PG CLAT 2020 Sample Paper

1.

316. The judgment in [1] holds essentially that in the absence of a provision similar to the Fourth Amendment to the US Constitution, the right to privacy cannot be read into the provisions of Article 20(3) of the Indian Constitution. The judgment does not specifically adjudicate on whether a right to privacy would arise from any of the other provisions of the rights guaranteed by Part III including Article 21 and Article 19. The observation that privacy is not a right guaranteed by the Indian Constitution is not reflective of the correct position. [1] is overruled to the extent to which it indicates to the contrary.

317. [2] has correctly held that the content of the expression "life" under Article 21 means not merely the right to a person's "animal existence" and that the expression "personal liberty" is a guarantee against invasion into the sanctity of a person's home or an intrusion into personal security. [2] also correctly laid down that the dignity of the individual must lend content to the meaning of "personal liberty". The first part of the decision in [2] which invalidated domiciliary visits at night on the ground that they violated ordered liberty is an implicit recognition of the right to privacy. The second part of the decision, however, which holds that the right to privacy is not a guaranteed right under our Constitution, is not reflective of the correct position. Similarly, [2] reliance upon the decision of the majority in Gopalan is not reflective of the correct position in view of the decisions in Cooper and in Maneka. [2] to the extent that it holds that the right to privacy is not protected under the Indian Constitution is overruled.

…

327. Decisions rendered by this Court subsequent to [2], upholding the right to privacy would be read subject to the above principles.

[Excerpted from the judgment delivered by Dr. D.Y. Chandrachud, J., on behalf of Khehar, C.J., Agrawal, J., himself, and Nazeer, J.; Chelameswar, J., Bobde, J., Nariman, J., Sapre, J., and Kaul, J., concurring, in Justice K.S. Puttaswamy (Retd.) and Others v. Union of Indian and Others, (2017) 10 SCC 1]

1.1 The name of which judgment has been replaced with '[1]' in the passage above?

(a) Bijoe Emmanuel v. State of Kerala, (1986) 3 SCC 615
(b) Olga Tellis v. BMC, (1985) 3 SCC 545
(c) M.P. Sharma v. Satish Chandra, AIR 1954 SC 300
(d) Kharak Singh v. State of U.P., AIR 1963 SC 1295

(Answer: (c))

1.2 The name of which judgment has been replaced with '[2]' in the passage above?

(a) M.P. Sharma v. Satish Chandra, AIR 1954 SC 300

(b) Kharak Singh v. State of U.P., AIR 1963 SC 1295
(c) Gobind v. State of M.P., (1975) 2 SCC 148
(d) R.M. Malkani v. State of Maharashtra, (1973) 1 SCC 471

(Answer: (b))

1.3 Which of the following judgments would fall under the category of "Decisions rendered by this Court subsequent to [2], upholding the right to privacy would be read subject to the above principles" as mentioned in the passage above?

(a) Golak Nath v. State of Punjab, AIR 1967 SC 1643
(b) Satwant Singh Sawhney v. D. Ramarathnam, AIR 1967 SC 1836
(c) A.D.M., Jabalpur v. Shivakant Shukla, (1976) 2 SCC 521
(d) Gobind v. State of M.P., (1975) 2 SCC 148

(Answer: (d))

1.4 The operative order of the Supreme Court in the case of Justice K.S. Puttaswamy (Retd.) and Others v. Union of Indian and Others, (2017) 10 SCC 1 (the "Puttaswamy 9-Judge Privacy Decision"), from which the passage above has been extracted, can be found in:

(a) The judgment delivered by Dr. D.Y. Chandrachud, J.
(b) The judgment delivered by Chelameswar, J.
(c) The judgment delivered by Sapre, J.
(d) The order of the court, signed by all nine judges.

(Answer: (d))

1.5 In the case of Justice K.S. Puttaswamy (Retd.) v. Union of India and Others, (2019) 1 SCC 1 (the "Puttaswamy 5-Judge Aadhaar Decision"), a part of which section of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (the "Aadhaar Act"), that enabled body corporates and individuals to seek authentication on the basis of a contract between the individual and such body corporate or person, was declared unconstitutional?

(a) Section 57
(b) Section 59
(c) Section 47
(d) Section 29

(Answer: (a))

1.6 The Supreme Court referred to the 'Triple Test' in the Puttaswamy 5-Judge Aadhaar Decision, to determine the permissible limits for invasion of privacy while testing the validity of legislation; which of the following are included in the 'Triple Test'?

(a) The existence of a law
(b) A “legitimate State interest”
(c) Such law should pass the “test of proportionality”
(d) All of the above

(Answer: (d))

1.7 In which case did the Supreme Court refer the issue of whether the Aadhaar Act was rightly introduced as a 'Money Bill' in Parliament, for consideration by a larger bench?

(a) Kantaru Rajeevaru v. Indian Young Lawyers Association and Others, Review Petition (Civil) No. 3358/2018 in W.P. (Civil) No. 373/2006
(b) C.P.I.O., Supreme Court of India v. Subhash Chandra Agarwal, Civil Appeal No. 10044 OF 2010
(c) Rojer Mathew v. South Indian Bank Ltd., Civil Appeal No. 8588 of 2019
(d) Hindustan Construction Company Limited and Another v. Union of India, W.P. (Civil) No. 1074 of 2019

(Answer: (c))

1.8 Which of the following is an issue before the Supreme Court in the case of Facebook Inc. v. Union of India, T.P. (C) 1943-46/2019?

(a) Does requiring mandatory Aadhaar linking to e-mail and social media accounts infringe upon the fundamental right to privacy?
(b) What are the duties of intermediaries, such as social media platforms, in preventing cyber crime and the spread of fake news?
(c) Both, (a) and (b)
(d) None of the above

(Answer: (c))

1.9 In which matter has the Supreme Court been called upon to determine the validity of the Aadhaar and Other Laws (Amendment) Ordinance, 2019 and the Aadhaar (Pricing of Aadhaar Authentication Services) Regulations, 2019?

(a) S.G. Vombatkere v. Union of India, W.P. (C) No. 679/2019
(b) Anoop Baranwal v. Union of India, W.P. (C) No. 104/2015
(c) Sajal Awasthi v. Union of India, W.P. (C) No. 1076/2019
(d) Association for Democratic Reforms v. Union of India, W.P. (C) No. 333/2015

(Answer: (a))

1.10 Under whose chairmanship was an Expert Committee constituted in 2017, inter alia, to deliberate on a data protection framework for India, and to suggest a draft data protection bill for the country?

(a) Justice Subhash Reddy
(b) Justice B.N. Srikrishna
(c) Justice Jaynarayan Patel
(d) Justice Jagdish Sharan Verma

(Answer: (b))

2.

20. We thus have two categories of cases. The first, similar to the one dealt with in [1] where the Managing Director himself is named as an arbitrator with an additional power to appoint any other person as an arbitrator. In the second category, the Managing Director is not to act as an arbitrator himself but is empowered or authorised to appoint any other person of his choice or discretion as an arbitrator. If, in the first category of cases, the Managing Director was found incompetent, it was because of the interest that he would be said to be having in the outcome or result of the dispute. The element of invalidity would thus be directly relatable to and arise from the interest that he would be having in such outcome or decision. If that be the test, similar invalidity would always arise and spring even in the second category of cases. If the interest that he has in the outcome of the dispute, is taken to be the basis for the possibility of bias, it will always be present irrespective of whether the matter stands under the first or second category of cases. We are conscious that if such deduction is drawn from the decision of this Court in [1], all cases having clauses similar to that with which we are presently concerned, a party to the agreement would be disentitled to make any appointment of an Arbitrator on its own and it would always be available to argue that a party or an official or an authority having interest in the dispute would be disentitled to make appointment of an Arbitrator.

21. But, in our view that has to be the logical deduction from [1]. Paragraph 50 of the decision shows that this Court was concerned with the issue, "whether the Managing Director, after becoming ineligible by operation of law, is he still eligible to nominate an Arbitrator". The ineligibility referred to therein, was as a result of operation of law, in that a person having an interest in the dispute or in the outcome or decision thereof, must not only be ineligible to act as an arbitrator but must also not be eligible to appoint anyone else as an arbitrator and that such person cannot and should not have any role in charting out any course to the dispute resolution by having the power to appoint an arbitrator. The next sentences in the paragraph, further show that cases where both the parties could nominate respective arbitrators of their choice were found to be completely a different situation. The reason is clear that whatever advantage a party may derive by nominating an arbitrator of its choice would get counter balanced by equal power with the other party. But, in a case where only one party has a right to appoint a sole arbitrator, its choice will always have an element of exclusivity in determining or charting the course for dispute resolution. Naturally, the person who has an interest in the outcome or decision of the dispute must not have the power to appoint a sole arbitrator. That has to be taken as the essence of the amendments brought in by the Arbitration and Conciliation (Amendment) Act, 2015 (Act 3 of 2016) and recognised by the decision of this Court in [1].

[Excerpted from the judgment delivered by U.U. Lalit, J. in Perkins Eastman Architects DPC and Ors. v. HSCC (India) Ltd., 2019 SCC OnLine SC 1517 : MANU/SC/1628/2019]

2.1. The citation for which case has been replaced with [1] in the passage above?

(a) TRF Limited v. Energo Engineering Projects Limited, (2017) 8 SCC 377

(b) Garware Wall Ropes Ltd. v. Coastal Marine Construction & Engineering Ltd., 2019 SCC OnLine SC 515
(c) Larsen and Toubro Limited SCOMI Engineering BHD v. MMRDA, (2019) 2 SCC 271
(d) Booz-Allen and Hamilton Inc. v. SBI Home Finance Ltd. And Others, (2011) 5 SCC 532

(Answer: (a))

2.2. The Arbitration Application in Perkins Eastman Architects DPC and Ors. v. HSCC (India) Ltd., 2019 SCC OnLine SC 1517 (the "Perkins Case") was made under Section 11(6) of the Arbitration and Conciliation Act, 1996 (the "A&CA"), which provides for appointment of arbitrators by the Supreme Court, or by the High Court, on an application made by a party to an arbitration agreement. Which of the following is NOT a ground for an applicationunder Section 11(6) of the A&CA?

(a) One or more parties not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or were otherwise unable to present their case.
(b) A party fails to act as required under the procedure agreed upon by the parties.
(c) The parties, or the two appointed arbitrators, fail to reach an agreement expected of them under the procedure agreed upon by the parties.
(d) A person, including an institution, fails to perform any function entrusted to it under the procedure agreed upon by the parties.

(Answer: (a))

2.3. Section 11(6) of the A&CA has been amended by which of the following?

(a) The Arbitration and Conciliation (Amendment) Act, 2019 (the "2019 Amendment")
(b) The Arbitration and Conciliation (Amendment) Act, 2015 (the "2015 Amendment")
(c) All of the above
(d) None of the above

(Answer: (a))

2.4. The judgment in the Perkins Case, while referring to submissions of counsel in another case, quotes the maxim 'qui facit per alium facit per se'. This maxim means:

(a) The law does not govern trifles
(b) Nobody can be judge in his own case
(c) The right of action of a person dies with the person
(d) What one does through another is done by oneself

(Answer: (d))

2.5. In the Perkins Case, the respondents submitted that the matter was not an international commercial arbitration. Which consequence would have logically followed if this submission had been upheld by the bench?

(a) There would be no bar on the respondents unilaterally appointing the arbitrator in the case
(b) The power of the Supreme Court would have been confined to examining the prima facie existence of an arbitration agreement
(c) The Supreme Court would not have been able to deal with the application in the case under Section 11(6) of the A&CA
(d) All of the above.

(Answer: (c))

2.6. Section 12(5) of the A&CA was inserted by the 2015 Amendment. It:

(a) lists the disclosures to be made by a person when approached in connection with their possible appointment as an arbitrator.
(b) states that a judicial authority, before which an action is brought in a matter which is the subject of an arbitration agreement shall refer the parties to arbitration unless it finds that prima facie no valid arbitration agreement exists.
(c) states that notwithstanding any prior agreement to the contrary, any person whose relationship, with the parties or counsel or the subject-matter of the dispute, falls under any of the categories specified in the Seventh Schedule of the A&CA shall be ineligible to be appointed as an arbitrator, unless the parties, subsequent to disputes having arisen between them, waive the applicability of this provision by an express agreement in writing.
(d) None of the above.

(Answer: (c))

2.7. The 2019 Amendment, which amends the A&CA, received Presidential assent on 9 August 2019. Which of the following is not a change introduced by the 2019 Amendment?

(a) Introduced Section 42A into the A&CA which requires the arbitrator, the arbitral institution and the parties to the arbitration agreement to maintain the confidentiality of all arbitral proceedings except the award, where its disclosure is necessary for implementation and enforcement of award
(b) Introduced Section 43B into the A&CA for establishing and incorporating the Arbitration Council of India to perform the duties and discharge the functions specified under the 2019 Amendment.
(c) Inserted a provision that the statement of claim and defence under Section 23 of the A&CA shall be completed within six months from the date the arbitrator or all the arbitrators received notice, in writing, of their appointment.
(d) Inserted a sub-section 2A in Section 34 of the A&CA which states that an arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award except on the ground merely of an erroneous application of the law or by reappreciation of evidence.

(Answer: (d))

2.8. In Hindustan Construction Company Ltd. v. Union of India, 2019 SCC OnLine SC 1520, the Supreme Court struck down the insertion of Section 87 into the A&CA by the 2019 Amendment. Section 87 laid down that:

(a) Unless the parties otherwise agree, the amendments made to the A&CA by the 2015 Amendment shall not apply to arbitral proceedings commenced before the commencement of the 2015 Amendment or court proceedings in relation to such arbitral proceedings.
(b) Unless the parties otherwise agree, the amendments made to the A&CA by the 2019 Amendment shall not apply to arbitral proceedings commenced before the commencement of the 2019 Amendment or court proceedings in relation to such arbitral proceedings.
(c) Unless the parties otherwise agree, the amendments made to the A&CA by the 2015 Amendment shall apply to all arbitral proceedings regardless of whether they were commenced before the 2015 Amendment or not and to all court proceedings in relation to arbitral proceedings.
(d) Unless the parties otherwise agree, the amendments made to the A&CA by the 2019 Amendment shall apply to all arbitral proceedings regardless of whether they were commenced before the 2019 Amendment or not and to all court proceedings in relation to arbitral proceedings.

(Answer: (a))

2.9. Who chaired the High-Level Committee to Review the Institutionalization of Arbitration Mechanism in India?

(a) Rajindar Sachar, J.
(b) A.S. Anand, J.
(c) R.C. Lahoti, J.
(d) B.N. Srikrishna, J.

(Answer: (d))

2.10. The recent decision in Proddatur Cable TV DIGI Services v. SITI Cable Network Limited, decided on January 20, 2020 upheld the decision in the Perkins Case. This decision was given by:

(a) A two-judge bench of the Supreme Court
(b) A single judge of the High Court of Bombay
(c) A single judge of the High Court of Delhi
(d) A two-judge bench of the High Court of Karnataka

(Answer: (c))

3.

120. The Insolvency Code is a legislation which deals with economic matters and, in the larger sense, deals with the economy of the country as a whole. Earlier experiments, as we have

seen, in terms of legislations having failed, 'trial' having led to repeated 'errors', ultimately led to the enactment of the Code. The experiment contained in the Code, judged by the generality of its provisions and not by so-called crudities and inequities that have been pointed out by the petitioners, passes constitutional muster. To stay experimentation in things economic is a grave responsibility, and denial of the right to experiment is fraught with serious consequences to the nation. We have also seen that the working of the Code is being monitored by the Central Government by Expert Committees that have been set up in this behalf. Amendments have been made in the short period in which the Code has operated, both to the Code itself as well as to subordinate legislation made under it. This process is an ongoing process which involves all stakeholders, including the Petitioners.

121. We are happy to note that in the working of the Code, the flow of financial resource to the commercial sector in India has increased exponentially as a result of financial debts being repaid. Approximately 3300 cases have been disposed of by the adjudicating authority based on out-of-court settlements between corporate debtors and creditors which themselves involved claims amounting to over INR 1,20,390 crores. Eighty cases have since been resolved by resolution plans being accepted. Of these eighty cases, the liquidation value of sixty-three such cases is INR 29,788.07 crores. However, the amount realised from the resolution process is in the region of INR 60,000 crores, which is over 202% of the liquidation value. As a result of this, Reserve Bank of India has come out with figures which reflect these results. Thus, credit that has been given by banks and financial institutions to the commercial sector (other than food) has jumped up from INR 4952.24 crores in 2016-2017, to INR 9161.09 crores in 2017-2018, and to INR 13,195.20 crores for the first six months of 2018-2019. Equally, credit flow from non-banks has gone up from INR 6819.93 crores in 2016-2017, to INR 4718 crores for the first six months of 2018-2019. Ultimately, the total flow of resources to the commercial sector in India, both bank and non-bank, and domestic and foreign (relatable to the non-food sector) has gone up from a total of INR 14530.47 crores in 2016-2017, to INR 18469.25 crores in 2017-2018, and to INR 18798.20 crores in the first six months of 2018-2019. Ultimately, the total flow of resources to the commercial sector in India, both bank and non-bank and domestic and foreign (relatable to the non-food sector) has gone up from a total of INR 14,530.47 crores in 2016-2017, to INR 18,469.25 crores in 2017-2018, and to INR 18,798.20 crores in the first six months of 201802019. These figures show that the experiment conducted in enacting the Code is proving to be largely successful. The defaulter's paradise is lost. In its place, the economy's rightful position has been regained. The result is that all the petitions will now be disposed of in terms of this judgment. There will be no order as to costs.

[Excerpted from the judgment delivered by Rohinton Fali Nariman, J., in Swiss Ribbons Pvt. Ltd. and Another v. Union of India and Others, (25.1.2020 - SC): MANU/SC/0079/2019: AIR 2019 SC 739 (“Swiss Ribbons Case”)]

3.1. One of the important issues in question in the Swiss Ribbons Case was whether there existed intelligible differentia that justified the Insolvency and Bankruptcy Code, 2016’s (the “IBC’s”) differential treatment of financial and operational creditors. Among the following, who would qualify as an operational creditor under the IBC?

(a) A person from whom money is borrowed against the payment of interest.
(b) A person to whom payment for the provision of goods or services is owed.
(c) A person from whom any amount is raised under any acceptance credit facility.
(d) A person to whom amounts are owed in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards.

(Answer: (b))

3.2. The committee of creditors to be constituted by the interim resolution professional under Section 21 of the IBC comprises:

(a) all financial creditors of the corporate debtor.
(b) all operational creditors of the corporate debtor.
(c) an equal number of financial and operational creditors of the corporate debtor.
(d) financial creditors and operational creditors of the corporate debtor in the ratio of 9 (financial creditors): 1 (operational creditor).

(Answer: (a))

3.3. The following are examples of the types of persons ineligible to become insolvency resolution applicants under Section 29A of the IBC, except:

(a) A wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949
(b) A person who is disqualified to act as a director under the Companies Act, 2013
(c) A person who has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under the IBC and such guarantee has been invoked by the creditor and remains unpaid in full or part.
(d) A company whose securities were delisted under the SEBI (Delisting of Equity Shares) Regulations, 2009 during the preceding one year period.

(Answer: (d))

3.4. With regard to the powers of the Committee of Creditors ("CoC") and the resolution plan approved by it, which of the following was observed by Rohinton Fali Nariman, J. in the case of Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta, Judgment dated 15.11.2019 in Civil Appeal No. 8766-67 of 2019?

(a) The very legislative intent behind the IBC is to give unbridled powers to the CoC. Therefore, there exists no ground at all under the IBC on which the Adjudicating Authority may seek to review the resolution plan approved by the CoC. It is not the intent of the legislature to impose any restrictions on the considerations to which the CoC must give regard in finalising and approving a resolution plan. There is no obligation on the CoC to factor in the interests of operational creditors who are a distinctly differentiable class of creditors from the financial creditors.
(b) Whatever be the commercial wisdom based on which the CoC may finalise and approve a resolution plan under the IBC, it will always be subject to judicial review of the Adjudicating Authority. Given that the CoC does not comprise judicial authorities, the scope of judicial review by the Adjudicating Authority should not be confined to the indicative grounds specified in the IBC but should be extended to all aspects of the resolution plan. Effectively, the Adjudicating Authority shall always have the final say on the commercial and other merits of the resolution plan of the CoC.
(c) The ultimate discretion of what to pay and how much to pay each class or subclass of creditors is with the Committee of Creditors, but, the decision of such Committee must reflect the fact that it has taken into account maximising the value of the assets of the corporate debtor and the fact that it has adequately balanced the interests of all stakeholders including operational creditors.
(d) None of the above.

(Answer: (c))

3.5. Which of the following is not an aspect of the resolution plan that the resolution professional is required to examine and confirm under Section 30(2) of the IBC?

(a) That the resolution plan provides for the payment of debts of operational creditors in such manner as may be specified by the Insolvency and Bankruptcy Board of India (“IBBI”).
(b) That the resolution plan provides for the management of the affairs of the corporate debtor after approval of the resolution plan.
(c) That the resolution plan does not contravene any of the provisions of the law for the time being in force.
(d) That the resolution plan addresses the concerns of the dissenting financial creditors to the resolution plan.

(Answer: (d))

3.6. The administration of the NCLT is currently (i.e., as of February 2020) carried out by:

(a) The Ministry of Corporate Affairs
(b) The Ministry of Law and Justice
(c) The Ministry of Finance

(d) The Ministry of Commerce and Industry

(Answer: (a))

3.7. The Bench in the Swiss Ribbons Case directed the Union of India to set up Circuit Benches of the National Company Law Appellate Tribunal ("NCLAT") within a period of 6 months from "today" (i.e., the date of the judgment, which is January 25, 2019. AT the time of the judgment in this case, the only NCLAT Bench in the country was located in:

(a) Bengaluru
(b) Chennai
(c) Mumbai
(d) New Delhi

(Answer: (d))

3.8. The Companies (Amendment) Act, 2017 amended Section 412 of the Companies Act, 2013 to the effect that the Members of the National Company Law Tribunal ("NCLT") and the Technical Members of the NCLAT shall be appointed on the recommendation of a Selection Committee consisting of:

(a) i. Chief Justice of India or his nominee; ii. a senior Judge of the Supreme Court or Chief Justice of High Court; iii. a Secretary in the Ministry of Corporate Affairs; iv. a Secretary in the Ministry of Law and Justice; and v. a Secretary in the Department of Financial Services in the Ministry of Finance
(b) i. Chief Justice of India or his nominee; ii. a senior Judge of the Supreme Court or Chief Justice of High Court; iii. a Secretary in the Ministry of Corporate Affairs; and iv. a Secretary in the Ministry of Law and Justice
(c) i. Chief Justice of India or his nominee; ii. a Secretary in the Ministry of Corporate Affairs; and iii. a Secretary in the Ministry of Law and Justice
(d) i. Chief Justice of India or his nominee; ii. a Secretary in the Ministry of Corporate Affairs; iii. a Secretary in the Ministry of Law and Justice; and iv. a Secretary in the Department of Financial Services in the Ministry of Finance

(Answer: (b))

3.9. The IBBI performs, among others, the function of:

(a) registering insolvency professional agencies, insolvency professionals and information utilities and renewing, withdrawing, suspending or cancelling such registrations.

(b) making of a winding-up order on the ground that it was just and equitable that a company should be wound up.
(c) to investigate the financial affairs of a corporate debtor to determine undervalued or preferential transactions.
(d) All of the above.

(Answer: (a))

3.10. At present, an Indian company may apply for voluntary liquidation under:

(a) The Companies Act, 2013
(b) The IBC
(c) The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002
(d) All of the above.

(Answer: (b))

4.

68. Seventy years after the birth of a post-colonial independent state, there is still a need for change in attitudes and mindsets to recognize the commitment to the values of the Constitution. This is evident from the submissions which were placed as a part of the record of this Court. Repeatedly, in the course of the submissions, this Court has been informed that:

(i) The profession of Arms is a way of life which requires sacrifice and commitment beyond the call of duty;
(ii) Women officers must deal with pregnancy, motherhood and domestic obligations towards their children and families and may not be well suited to the life of a soldier in the Armed force;
(iii) A soldier must have the physical capability to engage in combat and inherent in the physiological differences between men and women is the lowering of standards applicable to women;
(iv) An all-male environment in a unit would require ‘moderated behavior’ in the presence of women officers;
(v) The “physiological limitations” of women officers are accentuated by challenges of confinement, motherhood and child care; and
(vi) The deployment of women officers is not advisable in areas where members of the Armed forces are confronted with “minimal facility for habitat and hygiene”.

69. The submissions advanced in the note tendered to this Court are based on sex stereotypes premised on assumptions about socially ascribed roles of gender which discriminate against women. Underlying the statement that it is a “greater challenge” for women officers to meet the

hazards of service “owing to their prolonged absence during pregnancy, motherhood and domestic obligations towards their children and families” is a strong stereotype which assumes that domestic obligations rest solely on women. Reliance on the “inherent physiological differences between men and women” rests in a deeply entrenched stereotypical and constitutionally flawed notion that women are the ‘weaker’ sex and may not undertake tasks that are ‘too arduous’ for them. Arguments founded on the physical strengths and weaknesses of men and women and on assumptions about women in the social context of marriage and family do not constitute a constitutionally valid basis for denying equal opportunity to women officers. To deny the grant of PCs to women officers on the ground that this would upset the “peculiar dynamics” in a unit casts an undue burden on women officers which has been claimed as a ground for excluding women. The written note also relies on the “minimal facilities for habitat and hygiene” as a ground for suggesting that women officers in the services must not be deployed in conflict zones. The respondents have placed on record that 30% of the total women officers are in fact deputed to conflict areas.

70. These assertions which we have extracted bodily from the written submissions which have been tendered before this Court only go to emphasise the need for change in mindsets to bring about true equality in the Army. If society holds strong beliefs about gender roles - that men are socially dominant, physically powerful and the breadwinners of the family and that women are weak and physically submissive, and primarily caretakers confined to a domestic atmosphere - it is unlikely that there would be a change in mindsets. Confronted on the one hand with a solemn policy decision taken by the Union Government allowing for the grant of PC to women SSC officers in ten streams, we have yet on the other hand a whole baseless line of submissions solemnly made to this Court to detract from the vital role that has been played by women SSC officers in the line of duty.

[Excerpted from the judgment delivered by Dhananjaya Chandrachud, J., on behalf of himself and Ajay Rastogi, J., in Secretary, Ministry of Defence v. Babita Puniya and Others, 2020 SCC OnLine 200]

4.1 Which provision of the Constitution empowers Parliament to determine by law the extent to which the rights conferred by Part III of the Constitution shall be restricted or abrogated in their application inter alia to the members of the Armed Forces?

(a) Article 33
(b) Article 34
(c) Article 35
(d) Article 135

(Answer: (a))

4.2 The provision of the Constitution mentioned in the previous question empowers Parliament to restrict or abrogate the rights conferred by Part III of the Constitution upon certain persons in order to:

(a) provide for the convening and constituting of courts-martial and the appointment of prosecutors at trials by courts-martial
(b) exercise jurisdiction, powers, and authority exercisable in relation to all service matters
(c) use the armed forces in aid of the civil power in any ‘disturbed area’
(d) ensure the proper discharge of their duties and the maintenance of discipline among them

(Answer: (d))

4.3 Which provision of law states: “No female shall be eligible for enrolment or employment in the regular Army, except in such corps, department, branch or other body forming part of, or attached to any portion of, the regular Army as the Central Government may, by notification in the Official Gazette, specify in this behalf”?

(a) Section 32 of the Armed Forces (Special Powers) Act, 1958
(b) Section 10 of the Armed Forces Tribunal Act, 2007
(c) Section 12 of the Army Act, 1950
(d) Section 23 of the Armed Forces (Emergency Duties) Act, 1947

(Answer: (c))

4.4 In the case of Secretary, Ministry of Defence v. Babita Puniya and Others, 2020 SCC OnLine 200 (the “Babita Puniya SC case”), quoted above, the Supreme Court quoted its pronouncement of September 2, 2011 clarifying that a certain matter had been stayed; which matter was stayed by the Supreme Court in relation to the Babita Puniya SC case on September 2, 2011?

(a) The re-instatement of in the Army of certain women officers in terms of the impugned judgment of the Delhi High Court from which the Babita Puniya SC case arose in appeal
(b) The operation of the impugned judgment of the Delhi High Court from which the Babita Puniya SC case arose in appeal, insofar as it related to appointment of women officers to the Indian Air Force
(c) Contempt proceedings initiated against the Union of India for non-compliance with the impugned judgment of the Delhi High Court from which the Babita Puniya SC case arose in appeal
(d) The operation of the impugned judgment of the Delhi High Court from which the Babita Puniya SC case arose in appeal

(Answer: (c))

4.5 In the Babita Puniya SC case, the Supreme Court cited the Union Government's failure to comply with the directions of the Delhi High Court in the judgment under appeal as a reason for directing:

(a) that all serving women officers on Short Service Commission ("SSC") in the Indian Army should be considered for the grant of Permanent Commissions ("PCs") irrespective of any of them having crossed fourteen years or, as the case may be, twenty years of service
(b) that as a one-time measure, the benefit of continuing in service until the attainment of pensionable service should also apply to all existing SSC officers with more than fourteen years of service who are not appointed on PC
(c) that SSC women officers with over twenty years of service who are not granted PC should be allowed to retire on pension in terms of the Union Government's policy decision
(d) that at the stage of opting for the grant of PC, all the choices for specialisation should be available to women officers on the same terms as for male SSC officers

(Answer: (a))

4.6 What directions did the Supreme Court issue in the Babita Puniya SC case with regard to the Union Government's Policy Letter dated February 25, 2019 (the "February 2019 Policy Letter") regarding the grant of PCs to SSC women officers in the Indian Army?

(a) It struck down the February 2019 Policy Letter in its entirety as null and void.
(b) It upheld the February 2019 Policy Letter in its entirety and directed its immediate implementation.
(c) It accepted the February 2019 Policy Letter, to the extent that it provided for the option of PC only to women SSC officers in the Indian Army who had served less than fourteen years.
(d) It accepted the February 2019 Policy Letter subject to a set of modifications.

(Answer: (d))

4.7 Which of the following cases relates to the extent and scope of judicial review available to the courts in relation to matters of command tenure in the armed forces?

(a) Ram Sarup v. Union of India and Another, (1964) 5 SCR 931 : AIR 1965 SC 247
(b) R. Viswan and Others v. Union of India and Others, (1983) 3 SCC 401
(c) Union of India and Another v. Lt. Col. P.K. Choudhary and Others, (2016) 4 SCC 236
(d) Mohammed Ansari v. Union of India and Others, (2017) 3 SCC 740

(Answer: (c))

4.8 What direction did the Supreme Court issue in the Babita Puniya SC case in relation to SSC women officers with over twenty years of service who are not granted PC?

(a) Such officers could continue in service and would eventually retire without pension
(b) Such officers could continue in service and would eventually retire with pension
(c) Such officers would retire on pension in terms of the Union Government's policy decision
(d) Such officers would retire without pension in terms of the Union Government's policy decision

(Answer: (c))

4.9 In the Babita Puniya SC case, what did the Supreme Court decide in relation to command appointments for women officers in the Indian Army?

(a) A blanket non-consideration of women for command appointments absent an individuated justification was held to be unsustainable in law
(b) Only women SSC officers who have served more than fourteen years may be considered for command appointments
(c) Only women SSC officers who have served more than twenty years may be considered for command appointments
(d) A blanket non-consideration of women for command appointments in the Indian Army would be permissible in law

(Answer: (a))

4.10What direction did the Supreme Court issue in the Babita Puniya SC case in relation to SSC women officers with more than fourteen years of service who do not opt for being considered for the grant of PCs?

(a) That they would be entitled to continue in service until they attain twenty years of non-pensionable service
(b) That they would be entitled to continue in service until they attain twenty years of pensionable service
(c) That they would have to retire from service with immediate effect, but would be entitled to pension
(d) That they would have to retire from service with immediate effect, but would not be entitled to pension

(Answer: (b))

5.

195. In view of the aforesaid analysis, we record our conclusions in seriatim:-

(i) A careful and precise perusal of the judgment in Gian Kaur (supra) case reflects the right of a dying man to die with dignity when life is ebbing out, and in the case of a terminally ill patient or a person in PVS, where there is no hope of recovery, accelerating the process of death for reducing the period of suffering constitutes a right to live with dignity.
(ii) The Constitution Bench in Gian Kaur (supra) has not approved the decision in [1] (supra) inasmuch as the Court has only made a brief reference to the [1] case.
(iii) It is not the ratio of Gian Kaur (supra) that passive euthanasia can be introduced only by legislation.
(iv) The two-Judge bench in [2] (supra) has erred in holding that this Court in Gian Kaur (supra) has approved the decision in [1] case and that euthanasia could be made lawful only by legislation...

...

196.We have laid down the principles relating to the procedure for execution of Advance Directive and provided the guidelines to give effect to passive euthanasia in both circumstances, namely, where there are advance directives and where there are none, in exercise of the power under Article 142 of the Constitution and the law stated in [3]. The directive and guidelines shall remain in force till the Parliament brings a legislation in the field.

[Excerpted from the judgment delivered by Dipak Misra, C.J., on behalf of himself and Khanwilkar, J., in Common Cause (A Regd. Society) v. Union of India and Another, W.P. (Civil) No. 215 of 2005 : (2018) 5 SCC 1]

5.1 The name of which case has been replaced with '[1]' in the extract above?

(a) Aintree University Hospitals N.H.S. Foundation Trust v. James, 2013 UK SC 67
(b) St. George's Health Care N.H.S. Trust v. S., 1999 Fam 26 : (1998) 3 WLR 936 (CA)
(c) C. (Adult: Refusal of Treatment), In re, (1994) 1 WLR 290 : (1994) 1 All ER 819
(d) Airedale N.H.S. Trust v. Bland, (1993) 2 WLR 316 : (1993) 1 All ER 821, HL

(Answer: (d))

5.2 The name of which case has been replaced with '[2]' in the passage above?

(a) P. Rathinam v. Union of India and Another, (1994) 3 SCC 394

(b) Mehmood Nayyar Azam v. State of Chhattisgarh, (2012) 8 SCC 1
(c) Aruna Ramachandra Shanbaug v. Union of India and Others, (2011) 4 SCC 454
(d) National Legal Services Authority v. Union of India, (2014) 5 SCC 438

(Answer: (c))

5.3 In the concluding portion of his majority opinion in Common Cause (A Regd. Society) v. Union of India and Another, W.P. (Civil) No. 215 of 2005 : (2018) 5 SCC 1 (the "Passive Euthanasia case"), what difference between active and passive euthanasia did Dipak Misra, C.J., provide as a reason for why most countries across the world have legalised passive euthanasia?

(a) The consent of the patient is not required in active euthanasia, whereas the consent of the patient is a necessary prerequisite for passive euthanasia.
(b) In active euthanasia, a specific overt act is done to end the patient's life whereas in passive euthanasia, something is not done which is necessary for preserving a patient's life.
(c) In active euthanasia, an element of mens rea is involved, whereas in passive euthanasia, no such element of mens rea is involved.
(d) Active euthanasia can be carried out by any person, whereas passive euthanasia requires the involvement of a registered medical practitioner.

(Answer: (b))

5.4 Which of the following most accurately describes the objective of an 'Advance Directive', as set out in Dipak Misra's majority opinion in the Passive Euthanasia case?

(a) To argue for the legalisation of the use of passive euthanasia techniques in the absence of specific legislation to that effect in a jurisdiction.
(b) To specify the hospital or medical practitioner that a person should be taken to in the event of an illness that renders their ability of speech ineffective.
(c) To specify an individual's health care decisions and to identify persons who will take those decisions for the said individual in the event he is unable to communicate his wishes to the doctor.
(d) To specify the course of action that a doctor or other medical practitioner must follow when faced with a patient who is uncooperative and refuses treatment.

(Answer: (c))

5.5 In his majority opinion in the Passive Euthanasia case, Dipak Misra, C.J., stated "…we do not intend to use the same terminology" in reference to the term "living will". What, as set out in the majority opinion, is the meaning of the term "living will"?

(a) A patient identification device to identify people who do not wish to be resuscitated in the event of respiratory or cardiac arrest.
(b) A document prescribing a person's wishes regarding the medical treatment the person would want if he was unable to share his wishes with the health care provider.
(c) A document allowing a person (principal) to appoint a trusted person (agent) to take health care decisions when the principal is not able to take such decisions.
(d) A document setting out the manner in which, and the people to whom, the property of a terminally ill person or a person in a persistent vegetative state ("PVS") would pass, in the event of that person's death.

(Answer: (b))

5.6 According to the safeguards in relation to Advance Medical Directives ("AMDs", "Advance Directives", or "ADs") set out in the majority opinion in the Passive Euthanasia case, an AD must be voluntarily executed by the executor in the presence of two attesting witnesses, and countersigned by:

(a) A judge of the High Court within whose jurisdiction the executor resides at the time of execution of the AMD.
(b) The District Collector of the district within which the executor resides at the time of execution of the AMD.
(c) A police officer not below the rank of Sub-Inspector of Police, designated in this regard by the District Judge.
(d) A jurisdictional Judicial Magistrate of First Class ("JMFC") so designated by the concerned District Judge.

(Answer: (d))

5.7 According to the safeguards in relation to AMDs set out in the majority opinion in the Passive Euthanasia case (the "AMD Safeguards"), what course of action would be available to the executor of the AMD, or their family members or the treating doctor or the hospital staff, in the event permission to withdraw medical treatment is refused by the Medical Board set up in accordance with the AMD Safeguards?

(a) To approach the High Court by way of a writ petition under Article 226 of the Constitution.
(b) To approach the Supreme Court by way of a writ petition under Article 32 of the Constitution.
(c) To file an application for a special leave to appeal before the Supreme Court under Article 136 of the Constitution.

(d) To approach the Supreme Court with a plea to pass orders in exercise of its jurisdiction under Article 142 of the Constitution.

(Answer: (a))

5.8 According to the AMD Safeguards, in a case where there is no AMD and the patient is terminally ill and undergoing prolonged treatment in respect of an ailment which is incurable or where there is no hope of being cured, who amongst the following may inform the hospital, which in turn shall constitute a Medical Board in accordance with the AMD Safeguards?

(a) The patient themselves
(b) The patient or their family members
(c) The physician
(d) The Head of the Department treating the patient

(Answer: (c))

5.9 The withdrawal or revocation of an AMD, according to the AMD Safeguards:

(a) may be in writing or verbal
(b) must be in writing
(c) must be in writing in the presence of two attesting witnesses
(d) must be in writing and countersigned by a JMFC

(Answer: (b))

5.10The name of which case has been replaced with '[3]' in the extract above?

(a) Vishaka and Others v. State of Rajasthan and Others, (1997) 6 SCC 241
(b) Gian Kaur v. State of Punjab, (1996) 2 SCC 648
(c) People's Union for Civil Liberties v. Union of India and Another, (1997) 1 SCC 301
(d) Gobind v. State of Madhya Pradesh and Another, (1975) 2 SCC 148

(Answer: (a))

6.

108. A co-ordinate bench of this Court in [1], was tasked with a similar question of the certification of 'money bill' accorded to the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 by the Speaker of the Lok Sabha. The majority

opinion after noting the important role of the Rajya Sabha in a bicameral legislative setup, observed that Article 110 being an exceptional provision, must be interpreted narrowly. Although the majority opinion did not examine the correctness of the decisions in Md. Siddiqui (supra) and Yogendra Kumar Jaiswal (supra) or conclusively pronounce on the scope of jurisdiction or power of this Court to judicially review certification by the Speaker under Article 110(3), yet, it independently reached a conclusion that the impugned enactment fell within the four-corners of Articles 110(1) and hence was a 'money bill'. The minority view rendered, however, explicitly overruled both Md. Siddiqui (supra) and Yogendra Kumar Jaiswal (supra).

109. The majority opinion in [1] (supra) by examining whether or not the impugned enactment was in fact a 'money bill' under Article 110 without explicitly dealing with whether or not certification of the speaker is subject to judicial review, has kept intact the power of judicial review under Article 110(3). It was further held therein that the expression 'money bill' cannot be construed in a restrictive sense and that the wisdom of the Speaker of the Lok Sabha in this regard must be valued, save where it is blatantly violative of the scheme of the Constitution. We respectfully endorse the view in [1] (supra) and are in no doubt that Md. Siddiqui and Yogendra Kumar Jaiswal in so far as they put decisions of the Speaker under Article 110(3) beyond judicial review, cannot be relied upon.

110. It must be emphasized that the scope of judicial review in matters under Article 110(3) is extremely restricted, with there being a need to maintain judicial deference to the Lok Sabha Speaker's certification. There would be a presumption of legality in favour of the Speaker's decision and onus would undoubtedly be on the person challenging its validity to show that such certification was grossly unconstitutional or tainted with blatant substantial illegality...

[Excerpted from the majority judgment delivered by Ranjan Gogoi, C.J., signed by himself and N.V. Ramana, J., D.Y. Chandrachud, J., Deepak Gupta, J., and Sanjiv Khanna, J., in Rojer Mathew v. South Indian Bank Ltd. and Others, Civil Appeal No. 8588 of 2019 : (2019) SCC OnLine 1456]

6.1 The name of which case has been replaced with '[1]' in the extract above?

(a) R.K. Jain v. Union of India, (1993) 4 SCC 119
(b) Justice K.S. Puttaswamy (Retd.) and Others v. Union of Indian and Others, (2017) 10 SCC 1
(c) Justice Puttaswamy (Retd.) and Another v. Union of India, (2019) 1 SCC 1
(d) Union of India v. R. Gandhi, President, Madras Bar Association, (2010) 11 SCC 1

(Answer: (c))

6.2 In his majority judgment in Rojer Mathew v. South Indian Bank Ltd. and Others, Civil Appeal No. 8588 of 2019 : (2019) SCC OnLine 1456 (the "Rojer Mathew case") Ranjan Gogoi,

C.J., stated that in a particular case, it was indicated that "a dedicated Tribunal with judicial and technical experts is necessary to hear environmental disputes", and consequently, the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997 were enacted; which case was he referring to?

(a) L. Chandra Kumar v. Union of India, (1997) 3 SCC 261
(b) M.C. Mehta v. Union of India, 1986 (2) SCC 176
(c) Raja Ram Pal v. Lok Sabha, (2007) 3 SCC 184
(d) Union of India v. Jyoti Prakash Mitter, (1971) 1 SCC 396

(Answer: (b))

6.3 Which provisions of the Constitution, introduced by way of the Constitution (Forty-second Amendment) Act, 1976, provide for the adjudication or trial of various matters by tribunals?

(a) Articles 226-A and 228-A
(b) Articles 323-A and 323-B
(c) Articles 350-A and 350-B
(d) Articles 257-A and 258-A

(Answer: (b))

6.4 Which provision of the Constitution provides that the validity of any proceedings in Parliament shall not be called into question on the ground of any alleged irregularity of practice?

(a) Article 122(1)
(b) Article 121
(c) Article 119
(d) Article 123(1)

(Answer: (a))

6.5 In his majority opinion in the Rojer Mathew case, Ranjan Gogoi, C.J., held that the scope of judicial review in matters under Articles 110(3) and 122 of the Constitution relating to the classification of a Bill as a Money Bill is:

(a) wide, and includes all matters relating to such classification.
(b) prohibited.
(c) limited to determining whether an irregularity of procedure has occurred in relation to such classification.

(d) extremely restricted, but permissible where a challenge is made on the ground of illegality or unconstitutionality.

(Answer: (d))

6.6 What was the decision of the majority in the Rojer Mathew case as regards the validity of classification of Part XIV of the Finance Act, 2017 as a Money Bill under Article 110(1) of the Constitution?

(a) it held that such classification was improper, and struck it down
(b) it referred the question to a larger bench
(c) it held that such classification was proper, and upheld it
(d) it did not pronounce on the issue

(Answer: (b))

6.7 A Task force on 'Judicial Impact Assessment' was constituted under the chairmanship of which former judge of the Supreme Court on the directions of the Supreme Court in Salem Advocates Bar Association (II) v. Union of India, (2005) 6 SCC 344?

(a) Justice R.M. Lodha
(b) Justice Ashok Bhan
(c) Justice M. Jagannadha Rao
(d) Justice B.N. Srikrishna

(Answer: (c))

6.8 What did the judges in the Rojer Mathew case hold as regards the question of whether Section 184 of the Finance Act, 2017 suffered from excessive delegation in that it conferred power on the Central Government to prescribe by way of rules the qualifications of members to tribunals?

(a) The majority judgement held that it did not suffer from excessive delegation, whereas Chandrachud, J., and Gupta, J., opined that it did suffer from excessive delegation.
(b) The majority judgement held that it did suffer from excessive delegation, whereas Chandrachud, J., and Gupta, J., opined that it did not suffer from excessive delegation.
(c) The majority judgement held, and Chandrachud, J., opined, that it did not suffer from excessive delegation, whereas Gupta, J., opined that it did suffer from excessive delegation.
(d) The majority judgement held, and Gupta, J., opined, that it did not suffer from excessive delegation, whereas Chandrachud, J., opined that it did suffer from excessive delegation.

(Answer: (a))

6.9 The Supreme Court held in the Rojer Mathew case that the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017:

(a) were within the scope of authority of Parliament to enact, and upheld them.
(b) were invalid in part, and directed that the Central Government examine the viability of re-enacting those parts that were invalid, and consequently, struck down.
(c) were in accordance with the parent enactment and the principles envisaged in the Constitution as interpreted by the Supreme Court, and upheld their validity.
(d) were contrary to the parent enactment and the principles envisaged in the Constitution as interpreted by the Supreme Court, and struck them down in entirety.

(Answer: (d))

6.10In Mohd. Saeed Siddiqui v. State of Uttar Pradesh and Another, (2014) 11 SCC 415 the Supreme Court:

(a) held that the decision of the Speaker of the Legislative Assembly that the Bill introducing the Uttar Pradesh Lokayukta and Up-Lokayuktas (Amendment) Act, 2012 was a Money bill was invalid, and struck down such classification
(b) held that the decision of the Speaker of the Legislative Assembly that the Bill introducing the Uttar Pradesh Lokayukta and Up-Lokayuktas (Amendment) Act, 2012 was a Money bill was valid, upon conducting a thorough judicial review of the reasons for such classification
(c) held that the decision of the Speaker of the Legislative Assembly that the Bill introducing the Uttar Pradesh Lokayukta and Up-Lokayuktas (Amendment) Act, 2012 was a Money bill was final and could not be disputed, nor could the procedure of the State Legislature be questioned by virtue of Article 212 of the Constitution
(d) held that the decision of the Speaker of the Legislative Assembly that the Bill introducing the Uttar Pradesh Lokayukta and Up-Lokayuktas (Amendment) Act, 2012 was a Money bill could be disputed, and the procedure of the State Legislature could be judicially reviewed

(Answer: (c))

7.

88. We have referred to the decisions and viewpoints to highlight the contentious nature of the issue of transparency, accountability and judicial independence with various arguments and counterarguments on both sides, each of which commands merit and cannot be ignored. Therefore, it is necessary that the question of judicial independence is accounted for in the

balancing exercise. It cannot be doubted and debated that the independence of the judiciary is a matter of ennobled public concern and directly relates to public welfare and would be one of the factors to be taken into account in weighing and applying the public interest test. Thus, when the public interest demands the disclosure of information, judicial independence has to be kept in mind while deciding the question of exercise of discretion. However, we should not be understood to mean that the independence of the judiciary can be achieved only by denial of access to information. Independence in a given case may well demand openness and transparency by furnishing the information. Reference to the principle of judicial independence is not to undermine and avoid accountability which is an aspect we perceive and believe has to be taken into account while examining the public interest in favour of disclosure of information. Judicial independence and accountability go hand in hand as accountability ensures, and is a facet of judicial independence. Further, while applying the proportionality test, the type and nature of the information is a relevant factor. Distinction must be drawn between the final opinion or resolutions passed by the collegium with regard to appointment/elevation and transfer of judges with observations and indicative reasons and the inputs/data or details which the collegium had examined. The rigour of public interest in divulging the input details, data and particulars of the candidate would be different from that of divulging and furnishing details of the output, that is the decision. In the former, public interest test would have to be applied keeping in mind the fiduciary relationship (if it arises), and also the invasion of the right to privacy and breach of the duty of confidentiality owed to the candidate or the information provider, resulting from the furnishing of such details and particulars. The position represents a principled conflict between various factors in favour of disclosure and those in favour of withholding of information. Transparency and openness in judicial appointments juxtaposed with confidentiality of deliberations remain one of the most delicate and complex areas. Clearly, the position is progressive as well as evolving as steps have been taken to make the selection and appointment process more transparent and open. Notably, there has been a change after concerns were expressed on disclosure of the names and the reasons for those who had not been approved. The position will keep forging new paths by taking into consideration the experiences of the past and the aspirations of the future.
[Excerpted from the majority judgment delivered by Sanjiv Khanna, J., signed by himself and Ranjan Gogoi, C.J., N.V. Ramana, J., D.Y. Chandrachud, J., and Deepak Gupta, J., in Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal, Civil Appeal No. 10044 of 2010 : 2019 SCC OnLine 1459] (the "CPIO case")

7.1. What was the decision in the CPIO case in relation to the order passed by the Central Information Commission (the "CIC Order") directing the Central Public Information Officer (the "CPIO") of the Supreme Court of India ("SC") to furnish information on the declaration of assets by judges to the Chief Justices, which order was upheld by the judgment dated 12th January, 2010 of the Delhi High Court in LPA No. 501 of 2009?

(a) The disclosure directed to be made by the CIC Order would not, in any way, impinge upon the personal information and right to privacy of the judges.
(b) The subject matter of the disclosure directed to be made by the CIC Order is covered within the "right to confidentiality" of judges and should not be subject to disclosure.

(c) The issue was referred to a larger bench of the SC.
(d) As officers of a public authority i.e., the SC, judges of the SC cannot claim to possess the right to privacy and therefore, the CIC Order was valid.

(Answer: (a))

7.2. Under the Right to Information Act, 2005 (the "RTI Act"), who is the 'competent authority' in relation to the SC empowered to frame rules to carry out the provisions of the RTI Act?

(a) The Collegium of the SC
(b) The Secretary General of the SC
(c) The Law Minister of India
(d) The Chief Justice of India

(Answer: (d))

7.3. Under Section 8(1) of the RTI Act, there is no obligation to give any citizen certain categories of information listed therein. Which of the following is not on that list?

(a) information which has been forbidden to be published under a special law or ordinance by the Union Legislature or any State Legislature
(b) information received in confidence from foreign government
(b) information which would impede the process of investigation or apprehension or prosecution of offenders
(c) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes.

(Answer: (a))

7.4. The decision in the CPIO case recognised three exceptions to public interest in protecting confidentiality. Which of the following is not one of these three exceptions?

(a) disclosure of iniquity for there cannot be any loss of confidentiality involving a wrongdoing
(b) disclosure of information that concerns the interest of a small number of persons as opposed to the number of persons whose private interests such information relates to
(c) when the public has been misled
(d) when the disclosure relates to matters of public concern, which relates to matters which are an integral part of free speech and expression and entitlement of everyone to truth and fair comment about it

(Answer: (b))

7.5. The SC's Collegium system evolved through what are known as the "Three Judges Cases". Of these, the 'First Judges Case' concerned the disclosure of the correspondence between the Chief Justice of India, the Chief Justice of Delhi and the Law Minister regarding the non-appointment of an additional judge and is extensively discussed in the CPIO case. Which of the following is referred to as the 'First Judges Case'? (Reference to the year intentionally redacted in the citations.)

(a) Supreme Court Advocates-on-Record Association v. Union of India, AIR [xxxx] SC 268.
(b) S.P. Gupta v. Union of India, AIR [xxxx] SC 149
(c) Subhash Sharma v. Union of India, [xxxx] Supp (1) SCC 574
(d) In re: Appointment and Transfer of Judges: Under Article 143 (1) of the Constitution of India, AIR [xxxx] SC 1.

(Answer: (b))

6. How did the decision in the CPIO Case decide the question of whether the SC and the Chief Justice of India are two separate public authorities?

(a) The office of the Chief Justice of India or for that matter the judges is not separate from the SC, and is part and parcel of the SC as a body, authority and institution.
(b) The SC, which is an independent 'public authority', would not necessarily include the office of the Chief Justice of India.
(c) The question of whether the SC and the Chief Justice of India are two separate public authorities depends on the context of the function being performed by the Chief Justice of India since the office of the Chief Justice of India can act on its own behalf as well as act as a part of the SC.
(d) The question was not decided.

(Answer: (a))

7. Which of the following is a change made by the Right to Information (Amendment) Act, 2019?

(a) Altered the provision on appointment of the Chief Information Commissioner under the RTI Act to give that power entirely to the Prime Minister of India.
(b) Excluded the participation of the Leader of Opposition in the Lok Sabha in the appointment of the Central Information Commissioners
(c) Altered the term of office of the Chief Information Commissioner from five years to the period as may be prescribed by the Central Government.
(d) Introduced a provision for removal of the Chief Information Commissioner from his office by an order of the President on the ground of proved misbehaviour and incapacity provided the same is reported by the SC after conducting an inquiry.

(Answer: (c))

8. In the CPIO case, the Civil Appeals No. 10045 of 2010 and 10044 of 2010 (in relation to disclosure of correspondence between a Union Minister and the judiciary and declaration of assets by judges) were partly allowed by the SC with an order of remit to the CPIO of the SC to re-examine the matter after following the procedure under Section 11(1) of the RTI Act as the information related to third parties. The procedure under Section 11(1) of the RTI Act requires the CPIO/State Public Information Officer to:

(a) give a written notice to the third party of the request for information, their intention to disclose the same, and inviting the third party to make a submission regarding whether the information should be disclosed
(b) publish advertisements in the media to invite objections to the disclosure of the proposed disclosure of information
(c) prepare a list of persons whose interests may be harmed if the information requested is disclosed and notify such persons of their right to appeal against the proposed disclosure of the information
(d) all of the above, depending on the circumstances and the nature of information requested

(Answer: (a))

9. The decision in the CPIO case held that the Chief Justice of India does not hold information on judges' asset declarations in a fiduciary capacity. Which of the following is true about this case?

(a) The Chief Justice of India was not a part of the Bench that heard the arguments in this case.
(b) The Chief Justice of India wrote a dissenting judgment in this case.
(c) The Chief Justice of India was part of the Bench that decided this case but another judge authored the judgment on behalf of him, amongst other judges on the Bench.
(d) The Chief Justice of India authored the judgment in this case on behalf of all his brother Judges.

(Answer: (c))

10. The current Chief Information Commissioner is:

(a) Mr. Sanjay Kothari
(b) Mr. Bimal Jhulka
(c) Mr. Sudhir Bhargava
(d) Mr. Wajahat Habibullah

(Answer: (b))

8.

2. On 7-12-2009, the in charge of the Electronics Cell of Sadar Bazar Police Station located in the district of Saharanpur of the State of Uttar Pradesh lodged a first information report ("FIR", for short) alleging that one Dhoom Singh in association with the appellant Ritesh Sinha, was engaged in collection of monies from different people on the promise of jobs in the police. Dhoom Singh was arrested and one mobile phone was seized from him. The investigating authority wanted to verify whether the recorded conversation in the mobile phone was between Dhoom Singh and the appellant Ritesh Sinha. They, therefore, needed the voice sample of the appellant and accordingly filed an application before the learned jurisdictional Chief Judicial Magistrate ("CJM", for short) praying for summoning the appellant to the Court for recording his voice sample.

3. The learned CJM, Saharanpur by order dated 8-1-2020 issued summons to the appellant to appear before the investigating officer and to give his voice sample. This order of the learned CJM was challenged before the High Court of Allahabad under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "CrPC"). The High Court having negatived the challenge made by the appellant by its order dated 9-7-2020, the present appeal has been filed.

4. The appeal was heard and disposed of by a split verdict of a two-Judge Bench of this Court requiring the present reference.

5. Two principal questions arose for determination of the appeal which have been set out in the order of Ranjana Prakash Desai, J. dated 7-12-2012 in the following terms: (Ritesh Sinha v. State of U.P., (2013) 2 SCC 357)

"3.1 Whether Article 20(3) of the Constitution of India, which protects a person accused of an offence from being compelled to be a witness against himself, extends to protecting such an accused from being compelled to give his voice sample during the course of investigation into an offence?

3.2 Assuming that there is no violation of Article 20(3) of the Constitution of India, whether in the absence of any provision in the Code, can a Magistrate authorise the investigating agency to record the voice sample of the person accused of an offence?" (emphasis in original)

[Excerpted from the judgment delivered by Ranjan Gogoi, C.J., on behalf of himself, Deepak Gupta, J., and Sanjiv Khanna, J., in Ritesh Sinha v. State of Uttar Pradesh and Another, (2019) 8 SCC 1]

8.1 How did the judges in Ritesh Sinha v. State of U.P., (2013) 2 SCC 357 (the "Ritesh Sinha 2-Judge case") answer the first principal question for determination in their judgment?

(a) In the positive, that is, compelling a person to give his voice sample during the course of investigation into an offence would violate Article 20(3) of the Constitution of India
(b) They did not pronounce any decision in relation to this question
(c) In the negative, that is, compelling a person to give his voice sample during the course of investigation into an offence would not violate Article 20(3) of the Constitution of India
(d) They reached differing decisions in relation to this question, with one Judge answering it in the positive, and the other answering it in the negative

(Answer: (c))

8.2 How did the judges in the Ritesh Sinha 2-Judge case answer the second principal question for determination in their judgment?

(a) Neither judge addressed that question in their judgment
(b) They held that compulsion on an accused to give their voice sample must be authorised on the basis of a law passed by the legislature instead of a process of judicial interpretation
(c) They held that voice sample could be included in the phrase “such other tests” appearing in Explanation (a) to S.53 of the CrPC by applying the doctrine of ejusdem generis
(d) They reached a split verdict, with one judge pronouncing in the manner set out in (b), and the other pronouncing in the manner set out in (c)

(Answer: (d))

8.3 On the basis of the test laid down in which case did the Supreme Court decide the first principal question in the Ritesh Sinha 2-Judge case, and in Ritesh Sinha v. State of Uttar Pradesh and Another, (2019) 8 SCC 1 (the “Ritesh Sinha 3-Judge case”)?

(a) Smt. Selvi and Others v. State of Karnataka, AIR 2010 SC 1974
(b) State of Bombay v. Kathi Kalu Oghad, AIR 1961 SC 1808
(c) M. Pentiah v. Muddala Veeramallappa, AIR 1961 SC 1107
(d) Vatal Nagaraj v. R. Dayanan Sagar, (1975) 4 SCC 127

(Answer: (b))

8.4 Which Section of the CrPC, inserted by way of amendment by the Code of Criminal Procedure (Amendment) Act, 2005 (Act 25 of 2005), empowers a Magistrate to order any person, including an accused person, to give specimen signatures or handwriting for the purposes of any investigation of proceeding under the CrPC?

(a) Section 311-A
(b) Section 53

(c) Section 53-A
(d) Section 54

(Answer: (a))

8.5 The Supreme Court exercised the jurisdiction vested in it under which Article of the Constitution of India to determine the outcome of the second principal question in the Ritesh Sinha 3-Judge case?

(a) Article 144
(b) Article 143
(c) Article 140
(d) Article 142

(Answer: (d))

8.6 What decision did the Supreme Court render in response to the second principal question in the Ritesh Sinha 3-Judge case?

(a) It referred the question to a larger bench, which has not yet been formed
(b) Until explicit provisions are engrafted in the CrPC, a Judicial Magistrate has the power to order a person to give a sample of their voice for the purpose of investigation of a crime; such power is conferred by a process of judicial interpretation
(c) Until explicit provisions are engrafted in the CrPC, a Judicial Magistrate does not have the power to order a person to give a sample of their voice for the purpose of investigation of a crime; such power can only be conferred by a process of legislation
(d) The Supreme Court directed Parliament to incorporate specific provisions in the CrPC empowering a Judicial Magistrate to order a person to give a sample of their voice for the purpose of investigation of a crime

(Answer: (b))

8.7 A question relating to voice spectrography was raised before the Supreme Court in Sudhir Chaudhary and Others v. State (NCT of Delhi), (2016) 8 SCC 307 (the "Zee Extortion case"); which of the following most accurately reflects the direction of the Court in that case?

(a) That the accused could be required to read out a passage for the purpose of giving their voice samples, and that such passage could contain no words from a pre-recorded inculpatory conversation

(b) That the accused could be required to read out a passage for the purpose of giving their voice samples, and that such passage could contain words, but not sentences from a pre-recorded inculpatory conversation

(c) That the accused could not be required to read out a passage for the purpose of giving their voice samples

(d) That the accused could be required to read out a passage for the purpose of giving their voice samples, and that such passage could contain entire sentences from a pre-recorded inculpatory conversation

(Answer: (b))

8.8 In which of the following cases did the majority in the Supreme Court opine that it could not exercise its jurisdiction under Article 142 of the Constitution to make an order that is inconsistent with the fundamental rights guaranteed by Part III of the Constitution (and more specifically Article 32)?

(a) Prem Chand Garg and Another v. Excise Commissioner, U.P. and Others, AIR 1963 SC 996

(b) Kavalappara Kottarathil Kochuni Mobil Nahar v. State of Madras, (1959) 2 SCR 316

(c) Daryao v. State of Uttar Pradesh, [1962] 1 SCR 574

(d) Smt. Ujjam Bai v. State of Uttar Pradesh, W.P. No. 79 of 1959, decided on April 10, 1962

(Answer: (a))

8.9 In Smt. Selvi and Others v. State of Karnataka, AIR 2010 SC 1974, the Supreme Court held that the administration of which of the following tests under compulsion would violate the rights of an accused under Article 20(3) and Article 21 of the Constitution of India?

(a) Narcoanalysis

(b) Polygraph

(c) Brain Electrical Activation Profile

(d) All of the above

(Answer: (d))

8.10In which case did the Supreme Court hold that Section 73 of the Evidence Act, 1872 does not empower a Magistrate to compel an accused to give their specimen writing during the course of an investigation?

(a) Nandini Satpathy v. P.L. Dani and Another, (1978) 2 SCC 424

(b) State (Delhi Admn.) v. Pali Ram, (1979) 2 SCC 158
(c) State of Uttar Pradesh v. Ram Babu Misra, (1980) 2 SCC 343
(d) State of Bombay v. Kathi Kalu Oghad, AIR 1961 SC 1808

(Answer: (c))

SAMPLE PG QUESTIONS OBJECTIVE – CRIMINAL LAW

1.

131. To sum up, the question whether or not death penalty serves any penological purpose is a difficult, complex and intractable issue. It has evoked strong, divergent views. For the purpose of testing the constitutionality of the impugned provision as to death penalty in Section 302, Penal Code on the ground of reasonableness in the light of Articles 19 and 21 of the Constitution, it is not necessary for us to express any categorical opinion, one way or the other, as to which of these two antithetical views, held by the Abolitionists and Retentionists, is correct. It is sufficient to say that the very fact that persons of reason, learning and light are rationally and deeply divided in their opinion on this issue, is a ground among others, for rejecting the petitioner's argument that retention of death penalty in the impugned provision, is totally devoid of reason and purpose. If, notwithstanding the view of the Abolitionists to the contrary, a very large segment of people, the world over, including sociologists, legislators, jurists, judges and administrators still firmly believe in the worth and necessity of capital punishment for the protection of society, if in the perspective of prevailing crime conditions in India, contemporary public opinion channelized through the people's representatives in Parliament, has repeatedly in the last three decades, rejected all attempts, including the one made recently, to abolish or specifically restrict the area of death penalty, if death penalty is still a recognised legal sanction for murder or some types of murder in most of the civilised countries in the world, if the framers of the Indian Constitution were fully aware as we shall presently show they were of the existence of death penalty as punishment for murder, under the Indian Penal Code, if the 35th Report and subsequent Reports of the Law Commission suggesting retention of death penalty, and recommending revision of the Criminal Procedure Code and the insertion of the new Sections 235(2) and 354(3) in that Code providing for pre-sentence hearing and sentencing procedure on conviction for murder and other capital offences were before the Parliament and presumably considered by it when in 1972-1973 it took up revision of the Code of 1898 and replaced it by the CrPC, 1973, it is not possible to hold that the provision of death penalty as an alternative punishment for murder, in Section 302, Penal Code is unreasonable and not in the public interest. We would, therefore, conclude that the impugned provision in Section 302, violates neither the letter or the ethos of Article 19.

[Excerpted from the judgment delivered by Sarkariya, J., on behalf of himself, Chandrachud, C.J., Gupta, J., and Untwalia, J., in *Bachan Singh* v. *State of Punjab*, (1980) 2 SCC 684]

1.1 In addition to the constitutionality of S. 302 of the *Indian Penal Code, 1860* (the "**IPC**"), the constitutionality of the sentencing procedure provided in which section of the *Code of Criminal Procedure, 1973* (the "**CrPC**") was an issue for consideration in the case of *Bachan Singh* v. *State of Punjab*, (1980) 2 SCC 684 ("**Bachan Singh**")?

(a) S. 366
(b) S. 354(3)
(c) S. 368
(d) S. 357

(Answer: (b))

1.2 What was the pronouncement of the Supreme Court in Bachan Singh as regards the question of whether the death penalty serves any penological purpose?

(a) It held that the death penalty serves as a deterrent, and therefore serves a penological purpose.
(b) It held that the death penalty does not serve as a deterrent, and does not serve a penological purpose.
(c) It did not answer the question categorically as it was not necessary to do so to determine the constitutionality of S. 302 of the IPC.
(d) It did not address the issue at all.

(Answer: (c))

1.3 Which of the following cases indicated guidelines to be kept in view at the time of considering whether a case belongs to the rarest of rare cases for the award of death penalty under S. 302 of the IPC?

(a) *Satyendra Kumar Mehra* v. *State of Jharkhand*, (2018) 15 SCC 139
(b) *Machhi Singh* v. *State of Punjab*, (1983) 3 SCC 470
(c) *Mohd. Sadik* v. *State*, 1976 Cr LJ 1938 (All)
(d) *Jitendra* v. *State (NCT of Delhi)*, (2019) 13 SCC 691

(Answer: (b))

1.4 In the case mentioned in the previous question, which of the following was not a proposition identified as emerging from Bachan Singh in relation to the award of a death sentence?

(a) The court must take into consideration the availability of facilities to ensure the speedy execution of a sentence of death.
(b) The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability.
(c) Before opting for the death penalty the circumstances of the 'offender' also require to be taken into consideration along with the circumstances of the 'crime'.
(d) A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances have to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.

(Answer: (a))

1.5 In *Vikas Yadav* v. *State of U.P.*, (2016) 9 SCC 541, a particular category of killings/ homicides were held to fall within the category of 'rarest of rare cases' deserving the award of death sentence. What category of killings/ homicides is this?

(a) Death caused by a single blow/ injury
(b) Pre-meditated murders
(c) Rape and assault leading to the death of the victim
(d) Honour killings

(Answer: (d))

1.6 Which provision of law from amongst the following provides for the award of death penalty for the offence described therein?

(a) S. 6 of the *Protection of Children from Sexual Offences Act, 2012*
(b) S. 4 of the *Commission of Sati (Prevention) Act, 1987*
(c) Both, (a) and (b)
(d) Neither (a) nor (b)

(Answer: (c))

1.7 In which of the following cases did the Supreme Court hold that a curative petition may be filed even after the dismissal of a review petition to prevent the abuse of the Court's process and to cure a grave miscarriage of justice?

(a) *Devidas Ramachandra Tuljapurkar* v. *State of Maharashtra*, (2015) 6 SCC 1
(b) *Rupa Ashok Hurra* v. *Ashok Hurra*, (2002) 4 SCC 388
(c) *Veera Singh* v. *State of Punjab*, AIR 1958 SC 465
(d) *Swamy Shraddananda (2)* v. *State of Karnataka*, (2008) 13 SCC 767

(Answer: (b))

1.8 Which provision of the IPC, providing for the award of death penalty for murder by a life-convict, was struck down as unconstitutional in the case of *Mithu* v. *State of Punjab*, (1983) 2 SCC 277?

(a) S. 304-B
(b) S. 304-A
(c) S. 304
(d) S. 303

(Answer: (c))

1.9 In *T.V. Vatheeswaran* v. *State of Tamil Nadu*, (1983) 2 SCC 68 ("**Vatheeswaran**"), the Supreme Court held that a prolonged delay in the execution of a death sentence – irrespective of cause – would be violative of Article 21 of the Constitution, and any delay in such execution beyond a period of [x] entitles the quashing of the death sentence. What is '[x]'?

(a) One year

(b) Two years
(c) Eighteen months
(d) Three years

(Answer: (b))

1.10 Which of the following cases clarified that Vatheeswaran had only been partly overruled, in relation to the rule relating to the period denoted by '[x]' in the previous question, in the case of *Triveniben* v. *State of Gujarat*, (1989) 1 SCC 678?

(a) *Shatrughan Chauhan and Another* v. *Union of India and Others*, (2014) 3 SCC
(b) *Deena* v. *Union of India*, (1983) 4 SCC 645
(c) *Union of India* v. *V. Shriram @ Murugan and Others*, (2016) 7 SCC 1
(d) *Kehar Singh and Another* v. *Union of India and Another*, (1989) 1 SCC 204

(Answer: (a))

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SAMPLE PG QUESTIONS OBJECTIVE – JURISPRUDENCE

We are to imagine a society with (1) democratic institutions in reasonably good working order, including a representative legislature elected on the basis of universal adult suffrage; (2) a set of judicial institutions, again in reasonably good order, set up on a nonrepresentative basis to hear individual lawsuits, settle disputes, and uphold the rule of law; (3) a commitment on the part of most members of the society and most of its officials to the idea of individual and minority rights; and (4) persisting, substantial, and good faith disagreement about rights (i.e., about what the commitment to rights actually amounts to and what its implications are) among the members of the society who are committed to the idea of rights.

I shall argue that, relative to these assumptions, the society in question ought to settle the disagreements about rights that its members have using its legislative institutions. If these assumptions hold, the case for consigning such disagreements to judicial tribunals for final settlement is weak and unconvincing, and there is no need for decisions about rights made by legislatures to be second-guessed by courts. And I shall argue that allowing decisions by courts to override legislative decisions on these matters fails to satisfy important criteria of political legitimacy.

[Excerpt from J. Waldron, 'The Core of the Case Against Judicial Review' 115 Yale LJ 1346 (2006)]

1.1 Does the author prefer legislative decisions to judicial decisions irrespective of the subject of decision making?

(a) No, only for decisions about rights.
(b) Yes, in all cases.
(c) No, only when the legislature is in session.
(d) No, only when judicial decisions are reviewed by the legislature and found to be inaccurate.

(Answer: (a))

1.2 Would the author's conclusion hold in a country where only the literate are allowed to vote?

(a) Yes, it would.
(b) No, it is conditional on universal adult suffrage.
(c) No, it is conditional on all men (but not women) being allowed to vote, regardless of whether they are literate.
(d) No, it is conditional on all women (but not men) being allowed to vote, regardless of whether they are literate.

(Answer: (b))

1.3 Does this conclusion apply to countries where:

(a) Judges are elected by popular vote.
(b) Judges are selected by a collegium.

(c) Judges are selected by a legislature.
(d) Both, (b) and (c), but not (a).

(Answer: (d))

1.4 In country X, the Prime Minister and the majority party announce that they have no belief or faith in the capacity of rights to benefit that society. Would Waldron advise such a society to do away with judicial review of legislation?

(a) No, because he would expect the opposition also to do the same before providing such advice.
(b) No, because he would expect that in such an event the Prime Minister and majority party would draft a fresh set of rights applicable to the country.
(c) No, because he expects commitment to rights by the political class.
(d) No, because he would expect that the judiciary propose a fresh set of rights in such case.

(Answer: (c))

1.5 Waldron's argument for allowing legislatures to make decisions about rights is because:

(a) Legislatures are democratically elected.
(b) Legislatures make better decisions.
(c) Legislatures vote while making decisions.
(d) Legislatures conduct public deliberations.

(Answer: (a))

1.6 In Country Y if we found that judges make better decisions to protect rights than the legislature, Waldron would conclude that:

(a) Courts should make rights decisions in this country.
(b) Instrumental reasons are sufficient to justify judicial review.
(c) Outcome-related reasons cannot be the basis for choosing which institution should make the decision.
(d) Rights decisions should be made via referendum in such countries.

(Answer: (c))

1.7 For Waldron people disagree about the meaning and implications of rights:

(a) Because one party does not take rights seriously.
(b) Because of moral relativism.
(c) Because they disagree about how to interpret legal texts.
(d) Because they have reasonable disagreements about the political and moral choices that arise when rights are applied.

(Answer: (d))

1.8 The legislature in country P enacts a law to permit active euthanasia. The Supreme Court of P strikes down the law as a violation of the right to life. Based on the passage above:

(a) Waldron would support the court's decision as it interpreted the right to life correctly.
(b) Waldron would support the court's decision as it is engages in superior moral reasoning.
(c) Waldron would argue against the court's decision as it overrides a politically legitimate legislative choice.
(d) Waldron would have no opinion as this is a reasonable disagreement between the two institutions.

(Answer: (c))

1.9 Country S is a one-party dictatorship. The legislature enacts a law permitting torture in all sedition cases. The Supreme Court strikes down the law as it violates the right to life.

(a) Waldron would support the court's decision as country S is not a democracy.
(b) Waldron would support the court's decision as it reached the right moral outcome.
(c) Waldron would criticise the court's decision as it is politically illegitimate.
(d) Waldron would criticise the court's decision as its interpretation lacks legal expertise.

(Answer: (a))

1.10Country T seeks to make a new constitution for a democratic country with widespread commitment to rights applying Waldron's argument. Which of the following options would be viable:

(a) Courts with judicial review over executive action and legislation.
(b) Courts with judicial review over constitutional amendments.
(c) Courts with judicial review over all forms of state action but no power to declare any state action invalid.
(d) Courts with judicial review over all forms of state action and the power to declare any state action invalid.

(Answer: (c))

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PG Sample paper 1 - Descriptive Questions:

1. In light of provisions in the *Indian Penal Code, 1860* (the "**IPC**") such as Section 121 (Waging, or attempting to wage war, or abetting waging of war, against the Government of India), Section 121A (Conspiracy to commit offences punishable by section 121), Section 122 (Collecting arms, etc., with intention of waging war against the Government of India), Section 123 (Concealing with intent to facilitate design to wage war), Section 132 (Abetment of mutiny, if mutiny is committed in consequence thereof) and also the *Unlawful Activities (Prevention) Act, 1967*, is Section 124A of the IPC that deals with 'Sedition' still necessary or should it be repealed?

2. In the context of Indian law, how is a contract of indemnity different from a contract of guarantee?

3. Does John Locke's conception of natural law, in particular his emphasis on labour as the foundation for ownership of private property by humans, have an 'anthropocentric' character?

4. Is the transfer of a judge from one High Court to another without the consent or concurrence of that judge a punitive measure? Briefly discuss in light of the observations and conclusions of the Supreme Court of India in matters relating to the transfer of judges.

5. What are the changes brought about in the Specific Relief Act, 1963 by the Specific Relief (Amendment) Act, 2018; specifically, discuss: (i) whether the nature of these amendments is procedural or substantive, (ii) whether these amendments are to have retrospective or prospective effect, and (iii) what the objectives behind these amendments may have been, and whether the amendments have helped achieve such objectives.

6. Imagine that the following claims are made by the same person:
   "I need food"
   "I demand that you satisfy my right to food"
   Is there a moral or political difference between the two claims?

7. Is the doctrine of "manifest arbitrariness" a revised version of the non-arbitrariness test laid down in *Rustom Cavasjee Cooper* v. *Union Of India*, 1970 AIR 564? What are the similarities, and differences if any, between them?

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