriminatory practice adopted by ILIC which adversely affected the interest of a large number of policy holders. The underlying idea was to point out that unduly high premiums were charged by the ILIC from those taking out life insurance policies thereby denying access to insurance coverage to a vast majority of people who cannot afford to pay the high premiums. A certain member of the ILIC prepared a counter to this study paper and published the same as an article titled 'ILIC and its policy-holders' in 'The Hindu' a daily newspaper, challenging the conclusions reached in the study paper. Mr. Mishra, prepared a rejoinder 'Tough Luck for Policy Holders' which too was published in the same newspaper. Thereafter, ILIC published its member's article, which was, as already mentioned, in the nature of a counter to the study paper in its magazine 'Yugantar'. On learning about the same, Mr. Mishra requested that in all fairness his rejoinder, which was already published in 'The Hindu' should also be published in the said magazine to present a complete picture to the reader. The ILIC refused his request on the ground that the magazine was an in-house magazine circulated amongst subscribers who were policy-holders, officers, employees and agents of the Company and it is not put up in the market for sale to the general public.</p> <p>Mr. Mishra has filed a writ petition in the Delhi High Court contending that refusal by ILIC to publish his rejoinder in 'Yugantar' was arbitrary and violated his fundamental rights under Article 14 and Article 19(1)(a).</p> <p>Will Mr. Sharma succeed in his petition? Justify giving reasons.</p>	<p>25</p>	<p>CO4</p>
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