

## Constitutional Law

1. Which of the following are Directive Principles of State Policy?
  - i. Adequate means of livelihood for men and women equally.
  - ii. Allow minorities to establish and administer educational institutions.
  - iii. Equal justice and free legal aid.
  - iv. Freedom of conscience
  - v. Organise village panchayats.
  - vi. Equal pay for equal work.
  - vii. Free and compulsory education for children below 14 years of age.
  - viii. Prohibit traffic in human beings.
  - ix. Separation of judiciary from executive.
  - x. Promotion of international peace and security.
  
2. State 'Jambudvip' passes a law which states that a uniform civil code, applicable to all persons in the state, should be drafted and enforced, thus giving effect to one of its Directive Principles of State Policy. A citizen 'Kane' approaches the Supreme Court on the contention that such an action violates his fundamental right to freedom of religion. Give your decision in four lines.  
Note: State 'Jambudvip' is modeled exactly along the lines of India.  
Principle: the relevant portion of the provision incorporation the fundamental right of a citizen to freedom of religion states: 'Despite the right, the State can make laws to regulate any secular practice associated with religious practices.'
  
3. 'Indian Architectural School', one of the leading architectural schools in India, has an admission policy providing the reservation of seats for students from specified districts. A student who fails to get admission to the school challenges this admission policy as being violative of her fundamental right to equality before the law. Decide the case.  
Principle 1 : The State shall not deny to any person equality before law.  
Principle 2: However, if a reasonable differentiation is made and there is a valid nexus between the differentiation made and the lawful object sought to be achieved by the rule, it is not violative of the fundamental right.
  
4. 'Rashtra', a country, has a federal structure and its laws are identical to that of India. The Court fee payable as per the law in State 'a' of 'Rashtra' is more than the court fees payable in State 'B'. A citizen, residing in State 'A' challenges this law as being violative of his fundamental right to equality guaranteed under the Constitution. Decide the case.  
Principle 1: The State shall not deny to any person equality before law.  
Principle 2: However, if a reasonable differentiation is made and there is a valid nexus between the differentiation made and the lawful object sought to be achieved by the rule, it is not violative of the fundamental right and is legal.
  
5. Ranjit Singh, a resident of the State of Punjab, is denied admission in a premier government institute located in Maharashtra in the basis that he is a non-resident of Maharashtra State. Ranjit Singh has decided to challenge the constitutional validity of this rule.

Principle: The State shall not discriminate against any citizen on grounds only of place of birth.

- i. Ranjit Singh will succeed since the rule discriminates on the basis of place of birth.
- ii. Ranjit Singh will not succeed since the court cannot question the rules framed by the institution.
- iii. Ranjit Singh will not succeed since the discrimination is a valid one.
- iv. None of the above.

6. Kurt, a Swiss national residing in India for the past few months, has applied for a telephone. Extremely upset with the inordinate delay in getting the phone as well as the bribes he is expected to pay concerned department, he prints leaflets and gives a call for a rally to physically remove the corrupt officials. The police, on hearing of the rally, place him under house arrest after getting the necessary approvals. He challenges this act of the Police as being constitutionally invalid and violative of his right to freedom of speech and expression, which is a fundamental right guaranteed to every citizen of India. Give your decision in four lines

Principle: Every citizen has the freedom of speech and expression subject to reasonable restrictions

7. Bahadur knows that Sher Singh, a follower of the Sikh religion, has a 'Kirpan' with him at all times. Arguing that the 'kirpan' is a dangerous item, Bahadur requests the police to seize it. The police refuse stating that it is a religious item and thus cannot be removed from Sher Singh's person. Is this action of the police legally valid? Decide.

Principle: Subject to certain restriction, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

8. A new tax law is imposed in India, the effect of which is to make all individuals who have evaded tax in the past six months pay a higher interest as a fine to the tax authorities. Some individuals challenge this law as being violative of their fundamental rights.

Principle: No person shall be convicted of any offence except for violation of law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

- i. The individuals will succeed because a penalty heavier than the one in existence at the time of the commission of the offence cannot be imposed on them.
- ii. The individuals will not succeed because the fundamental right does not extend to the imposition of fines for tax evasion, a civil liability.
- iii. Neither of the above.

9. Shashi is engaged in the business of selling snacks, which she carries out on the street pavements, as do a few of her friends. The Government, in an attempt to clear the roads and streets, has removed these businesses from the pavements. Shashi and her friends contend the violation of their fundamental right to practice and profession, or to carry on any business, trade or occupation, and approach you to verify if this action of the government is legal. What is your opinion? State in four lines.

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Principle: Every citizen has the freedom to practice any trade or profession of his choice subject to reasonable restrictions.

10. Ramachandra is prosecuted for theft. Being a poor man, and not having sufficient resources, he does not engage a lawyer to represent him. The trial court continues with the proceedings and convicts him of having committed the offence of theft.

Principle 1: Every accused person has the fundamental right to legal aid at the cost of the State.

Principle 2: The trial court is obliged to inform every accused unable to afford legal representation, of this right.

- i. There has been no violation of Ramchandra's fundamental right since he should have known that not having a lawyer could be prejudicial to his case.
- ii. There has been a violation of Ramchandra's fundamental right, but since he has already been convicted, there is no remedy available to him.
- iii. There has been a violation of Ramchandra's fundamental right, and as such, the conviction may be set aside.
- iv. None of the above.

11. Write the meaning of the following in one sentence each:

- |                    |                          |
|--------------------|--------------------------|
| i. Double Jeopardy | ii. Basic Structure      |
| iii. Preamble      | iv. Separation of Powers |

12. A student of a prestigious engineering college run by the Rotary is rusticated from the college because the College fears that his religious affiliations will set a bad example for the other students and create an atmosphere of unrest. The student files a writ challenging the College's action as being violative of his fundamental right.

Principle: Article 15 – The State shall not discriminate against any citizen on the grounds only of religion.

- i. The action of the College will be struck down because it amounts to violation of the fundamental right of the student;
- ii. The College has taken similar action against other students indulging in similar activities, thus there has been no discrimination against the student;
- iii. The action against the College cannot succeed because the College is a private body;
- iv. Instead of indulging in such discriminatory behavior, the Rotary should be engaged in promoting social welfare.

13. The Municipal Corporation of a particular city continuously dumps garbage in front of X's house since X belongs to another religion, which is dominantly practiced in the neighbouring country. Despite repeated complaints, not only does the situation persist but the Municipal Corporation also begins to ensure that he is restrained from entering the offices of the Corporation to even give complaints. Hence, S is compelled to approach the courts seeking to challenge the actions of the Municipal Corporation as being violative of his fundamental rights.

Principle: The State shall not discriminate against any citizen on the grounds only of his religion.

- i. The action of the Municipal Corporation is violative of X's fundamental rights;

- ii. The Municipal Corporation is justified in its action, because all loyalists of other enemy countries should be treated in like manner and the Municipal Corporation is not 'State';
- iii. The Municipal Corporation is justified because they have always dumped garbage in the same place, even before X took up residence in that place;
- iv. The Municipal Corporation is not justified because it does not treat American loyalists in the same manner.

14. Rohan, a driver working for a State Electricity Board, challenges the action of the Electricity Board in giving a higher pay to a person who is employed in the billing department of the board. Rohan invokes the Directive Principle of State Policy which state that the State, in particular, shall direct its policy towards securing that there is equal pay for equal work, in order to challenge the Board's action. Present arguments on behalf of the State Electricity Board.  
Principle: Equal pay for equal work is a directive principle of the State. In particular, the State shall endeavour to ensure equal treatment.

15. The Parliament enacts a law, which states that all persons who are above the heights of 5 feet, are liable to pay a higher amount of tax. The object of this law is to increase the government's tax revenues. A few persons who are above 5 feet in height, get together and file a writ challenging this law, stating that it is violative of Article 14.

Principle: Article 14 states that the State shall not deny to any person equality before the law.

- i. Since the law treats one category of persons differently from another – it is violative of Article 14;
- ii. The law is within the bounds of Article 14 because it bases the different treatment on the reasonable difference between the person, i.e. a height difference;
- iii. The law is violative of Article 14 because the basis of classification is unrelated to the object that it seeks to achieve;
- iv. The law is not violative of Article 14 since it treats all persons who are above 5 feet height in the same manner.

16. Lalajram, a moneylender, gives loans to villagers at abnormally high rates of interest. As the villagers are illiterate, and easily overawed by the procedures in the co-operative bank, they take loans from Lalajram. The state government bans money lending above a particular interest. Lalajram and other money lenders challenge the ban stating that it violates their fundamental right. Formulate arguments for the government.

Principle: Trade and commerce throughout the territory of India shall be free, but subject to reasonable restrictions.

17. Baddy Singh is involved in some Benami transactions. At the time of doing these acts, there was no law governing such transaction. Parliament, however, passed a law with retrospective effect making Benami Transactions penal offences. Can Baddy Singh be prosecuted? Give reasons.  
Principle: No person can be convicted of any offence except for violation of law in force at the time of the commission of the offence.

18. Chorda is arrested for committing the offence of theft and appropriate proceedings are instituted against him. Due to some procedural deficiencies on the part of the state, he was discharged. The police later find some conclusive evidence of his guilt and seek to prosecute him for the same. Chorda seeks protection under Article 20 (2). Decide.

Principle: Article 20(2) provides that no person shall be prosecuted and punished for the same offence more than once.

19. Government, with a view to curb terrorism, enacts a new law under which the police have blanket powers to place wiretaps and other such surveillance mechanisms on any person they suspect of being involved in terrorist activities. The act gives them absolute powers in this regard. Some persons wanting to challenge this law approach you. Present your arguments.

Principle: No person shall be deprived of his life or personal liberty except according to procedure established by law.

20. 'Playway', a magazine with adult content and photographs is launched. Shortly after it is launched, the Government bans it. The Publishers allege that their fundamental rights have been violated. Frame arguments on behalf of the Government.

Principle: The Constitution guarantees the freedom of speech and expression but also provides that reasonable restrictions may be imposed on this freedom in the interest of morality and decency.

21. Which of the following are fundamental rights guaranteed under the Constitution?

- (a) Right to equality before the world.
- (b) Right to form associations and unions.
- (c) Right to own property.
- (d) Right to move freely through out the world.
- (e) Right to equal opportunity for employment.
- (f) Right to free education.
- (g) Right to free legal aid.
- (h) Right to freedom of speech and expression.
- (i) Right to living wages.

22. The followers of the Calvin religion form a trust that sets up a hospital and undertakes to finance its operations on the condition that only persons following the Calvin religion are employed by the hospital. Gora is a first rank medical student from a prestigious medical college. He applies for a post in the hospital, but is rejected since he is a non-follower of the Calvin religion. He challenges this action stating that it is violative of his fundamental rights. Decide.

Principle: the State guarantees to its citizens non-discrimination on the basis of religion.

23. Parliament enacts a law providing for reservation in direct recruitment for certain services – a quota is specified for members of backward classes. Z is denied employment because he is not a member of the backward class. He challenges the law.

Principle: Article 16 – No person shall, on the grounds only of caste, be ineligible for, or discriminated against in respect of any employment or office under the State.

24. Explain the following in one sentence-
- i. Directive Principles of State Policy:
  - ii. Fundamental Duties:
  - iii. Federalism:
  - iv. Judicial Review:
25. Baba wants to build a house and settle down in a particular town. He has identified a nice piece of land by the River, which is owned by the Government. When he applies to the necessary authorities, his application is rejected and he is told that since the Navy conducts exercises in that area, access to the land is restricted. Baba challenges this by stating that his fundamental right to reside anywhere in India has been violated. Therefore he seeks that he be allowed to build a house in the restricted area.
- i. Baba's right has been violated since he has a right to settle anywhere – therefore it is the Navy's duty to practice elsewhere;
  - ii. Baba will succeed in any action against the Government since the government's action has placed unreasonable restrictions as the Navy has the entire sea to practice in;
  - iii. Baba will not succeed since the Government's restriction is reasonable – the Navy's duty is the protection of Citizens and therefore it is only right that certain areas be made available to them for carrying out exercises;
  - iv. None of the above.
26. Giridhar goes for a walk every morning, but is lately finding that traffic is increasing. So, he decides to go for his morning walks inside the Air Force Station campus in the vicinity of his residence. When he gets here, the guards at the gate refuse to allow him through, stating that the area is restricted / prohibited and he cannot enter. Giridhar challenges this action under Article 19(1) (d).
- Principle: Article 19 (1)(d) guarantees that every citizen shall, subject to reasonable restrictions, if any, have the right to move freely throughout the territory of India.
- i. It is not reasonable on the part of the government to earmark green and peaceful areas as restricted and to restrict entry within these areas;
  - ii. It is unreasonable of the government to think that every person who is entering the area is a potential security threat;
  - iii. It is a reasonable restriction because it is necessary to preserve the security to the state;
  - iv. None of the above.

## Answers with Explanation

Q. no.	Answers	Explanation
1.		i, iii, v, vi, vii, ix, and x are Directive Principles of State Policy
2.		As laid down in the principle, the fundamental right of citizen 'Kane' does not extend to the freedom to practice secular activities that may be associated with religion. The object of the UCC is to govern personal matters of all citizens uniformly, the object of this legislation being to separate personal laws, a

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		secular matter, from religious laws, therefore, the law is valid. Please note, it is possible to argue the other way as will i.e. to say that the UCC is invalid because it infringes on issues that are particular and intrinsic to the practice of the religions and therefore it is an unreasonable restriction on the freedom to practice religion.
3.		Admitting in accordance with the district-wise reservation criteria could result in a student with lesser capability and talent being admitted and one with more talent and capability being refused admission. Neither is it mentioned as to how the districts have been specified. The object of any admission rules for an institution is to admit the best talent in that area. Thus, this differentiation does not facilitate the achievement of the objective of the rule. Therefore the law is not constitutional.
4.		There is a reasonable differentiation here, since neither are the people of one state similarly situated to those of another, nor are their needs similar. In order to accommodate these distinct needs, a state legislature may make a law that is different from that of another state without violating the principle given above. The court fees may differ depending upon the actual expenses involved etc.
5.	(iii)	Because the rule incorporates only a residence requirement. It cannot be said to be discriminating based on place of birth, because a person born in Punjab, but residing in Maharashtra would still be eligible for admission in the institute.
6.		Kurt will not succeed in his claim since he is a Swiss national and not a citizen of India. As such, he is not entitled to the fundamental right to freedom of speech and expression, which is available only to citizens of India. Therefore the issue of him claiming a freedom of speech and expression does not even arise. Even if he had a freedom of speech and expression, this would not extend to a rally to cause the forceful removal of the corrupt officials.
7.		The Constitution grants every person the right to practice her/ his own religion, and this right includes the following of such practices as the religion specifies. The Sikh religion requires its followers to wear the kirpan. Thus, Sher Singh has a fundamental right to wear his kirpan in accordance with his religion demands. Thus, the Police's action in refusing to seize the kirpan is legally completely justified.
8.	(ii)	Since the imposition of a tax liability is equivalent to imposing a civil liability and not a criminal penalty and therefore this action of the State is not covered by the specified principle.
9.		The roads are held by the State in trust for the public for whom they are made and each person's right in their usage is subject to the right of the others to use them. As such, since the State is responsible for their maintenance, the State is also authorized to impose restrictions on their use, which includes prohibiting their use as shops. Therefore removal of street vendors is definitely a reasonable restriction on the citizens' freedom of trade and profession.
10.	(iii)	Because the entire proceedings are vitiated because of the violation of Ramchandra's fundamental right to legal aid in the event of inability to engage a lawyer to represent him. The trial court should have informed of his right to legal aid.
11.		<ol style="list-style-type: none"> <li>i. This fundamental right guarantees that a person cannot be 'prosecuted and convicted/ punished' for the same offence more than once.</li> <li>ii. This concept developed by the Supreme Court limits the authority of the Parliament to amend certain sections of the Constitution that are so</li> </ol>

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		<p>fundamental to the Constitution that they may be said to form part of its basic structure, like secularism, judicial review, etc.</p> <p>iii. The preamble, the introductory passage to the Constitution embodying the principles that are the basis of the Constitution, though not conferring any powers, is nevertheless an aid to interpret the Constitution in cases of ambiguity.</p> <p>iv. This concept describes the division of powers of the government of a country into three bodies, the legislature, executive and the judiciary, each of which performs specified and separate functions and checks and balances the functioning of the others.</p>
12.	(iii)	Fundamental rights are guaranteed to us by the State, therefore any action for violation of a fundamental right only lies against the State and not against a private entity/ person. The engineering college run by the Rotary is exempt from the prohibitions of the fundamental rights as long as it does not violate any laws.
13.	(i)	The Municipal Corporation is a local authority, a body set up by the State, and as such, is part of the 'State' machinery. As such, citizen can enforce their fundamental rights against it. In the present case, the Municipal Corporation is discriminating against X because of his religious faith and therefore, its action can be struck down.
14.		<p>Arguments for the State Electricity Board:</p> <p>i. Directive principles of State Policy being unenforceable in a court of law, this action is unsustainable on the basis of a violation of a Directive Principle of State Policy. The Directive Principle deals with equal pay for equal work and not unequal work;</p> <p>ii. Article 14 allows for different people to be treated differently if there is a reasonable basis for the classification;</p> <p>iii. Here, the work being done by a person in the billing department and a driver is substantially different, enough to justify different pay scales that are applicable to them.</p>
15.	(iii)	Article 14 allows persons to be treated differently if the different treatment is based on a reasonable classification which has a rational relation with the object that the law seeks to achieve. Here though there is a reasonable basis for the classification, there is absolutely no connection between the basis of classification (height above 5 feet) and the object of the law, i.e. increasing tax revenues. Thus, the law is violative of Article 14.
16.		Free trade does not imply absolute freedom; there can be reasonable restrictions imposed on this right in the general public good. Villagers, being weaker groups and needing protection, such exploitative means of livelihood as money lending, should be de-recognised as trade or business.
17.		He cannot be prosecuted because at the time of committing the offence, there was no law in force prohibiting the doing of such acts. Thus, at the time that Baddy Singh committed the act, entering into a benami transaction was not an offence. Hence, he is eligible for the protection of Article 20(1).
18.		Chorda can be prosecuted since Article 20(2) only bars a second prosecution when the first prosecution has resulted in punishment. It is in problems such as this where the principle must be read carefully to spot nuances.
19.		This power is unconstitutional since it does not provide for any procedural safeguards. It confers absolute rights and therefore provides wide scope for arbitrary use of power that may result in violating the right to privacy of

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		persons. Such powers can be abused easily and must not be unregulated.
20.		Though the magazine is solely dedicated to entertainment for adults, there is no way to ensure that it does not fall into the hands of young persons and minors. Magazines such as these could easily corrupt the mind of the youth whose reasoning capabilities are not fully developed and may form harmful impressions in their minds. Thus, the banning is justified in public interest.
21.		b, e, f and h.
22.		Fundamental rights are only available and enforceable against the State. A privately established hospital does not qualify as a state. Thus, Gora's action will fail.
23.		The law will not be struck down because though there is a fundamental right that prohibits discrimination based only on the grounds of caste, the law has been enacted to strike a balance between this fundamental right and the necessity to facilitate members of backward classes in uplifting their conditions of life and to ensure their adequate participation in public affairs.
24.		<ul style="list-style-type: none"> <li>i. Directive Principles of State Policy are unenforceable principles that are nevertheless fundamental in the governance of the country and which the State must endeavour to apply while making laws.</li> <li>ii. These are duties imposed on citizens that are unenforceable unless incorporated into a law, but nonetheless serve to promote the concept of ideal citizenship.</li> <li>iii. Federalism refers to the distribution of governmental powers between a Central and a State authority such that they each operate independently and are not subordinate to the other.</li> <li>iv. It is the Court's power to review all actions and enactments of the State and to strike down those that are inconsistent with or are in contravention of the provisions of the Constitution.</li> </ul>
25.	(iii)	Logically speaking, a person cannot contend violation of his fundamental right just because he does not get everything he wants. In the given case, there is good reason for the Government to restrain Baba from taking over that particular piece of land.
26.	(iii)	It is impossible for the government to question every person closely before deciding whether or not they are a security threat. Considering that the area is a part of the State's defence organization, it is justified in the interests of state security (consequently, public interest) to restrict entry of unauthorized persons into this area.