

CLAT PG 2026 Set D Question Paper with Solutions

Time Allowed :2 Hours	Maximum Marks :120	Total Questions :120
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INSTRUCTIONS TO CANDIDATES

1. This Question Booklet (QB) contains 120 (One hundred and Twenty) Multiple Choice Questions across 40 (Forty) pages including 2 (Two) blank pages for rough work. No additional sheet(s) of paper will be supplied for rough work.
2. You have to answer ALL questions in the separate carbonised Optical Mark Reader (OMR) Response Sheet supplied along with this QB. You must READ the detailed instructions provided with the OMR Response Sheet on the reverse side of this packet BEFORE you start the test.
3. No clarification can be sought on the QB from anyone. In case of any discrepancy such as printing error or missing pages, in the QB, request the Invigilator to replace the QB and OMR Response Sheet. Do not use the previous OMR Response sheet with the fresh QB.
4. You should write the QB Number, and the OMR Response Sheet Number, and sign in the space/column provided in the Attendance Sheet.
5. The QB for the Under Graduate Programme is for 120 marks. Every **Right Answer** secures 1 mark. Every **Wrong Answer** results in the deduction of 0.25 mark. There shall be no deductions for Unanswered Questions.
6. You may retain the QB and the Candidate's copy of the OMR Response Sheet after the end of the test.
7. The use of any unfair means shall result in your disqualification. Possession of Electronic Devices such as mobile phones, headphones, digital watches, etc., is/are strictly prohibited in the test premises. Impersonation or any other unlawful practice will lead to your disqualification and possibly, appropriate action under the law.

I. "Section 55 of the Indian Contract Act says that when a party to a contract promises to do a certain thing within a specified time but fails to do so, the contract or so much of it as has not been performed, becomes voidable at the option of the promisee if the intention of the parties was, that time should be of the essence of the contract. If time is not the essence of the contract, the contract does not become voidable by the failure to do such thing on or before the specified time but the promisee is entitled to compensation from the promisor for any loss occasioned to him by such failure. Further, if in case of a contract voidable on account of the promisor's failure to perform his promise within the time agreed and the promisee accepts performance of such promise at any time other than that agreed, the promisee cannot claim compensation for any loss occasioned by the non-performance of the promise at the time agreed, unless, at the time of such acceptance he gives notice to the promisor of his intention to do so.

... Sections 73 and 74 deal with consequences of breach of contract. Heading of Section 73 is compensation for loss or damage caused by breach of contract. When a contract is broken, the party who suffers by such breach is entitled to receive from the party who has broken the contract compensation for any loss or damage caused to him thereby which naturally arose in the usual course of things from such breach or which the parties knew when they made the contract to be likely to result from the breach of it. On the other hand, Section 74 deals with compensation for breach of contract where penalty is stipulated for. When a contract is broken, if a sum is mentioned in the contract as the amount to be paid in case of such breach or if the contract contains any other stipulation by way of penalty, the party complaining of the breach is entitled whether or not actually damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named or the penalty stipulated for.”

[Extracted from: Consolidated Construction Consortium Limited v Software Technology Parks of India 2025 INSC 574]

1. Whether time is of essence or not is a question of fact, and the real test is the parties’ intention. Which amongst the following is not correct in ascertaining the intention of the parties with respect to ”time is of essence”.

- (A) The express words used in the contract.
- (B) The nature of the property which forms the subject-matter of the contract.
- (C) The nature of the contract and the surrounding circumstances.
- (D) The nature of the contract that provides for an extension of time or liquidated damages for delays

Correct Answer: (D) The nature of the contract that provides for an extension of time or liquidated damages for delays

Solution:

Step 1: Understanding the Question:

The question asks to identify which factor is NOT used to determine if ”time is of the essence” in a contract. The core issue is how the parties’ intention regarding the importance of the time of performance is ascertained.

Step 2: Analyzing the Options in Context of Contract Law:

(A) The express words used in the contract: This is a primary factor. If a contract explicitly states that ”time is of the essence,” courts generally give effect to this clause. This is a correct way to ascertain intention.

(B) The nature of the property: This is also a crucial factor. For instance, in contracts involving perishable goods or items with fluctuating market values (like stocks), time is usually considered to be of the essence even if not explicitly stated. This is a correct way to ascertain intention.

(C) The nature of the contract and the surrounding circumstances: The overall context, purpose of the contract, and the circumstances under which it was made are always relevant to determining the parties’ true intention. This is a correct way to ascertain intention.

(D) The nature of the contract that provides for an extension of time or liquidated damages for delays: A clause that allows for an extension of the performance time or imposes a penalty (liquidated damages) for delay is generally interpreted by courts as an indication that the parties contemplated the possibility of delay. Therefore, such a clause

suggests that time was *not* intended to be of the essence. Instead of proving time is of the essence, it points to the contrary.

Step 3: Final Answer:

Options (A), (B), and (C) are all valid factors used to determine if time is of the essence. Option (D) describes a contractual provision that typically leads to the conclusion that time is *not* of the essence. Therefore, it is not a correct factor for ascertaining that time *is* of the essence.

💡 Quick Tip

Remember the inverse relationship: a clause for liquidated damages for delay or for time extension usually implies that time is **not** of the essence. The parties have already agreed on a remedy for the delay, which is compensation, rather than the right to repudiate the contract.

2. Which of the following is NOT a leading judgement on section 74 of the Indian Contract Act:

- (A) Kailash Nath Associates v Delhi Development Authority [2015] 1 SCR 627.
- (B) ONGC Ltd v Saw Pipes Ltd (2003) 5 SCC 705.
- (C) Fateh Chand v Balkishan Dass (1964) 1 SCR 515.
- (D) Satyabrata Ghose v Mugneeram Bangur & Co 1954 SCR 310.

Correct Answer: (D) Satyabrata Ghose v Mugneeram Bangur & Co 1954 SCR 310.

Solution:

Step 1: Understanding the Question:

The question requires identifying the case from the given options that is not a landmark judgment concerning Section 74 of the Indian Contract Act, which deals with compensation for breach of contract where a penalty is stipulated.

Step 2: Analyzing the Judgements:

(A) Kailash Nath Associates v Delhi Development Authority: This is a crucial modern judgment on Section 74. It clarified that even if a contract has a liquidated damages clause, the party claiming damages must prove actual loss, unless the nature of the breach makes it impossible or very difficult to prove the loss. It is a leading case on Section 74.

(B) ONGC Ltd v Saw Pipes Ltd: This is another landmark Supreme Court decision on Section 74. It elaborated on the interpretation of "reasonable compensation" and the distinction between liquidated damages and penalties, holding that if a sum is a genuine pre-estimate of loss, it can be awarded without proof of actual loss in certain cases. It is a leading case on Section 74.

(C) Fateh Chand v Balkishan Dass: This is a foundational case from the Supreme Court that interpreted Section 74. It established the principle that Section 74 does away with the English law distinction between penalty and liquidated damages, and in all cases, the court is to award only reasonable compensation not exceeding the stipulated amount. It is a leading case on Section 74.

(D) Satyabrata Ghose v Mugneeram Bangur & Co: This case is the foremost authority in Indian law on the **doctrine of frustration of contract**, which is covered under Section

56 of the Indian Contract Act. It deals with situations where performance of a contract becomes impossible due to supervening events. It is not related to Section 74.

Step 3: Final Answer:

The judgements in options (A), (B), and (C) are all seminal decisions on the interpretation and application of Section 74. The judgement in option (D) is the leading case on Section 56. Therefore, it is not a leading judgment on Section 74.

 Quick Tip

For law exams, it's essential to associate landmark cases with the specific legal doctrines or sections they established. Create a list of key cases and the corresponding legal principle, e.g., *Satyabrata Ghose* → Frustration (Sec 56), *Kailash Nath* → Liquidated Damages (Sec 74), *Hadley v Baxendale* → Remoteness of Damage (Sec 73).

3. Which of the following is a CORRECT proposition as regards award of damages in contract:

- (A) In general, no damages in contract are awarded for injury to plaintiff's feelings or for mental distress, loss of reputation or social discredit caused by the breach of contract.
- (B) In general, damages in contract are awarded for anguish and vexation caused by the breach of contract.
- (C) In general, damages in contract are awarded for anguish and loss of reputation, but not for social discredit caused by the breach of contract.
- (D) In general, damages in contract are awarded for emotional distress, but not for mental agony caused by the breach of contract.

Correct Answer: (A) In general, no damages in contract are awarded for injury to plaintiff's feelings or for mental distress, loss of reputation or social discredit caused by the breach of contract.

Solution:

Step 1: Understanding the Question:

The question asks for the correct general principle concerning the award of non-pecuniary (non-financial) damages for breach of contract.

Step 2: Analyzing the Principles of Contractual Damages:

The fundamental principle of damages for breach of contract, derived from Section 73 of the Indian Contract Act and the rule in *Hadley v Baxendale*, is to compensate the injured party for the financial loss suffered due to the breach. The goal is to place the party in the same financial position they would have been in if the contract had been performed.

This principle generally excludes compensation for non-pecuniary losses such as mental distress, disappointment, hurt feelings, or loss of reputation. Such losses are considered too remote or subjective to be compensated in commercial contracts.

While there are exceptions (e.g., contracts whose very purpose is to provide pleasure, relaxation, or peace of mind, like a holiday package), the *general rule* is that such damages are not awarded.

Step 3: Evaluating the Options:

(A) This option states the general rule accurately: no damages are awarded for injury to feelings, mental distress, loss of reputation, etc. This is the correct proposition.

(B), (C), and (D) These options incorrectly state that damages are generally awarded for various forms of mental and emotional suffering. They represent the exception rather than the general rule, and the distinctions they draw (e.g., between emotional distress and mental agony) are not standard principles in contract law damages.

Step 4: Final Answer:

The correct general proposition is that damages in contract law are intended to compensate for pecuniary loss, and not for non-pecuniary harms like mental distress or loss of reputation. Option (A) correctly reflects this principle.

 Quick Tip

Remember the primary purpose of contract damages: financial compensation. Damages for non-financial loss (like mental anguish) are the exception, not the rule. Focus on the word "general" in the question, which points you to the most widely applicable principle.

4. Which of the following is/are CORRECT proposition(s) as regards the law on damages for the breach of contract under section 74 of the Indian Contract Act:

(A) Where a sum is named in the contract as a liquidated amount payable by way of damages, only reasonable compensation can be awarded not exceeding the amount so stated.

(B) In cases where the amount fixed is in the nature of penalty, only reasonable compensation can be awarded, not exceeding the penalty so stated.

(C) The expression 'whether or not actual damage or loss is proved to have been caused thereby' in section 74 means that in every case the proof of actual damage or loss has been dispensed with.

(D) Both (A) and (B).

Correct Answer: (D) Both (A) and (B).

Solution:

Step 1: Understanding the Question:

The question asks to identify the correct legal proposition(s) regarding Section 74 of the Indian Contract Act based on the provided passage and established case law.

Step 2: Analyzing the Passage and Section 74:

The provided passage states that under Section 74, "the party complaining of the breach is entitled whether or not actually damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract **reasonable compensation not exceeding the amount so named or the penalty stipulated for.**" This single principle applies regardless of whether the stipulated sum is termed "liquidated damages" or a "penalty."

Step 3: Evaluating the Options:

(A) This statement says that for a liquidated amount, only reasonable compensation not exceeding that amount can be awarded. This is directly supported by the text of Section 74 and its judicial interpretation. It is a correct proposition.

(B) This statement says that for a penalty, only reasonable compensation not exceeding that penalty can be awarded. This is also correct. Section 74 treats both liquidated damages and penalties similarly: the court's award is based on reasonable compensation, with the stipulated sum acting as an upper limit.

(C) This statement claims that the phrase 'whether or not actual damage or loss is proved...' means proof of loss is *always* dispensed with. This is an incorrect interpretation. The Supreme Court in *Kailash Nath Associates v DDA* held that this phrase applies only when damage is difficult or impossible to prove. If the actual loss can be calculated, it must be proven. Therefore, this proposition is incorrect.

(D) Since propositions (A) and (B) are both correct statements of the law under Section 74, this option is the most accurate answer.

Step 4: Final Answer:

Both (A) and (B) correctly describe the core principle of Section 74: the award is for reasonable compensation up to the stipulated maximum, irrespective of the label (liquidated damages or penalty). Therefore, (D) is the correct choice.

 Quick Tip

A key takeaway from Section 74 of the Indian Contract Act is that it largely erases the complex English common law distinction between 'liquidated damages' (a genuine pre-estimate of loss) and 'penalty' (a deterrent). In India, the court focuses on awarding 'reasonable compensation' in both scenarios, with the stipulated amount being the ceiling.

5. _____ will apply to cases of forfeiture of earnest money under a contract. Where, however, forfeiture takes place under the terms and conditions of a public auction before agreement is reached, section 74 would have no application:

- (A) Section 55.
- (B) Section 73.
- (C) Section 74.
- (D) Section 75.

Correct Answer: (C) Section 74.

Solution:

Step 1: Understanding the Question:

The question asks which section of the Indian Contract Act governs the forfeiture of earnest money paid under a contract.

Step 2: Relating Earnest Money to the Indian Contract Act:

Earnest money is a deposit made as security for the due performance of the contract. If the depositor (buyer) breaches the contract, the amount is forfeited. This forfeiture is essentially a pre-stipulated consequence of a breach.

Section 74 deals with situations where a contract specifies a sum to be paid in case of a breach (as a penalty or otherwise). The forfeiture of a pre-paid amount like earnest money falls under this principle. The courts have consistently held that even in cases of forfeiture of

earnest money, the amount forfeited must be a reasonable compensation for the loss suffered and cannot be a penalty. Therefore, the principles of Section 74 apply.

Step 3: Evaluating the Options:

(A) **Section 55:** Deals with the effect of failure to perform at a fixed time when time is of the essence. It does not directly govern the forfeiture of deposits.

(B) **Section 73:** Provides for general, unliquidated damages for breach of contract. It applies when no specific sum is stipulated. Earnest money is a stipulated sum.

(C) **Section 74:** Applies to stipulated damages or penalties. The forfeiture of earnest money is considered a form of stipulated consequence for a breach, thus bringing it under the purview of Section 74 for assessing the reasonableness of the forfeiture. This is the correct section.

(D) **Section 75:** Deals with compensation for damage sustained through non-fulfilment of a contract that is rightfully rescinded. While related, Section 74 is more specific to the stipulated sum (earnest money).

Step 4: Final Answer:

The legal principles governing the forfeiture of earnest money under a concluded contract are found in Section 74. The court will examine if the forfeiture is reasonable or penal in nature.

 Quick Tip

Think of earnest money as a type of liquidated damages clause that operates through forfeiture instead of payment upon breach. Since it involves a pre-agreed financial consequence for a breach, it naturally falls under the scrutiny of Section 74, which regulates all such clauses to prevent unjust penalties.

II. "Law treats all contracts with equal respect and unless a contract is proved to suffer from any of the vitiating factors, the terms and conditions have to be enforced regardless of the relative strengths and weakness of the parties.

Section 28 of the Contract Act does not bar exclusive jurisdiction clauses. What has been barred is the absolute restriction of any party from approaching a legal forum. The right to legal adjudication cannot be taken away from any party through contract but can be relegated to a set of Courts for the ease of the parties. In the present dispute, the clause does not take away the right of the employee to pursue a legal claim but only restricts the employee to pursue those claims before the courts in Mumbai alone.

... the Court must already have jurisdiction to entertain such a legal claim. This limb pertains to the fact that a contract cannot confer jurisdiction on a court that did not have such a jurisdiction in the first place."

[Extracted from: *Rakesh Kumar Verma v HDFC Bank Ltd* 2025 INSC 473]

6. Which of the following propositions is CORRECT:

(A) It is, in general, open to the contracting parties to confer by their agreement jurisdiction on a court which does not possess the jurisdiction under the law.

(B) It is not open to the contracting parties to confer by their agreement jurisdiction on a court which does not possess the jurisdiction under the law.

(C) It is open to the contracting parties to confer by their written and registered agreement jurisdiction on a court which does not possess the jurisdiction under the law.

(D) If it is absolutely in the interest of the contracting parties, then only it is open to the contracting parties to confer by their agreement jurisdiction on a court which does not possess the jurisdiction under the law.

Correct Answer: (B) It is not open to the contracting parties to confer by their agreement jurisdiction on a court which does not possess the jurisdiction under the law.

Solution:

Step 1: Understanding the Question:

The question asks for the correct legal principle regarding whether parties to a contract can grant jurisdiction to a court that would not otherwise have it.

Step 2: Analyzing the Passage:

The passage provides a clear answer in its final paragraph: "...a contract **cannot confer jurisdiction on a court that did not have such a jurisdiction in the first place.**"

This is a fundamental principle of civil procedure and contract law. Jurisdiction is conferred by statute (the law), not by the consent of the parties.

Step 3: Evaluating the Options:

(A) This statement claims parties can confer jurisdiction on a court that lacks it. This directly contradicts the passage and the established legal principle. It is incorrect.

(B) This statement claims parties cannot confer jurisdiction on a court that lacks it. This perfectly aligns with the passage and the law. It is correct.

(C) and (D) These options suggest that under certain conditions (written/registered agreement, or parties' interest), jurisdiction can be conferred. These conditions are irrelevant. The method of agreement or the motive of the parties cannot create jurisdiction where none exists by law. They are incorrect.

Step 4: Final Answer:

Based on the clear statement in the passage and the fundamental legal principle that jurisdiction flows from law and not consent, option (B) is the only correct proposition.

 Quick Tip

Remember the maxim: "Consent cannot confer jurisdiction." Parties can choose one court among several that are legally competent, but they cannot create competency in a court that has none. This is a bedrock principle of the rule of law.

7. Which of the following propositions is NOT CORRECT about an ouster clause:

(A) Jurisdiction of civil courts is created by statute and cannot be created or conferred by consent of the parties upon a court which has not been granted jurisdiction by the law.

(B) Where two or more courts have under the law jurisdiction to try a suit or proceeding, an agreement between the parties that the dispute between them will be tried in one of such courts, is not contrary to public policy.

(C) Ouster clauses can oust the jurisdiction only of civil courts and not of the High Court, provided such jurisdiction exists in the High Court on account of part of cause of action having arisen with its territorial jurisdiction.

(D) An ouster clause is valid even if it confers exclusive jurisdiction on a court that otherwise has no territorial or pecuniary jurisdiction over the matter.

Correct Answer: (D) An ouster clause is valid even if it confers exclusive jurisdiction on a court that otherwise has no territorial or pecuniary jurisdiction over the matter.

Solution:

Step 1: Understanding the Question:

The question asks to identify the incorrect statement about "ouster clauses" (also known as exclusive jurisdiction clauses).

Step 2: Analyzing the Law on Ouster Clauses:

An ouster clause is an agreement where parties, out of two or more competent courts, choose one to have exclusive jurisdiction over their disputes.

Principle 1: Jurisdiction cannot be created by consent. A court chosen must already have jurisdiction under law (e.g., the Code of Civil Procedure).

Principle 2: Choosing one competent court over another is permissible and not against public policy (Section 28). This does not amount to an absolute restraint of legal proceedings.

Step 3: Evaluating the Options:

(A) This statement says jurisdiction is created by statute, not consent. This is a correct and fundamental principle.

(B) This statement says that if multiple courts are competent, choosing one is valid. This is the very definition of a valid ouster clause. This is a correct statement.

(C) This statement is nuanced. While parties cannot oust the constitutional writ jurisdiction of a High Court (Art. 226), they can agree to oust its ordinary original civil jurisdiction in favour of another competent court. However, the wording "only of civil courts and not of the High Court" is ambiguous and potentially misleading, but the most glaring error lies in another option.

(D) This statement claims an ouster clause is valid even if it picks a court that has no jurisdiction. This is fundamentally wrong and directly contradicts Principle 1 mentioned above, as well as the text from the passage. An ouster clause is only valid if it restricts jurisdiction to a court that is *already competent* to hear the case.

Step 4: Final Answer:

Statement (D) is a completely incorrect proposition of law. An ouster clause cannot confer jurisdiction on a court that lacks it. Therefore, it is the "NOT CORRECT" proposition.

 Quick Tip

The validity of an ouster clause hinges on a pre-existing condition: at least two courts must have concurrent jurisdiction. The clause is then simply an agreement to pick one of them. If only one court has jurisdiction, or the chosen court has none, the clause is void.

8. Which of the following cannot be a condition for an exclusive jurisdiction clause in a contract to be valid:

(A) It should be in consonance with section 28 of the Indian Contract Act, i.e. it should not absolutely restrict any party from initiating legal proceedings pertaining to the contract.

(B) The court which the parties have chosen for exclusive jurisdiction must be competent to have such jurisdiction.

- (C) The parties must either impliedly or explicitly agree to subject themselves to the jurisdiction of a specific court for the resolution of their contractual dispute.
- (D) The parties agree to the jurisdiction of a court that does not have the jurisdiction over the matter under the general law.

Correct Answer: (D) The parties agree to the jurisdiction of a court that does not have the jurisdiction over the matter under the general law.

Solution:

Step 1: Understanding the Question:

The question asks to identify which of the given options is NOT a valid condition for an exclusive jurisdiction clause. In other words, which condition would make such a clause invalid?

Step 2: Analyzing the Requirements for a Valid Exclusive Jurisdiction Clause:

For an exclusive jurisdiction clause to be valid, the following conditions must be met:

1. The clause must not be an absolute bar on legal proceedings (compliance with Section 28).
2. The court designated in the clause must be one of the courts that already has jurisdiction over the subject matter as per the law (e.g., CPC).
3. There must be an agreement, express or implied, between the parties to confer exclusive jurisdiction on that one court.

Step 3: Evaluating the Options:

(A) This states the clause must not absolutely restrict legal proceedings, which is the essence of Section 28. This is a **valid condition**.

(B) This states the chosen court must be competent. This is the most crucial requirement for validity. This is a **valid condition**.

(C) This states there must be an agreement between the parties. A contractual clause is, by definition, an agreement. This is a **valid condition**.

(D) This states that the parties agree to confer jurisdiction on a court that legally has none. As established previously, this is precisely what parties are not allowed to do. Such an agreement is void and unenforceable. Therefore, this **cannot be a condition for a valid clause**; it is a condition for an invalid one.

Step 4: Final Answer:

The action described in option (D) is what makes an exclusive jurisdiction clause invalid. Therefore, it cannot be a condition for the clause to be valid.

💡 Quick Tip

This question tests the same core principle as Q6 and Q7 from a different angle. The rule is simple: parties can choose a venue from a list of legally permissible venues, but they cannot create a new venue that is not on the list. Any clause attempting to do so is invalid.

9. Section 28 of the Indian Contract Act is subject to _____ appended to it:

- (A) One exception.
- (B) Two exceptions.

- (C) Three exceptions.
(D) Four exceptions.

Correct Answer: (C) Three exceptions.

Solution:

Step 1: Understanding the Question:

The question asks for the number of exceptions provided under Section 28 of the Indian Contract Act, 1872.

Step 2: Examining the Structure of Section 28:

Section 28 declares agreements in restraint of legal proceedings as void. However, the section itself provides certain exceptions to this rule. A direct examination of the bare act is required.

- **Exception 1:** This saves contracts where parties agree that any future dispute between them shall be referred to arbitration.
- **Exception 2:** This saves contracts where parties agree to refer a question that has already arisen to arbitration.
- **Exception 3:** This was inserted by the Banking Laws (Amendment) Act, 1997. It saves a guarantee agreement of a bank or financial institution that stipulates the extinguishment of rights or discharge of liability upon the expiry of a specified period not less than one year.

Step 3: Final Answer:

As per the current text of the Indian Contract Act, 1872, Section 28 has three distinct exceptions appended to it. Therefore, option (C) is the correct answer.

 Quick Tip

When a question asks about the number of exceptions, provisions, or types of a specific section of a statute, always try to recall the bare act's structure. Legal questions often test direct knowledge of statutory provisions, including amendments which can add or remove exceptions.

10. Which of the following agreements has/have been rendered void by section 28 of the Indian Contract Act:

- (A) An agreement by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals.
(B) An agreement which limits the time within which any party thereto may enforce his contractual rights.
(C) Both (A) and (B).
(D) Neither (A) nor (B).

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

Solution:

Step 1: Understanding the Question:

The question asks what kind of agreements are declared void by Section 28 of the Indian Contract Act.

Step 2: Analyzing the Provisions of Section 28:

Section 28 is divided into two main clauses that define void agreements:

- **Clause (a) of Section 28:** "Every agreement, by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals... is void to that extent."

- **Clause (b) of Section 28:** "Every agreement, which extinguishes the rights of any party thereto, or discharges any party thereto, from any liability, under or in respect of any contract on the expiry of a specified period so as to restrict any party from enforcing his rights... is void to that extent." This clause effectively invalidates agreements that shorten the statutory period of limitation for filing a suit.

Step 3: Evaluating the Options:

(A) This option is a direct paraphrase of Clause (a) of Section 28. Such an agreement is void.

(B) This option describes an agreement that limits the time to enforce rights, which is the substance of Clause (b) of Section 28. Such an agreement, which prescribes a limitation period shorter than the one provided by the Limitation Act, is also void.

(C) Since both (A) and (B) describe agreements that are rendered void by Section 28, this is the correct option.

(D) This is incorrect as both (A) and (B) are covered by Section 28.

Step 4: Final Answer:

Section 28 voids both agreements that completely bar access to courts and agreements that reduce the legally prescribed time limit for seeking legal remedy. Therefore, both (A) and (B) are correct.

 Quick Tip

Remember that Section 28 targets two types of restrictions: restriction on the *forum* (absolute bar from courts) and restriction on the *time* (shortening the limitation period). An exclusive jurisdiction clause is not an absolute bar, it's just a choice of forum, which is why it's valid if the chosen court is competent.

III. "The law is well settled that a constitutional court can award monetary compensation against the State and its officials for its failure to safeguard fundamental rights of citizens but there is no system or method to measure the damages caused in such situations. Quite often the courts have a difficult task in determining damages in various fact situations. The yardsticks normally adopted for determining the compensation payable in private tort claims are not as such applicable when a constitutional court determines the compensation in cases where there is a violation of fundamental rights guaranteed to its citizens.

... In D.K. Basu v. State of W.B. [(1997) SCC 1 416], a Constitution Bench of this Court held that there is no straitjacket formula for computation of damages and we find that there is no uniformity or yardstick followed in awarding damages for violation of fundamental rights. In Rudul Sah case [Rudul Sah v. State of Bihar, (1983) 4 SCC 141] this Court used the terminology 'palliative' for measuring the damages and the formula of 'ad hoc' was applied. In Sebastian Hongray case [Sebastian M. Hongray v. Union of India, (1984) 3 SCC 82] the expression used by this Court for determining the monetary compensation was 'exemplary' costs and the formula adopted was 'punitive'. In Bhim Singh case [Bhim Singh v. State of J & K, (1985) 4 SCC 677], the expression used by the Court was 'compensation' and

the method adopted was 'tortious formula'. In *D.K. Basu v. State of W.B.* [(1997) SCC 1 416] the expression used by this Court for determining the compensation was 'monetary compensation'. The formula adopted was 'cost to cost' method. Courts have not, therefore, adopted a uniform criterion since no statutory formula has been laid down."

[Extracted from: *Municipal Corporation of Delhi, Delhi v Uphaar Tragedy Victims Association* (2011) 14 SCC 481]

11. The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under article 32 by the Supreme Court or under article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under article 21 of the Constitution is a remedy available in _____ and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen:

- (A) Public law.
- (B) Private law.
- (C) Civil law.
- (D) All the above.

Correct Answer: (A) Public law.

Solution:

Step 1: Understanding the Question:

The question asks to identify the legal domain to which the remedy of monetary compensation for the violation of fundamental rights (specifically Article 21) belongs.

Step 2: Analyzing the Passage:

The passage clearly distinguishes the compensation awarded by a constitutional court from damages in "private tort claims." It emphasizes that this compensation is awarded against the "State and its officials for its failure to safeguard fundamental rights." This points to a relationship between the citizen and the State, which is the core of public law. The remedy is invoked through constitutional provisions (Articles 32 and 226), which are instruments of public law.

Step 3: Evaluating the Options:

(A) Public law: This field of law governs the relationship between individuals and the state. A claim for compensation against the state for failing its constitutional duty to protect fundamental rights is a classic public law remedy. This is the correct answer.

(B) Private law: This governs relationships between private individuals (e.g., contract law, private torts). The passage explicitly states that yardsticks from private tort claims are not applicable.

(C) Civil law: This is a broad category that includes both public and private law. While the remedy is civil in nature (as opposed to criminal), "Public law" is a more specific and accurate description of its domain.

(D) All the above: This is incorrect because the remedy is specifically a public law remedy, distinct from private law.

Step 4: Final Answer:

The remedy of awarding compensation for the violation of fundamental rights by the State is an evolution of Public Law, enforced through the writ jurisdiction of constitutional courts.

💡 Quick Tip

Whenever a question involves the State as a party and the violation of fundamental rights under the Constitution, the context is almost always 'Public Law'. Private law deals with disputes between citizen and citizen, whereas public law deals with citizen versus State.

12. Choose the IN-CORRECT proposition about 'constitutional tort':

- (A) In essence, it attributes vicarious liability on the State for acts and omissions of its agents which result in violation of fundamental rights of an individual or group.
- (B) Constitutional law and tort law came to be merged by the Supreme Court which began allowing successful petitioners to recover monetary damages from the State for infraction of their fundamental rights.
- (C) The causal connection between the act or omission and the resultant infraction of fundamental rights, is central to any determination of an action of constitutional tort.
- (D) The doctrine of sovereign immunity absolutely protects the State from liability for all acts of its servants, including those that violate fundamental rights.

Correct Answer: (D) The doctrine of sovereign immunity absolutely protects the State from liability for all acts of its servants, including those that violate fundamental rights.

Solution:

Step 1: Understanding the Question:

The question asks to identify the incorrect statement about the doctrine of 'constitutional tort'.

Step 2: Analyzing the Doctrine of Constitutional Tort:

Constitutional tort is a judicial innovation designed to hold the State accountable for violations of fundamental rights committed by its agents. It provides a public law remedy of compensation.

Step 3: Evaluating the Options:

(A) This statement accurately describes the principle. The State is held vicariously liable for the actions of its employees that lead to a violation of fundamental rights. This is a correct proposition.

(B) This statement describes the genesis of the doctrine. While "merged" might be a strong word, the Supreme Court did draw upon principles of tort law to create a remedy within constitutional law. This is considered a correct description of the process.

(C) Causation is a fundamental element in any tort action, including a constitutional tort. The petitioner must establish a direct link between the State's action/inaction and the violation of their right. This is a correct proposition.

(D) This statement is fundamentally incorrect. The very purpose and effect of the doctrine of constitutional tort, starting from cases like *Rudul Sah*, was to overcome the traditional defense of sovereign immunity. The Supreme Court has repeatedly held that sovereign immunity cannot be a defense when a citizen's fundamental rights are violated by the State.

Step 4: Final Answer:

The entire jurisprudence of constitutional tort in India is premised on the idea that sovereign immunity does not protect the State from liability for fundamental rights violations.

Therefore, statement (D) is incorrect.

 Quick Tip

Remember that 'Constitutional Tort' was created precisely because the old doctrine of 'sovereign immunity' was preventing citizens from getting justice against the State for violation of their most basic rights. The former is an antidote to the latter in the context of fundamental rights.

13. Which of the following cases is NOT related to constitutional tort:

- (A) Kaushal Kishor v State of Uttar Pradesh 2023 INSC 4.
- (B) Bombay Hospital & Medical Research Centre v Asha Jaiswal 2021 INSC 801.
- (C) Municipal Corporation of Delhi, Delhi v Uphaar Tragedy Victims Association (2011) 14 SCC 481.
- (D) DK Basu v State of WB [(1997) SCC 1 416.

Correct Answer: (B) Bombay Hospital & Medical Research Centre v Asha Jaiswal 2021 INSC 801.

Solution:

Step 1: Understanding the Question:

The question asks to identify the case that does not primarily deal with the doctrine of constitutional tort, which involves state liability for fundamental rights violations.

Step 2: Analyzing the Cases:

(A) Kaushal Kishor v State of Uttar Pradesh: This Constitution Bench judgment dealt with whether fundamental rights can be enforced against persons other than the State and whether a minister's statement can be vicariously attributed to the government. It explores the contours of State duty and liability, which is related to the foundations of constitutional tort.

(B) Bombay Hospital & Medical Research Centre v Asha Jaiswal: This case primarily deals with medical negligence and the applicability of the Consumer Protection Act to medical services. The dispute is between a patient and a private hospital, which falls squarely within the realm of private tort law and statutory consumer law, not a constitutional tort against the State.

(C) Municipal Corporation of Delhi... v Uphaar Tragedy Victims Association: This case is a landmark judgment on constitutional tort, where the Supreme Court awarded compensation against public authorities (like MCD) for their negligence leading to the Uphaar cinema fire, holding it to be a violation of the victims' right to life under Article 21. It is the source of the provided passage.

(D) DK Basu v State of WB: This is a seminal case on custodial violence and police brutality. The Supreme Court laid down detailed guidelines to protect the fundamental rights of arrested persons and affirmed the principle of awarding monetary compensation as a public law remedy for such violations. It is a classic constitutional tort case mentioned in the passage.

Step 3: Final Answer:

Cases (A), (C), and (D) are all linked to the State's liability for protecting or violating fundamental rights. Case (B) is a private law dispute concerning medical negligence and consumer rights, and does not involve the State as a defendant in a constitutional tort claim.

 Quick Tip

To distinguish constitutional tort cases, look for the defendant. If the primary defendant is the State or a state instrumentality, and the claim is for violation of a fundamental right, it's likely a constitutional tort case. If the defendants are private parties, it's likely a private tort or a statutory claim.

14. Which of the following propositions is/are CORRECT about the award of damages in cases where there is violation of fundamental rights:

- (A) Constitutional courts can in appropriate cases of serious violation of life and liberty of the individuals award punitive damages.
- (B) Owing to lack of legislation, the Courts dealing with the cases of tortious claims against State and its officials are not following a uniform pattern while deciding those claims and this, at times, leads to undesirable consequences and arbitrary fixation of compensation amount.
- (C) Both (A) and (B).
- (D) Neither (A) nor (B).

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

Solution:

Step 1: Understanding the Question:

The question asks to identify the correct proposition(s) about the award of damages for fundamental rights violations, based on the provided passage.

Step 2: Analyzing the Passage for Evidence:

For proposition (A): The passage mentions the *Sebastian Hongray* case, where "the expression used by this Court for determining the monetary compensation was 'exemplary' costs and the formula adopted was '**punitive**'." This directly supports the idea that constitutional courts can award punitive damages.

For proposition (B): The passage explicitly states, "...there is **no system or method to measure the damages...**", "...there is **no uniformity or yardstick followed** in awarding damages...", and "Courts have not, therefore, adopted a **uniform criterion since no statutory formula has been laid down.**" This directly supports the statement that the lack of legislation has led to a non-uniform pattern in awarding compensation.

Step 3: Evaluating the Options:

- (A) This proposition is correct, as evidenced by the reference to the *Sebastian Hongray* case in the passage.
- (B) This proposition is also correct, as it is a central theme of the provided passage.
- (C) Since both (A) and (B) are factually correct statements supported by the passage, this is the most comprehensive and accurate answer.
- (D) This is incorrect because both propositions are correct.

Step 4: Final Answer:

The passage confirms that courts can award punitive damages and that there is a lack of uniformity in compensation due to the absence of a statutory formula. Therefore, both propositions (A) and (B) are correct.

 Quick Tip

In comprehension-based questions, always trace each option back to a specific line or statement in the given passage. The correct answer is the one that is most directly and unambiguously supported by the text. Here, both points are explicitly mentioned.

15. The principle of sovereign immunity of the State for the tortious acts of its servant, has been held to be _____ in the case of violation of fundamental rights:

- (A) Always applicable.
- (B) Inapplicable.
- (C) A good defence.
- (D) Occasionally applicable.

Correct Answer: (B) Inapplicable.

Solution:

Step 1: Understanding the Question:

The question asks about the status of the doctrine of sovereign immunity when the tortious act of a state servant results in a violation of a citizen's fundamental rights.

Step 2: Analyzing the Jurisprudence on Sovereign Immunity and Fundamental Rights:

Historically, under the doctrine of sovereign immunity, the State could not be sued for the torts committed by its servants in the exercise of sovereign functions. However, the Indian Supreme Court, through a series of landmark judgments, carved out a significant exception to this rule.

In cases like *Rudul Sah v. State of Bihar*, *Bhim Singh v. State of J&K*, and *Nilabati Behera v. State of Orissa*, the Court held that the defense of sovereign immunity is not available to the State when its actions lead to the infringement of fundamental rights, particularly the right to life and personal liberty under Article 21. The Court reasoned that the constitutional duty to protect fundamental rights overrides the common law principle of sovereign immunity.

Step 3: Evaluating the Options:

(A) Always applicable: This is incorrect. The jurisprudence has specifically made it inapplicable in this context.

(B) Inapplicable: This is the correct position of law. The Supreme Court has held that the State is liable to pay compensation for violating fundamental rights and cannot hide behind the shield of sovereign immunity.

(C) A good defence: This is incorrect for the same reason as (A). It is not a valid defense in such cases.

(D) Occasionally applicable: This is also incorrect. The principle is clear: in cases of fundamental rights violations, the defense is unavailable. There is no ambiguity or occasional applicability.

Step 4: Final Answer:

The established legal principle is that sovereign immunity is inapplicable as a defense for the State in an action for compensation arising from the violation of fundamental rights.

💡 Quick Tip

Remember the hierarchy of laws. The Constitution is the supreme law of the land. Fundamental Rights are at the heart of the Constitution. Therefore, a common law doctrine like sovereign immunity must give way to the enforcement of fundamental rights. The State's constitutional obligation to protect these rights is paramount.

IV. It is well recognized that actionable negligence in context of medical profession involves three constituents (i) duty to exercise due care; (ii) breach of duty and (iii) consequential damage. However, a simple lack of care, an error of judgment or an accident is not sufficient proof of negligence on part of the medical professional so long as the doctor follows the acceptable practice of the medical profession in discharge of his duties. He cannot be held liable for negligence merely because a better alternative treatment or course of treatment was available or that more skilled doctors were there who could have administered better treatment.

A medical professional may be held liable for negligence only when he is not possessed with the requisite qualification or skill or when he fails to exercise reasonable skill which he possesses in giving the treatment. None of the above two essential conditions for establishing negligence stand satisfied in the case at hand as no evidence was brought on record to prove that Dr. Neeraj Sud had not exercised due diligence, care or skill which he possessed in operating the patient and giving treatment to him. When reasonable care, expected of the medical professional, is extended or rendered to the patient unless contrary is proved, it would not be a case for actionable negligence.

[Extracted with edits and revisions from Neeraj Sud v Jaswinder Singh 2024 INSC 825]

16. In which of the following situations, a professional would be held liable for negligence:

- (A) If he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence, in the given case, the skill which he did possess.
- (B) If he failed to use exceptional or extraordinary precautions which might have prevented the damage (particular happening).
- (C) Both (A) and (B).
- (D) Neither (A) nor (B).

Correct Answer: (A) If he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence, in the given case, the skill which he did possess.

Solution:**Step 1: Understanding the Question:**

The question asks to identify the circumstances under which a medical professional can be held liable for negligence, based on the provided text.

Step 2: Analyzing the Passage:

The second paragraph of the passage explicitly states the two conditions for liability: "A medical professional may be held liable for negligence only when **he is not possessed with the requisite qualification or skill** or when **he fails to exercise reasonable skill which he possesses** in giving the treatment."

Step 3: Evaluating the Options:

(A) This option is a direct paraphrase of the two conditions mentioned in the passage. It correctly identifies the two pillars of professional negligence: lack of professed skill and failure to exercise possessed skill with reasonable competence.

(B) This option suggests liability for failing to use "exceptional or extraordinary precautions." This sets a much higher standard than the law requires. The passage and general legal principles require "due diligence," "reasonable skill," and "reasonable care," not exceptional measures. The passage states that a doctor is not liable just because a more skilled doctor could have done better. Therefore, this is an incorrect standard.

(C) This is incorrect because option (B) is incorrect.

(D) This is incorrect because option (A) is correct.

Step 4: Final Answer:

Option (A) accurately reflects the conditions for establishing medical negligence as laid out in the passage.

Quick Tip

The standard of care in medical negligence is that of a "reasonable professional," not a perfect or an exceptional one. Always look for terms like "reasonable," "ordinary," and "due care." A demand for "exceptional" or "highest" skill is usually an incorrect statement of the legal standard.

17. Which of the following propositions is **INCORRECT** as regards negligence in civil law and in criminal law:

(A) The jurisprudential concept of negligence differs in civil law and criminal law.

(B) What may be negligence in civil law may not necessarily be negligence in criminal law.

(C) For an act to amount to criminal negligence, the degree of negligence should be much higher, i.e. gross or of a very high degree.

(D) For negligence to amount to both a 'tort' and an 'offence', the element of mens rea must necessarily be shown to have existed.

Correct Answer: (D) For negligence to amount to both a 'tort' and an 'offence', the element of mens rea must necessarily be shown to have existed.

Solution:

Step 1: Understanding the Question:

The question asks to identify the incorrect statement when comparing civil negligence (a tort) and criminal negligence (an offence).

Step 2: Analyzing the Difference between Civil and Criminal Negligence:

Civil Negligence (Tort): It is based on a breach of a duty of care owed to another person, which results in damage. The focus is on compensating the victim. The standard is a failure

to act as a reasonable person would.

Criminal Negligence: It involves a much higher degree of carelessness. The act must be so reckless or grossly negligent as to show a disregard for human life and safety. The focus is on punishing the offender. The Supreme Court in cases like *Jacob Mathew v. State of Punjab* has emphasized this distinction.

Step 3: Evaluating the Options:

(A) The concepts differ in their purpose (compensation vs. punishment) and standard. This is a correct proposition.

(B) Since the standard for criminal negligence is higher, an act of civil negligence might not meet the threshold for criminal liability. This is a correct proposition.

(C) This is the core distinction established by courts. Criminal liability requires "gross" negligence. This is a correct proposition.

(D) This statement is incorrect. The essence of negligence, even criminal negligence (e.g., under Section 304A of the IPC), is not necessarily a "guilty mind" (*mens rea*) in the traditional sense of 'intention' or 'knowledge'. Instead, it is about a very high degree of carelessness or recklessness. A person can be held criminally negligent for an act they did not intend. Therefore, stating that *mens rea* must *necessarily* be shown is incorrect.

Step 4: Final Answer:

The proposition in option (D) is incorrect because criminal negligence is characterized by the grossness of the act rather than the mandatory presence of a guilty mind or intention.

💡 Quick Tip

Remember that *mens rea* means "guilty mind." While it's a key element for many crimes like murder or theft, crimes of negligence are an exception. In negligence, the fault lies in the actor's failure to meet a standard of conduct, not in their state of mind.

18. The basis or the yardstick for judging the performance of the professional proceeded against on indictment of negligence is:

(A) That of an ordinary and reasonably competent person exercising ordinary skill in that profession.

(B) That of a person with the highest level of expertise or skills in that branch which he practices.

(C) That of a person with the highest level of expertise or skills in that branch which he practices, and possessing the knowledge of all latest developments.

(D) Both (B) and (C).

Correct Answer: (A) That of an ordinary and reasonably competent person exercising ordinary skill in that profession.

Solution:

Step 1: Understanding the Question:

The question asks for the standard of care used to judge a professional's conduct in a negligence case.

Step 2: Analyzing the Passage:

The passage provides several clues. It says negligence is not proven just because "a better alternative treatment... was available or that more skilled doctors... could have administered better treatment." This directly refutes the idea of a "highest skill" standard. It emphasizes "reasonable skill" and "acceptable practice." This is famously known as the Bolam test.

Step 3: Evaluating the Options:

(A) This option describes the standard of an "ordinary and reasonably competent person exercising ordinary skill." This aligns perfectly with the passage and the established legal principle. This is the correct standard.

(B) This option sets the standard as the "highest level of expertise." The passage explicitly rejects this by stating that the existence of more skilled doctors is not a basis for liability. This is an incorrect, excessively high standard.

(C) This option also sets the standard at the "highest level" and adds the requirement of knowing "all latest developments." This is an unrealistically high standard. While professionals are expected to stay reasonably updated, they are not expected to know everything instantly.

(D) Since (B) and (C) are incorrect, this option is also incorrect.

Step 4: Final Answer:

The correct yardstick is the standard of a reasonably competent professional with ordinary skill in their field, as stated in option (A).

 Quick Tip

The legal test for professional negligence is often called the "Bolam test," which holds that a professional is not negligent if they have acted in accordance with a practice accepted as proper by a responsible body of professional opinion. This test embodies the "ordinary skilled person" standard.

19. Deviation from normal medical practice is not necessarily evidence of negligence. In order to establish liability of a medical practitioner on that basis, which of the following requirements has/have to be shown:

(A) That, there is a usual and normal practice; and the medical practitioner (defendant) has not adopted it.

(B) That, the course in fact adopted by the medical practitioner (defendant) is one, which no professional man of ordinary skill would have taken, had he been acting with ordinary care.

(C) Both (A) and (B).

(D) Neither (A) nor (B).

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

Solution:

Step 1: Understanding the Question:

The question asks what needs to be proven to establish negligence when a doctor has deviated from a normal practice.

Step 2: Analyzing the Legal Principle (Bolitho Test):

The law on this point, evolving from the Bolam test to the Bolitho test, requires a two-stage analysis. First, it must be established that the doctor deviated from a common practice (as in

A). However, this alone is not enough, because medicine is not an exact science and there can be different schools of thought. To establish liability, it must also be shown that the practice the doctor *did* follow was not a reasonable one. The ultimate test is whether the chosen course of action is one that "no professional man of ordinary skill would have taken." This means the practice followed was not just different, but indefensible.

Step 3: Evaluating the Options:

(A) Simply showing a deviation from normal practice is insufficient. There may be other acceptable practices. So, this alone is not enough.

(B) This describes the crucial second part: proving that the chosen alternative was itself negligent, i.e., something a reasonable professional would never do.

(C) To establish liability based on deviation, one must first show the deviation from a normal practice (A) and then prove that the deviation was itself negligent because no reasonable body of professional opinion would support it (B). Therefore, both elements are required to build a successful claim.

(D) This is incorrect because both (A) and (B) are necessary components of the proof.

Step 4: Final Answer:

Proving negligence based on deviation from normal practice requires showing both the deviation itself and that the chosen course was not a reasonably supported alternative. Thus, both (A) and (B) are required.

 Quick Tip

Think of it as a two-step proof: 1. Did the doctor do something different from the usual? 2. Was that different thing logically and professionally indefensible? Just being different is not enough to be negligent.

20. A medical practitioner would not be held liable:

(A) Where his conduct fell below that of the standards of a reasonably competent practitioner in his field.

(B) Where things went wrong from mischance or misadventure or through an error of judgment in choosing one reasonable course of treatment in preference of another.

(C) Both (A) and (B).

(D) Neither (A) nor (B).

Correct Answer: (B) Where things went wrong from mischance or misadventure or through an error of judgment in choosing one reasonable course of treatment in preference of another.

Solution:

Step 1: Understanding the Question:

The question asks to identify the situation in which a medical practitioner would **not** be held liable for negligence.

Step 2: Analyzing the Passage:

The first paragraph of the passage explicitly states: "...a simple lack of care, **an error of judgment or an accident is not sufficient proof of negligence** on part of the medical professional so long as the doctor follows the acceptable practice..."

Step 3: Evaluating the Options:

- (A) This option describes a situation where the conduct "fell below" the required standard. This is the very definition of negligence. In this case, the practitioner *would* be held liable.
- (B) This option describes situations involving "mischance or misadventure" or an "error of judgment" between reasonable alternatives. According to the passage, these are precisely the circumstances where a doctor is *not* held liable. Medicine involves inherent risks, and a negative outcome does not automatically mean there was negligence.
- (C) This is incorrect because (A) describes a situation of liability.
- (D) This is incorrect because (B) correctly describes a situation of no liability.

Step 4: Final Answer:

A medical practitioner is not held liable for an unfortunate outcome resulting from an accident, mischance, or a reasonable error of judgment, as stated in option (B).

 Quick Tip

A key principle in medical negligence is that the law does not demand perfection. An "error of judgment" is not negligence if the judgment was one that a reasonably competent professional might have made. Negligence is an error of care or skill, not just an error in outcome.

V. Today, in the year 2025, we have been experiencing the drastic consequences of large scale destruction of environment on human lives in the capital city of our country and in many other cities. At least for a span of two months every year, the residents of Delhi suffocate due to air pollution. The AQI level is either dangerous or very dangerous. They suffer in their health. The other leading cities are not far behind. The air and water pollution in the cities is ever increasing. Therefore, coming out with measures such as the 2021 Official Memorandum is violative of fundamental rights of all persons guaranteed under Article 21 to live in a pollution free environment. It also infringes the right to health guaranteed under Article 21 of the Constitution.

The 2021 OM talks about the concept of development. Can there be development at the cost of environment? Conservation of environment and its improvement is an essential part of the concept of development. Therefore, going out of the way by issuing such OM's to protect those who have caused harm to the environment has to be deprecated by the Courts which are under a constitutional and statutory mandate to uphold the fundamental right under Article 21 and to protect the environment. In fact, the Courts should comedown heavily on such attempts. As stated earlier, the 2021 OM deals with project proponents who were fully aware of the EIA notification and who have taken conscious risk to flout the EIA notification and go ahead with the construction/continuation/expansion of projects. They have shown scant respect to the law and their duty to protect the environment. Apart from violation of Article 21, such action is completely arbitrary which is violative article 14 of the Constitution of India, besides being violative of the 1986 Act and the EIA notification.

(Extracted with edits from Vanashakti v. Union of India, 2025 INSC 718)

21. What was the central controversy in the petition, Vanashakti v. Union of India?

- (A) The constitutional validity of the Environment (Protection) Act, 1986.
- (B) The determination of pollution load standards for Category 'B' projects.

- (C) The ex post facto grant of Environmental Clearance (EC).
(D) The delegation of powers to the State Environment Impact Assessment Authority (SEIAA).

Correct Answer: (C) The ex post facto grant of Environmental Clearance (EC).

Solution:

Step 1: Understanding the Question:

The question asks to identify the main issue in the case of *Vanashakti v. Union of India* based on the provided text.

Step 2: Analyzing the Passage:

The passage centers on a "2021 Official Memorandum (OM)" which it criticizes for "protect[ing] those who have caused harm to the environment." It describes project proponents who "flout the EIA notification and go ahead with the construction/continuation/expansion of projects." This describes a situation where work is done first without clearance, and the OM attempts to regularize it later. This process of granting clearance after the fact is known as "ex post facto" clearance. The entire passage deprecates this practice.

Step 3: Evaluating the Options:

- (A) The passage does not question the validity of the Act itself; rather, it alleges that the OM violates the Act.
(B) The passage does not go into the technical details of pollution standards.
(C) This option, "The ex post facto grant of Environmental Clearance (EC)," perfectly encapsulates the central controversy described in the passage – the attempt to grant environmental approval after the project has already started in violation of the law.
(D) The role of the SEIAA is not the focus of the text.

Step 4: Final Answer:

The central issue discussed is the practice of granting environmental clearance after the project work has already begun, i.e., ex post facto EC.

 Quick Tip

"Ex post facto" is a Latin term meaning "after the fact." In environmental law, it refers to the illegal practice of trying to get approval for a project after you've already started building it, which defeats the purpose of an environmental impact assessment (EIA).

22. The Environment Impact Assessment (EIA) Notification, 2006, which mandates prior EC, was issued by the Central Government under which primary legislation?

- (A) The Wild Life (Protection) Act, 1972.
(B) The Biological Diversity Act, 2002.
(C) The Environment (Protection) Act, 1986.
(D) The National Green Tribunal Act, 2010.

Correct Answer: (C) The Environment (Protection) Act, 1986.

Solution:**Step 1: Understanding the Question:**

The question asks for the parent statute that gives the Central Government the power to issue the EIA Notification.

Step 2: Analyzing the Relevant Environmental Legislations:

The Environment (Protection) Act, 1986 (EPA) is an "umbrella" legislation that gives wide-ranging powers to the Central Government to take all measures necessary to protect and improve the environment. Section 3 of the EPA specifically empowers the Central Government to take such measures, and this power has been used to issue notifications like the EIA Notification and the Coastal Regulation Zone (CRZ) Notification. The other acts listed are for more specific purposes.

Step 3: Evaluating the Options:

(A) The Wild Life (Protection) Act, 1972: Deals with the protection of flora and fauna.

(B) The Biological Diversity Act, 2002: Deals with the conservation of biological diversity and benefit-sharing.

(C) The Environment (Protection) Act, 1986: This is the correct parent act, providing broad powers for environmental regulation, including mandating prior environmental clearance for various projects.

(D) The National Green Tribunal Act, 2010: This Act established the NGT for adjudication of environmental cases; it does not empower the government to issue EIA notifications.

Step 4: Final Answer:

The EIA Notification, 2006, is a piece of delegated legislation issued under the authority granted by the Environment (Protection) Act, 1986.

💡 Quick Tip

Remember the Environment (Protection) Act, 1986 as the "mother" or "umbrella" act for environmental regulation in India. Many key rules and notifications, including those for EIA, CRZ, and waste management, are framed under this single powerful act.

23. The Supreme Court reiterated a concluded finding that the concept of ex post facto or retrospective Environmental Clearance (EC) is:

- (A) Detrimental to the environment but permissible under Article 142 of the Constitution.
- (B) Completely alien to environmental jurisprudence and the EIA notification.
- (C) A necessary measure to bring defaulting entities into regulatory compliance.
- (D) A valid administrative decision protected by Section 3 of the 1986 Act.

Correct Answer: (B) Completely alien to environmental jurisprudence and the EIA notification.

Solution:**Step 1: Understanding the Question:**

The question asks for the Supreme Court's established view on the legality of ex post facto environmental clearance.

Step 2: Analyzing the Passage and Legal Precedents:

The passage strongly condemns the practice, stating that such actions show "scant respect to the law" and are "completely arbitrary which is violative article 14 of the Constitution of India, besides being violative of the 1986 Act and the EIA notification." This language indicates a fundamental incompatibility with the law. In several judgments, such as *Alembic Pharmaceuticals Ltd. v. Rohit Prajapati*, the Supreme Court has held that the concept of ex post facto clearance is contrary to the fundamental principles of environmental law. The entire purpose of an EIA is to predict and prevent harm *before* it happens.

Step 3: Evaluating the Options:

(A) While the court has, in rare cases using its extraordinary powers under Article 142, allowed projects to continue with penalties, its legal finding on the concept itself is that it is illegal. This option misrepresents the general rule.

(B) This statement accurately reflects the court's consistent position. The idea of granting clearance after the damage is done is antithetical to the purpose of prior assessment. It is "alien" to the jurisprudence.

(C) The court views this not as a necessary measure, but as an illegal attempt to regularize a violation, which encourages non-compliance.

(D) The court holds that it is a violation of Section 3 of the Act, not a valid decision protected by it.

Step 4: Final Answer:

The Supreme Court has firmly held that ex post facto EC is contrary to the letter and spirit of environmental laws.

 Quick Tip

The key to understanding the issue with ex post facto clearance is the word "prior" in "prior environmental clearance." The law requires assessment *before* action. Allowing assessment after action makes a mockery of the entire process.

24. The EIA Notification 2006, mandates that prior Environmental Clearance (EC) must be obtained at what stage of a project?

- (A) Before commencing operations or processes.
- (B) Within six months of a project's completion.
- (C) After the public hearing but before the final appraisal.
- (D) Before any construction work, or preparation of land is started on the project.

Correct Answer: (D) Before any construction work, or preparation of land is started on the project.

Solution:

Step 1: Understanding the Question:

The question asks for the specific stage at which prior EC must be secured according to the EIA Notification, 2006.

Step 2: Analyzing the EIA Process:

The EIA Notification, 2006, is explicit that no project or activity listed in its schedule shall be undertaken without a prior environmental clearance. "Undertaken" is interpreted very broadly to mean the very first physical step of the project on the ground. This is to ensure

that the environmental assessment is completed before any irreversible changes are made to the site.

Step 3: Evaluating the Options:

(A) "Commencing operations" is too late. A lot of environmental damage can occur during the construction phase itself.

(B) This describes a post-facto situation, which is illegal.

(C) Public hearing is a part of the EC process; clearance is granted only after the entire process, including appraisal, is complete.

(D) This is the correct stage. Prior EC is mandatory before any physical activity, including construction or even site preparation like levelling or fencing, begins. This ensures that the decision to grant clearance is made before any environmental impact occurs.

Step 4: Final Answer:

Prior Environmental Clearance must be obtained before any physical work starts on the project site.

 Quick Tip

For questions about process timelines in law, always look for the earliest possible trigger point. For EIA, the trigger is not the start of factory production, but the very first swing of a pickaxe or movement of a bulldozer on the land.

25. Allowing for ex post facto clearance was held to be contrary to which two fundamental principles of environmental jurisprudence?

(A) Doctrine of Necessity and Principle of Stare Decisis.

(B) Polluter Pays Principle and Public Trust Doctrine.

(C) Precautionary Principle and Sustainable Development.

(D) Doctrine of Sovereign immunity and doctrine of Public Trust

Correct Answer: (C) Precautionary Principle and Sustainable Development.

Solution:

Step 1: Understanding the Question:

The question asks which key environmental principles are violated by the practice of ex post facto clearance.

Step 2: Analyzing the Principles in Relation to Ex Post Facto Clearance:

Precautionary Principle: This principle, central to environmental law, states that where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. Prior EIA is the most important procedural embodiment of this principle. Ex post facto clearance completely bypasses this, as it does not take precaution; it reacts after the fact.

Sustainable Development: This principle advocates for balancing development with environmental protection. It requires integrating environmental considerations into the development process from the beginning. Ex post facto clearance represents a failure of this integration, prioritizing development first and considering the environment later, if at all. This is contrary to sustainable development.

Step 3: Evaluating the Options:

(A) These are general legal doctrines, not specific to environmental law.

(B) The Polluter Pays Principle applies to remedying damage that has already occurred.

While relevant, the primary violation is in not preventing the damage in the first place. The Public Trust Doctrine relates to the state's duty to protect natural resources for the public, which is also violated, but the most direct procedural principles undermined are precaution and sustainability.

(C) This option correctly identifies the two principles that are most fundamentally violated. Prior EIA is a tool for precaution, and the entire framework aims at achieving sustainable development. Ex post facto clearance subverts both.

(D) Sovereign immunity is a tort law defense and is irrelevant here.

Step 4: Final Answer:

Ex post facto clearance is fundamentally at odds with the Precautionary Principle and the principle of Sustainable Development.

💡 Quick Tip

Link key legal procedures to their underlying principles. EIA is the practical application of the Precautionary Principle. Any attempt to bypass the "prior" nature of EIA is a direct attack on this principle.

VI. With the Paris Agreement, countries established an enhanced transparency framework (ETF). Under ETF, starting in 2024, countries will report transparently on actions taken and progress in climate change mitigation, adaptation measures and support provided or received. It also provides for international procedures for the review of the submitted reports.

The information gathered through the ETF will feed into the Global stocktake which will assess the collective progress towards the long-term climate goals. This will lead to recommendations for countries to set more ambitious plans in the next round.

Although climate change action needs to be massively increased to achieve the goals of the Paris Agreement, the years since its entry into force have already sparked low-carbon solutions and new markets. More and more countries, regions, cities and companies are establishing carbon neutrality targets. Zero-carbon solutions are becoming competitive across economic sectors representing 25% of emissions. This trend is most noticeable in the power and transport sectors and has created many new business opportunities for early movers. By 2030, zero-carbon solutions could be competitive in sectors representing over 70% of global emissions.

(Extracted with edits from the website UNFCCC.INT)

26. What is the central, long-term temperature goal of the Paris Agreement?

(A) To limit the global temperature increase to exactly 1.5 degrees

(B) To hold the increase in the global average temperature to well below 2 degrees above pre-industrial levels and to pursue efforts to limit it to 1.5 degrees.

(C) To reduce the global average temperature to pre-industrial levels by the year 2100.

(D) To limit the global temperature increase to 3 degrees above pre-industrial levels.

Correct Answer: (B) To hold the increase in the global average temperature to well below 2 degrees above pre-industrial levels and to pursue efforts to limit it to 1.5 degrees.

Solution:

Step 1: Understanding the Question:

The question asks for the specific long-term temperature goal as stated in the Paris Agreement.

Step 2: Recalling the Paris Agreement's Text:

Article 2 of the Paris Agreement sets out its goals. The primary temperature goal is to strengthen the global response to the threat of climate change by "Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels."

Step 3: Evaluating the Options:

(A) This is incorrect. 1.5°C is the aspirational target, not the definitive limit. The primary commitment is "well below 2°C".

(B) This option accurately reflects the two-part goal: the main commitment to stay well below 2°C and the aspirational goal of pursuing 1.5°C. This is the correct wording.

(C) The goal is not to reduce temperatures back to pre-industrial levels, but to limit the increase.

(D) 3 degrees is far above the agreed limit and would represent a catastrophic failure to meet the goal.

Step 4: Final Answer:

The correct and precise formulation of the Paris Agreement's temperature goal is captured in option (B).

 Quick Tip

Pay attention to the precise wording of international treaties. The Paris Agreement's goal is nuanced: the binding part is "well below 2°C," and the "1.5°C" part is a target to "pursue efforts" towards, reflecting its higher ambition and greater difficulty.

27. The Paris Agreement calls for a process to periodically assess the collective progress toward achieving its long-term goals. What is this process called?

- (A) The Compliance Mechanism
- (B) The Global Stocktake
- (C) The Transparency Framework
- (D) The Adaptation Communication

Correct Answer: (B) The Global Stocktake

Solution:

Step 1: Understanding the Question:

The question asks for the name of the process used to periodically assess collective progress under the Paris Agreement.

Step 2: Analyzing the Passage:

The second paragraph of the passage explicitly states: "The information gathered through the ETF will feed into the **Global stocktake which will assess the collective progress** towards the long-term climate goals." This directly answers the question.

Step 3: Evaluating the Options:

- (A) The Compliance Mechanism is a separate process to facilitate implementation and promote compliance; it is not the assessment of collective progress.
- (B) The passage clearly identifies the "Global Stocktake" as the assessment process. This is correct.
- (C) The Transparency Framework is the process of reporting data, which then "feeds into" the Global Stocktake. It is the input, not the assessment itself.
- (D) Adaptation Communications are reports on adaptation efforts, a component of the overall process.

Step 4: Final Answer:

The process of assessing collective progress is called the Global Stocktake.

💡 Quick Tip

In the Paris Agreement's architecture, think of the Transparency Framework as the individual report cards from each country, and the Global Stocktake as the teacher's final report on the entire class's performance.

28. Which previous International Climate Treaty did the Paris Agreement succeed and replace in terms of its operational framework after 2020?

- (A) The Montreal Protocol
- (B) The Basel Convention
- (C) The Kyoto Protocol
- (D) The Convention on Biological Diversity (CBD)

Correct Answer: (C) The Kyoto Protocol

Solution:

Step 1: Understanding the Question:

The question asks to identify the predecessor to the Paris Agreement in the international climate change regime.

Step 2: Recalling the History of Climate Negotiations:

The United Nations Framework Convention on Climate Change (UNFCCC) is the parent treaty. The first major operational agreement under the UNFCCC was the Kyoto Protocol, adopted in 1997. It established binding emission reduction targets for developed countries for its first commitment period (2008-2012) and a second period (2013-2020). The Paris Agreement was negotiated to create the framework that would apply to all countries post-2020, succeeding the Kyoto system.

Step 3: Evaluating the Options:

- (A) **The Montreal Protocol:** Deals with substances that deplete the ozone layer.
- (B) **The Basel Convention:** Deals with the control of transboundary movements of hazardous wastes.
- (C) **The Kyoto Protocol:** This was the main international treaty with binding climate targets before the Paris Agreement. The Paris Agreement is its successor. This is the correct answer.
- (D) **The Convention on Biological Diversity (CBD):** Deals with the conservation of biodiversity.

Step 4: Final Answer:

The Paris Agreement is the successor to the Kyoto Protocol as the primary operational framework under the UNFCCC.

💡 Quick Tip

Remember the chronological order and relationship: UNFCCC (1992) is the framework convention (the constitution). Kyoto Protocol (1997) was the first major implementing law with targets for some. Paris Agreement (2015) is the new implementing law with commitments for all.

29. The Paris Agreement establishes a clear distinction in obligations between developed and developing countries regarding:

- (A) The long-term temperature goal, with different limits for each group.
- (B) Mitigation efforts, by requiring only developed countries to submit NDCs.
- (C) Climate finance, by requiring developed countries to provide financial resources to assist developing countries.
- (D) The principle of sovereignty, by allowing only developing countries to withdraw from the Agreement.

Correct Answer: (C) Climate finance, by requiring developed countries to provide financial resources to assist developing countries.

Solution:**Step 1: Understanding the Question:**

The question asks where the Paris Agreement maintains a clear differentiation in the obligations of developed versus developing countries.

Step 2: Analyzing the Principles of the Paris Agreement:

A key feature of the Paris Agreement is its move away from the rigid differentiation of the Kyoto Protocol. However, it retains the principle of "Common But Differentiated Responsibilities and Respective Capabilities" (CBDR-RC). This principle manifests most clearly in the area of finance and support.

Step 3: Evaluating the Options:

- (A) The long-term temperature goal is global and applies to all countries collectively. There are no different limits.
- (B) This is incorrect. A major change from Kyoto is that *all* parties (both developed and developing) are required to prepare, communicate, and maintain successive Nationally Determined Contributions (NDCs).
- (C) This is correct. Article 9 of the Paris Agreement explicitly states that developed country Parties *shall provide* financial resources to assist developing country Parties with both mitigation and adaptation. Other countries are only encouraged to provide support voluntarily. This is a clear, differentiated obligation.
- (D) The rules for withdrawal from the Agreement are uniform for all Parties.

Step 4: Final Answer:

The clearest remaining distinction in obligations between developed and developing nations under the Paris Agreement is in the area of climate finance.

 Quick Tip

While the Paris Agreement requires climate action from all countries (unlike Kyoto), it recognizes that developed countries have a greater historical responsibility and capacity. This recognition is primarily expressed through the obligation to provide financial and technological support to developing countries.

30. The mechanism known as "Loss and Damage" in the context of climate change, which addresses the unavoidable adverse effects of climate change, is reinforced in the Paris Agreement through the:

- (A) Technology Executive Committee.
- (B) Global Stocktake.
- (C) Warsaw International Mechanism (WIM).
- (D) Adaptation Fund.

Correct Answer: (C) Warsaw International Mechanism (WIM).

Solution:

Step 1: Understanding the Question:

The question asks to identify the specific mechanism associated with "Loss and Damage" that is reinforced by the Paris Agreement.

Step 2: Analyzing the "Loss and Damage" Framework:

"Loss and Damage" refers to the impacts of climate change that go beyond what people can adapt to. Recognizing the need to address this, the UNFCCC parties established the Warsaw International Mechanism for Loss and Damage (WIM) in 2013. The Paris Agreement, in its Article 8, formally recognized the importance of averting, minimizing, and addressing loss and damage and explicitly anchored the WIM under the Agreement, giving it a more permanent and prominent status.

Step 3: Evaluating the Options:

- (A) Technology Executive Committee:** Deals with technology development and transfer.
- (B) Global Stocktake:** Assesses overall progress towards the Paris goals.
- (C) Warsaw International Mechanism (WIM):** This is the specific body created to deal with Loss and Damage. This is the correct answer.
- (D) Adaptation Fund:** Provides finance for adaptation projects, which is about preventing damage, not addressing unavoidable loss.

Step 4: Final Answer:

The Warsaw International Mechanism (WIM) is the primary vehicle for addressing Loss and Damage under the UNFCCC, and it was significantly reinforced by its inclusion in the Paris Agreement.

💡 Quick Tip

Remember the three pillars of climate action:

1. **Mitigation** (reducing emissions),
2. **Adaptation** (adjusting to impacts), and
3. **Loss and Damage** (addressing impacts that cannot be adapted to). The WIM is the key mechanism for the third pillar.

VII. SEBI was established as India's principal capital markets regulator with the aim to protect the interest of investors in securities and promote the development and regulation of the securities market in India. SEBI is empowered to regulate the securities market in India by the SEBI Act 1992, the SCRA and the Depositories Act 1996. SEBI's powers to regulate the securities market are wide and include delegated legislative, administrative, and adjudicatory powers to enforce SEBI's regulations. SEBI exercises its delegated legislative power by inter alia framing regulations and appropriately amending them to keep up with the dynamic nature of the securities' market. SEBI has issued a number of regulations on various areas of security regulation which form the backbone of the framework governing the securities market in India.

Section 11 of the SEBI Act lays down the functions of SEBI and expressly states that it "shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit".

Further, Section 30 of the SEBI Act empowers SEBI to make regulations consistent with the Act. Significantly, while framing these regulations, SEBI consults its advisory committees consisting of domain experts, including market experts, leading market players, legal experts, technology experts, retired Judges of this Court or the High Courts, academicians, representatives of industry associations and investor associations. During the consultative process, SEBI also invites and duly considers comments from the public on their proposed regulations. SEBI follows similar consultative processes while reviewing and amending its regulations.

(Extracted, with edits and revision, from the judgement in Vishal Tiwari v. Union Of India, [2024] 1 S.C.R. 171)

31. What is meant by SCRA in the above passage.

- (A) Securities Contracts (Regulation) Act
- (B) Securities and Corporate (Registration) Act
- (C) Securities Compliance (Regulation) Act
- (D) SEBI and Companies (Regulation) Act

Correct Answer: (A) Securities Contracts (Regulation) Act

Solution:

Step 1: Understanding the Question:

The question asks for the full form of the acronym SCRA as used in the context of Indian securities market regulation.

Step 2: Analyzing the Context from the Passage:

The passage mentions that SEBI is empowered to regulate the market by three key acts: "the SEBI Act 1992, the SCRA and the Depositories Act 1996." These three laws form the foundation of securities regulation in India.

Step 3: Identifying the Full Form:

In Indian legal and financial parlance, SCRA is the standard acronym for the Securities Contracts (Regulation) Act, 1956. This act primarily governs the recognition of stock exchanges and the rules for contracts in securities.

Step 4: Evaluating the Options:

(A) Securities Contracts (Regulation) Act: This is the correct and well-established full form of SCRA.

(B), (C), (D): These are incorrect and not recognized legal statutes in India.

Step 5: Final Answer:

SCRA stands for the Securities Contracts (Regulation) Act.

 Quick Tip

For capital markets law, it is crucial to remember the three foundational statutes: 1. SEBI Act, 1992 (establishes the regulator and its powers), 2. Securities Contracts (Regulation) Act, 1956 (SCRA) (regulates stock exchanges and contracts), and 3. Depositories Act, 1996 (enables dematerialization of securities).

32. Which of the following is not a committee setup by SEBI?

- (A) Technical Advisory Committee
- (B) Competition Advisory committee
- (C) Intermediary Advisory Committee
- (D) Market Data Advisory Committee

Correct Answer: (B) Competition Advisory committee

Solution:

Step 1: Understanding the Question:

The question asks to identify which of the listed committees is not one established by the Securities and Exchange Board of India (SEBI).

Step 2: Analyzing SEBI's Committee Structure:

SEBI relies on several advisory committees composed of experts to get input on policy matters. The passage mentions this consultative process. A review of SEBI's official structure shows that it has a Technical Advisory Committee, an Intermediary Advisory Committee, and a Market Data Advisory Committee, among others. These committees advise SEBI on matters related to technology in markets, regulation of market intermediaries, and data management, respectively.

Step 3: Evaluating the Options:

(A), (C), (D): These are all actual committees constituted by SEBI.

(B) Competition Advisory committee: Issues related to market competition are the primary domain of the Competition Commission of India (CCI), established under the Competition Act, 2002. While SEBI and CCI may interact on issues of overlapping jurisdiction, a "Competition Advisory committee" would be an organ of the CCI, not SEBI.

Step 4: Final Answer:

A Competition Advisory Committee is not a committee set up by SEBI; it falls under the purview of the CCI.

💡 Quick Tip

Associate regulatory bodies with their core functions. SEBI regulates securities markets (investor protection, fair practices). The CCI regulates market competition (preventing anti-competitive agreements, abuse of dominance). A committee's name will usually reflect the parent body's mandate.

33. Which among the following is not a function of SEBI?

- (A) regulating substantial acquisition of shares and take over of companies
- (B) prohibiting and regulating self-regulatory organisations
- (C) prohibiting insider trading in securities
- (D) promoting investors' education and training of intermediaries of securities markets.

Correct Answer: (B) prohibiting and regulating self-regulatory organisations

Solution:**Step 1: Understanding the Question:**

The question asks to identify which option does not accurately describe a function of SEBI.

Step 2: Analyzing the Functions of SEBI under the SEBI Act, 1992:

Section 11 of the SEBI Act lays out the powers and functions of the Board. A close reading of this section and related regulations shows that SEBI's mandate is broad.

Step 3: Evaluating the Options:

(A) regulating substantial acquisition of shares and take over of companies: This is a core function of SEBI, governed by the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations. This is a correct function.

(B) prohibiting and regulating self-regulatory organisations: Section 11(2)(d) of the SEBI Act states that a function of SEBI is "promoting and regulating self-regulatory organisations." The key verb is "promoting," which means to encourage and foster their development. While SEBI can take punitive action against a non-compliant SRO, its primary mandate is not to "prohibit" them as a general function. The word "prohibiting" makes this statement inaccurate.

(C) prohibiting insider trading in securities: This is another cornerstone function of SEBI, governed by the SEBI (Prohibition of Insider Trading) Regulations. This is a correct function.

(D) promoting investors' education and training of intermediaries...: This is also an explicit function under Section 11(2)(c) of the SEBI Act. This is a correct function.

Step 4: Final Answer:

The function of SEBI is to "promote" and regulate SROs, not to "prohibit" them. The wording in option (B) is therefore incorrect.

 Quick Tip

Pay close attention to the verbs used in questions about the functions of regulatory bodies. Words like "promoting," "regulating," "prohibiting," and "registering" have very specific meanings. SEBI's role with respect to SROs is developmental and regulatory, not prohibitory.

34. The process by which an organisation thinks about and evolves its relationships with stakeholders for the common good, and demonstrates its commitment in this regard by adoption of appropriate business processes and strategies is called?

- (A) Annual general meeting
- (B) Corporate social responsibility
- (C) Issuing Shelf prospectus
- (D) Incorporation of a company

Correct Answer: (B) Corporate social responsibility

Solution:

Step 1: Understanding the Question:

The question provides a definition and asks for the corresponding business concept. The definition describes a company's commitment to its stakeholders and the common good.

Step 2: Analyzing the Definition:

The key phrases are "evolves its relationships with stakeholders," "for the common good," and "demonstrates its commitment." This describes a self-regulating business model that helps a company be socially accountable — to itself, its stakeholders, and the public.

Step 3: Evaluating the Options:

(A) Annual general meeting: This is a mandatory yearly meeting of shareholders, a specific event, not an overarching process or philosophy.

(B) Corporate social responsibility (CSR): This is the exact term for the process described. CSR is a broad concept where companies integrate social and environmental concerns in their business operations and interactions with their stakeholders.

(C) Issuing Shelf prospectus: This is a specific legal document used for raising capital from the public.

(D) Incorporation of a company: This is the legal process of creating a company.

Step 4: Final Answer:

The definition provided accurately describes Corporate Social Responsibility (CSR).

 Quick Tip

CSR is about the "triple bottom line": People, Planet, and Profit. It's about a company's responsibility beyond just making money for its shareholders, encompassing its impact on society and the environment.

35. In which of the following cases did the court struck down the attempt of the government to nationalise banks and pay minimal compensation to the shareholders?

- (A) Shri Sunil Siddharthbhai Etc v. Union of India
- (B) R.C. Cooper v. Union of India
- (C) United Bank Of India v. SatyawatiTondon & Ors
- (D) Punjab National Bank v. Union of India

Correct Answer: (B) R.C. Cooper v. Union of India

Solution:

Step 1: Understanding the Question:

The question asks to identify the landmark Supreme Court case that dealt with the nationalization of banks and the issue of inadequate compensation.

Step 2: Recalling Landmark Constitutional Cases:

The case in question is one of the most significant in Indian constitutional history, particularly regarding the right to property and the powers of the Parliament. In 1969, the Government of India nationalized 14 major commercial banks through an ordinance, which was later replaced by the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969.

Step 3: Identifying the Case:

The challenge to this nationalization was famously brought before the Supreme Court in the case of *Rustom Cavasjee Cooper v. Union of India*, commonly known as the **Bank Nationalisation Case**. The Supreme Court, in its 1970 judgment, struck down the Act. The Court held that the compensation provided to the shareholders was not equivalent to the value of the property acquired and was therefore violative of Article 31(2) of the Constitution (as it then existed). The Court ruled that "compensation" meant the just equivalent or market value of the property.

Step 4: Evaluating the Options:

- (A) Deals with the transfer of assets to a partnership firm.
- (B) **R.C. Cooper v. Union of India:** This is the correct landmark Bank Nationalisation Case.
- (C) Deals with proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002.
- (D) This is not the specific case related to the 1969 nationalization challenge.

Step 5: Final Answer:

The correct case is *R.C. Cooper v. Union of India*.

💡 Quick Tip

The *R.C. Cooper* case is crucial not just for banking law but for constitutional law. It was a major assertion of judicial review over legislative and executive action and significantly shaped the interpretation of the right to property and compensation before the 44th Amendment.

VIII. During Bentham's lifetime, revolutions occurred in the American colonies and in France, producing the Bill of Rights and the Déclaration des Droits de l'Homme (Declaration

of the Rights of Man), both of which were based on liberty, equality, and self-determination. Karl Marx and Friedrich Engels published *The Communist Manifesto* in 1848. Revolutionary movements broke out that year in France, Italy, Austria, Poland, and elsewhere. In addition, the Industrial Revolution transformed Great Britain and eventually the rest of Europe from an agrarian (farm-based) society into an industrial one, in which steam and coal increased manufacturing production dramatically, changing the nature of work, property ownership, and family. This period also included advances in chemistry, astronomy, navigation, human anatomy, and immunology, among other sciences.

Given this historical context, it is understandable that Bentham used reason and science to explain human behaviour. His ethical system was an attempt to quantify happiness and the good so they would meet the conditions of the scientific method. Ethics had to be empirical, quantifiable, verifiable, and reproducible across time and space. Just as science was beginning to understand the workings of cause and effect in the body, so ethics would explain the causal relationships of the mind. Bentham rejected religious authority and wrote a rebuttal to the Declaration of Independence in which he railed against natural rights as "rhetorical nonsense, nonsense upon stilts." Instead, the fundamental unit of human action for him was utility—solid, certain, and factual.

What is utility? Bentham's fundamental axiom, which underlies utilitarianism, was that all social morals and government legislation should aim for producing the greatest happiness for the greatest number of people. Utilitarianism, therefore, emphasizes the consequences or ultimate purpose of an act rather than the character of the actor, the actor's motivation, or the particular circumstances surrounding the act. It has these characteristics: (1) universality, because it applies to all acts of human behaviour, even those that appear to be done from altruistic motives; (2) objectivity, meaning it operates beyond individual thought, desire, and perspective; (3) rationality, because it is not based in metaphysics or theology; and (4) quantifiability in its reliance on utility. (353 words)

(Extracted from Michael Quinn, "Jeremy Bentham, 'The Psychology of Economic Man,' and Behavioural Economics," Oeconomia 6, no. 1 (2016): 3–32)

36. According to the text, what did Bentham consider the fundamental unit of human action, replacing concepts like natural rights?

- (A) Liberty
- (B) Self-determination
- (C) Utility
- (D) Happiness for the greatest number

Correct Answer: (C) Utility

Solution:

Step 1: Understanding the Question:

The question asks what Bentham proposed as the "fundamental unit of human action," specifically as a replacement for the concept of natural rights.

Step 2: Analyzing the Passage:

The second paragraph explicitly addresses this. It states that Bentham "railed against natural rights as 'rhetorical nonsense, nonsense upon stilts.'" The next sentence provides the replacement: "Instead, the fundamental unit of human action for him was utility—solid, certain, and factual."

Step 3: Evaluating the Options:

(A) **Liberty** and (B) **Self-determination**: These are concepts associated with the revolutions and declarations that Bentham was critiquing.

(C) **Utility**: The passage directly identifies "utility" as Bentham's fundamental unit of human action. This is the correct answer.

(D) **Happiness for the greatest number**: This is the goal or the "fundamental axiom" of utilitarianism, but the passage identifies "utility" itself as the "fundamental unit" of action that can be measured.

Step 4: Final Answer:

The passage clearly states that Bentham considered "utility" to be the fundamental unit of human action.

 Quick Tip

In comprehension questions, look for direct statements that answer the question. The passage draws a clear contrast: Bentham rejected 'natural rights' and *instead* proposed 'utility'. This cause-and-effect structure is a strong clue.

37. Which of the following is identified as Bentham's fundamental axiom underlying utilitarianism?

(A) Ethics must be empirical, quantifiable, and reproducible.

(B) Utility must be used to reject religious authority.

(C) All social morals and government legislation should aim for producing the greatest happiness for the greatest number of people.

(D) The character of the actor is the most important aspect of an ethical act.

Correct Answer: (C) All social morals and government legislation should aim for producing the greatest happiness for the greatest number of people.

Solution:

Step 1: Understanding the Question:

The question asks to identify Bentham's "fundamental axiom" for utilitarianism as described in the text.

Step 2: Analyzing the Passage:

The third paragraph begins by defining utility and then explicitly states the axiom:

"Bentham's **fundamental axiom**, which underlies utilitarianism, was that **all social morals and government legislation should aim for producing the greatest happiness for the greatest number of people.**"

Step 3: Evaluating the Options:

(A) This describes the scientific conditions Bentham wanted ethics to meet, but it is not the fundamental axiom itself.

(B) This was a consequence of his rational approach, but not the core principle.

(C) This is a direct quote/paraphrase of what the passage identifies as the "fundamental axiom." This is the correct answer.

(D) The passage states the opposite: "Utilitarianism, therefore, emphasizes the consequences or ultimate purpose of an act *rather than* the character of the actor..."

Step 4: Final Answer:

The passage directly identifies the principle of "greatest happiness for the greatest number" as Bentham's fundamental axiom.

 Quick Tip

Look for explicit definitional phrases in the text. The phrase "Bentham's fundamental axiom ... was that" is a clear signpost pointing directly to the answer.

38. Utilitarianism, as described in the text, emphasizes which aspect of an act over the others listed?

- (A) The character of the actor
- (B) The actor's motivation
- (C) The particular circumstances surrounding the act
- (D) The consequences or ultimate purpose of an act

Correct Answer: (D) The consequences or ultimate purpose of an act

Solution:

Step 1: Understanding the Question:

The question asks what aspect of an action is most important in utilitarian ethics, according to the passage.

Step 2: Analyzing the Passage:

The third paragraph provides a clear explanation: "Utilitarianism, therefore, **emphasizes the consequences or ultimate purpose of an act rather than** the character of the actor, the actor's motivation, or the particular circumstances surrounding the act."

Step 3: Evaluating the Options:

(A), (B), (C): The passage explicitly lists these three aspects as things that utilitarianism does *not* emphasize.

(D) The consequences or ultimate purpose of an act: The passage directly states that this is what utilitarianism emphasizes. This is the correct answer.

Step 4: Final Answer:

Utilitarianism is a consequentialist theory, meaning it judges an act based on its outcomes or consequences. The passage confirms this.

 Quick Tip

Utilitarianism is the most famous example of a "consequentialist" ethical theory. This means the morality of an action is judged solely by its consequences. This contrasts with "deontological" theories (like Kant's), which focus on duties and rules, and "virtue ethics," which focus on the character of the actor.

39. The characteristic of utilitarianism that operates beyond individual thought, desire, and perspective is called:

- (A) Universality

- (B) Quantifiability
- (C) Rationality
- (D) Objectivity

Correct Answer: (D) Objectivity

Solution:

Step 1: Understanding the Question:

The question asks for the name of the characteristic of utilitarianism that describes its operation beyond individual, subjective viewpoints.

Step 2: Analyzing the Passage:

The end of the third paragraph lists four characteristics of utilitarianism and defines them.

The question is a direct test of these definitions.

- "(1) **universality**, because it applies to all acts of human behaviour..."
- "(2) **objectivity**, meaning it operates beyond individual thought, desire, and perspective..."
- "(3) **rationality**, because it is not based in metaphysics or theology..."
- "(4) **quantifiability**, in its reliance on utility."

Step 3: Evaluating the Options:

The definition given in the question ("operates beyond individual thought, desire, and perspective") is the exact definition provided in the passage for **objectivity**.

Step 4: Final Answer:

The characteristic described is objectivity.

 Quick Tip

When a text provides a list with definitions, expect questions that test your understanding of those specific definitions. Match the keywords in the question to the definitions in the text. Here, "beyond individual thought" directly maps to "objectivity."

40. Bentham's ethical system attempted to quantify happiness and the good to meet the conditions of the scientific method, which required ethics to be all of the following except:

- (A) Empirical
- (B) Verifiable
- (C) Theological
- (D) Quantifiable

Correct Answer: (C) Theological

Solution:

Step 1: Understanding the Question:

The question asks which characteristic is NOT a requirement of Bentham's scientific approach to ethics, as described in the passage.

Step 2: Analyzing the Passage:

The second paragraph states: "His ethical system was an attempt to quantify happiness and the good so they would meet the conditions of the scientific method. Ethics had to be **empirical, quantifiable, verifiable, and reproducible** across time and space."

Furthermore, the third paragraph reinforces this by describing utilitarianism's "rationality" as a characteristic because "it is **not based in** metaphysics or **theology**."

Step 3: Evaluating the Options:

(A) Empirical, (B) Verifiable, (D) Quantifiable: These are all explicitly listed in the second paragraph as conditions of Bentham's scientific ethics.

(C) Theological: The passage explicitly states that Bentham's system rejected religious authority and was not based on theology. Therefore, "theological" is the characteristic that does not fit.

Step 4: Final Answer:

Bentham's system was scientific and rational, specifically excluding theological reasoning.

 Quick Tip

This is a negative question ("except"). The best strategy is to find the three options that are supported by the text. The one that is left over, or is directly contradicted by the text, will be the correct answer. The passage clearly opposes Bentham's scientific approach to theological authority.

IX. "We hold these truths to be self-evident: that all men are created equal and are endowed by their Creator with certain inalienable rights".

This statement, in spite of literal inaccuracy in its every phrase, served the purpose for which it was written. It expressed an aspiration, and it was a fighting slogan. In order that slogans may serve their purpose, it is necessary that they shall arouse strong, emotional belief, but it is not at all necessary that they shall be literally accurate. A large part of each human being's time on earth is spent in declaiming about his "rights," asserting their existence, complaining of their violation, describing them as present or future, vested or contingent, absolute or conditional, perfect or inchoate, alienable or inalienable, legal or equitable, in rem or in personam, primary or secondary, moral or jural (legal), inherent or acquired, natural or artificial, human or divine. No doubt still other adjectives are available. Each one expresses some idea, but not always the same idea even when used twice by one and the same person. They all need definition in the interest of understanding and peace. In his table of correlatives, Hohfeld set "right" over against "duty" as its necessary correlative. This had been done numberless times by other men. He also carefully distinguished it from the concepts expressed in his table by the terms "privilege," "power," and "immunity." To the present writer, the value of his work seems beyond question and the practical convenience of his classification is convincing. However, the adoption of Hohfeld's classification and the correlating of the terms "right" and "duty" do not complete the work of classification and definition.

(Extracted from Arthur L Corbin, Rights and Duties, 33 Yale LJ 501(1923))

41. The author suggests that the statement "all men are created equal and are endowed by their Creator with certain inalienable rights" was effective primarily because:

- (A) It accurately reflects the literal truth of human existence and legal principles.
- (B) It provided a comprehensive legal definition of natural rights.
- (C) Its emotional and aspirational content made it a successful "fighting slogan."

(D) It meticulously categorized rights using precise jural (legal) terminology.

Correct Answer: (C) Its emotional and aspirational content made it a successful "fighting slogan."

Solution:

Step 1: Understanding the Question:

The question asks for the primary reason for the effectiveness of the famous phrase from the Declaration of Independence, according to the author.

Step 2: Analyzing the Passage:

The author starts by saying the statement has "literal inaccuracy in its every phrase." This immediately rules out options based on accuracy or precision. The author then explains its purpose: "It expressed an aspiration, and it was a **fighting slogan**." To be a good slogan, it needed to "arouse strong, **emotional belief**," not be "literally accurate."

Step 3: Evaluating the Options:

(A) The author explicitly states it is literally inaccurate. This is incorrect.

(B) The author's main point later is that rights lack clear definition. This is incorrect.

(C) This option correctly captures the author's argument that the statement's power came from its emotional, aspirational quality as a "fighting slogan."

(D) The author contrasts the slogan's vagueness with the need for precise terminology. This is incorrect.

Step 4: Final Answer:

The author attributes the statement's effectiveness to its power as an emotional and aspirational "fighting slogan."

 Quick Tip

The author makes a clear distinction between rhetorical/political effectiveness and literal/legal accuracy. The question asks about effectiveness, and the author's explanation points directly to its emotional and aspirational nature.

42. Based on the passage, the primary problem the author identifies with the current discourse surrounding "rights" is the:

(A) Lack of a comprehensive list of all possible rights.

(B) Failure of historical documents to be literally accurate.

(C) Proliferation of undefined and inconsistently used qualifying adjectives.

(D) Over reliance on Hohfeld's narrow and incomplete classification system.

Correct Answer: (C) Proliferation of undefined and inconsistently used qualifying adjectives.

Solution:

Step 1: Understanding the Question:

The question asks for the main problem with how people talk about "rights," according to the author.

Step 2: Analyzing the Passage:

The author devotes a long sentence to listing numerous adjectives used to describe rights: "vested or contingent, absolute or conditional... inalienable, legal or equitable..." and so on. The author then concludes: "Each one expresses some idea, but **not always the same idea even when used twice by one and the same person.**" The next paragraph begins, "They all need **definition** in the interest of understanding and peace." This shows the problem is a lack of clear, consistent definition caused by the overuse of varied and ambiguous adjectives.

Step 3: Evaluating the Options:

- (A) The author's concern is not the number of rights, but the lack of clarity about them.
- (B) This is a point made about one specific document, but the main problem is the general discourse, not historical documents.
- (C) This option accurately summarizes the problem: too many qualifying adjectives ("proliferation") are used without clear or consistent meaning ("undefined and inconsistently used").
- (D) The author views Hohfeld's system as a valuable step forward, not as the problem. The author's critique is that Hohfeld's work, while good, doesn't complete the task.

Step 4: Final Answer:

The primary problem identified is the confusing and inconsistent use of numerous adjectives to describe rights, leading to a lack of clear definition.

 Quick Tip

When an author provides a very long list of examples, as with the adjectives for "rights," it's usually to emphasize a point about variety, confusion, or excess. The author's point here is that this huge list creates confusion and a need for definition.

43. The author's view of Hohfeld's contribution to legal scholarship can best be described as:

- (A) Essential but ultimately incomplete in fully defining and classifying "rights."
- (B) Flawed because it failed to distinguish "right" from "duty" effectively.
- (C) Irrelevant, as his classification uses confusing and difficult jargon.
- (D) Sufficiently exhaustive to complete the work of definition and classification.

Correct Answer: (A) Essential but ultimately incomplete in fully defining and classifying "rights."

Solution:

Step 1: Understanding the Question:

The question asks to summarize the author's opinion on Hohfeld's work.

Step 2: Analyzing the Passage:

The author speaks very highly of Hohfeld's work: "...the **value of his work seems beyond question** and the **practical convenience of his classification is convincing.**" This shows the author finds it essential and valuable. However, the author's final sentence is a qualification: "**However**, the adoption of Hohfeld's classification... **do not complete the work** of classification and definition." This shows the author believes it is not the final word.

Step 3: Evaluating the Options:

- (A) This option captures the dual nature of the author's view: it is "essential" (beyond question, convincing) but "incomplete" (does not complete the work). This is the best description.
- (B) The author states that Hohfeld set "right" over against "duty," implying the distinction was clear. This is incorrect.
- (C) The author calls the classification practically convenient, the opposite of irrelevant or confusing. This is incorrect.
- (D) The author explicitly states it does "not complete the work," so it is not exhaustive. This is incorrect.

Step 4: Final Answer:

The author views Hohfeld's work as a valuable and essential contribution, but one that is not complete.

 Quick Tip

Look for transition words like "however," "but," or "although." They often signal a nuance or a limitation in an author's praise for something. Here, "However" is the key to understanding that the author's approval of Hohfeld is not absolute.

44. The phrase "literal inaccuracy in its every phrase" is used by the author to critique the Declaration's statement, suggesting a conflict between its rhetorical power and its:

- (A) Emotional resonance for revolutionaries.
- (B) Utility as a means for legislative action.
- (C) Precision as a statement of verifiable facts or legal principles.
- (D) Acceptance by religious authority and the Creator.

Correct Answer: (C) Precision as a statement of verifiable facts or legal principles.

Solution:

Step 1: Understanding the Question:

The question asks what the phrase "literal inaccuracy" is contrasted with. The statement has rhetorical power, but it lacks something else.

Step 2: Analyzing the Author's Argument:

The author sets up a clear dichotomy. On one hand, the statement is a "fighting slogan" that arouses "strong, emotional belief" (its rhetorical power). On the other hand, it has "literal inaccuracy," and it's "not at all necessary that they shall be literally accurate." This contrasts the emotional, persuasive function with the function of being factually or legally precise. The rest of the passage laments the lack of precise definition in the language of rights.

Step 3: Evaluating the Options:

- (A) Emotional resonance is part of its rhetorical power, not in conflict with it.
- (B) The author doesn't discuss its utility for legislation in this context.
- (C) This is the correct answer. "Literal inaccuracy" is the opposite of "precision as a statement of verifiable facts or legal principles." The author is highlighting the tension between a statement's ability to inspire (rhetorical power) and its ability to be factually or legally precise.

(D) The author does not discuss acceptance by religious authority.

Step 4: Final Answer:

The phrase highlights the conflict between the statement's effectiveness as rhetoric and its lack of precision as a factual or legal claim.

 Quick Tip

Understanding dichotomies is key to critical reading. Here, the author contrasts the "slogan" function (emotional, aspirational) with the "definitional" function (precise, accurate, legal). The phrase "literal inaccuracy" clearly belongs to the second category.

45. Which concept from Hohfeld's table of correlatives is not explicitly mentioned in the passage as a concept "right" was distinguished from?

- (A) Duty
- (B) Privilege
- (C) Immunity
- (D) Disability

Correct Answer: (D) Disability

Solution:

Step 1: Understanding the Question:

The question asks to identify which Hohfeldian concept is NOT mentioned in the passage. The passage lists several concepts that Hohfeld distinguished from the term "right."

Step 2: Analyzing the Passage:

The third paragraph discusses Hohfeld's work. It mentions two things Hohfeld did:

1. He set "right" over against "**duty**" as its correlative.
2. He "carefully distinguished it from the concepts expressed in his table by the terms 'privilege,' 'power,' and 'immunity.'"

Step 3: Evaluating the Options:

- (A) **Duty:** Mentioned as the correlative of right.
- (B) **Privilege:** Explicitly mentioned as a concept distinguished from right.
- (C) **Immunity:** Explicitly mentioned as a concept distinguished from right.
- (D) **Disability:** The passage mentions privilege, power, and immunity. It does not mention "disability," which is another of Hohfeld's eight fundamental concepts (the opposite of power).

Step 4: Final Answer:

The passage explicitly lists duty, privilege, power, and immunity. It does not mention disability.

 Quick Tip

This is a close-reading question that tests attention to detail. The best way to answer is to scan the text for each of the keywords provided in the options. The one you cannot find is the correct answer. Hohfeld's eight concepts are: Right/Duty, Privilege/No-Right, Power/Disability, Immunity/Liability.

X. The International Law Commission (ILC), in compliance with General Assembly resolution 177 (II), was directed to "formulate the principles of international law recognized in the Charter of the Nuremberg Tribunal and in the judgment of the Tribunal". The ILC's task was to merely formulate the principles not to express an appreciation of them as principles of International law since they had already been affirmed by the General Assembly. At its second session in 1950, the ILC adopted a formulation of seven Principles of International Law recognized in the Charter and Judgment of the Nuremberg Tribunal.

- Principle I : Any person who commits an act which constitutes a crime under international law is responsible therefor and liable to punishment. This is based on the general rule that international law may impose duties directly on individuals.
- Principle II : The fact that internal law does not impose a penalty for an international crime does not relieve the person who committed the act from international responsibility. This implies the "supremacy" of international law over national law.
- Principle III : The fact that a person acted as Head of State or responsible Government official does not relieve him from responsibility under international law.
- Principle IV : Acting pursuant to an order of his Government or of a superior does not relieve him from responsibility, provided a moral choice was in fact possible to him.
- Principle V : Any person charged with a crime under international law has the right to a fair trial on the facts and law.
- Principle VI : sets out the crimes punishable under international law:
 - Crimes against peace : Includes planning, preparation, initiation, or waging of a war of aggression or a war in violation of international treaties, as well as participation in a conspiracy for these acts. The ILC understands the term "waging of a war of aggression" to refer only to high-ranking military personnel and high State officials. The Tribunal affirmed the illegality of aggressive war based on the Kellogg-Briand Pact.
 - War crimes : Violations of the laws or customs of war, such as murder, ill-treatment, deportation, killing of hostages, and plunder.
 - Crimes against humanity : Murder, extermination, enslavement, deportation, and other inhuman acts or persecutions on political, racial, or religious grounds, when done in execution of or in connection with a crime against peace or a war crime. These acts may constitute crimes against humanity even if committed by the perpetrator against their own population.
- Principle VII : Complicity in the commission of any of the crimes listed in Principle VI is a crime under international law.

The ILC also considered the General Assembly's invitation to study the desirability and possibility of establishing an international judicial organ for the trial of persons charged with genocide or other crimes. While some members questioned its effectiveness, particularly for grave international crimes, others argued that the creation of such a jurisdiction was desirable

as an effective contribution to world peace and security, serving as a deterrent against aggressors. (496 words)

(Summary of the Principles of International Law recognized in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal, with commentaries 1950 based on the Text adopted by the International Law Commission at its second session, in 1950)

46. The International Law Commission (ILC) concluded that its task, as directed by General Assembly resolution 177 (II), was primarily:

(A) To determine the extent to which the Nuremberg principles constituted principles of international law.

(B) To formulate the Nuremberg principles, without expressing an appreciation of their status as principles of international law.

(C) To assess whether the Charter and judgment were already an expression of positive international law at the time of the Tribunal's establishment.

(D) To formulate the general principles of law on which the provisions of the Charter and the Tribunal's decisions were based.

Correct Answer: (B) To formulate the Nuremberg principles, without expressing an appreciation of their status as principles of international law.

Solution:

Step 1: Understanding the Question:

The question asks about the primary task of the ILC regarding the Nuremberg principles, as described in the passage.

Step 2: Analyzing the Passage:

The first paragraph clearly defines the ILC's mandate. The GA directed it to "**formulate** the principles..." The passage then clarifies this by stating, "The ILC's task was to **merely formulate** the principles **not to express an appreciation** of them as principles of International law since they had already been affirmed by the General Assembly."

Step 3: Evaluating the Options:

(A) **To determine the extent...** and (C) **To assess whether...:** These options suggest an evaluative or analytical role, which the passage explicitly denies ("not to express an appreciation").

(B) **To formulate ... without expressing an appreciation...:** This is a direct paraphrase of the passage's description of the ILC's task. It is the correct answer.

(D) **To formulate the general principles of law...:** This is too broad. The task was specific to the principles "recognized in the Charter of the Nuremberg Tribunal and in the judgment of the Tribunal."

Step 4: Final Answer:

The ILC's task was simply to codify or formulate the principles that were already recognized, not to evaluate their legal status.

 Quick Tip

Pay close attention to limiting words like "merely," "only," or "not." In this passage, the distinction between "formulating" (the actual task) and "expressing an appreciation" (what they were told not to do) is the key to the correct answer.

47. Principle IV of the Nuremberg Principles concerning superior orders, differs from Article 8 of the Charter of the Nuremberg Tribunal by:

- (A) Narrowing the application of the principle to exclude high State officials.
- (B) Adding the condition that "a moral choice was in fact possible" to the accused.
- (C) Eliminating the reference to the order being considered in mitigation of punishment.
- (D) Formulating the principle in general terms, unlike the Charter's specific context.

Correct Answer: (B) Adding the condition that "a moral choice was in fact possible" to the accused.

Solution:

Step 1: Understanding the Question:

The question asks how the ILC's formulation of Principle IV (superior orders) differs from the original Article 8 of the Nuremberg Charter. This requires some external knowledge as Article 8 is not quoted in the text.

Step 2: Recalling Article 8 of the Nuremberg Charter:

Article 8 of the Charter of the Nuremberg Tribunal states: "The fact that the Defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires."

Step 3: Comparing Article 8 with Principle IV:

Principle IV states: "Acting pursuant to an order of his Government or of a superior does not relieve him from responsibility, **provided a moral choice was in fact possible to him.**" The key difference is the addition of the "moral choice" proviso by the ILC. Article 8 was an absolute rule: an order is no defense. The ILC's Principle IV introduces a condition or an exception: the defense of superior orders might be available if there was no possibility of a moral choice (i.e., under duress or compulsion). Article 8 only allowed the order to be considered for a lesser sentence, not as a complete defense.

Step 4: Evaluating the Options:

- (A) This is incorrect. Neither principle excludes high state officials.
- (B) This correctly identifies the key addition made by the ILC in its formulation – the "moral choice" test.
- (C) While Article 8 mentions mitigation and Principle IV does not, the most significant substantive change is the addition of the "moral choice" element, which creates a potential complete defense.
- (D) This is too vague. The specific difference is the "moral choice" condition.

Step 5: Final Answer:

The ILC's formulation of Principle IV introduced the "moral choice" test, which was not present in the original Nuremberg Charter's Article 8.

💡 Quick Tip

This is a common type of question in international law, testing the evolution of legal principles from their source documents (like the Nuremberg Charter) to their later codification (like the ILC's principles). The "moral choice" or duress element is a key development in the law on superior orders.

48. The Tribunal, in its judgment, was constrained from making a general declaration that the acts of persecution and murder committed in Germany before 1939 were "crimes against humanity" primarily because:

- (A) Persecution on political, racial, or religious grounds was not yet recognized as an international crime.
- (B) It could not be satisfactorily proved that these acts were committed in execution of, or in connection with, a crime within the Tribunal's jurisdiction.
- (C) The definition of crimes against humanity in the Charter explicitly excluded acts committed before the outbreak of the war.
- (D) International law at the time imposed duties only on States, not on individuals, for these types of crimes.

Correct Answer: (B) It could not be satisfactorily proved that these acts were committed in execution of, or in connection with, a crime within the Tribunal's jurisdiction.

Solution:

Step 1: Understanding the Question:

The question asks for the specific legal reason why the Nuremberg Tribunal could not prosecute crimes against humanity that occurred in Germany *before* the war started in 1939.

Step 2: Analyzing the Definition of Crimes Against Humanity:

The passage provides the ILC's formulation, which reflects the Nuremberg Charter's definition: "Crimes against humanity: Murder, extermination... when done **in execution of or in connection with a crime against peace or a war crime.**" This phrase is known as the "nexus" or "link" requirement. The Tribunal's jurisdiction over crimes against humanity was limited to those acts that had a connection to the war (war crimes) or the planning of the war (crimes against peace).

Step 3: Applying the Definition to the Pre-1939 Context:

The atrocities committed within Germany before September 1, 1939, were horrific, but they occurred before the war had started. Therefore, it was legally difficult for the prosecution to establish the required nexus between these pre-war domestic persecutions and a war crime or a crime against peace. The Tribunal concluded that it only had jurisdiction over crimes against humanity committed after the war began.

Step 4: Evaluating the Options:

- (A) This is incorrect. The Charter itself recognized such persecution as a crime against humanity.
- (B) This is the correct answer. The key jurisdictional hurdle was the nexus requirement – proving the connection between the pre-war acts and the war itself.
- (C) This is subtly incorrect. The Charter did not have a date-based exclusion. The limitation came from the nexus requirement.

(D) This is incorrect. A major outcome of Nuremberg was establishing individual criminal responsibility (Principle I).

Step 5: Final Answer:

The jurisdictional constraint was the requirement to link crimes against humanity to either a war crime or a crime against peace, a link that could not be established for acts occurring before the war began.

 Quick Tip

The "nexus" requirement for crimes against humanity was a crucial and controversial part of the Nuremberg Charter. This requirement was later removed in subsequent international law, such as the Rome Statute of the ICC, which allows for the prosecution of crimes against humanity committed in peacetime.

49. In formulating Principle VI (a), the ILC clarified the term "waging of a war of aggression" because:

- (A) The Charter of the Tribunal had no definition of "war of aggression".
- (B) Members feared that every combatant in uniform might be charged with the crime.
- (C) The Tribunal had not made a clear distinction between "planning" and "preparation".
- (D) The General Assembly had requested a more precise definition for use in future conventions.

Correct Answer: (B) Members feared that every combatant in uniform might be charged with the crime.

Solution:

Step 1: Understanding the Question:

The question asks why the ILC felt the need to clarify who could be held responsible for "waging" an aggressive war.

Step 2: Analyzing the Passage:

Under the section for "Crimes against peace," the passage notes: "The ILC understands the term 'waging of a war of aggression' to refer **only to high-ranking military personnel and high State officials.**" This is a clear clarification intended to limit the scope of the crime.

Step 3: Inferring the Reason for Clarification:

Why would the ILC add this limitation? The term "waging war" could, in its plain meaning, apply to any soldier fighting in the war. To avoid a situation where millions of ordinary soldiers could be prosecuted for simply participating in a war of aggression, the ILC and the jurisprudence have consistently limited this specific crime to those in leadership positions who have the power to shape and direct the war effort. This addresses the fear that the crime could be applied too broadly.

Step 4: Evaluating the Options:

(A) While true that "aggression" was not fully defined, the ILC's clarification was about who commits the crime, not what the crime is.

(B) This option directly addresses the logical reason for the clarification. By limiting the crime to high officials, it allays the fear that any soldier ("every combatant in uniform") could be charged. This is the most plausible reason.

- (C) This relates to different phases of the crime, not the category of perpetrators.
- (D) While the GA did later seek a definition of aggression, the ILC's specific clarification here about leadership was based on the Nuremberg judgment and legal reasoning, not a direct GA request at that time.

Step 5: Final Answer:

The ILC clarified that only high-ranking officials could be guilty of "waging" aggressive war to ensure that ordinary soldiers were not held criminally responsible for the political decisions of their leaders.

💡 Quick Tip

In international criminal law, a distinction is often made between the responsibility of leaders who decide to go to war (related to *jus ad bellum*) and the conduct of soldiers during the war (related to *jus in bello*). The crime of aggression is a leadership crime.

50. The debate within the International Law Commission regarding the creation of an international judicial organ (Part IV) centered on the following contrasting positions:

- (A) Whether the judicial organ should be created only for the trial of persons charged with genocide versus all international crimes.
- (B) Whether the creation of the organ required an amendment to the Charter of the United Nations versus being possible through a convention open to all States.
- (C) Whether the establishment of the organ was desirable and possible versus being undesirable due to its likely ineffectiveness against grave international crimes.
- (D) Whether an international criminal court should have a deterrent effect versus serving only to ensure the rule of law in the community of States.

Correct Answer: (C) Whether the establishment of the organ was desirable and possible versus being undesirable due to its likely ineffectiveness against grave international crimes.

Solution:

Step 1: Understanding the Question:

The question asks to identify the central point of disagreement within the ILC regarding the creation of an international criminal court.

Step 2: Analyzing the Passage:

The final paragraph of the text describes the debate: "The ILC also considered the General Assembly's invitation to study the **desirability and possibility** of establishing an international judicial organ... **While some members questioned its effectiveness**, particularly for grave international crimes, **others argued that the creation of such a jurisdiction was desirable** as an effective contribution to world peace and security..."

Step 3: Evaluating the Options:

This paragraph lays out a clear conflict: one side questioning the court's effectiveness (making it undesirable) versus the other side arguing it was desirable and possible.

(A) The passage mentions "genocide or other crimes," suggesting the debate was not limited to genocide vs. all crimes.

(B) The passage does not mention the legal basis (UN Charter amendment vs. treaty).

(C) This option perfectly captures the debate as described in the passage: was it desirable and possible, or was it undesirable because it would be ineffective? This is the correct answer.
(D) Deterrence was one argument in favor of the court, but the core conflict was more fundamental: whether it was a good idea at all, given concerns about its potential ineffectiveness.

Step 4: Final Answer:

The debate centered on the fundamental question of whether creating such a court was a desirable and effective idea versus an undesirable and potentially ineffective one.

💡 Quick Tip

Look for words that signal a debate or contrasting viewpoints, such as "while," "others argued," "on one hand," and "on the other hand." The final paragraph of the passage uses this structure to frame the central disagreement within the ILC.

XI. The document presents a critique of the United Nations (UN) organization, arguing that it has failed to carry out its charter-mandated tasks, specifically to "maintain international peace and security" and "to achieve international cooperation" in solving global problems. The author notes growing public frustration with catastrophic humanitarian situations and the failure of peace-keeping operations, leading to widespread scepticism about the possibility of "revitalization". UN Reform Approaches Discussions on UN reform are divided into two main categories: the conservative approach and the radical approach.

1. Conservative Approach: The conservative view considers the existing Charter "practically untouchable" and believes in improving "collective security" as defined in Chapter VII. Key positions include: US Position: Prioritizes its own interests, supports better management and the creation of an Inspector General, favours enlarging the Security Council (to include Germany and Japan, mainly for financing peace-keeping), and associates the UN with regional organizations like NATO for peace enforcement. The US remains reluctant to allow full application of Chapter VII and views collective security restrictively.

Secretary-General's Position (Boutros Ghali): Advocated for the full implementation of 'collective security' as envisaged in 1945, including the use of the Military Staff Committee (Article 47) and the conclusion of special agreements (Article 43) for providing armed forces. He also proposed 'peace enforcement units' under the command of the Secretary-General and wider use of 'preventive diplomacy'. The report candidly recognized the Security Council's incapacity to deal with threats from a major power.

2. Radical Approach: The radical approach criticizes the principles of the present system and proposes an overhaul. It reflects increasing doubts about the value of the Charter's collective security system, especially in intra-State conflicts. Radical proposals include:

- Establishing an Economic Security Council.
- Modifying the Charter with less reluctance.
- Reforming the IMF and World Bank.
- Developing a new global security system (e.g., regional models like CSCE/CSCM).
- The creation of a consultative parliamentary assembly at the world level.

Future Outlook: The author asserts that no major or minor reform has any chance of being implemented now, primarily because the Charter's amendment procedures (requiring a two-thirds majority including all five permanent Security Council members) preclude agreement. However, he concludes that the continuing deterioration of the global situation, driven by economic integration, rising inequality, and intra-State conflicts, will inevitably lead the political establishment to define a new global institutional structure. This future debate will become highly political, opposing the defence of democracy and human rights against nationalism and fascism. (408 words)

(Summary of the article titled "The UN as an organisation. A critique of its functioning" by Maurice Bertrand, published in 6 EJIL (1995) pp-349-359)

51. The author attributes the growing public frustration with the UN primarily to which pair of continuous failures?

- (A) The inability to define a new institutional structure and the spread of poverty.
- (B) The persistent reliance on Chapter VII enforcement and the lack of a Central World Bank.
- (C) The failure of peace-keeping operations and the spread of unemployment at a world level.
- (D) The supremacy of the US position and the rejection of the Economic Security Council.

Correct Answer: (C) The failure of peace-keeping operations and the spread of unemployment at a world level.

Solution:

Step 1: Understanding the Question:

The question asks to identify the main reasons for public frustration with the UN, according to the author of the provided summary.

Step 2: Analyzing the Passage:

The second sentence of the passage provides a direct answer: "The author notes growing public frustration with **catastrophic humanitarian situations** and the **failure of peace-keeping operations**, leading to widespread scepticism...". The UN's two main tasks are also mentioned as maintaining peace/security and international cooperation on global problems.

Step 3: Evaluating the Options:

(A) The inability to define a new institutional structure and the spread of poverty: While poverty is a humanitarian situation, the inability to define a new structure is a cause of the problem, not the direct failure the public sees.

(B) The persistent reliance on Chapter VII enforcement and the lack of a Central World Bank: These are specific policy points, not the broad failures mentioned as the source of public frustration.

(C) The failure of peace-keeping operations and the spread of unemployment at a world level: "Failure of peace-keeping operations" is explicitly mentioned. "Spread of unemployment" can be seen as a cause of "catastrophic humanitarian situations" and a failure to solve "global problems." This option aligns well with the text.

(D) The supremacy of the US position and the rejection of the Economic Security Council: These are aspects of the reform debate, not the root causes of public frustration mentioned at the start.

Step 4: Final Answer:

The passage directly links public frustration to the failure of peace-keeping operations and catastrophic humanitarian situations. Option (C) is the closest match, with "spread of

unemployment” standing in for the broader category of global problems causing humanitarian crises.

 Quick Tip

When a question asks for the cause of something mentioned in the first paragraph, the answer is almost always located in that same paragraph. Look for direct causal links, such as ”frustration with X and Y.”

52. A primary point of divergence between the US Conservative position and the Secretary-General’s Conservative position on security matters, according to the summary is:

- (A) The US supports the creation of ’peace enforcement units,’ while the Secretary-General is opposed.
- (B) The Secretary-General advocates for the full implementation of ’collective security,’ while the US restricts its participation in peace-keeping.
- (C) The US views ’preventive diplomacy’ as an illusion, whereas the Secretary-General supports its larger use.
- (D) The US opposes the enlargement of the Security Council, while the Secretary-General supports the entrance of Japan and Germany.

Correct Answer: (B) The Secretary-General advocates for the full implementation of ’collective security,’ while the US restricts its participation in peace-keeping.

Solution:

Step 1: Understanding the Question:

The question asks to identify a key difference between the US position and the Secretary-General’s (Boutros-Ghali’s) position on security, based on the text.

Step 2: Analyzing the ”Conservative Approach” Section:

- **US Position:** ”The US remains **reluctant to allow full application of Chapter VII** and views collective security **restrictively**.”

- **Secretary-General’s Position:** ”Advocated for the **full implementation of ’collective security’** as envisaged in 1945, including the use of the Military Staff Committee (Article 47) and... special agreements (Article 43)...”

This shows a clear conflict: the SG wants to use the Charter’s collective security mechanisms to their fullest extent, while the US wants to limit their application and participate on a more restrictive basis.

Step 3: Evaluating the Options:

(A) This is incorrect. The SG proposed ’peace enforcement units,’ the text doesn’t say the US supported them.

(B) This accurately captures the core divergence described above. The SG wants ”full implementation,” while the US is ”reluctant” and ”restrictive.”

(C) This correctly identifies a difference (’preventive diplomacy’ is mentioned for the SG), but the divergence on the core meaning of ’collective security’ is more primary.

(D) This is incorrect. The text states the US *favours* enlarging the Security Council.

Step 4: Final Answer:

The main difference highlighted is the Secretary-General's desire for a robust, fully implemented collective security system versus the US's preference for a more limited, restrictive approach.

 Quick Tip

For comparison questions, create a mental two-column chart. In one column, list the key points for the US position; in the other, list the points for the SG's position. The correct answer will be an option that accurately reflects a mismatch between the two columns.

53. According to the critique's conclusion, the immediate, insurmountable barrier preventing the implementation of any reform, major or minor, is:

- (A) The widespread public scepticism and the rise of nationalist political parties.
- (B) The Secretary-General's reluctance to give up command over new peace enforcement units.
- (C) The procedural requirements for amending the Charter, specifically requiring the consensus of all five permanent Security Council members.
- (D) The ideological debate on global governance and the lack of a complete theoretical framework for the radical approach.

Correct Answer: (C) The procedural requirements for amending the Charter, specifically requiring the consensus of all five permanent Security Council members.

Solution:

Step 1: Understanding the Question:

The question asks for the main reason why UN reform is currently impossible, according to the author's "Future Outlook."

Step 2: Analyzing the "Future Outlook" Section:

The first sentence of this section provides the direct answer: "The author asserts that no major or minor reform has any chance of being implemented now, **primarily because the Charter's amendment procedures (requiring a two-thirds majority including all five permanent Security Council members) preclude agreement.**"

Step 3: Evaluating the Options:

- (A) While scepticism and nationalism are part of the political context, the text identifies the amendment procedure as the primary barrier.
- (B) This is not mentioned as a barrier to reform.
- (C) This option is a perfect paraphrase of the reason given in the text: the Charter amendment procedure, which gives a veto to each of the five permanent members (P5).
- (D) This is a factor in the debate but not the specific procedural barrier the author calls insurmountable *now*.

Step 4: Final Answer:

The author explicitly states that the Charter's amendment rules, which require the agreement of all P5 members, are the main reason no reform is currently possible.

💡 Quick Tip

The P5 veto is the most significant feature of the UN Security Council's power structure. Any question about why major changes to the UN are difficult will almost certainly involve the amendment process and the P5 veto power.

54. The Secretary-General's 'Agenda for Peace' proposed a specific military capability intended to address the gap between traditional peace-keeping and full military action. This proposed unit was explicitly characterized by the summary as being:

- (A) Composed of permanent Member State forces under Article 43 agreements.
- (B) Less heavily armed than peace-keeping forces and under the direction of the Military Staff Committee.
- (C) More heavily armed than peace-keeping forces and under the command of the Secretary-General.
- (D) Primarily associated with NATO under a regional security arrangement.

Correct Answer: (A) Composed of permanent Member State forces under Article 43 agreements.

Solution:

Step 1: Understanding the Question:

The question asks for a description of the 'peace enforcement units' proposed by the Secretary-General.

Step 2: Analyzing the Passage:

The section on the Secretary-General's Position states he "proposed '**peace enforcement units' under the command of the Secretary-General**". It also mentions his advocacy for using "special agreements (**Article 43**) for providing armed forces". 'Peace enforcement' is a concept distinct from traditional 'peace-keeping' in that it involves the potential use of force to enforce a mandate, and thus requires heavier armament.

Step 3: Evaluating the Options:

(A) Composed of permanent Member State forces under Article 43 agreements:

The passage links the SG's overall vision to Article 43, and the units he proposed would be formed from such forces. This is a strong contender.

(B) Less heavily armed...: This is incorrect. Peace enforcement units are by definition more heavily armed than traditional peace-keeping forces.

(C) More heavily armed than peace-keeping forces and under the command of the Secretary-General: This option correctly identifies two key characteristics. "Under the command of the Secretary-General" is explicitly stated in the passage. "More heavily armed" is the defining functional difference between peace-keeping and peace-enforcement. This provides a more complete description of the proposed unit.

(D) Primarily associated with NATO...: This is incorrect. The US position mentions associating with NATO, not the SG's.

Step 4: Final Answer:

While the forces would be provided under Article 43 agreements (A), the most explicit and complete characterization of the proposed units themselves is that they would be more

heavily armed than traditional peacekeepers and under the direct command of the Secretary-General (C).

💡 Quick Tip

Understand the spectrum of UN operations: At one end is traditional, lightly armed, consent-based **peace-keeping**. At the other end is full-scale **military action** (like the Korean War). **Peace enforcement** was proposed to fill the gap in between, for situations requiring a more robust mandate and military capability.

55. The Radical Approach to reform, as outlined in the summary, calls for an institutional overhaul of global economic governance by suggesting which two specific actions related to the Bretton Woods institutions?

- (A) The full use of Article 42 and the reduction of social inequality.
- (B) The creation of an Economic Security Council and the replacement of the IMF with a Central World Bank.
- (C) The implementation of international taxation and the institutionalization of G7 summit meetings.
- (D) The transfer of significant resources from rich to poor countries and the reform of the World Bank's structure.

Correct Answer: (B) The creation of an Economic Security Council and the replacement of the IMF with a Central World Bank.

Solution:

Step 1: Understanding the Question:

The question asks to identify two specific proposals from the "Radical Approach" that relate to reforming global economic governance, specifically targeting the Bretton Woods institutions (IMF and World Bank).

Step 2: Analyzing the "Radical Approach" Proposals:

The bulleted list under the Radical Approach includes:

- "Establishing an Economic Security Council."
- "Reforming the IMF and World Bank."

We need to find an option that combines these or related ideas.

Step 3: Evaluating the Options:

(A) Article 42 is related to military enforcement, not economic governance.

(B) **The creation of an Economic Security Council and the replacement of the IMF with a Central World Bank:** This option contains the first proposal explicitly ("Economic Security Council"). While "replacement of the IMF with a Central World Bank" is not a direct quote, it represents a very radical type of "reforming the IMF," fitting the overall theme.

(C) International taxation and G7 meetings are not mentioned in the list.

(D) "Reform of the World Bank's structure" is mentioned, but it is paired with "transfer of resources," which is not in the list of radical proposals.

Step 4: Final Answer:

Option (B) is the best fit, as it includes one explicit proposal from the list (the Economic Security Council) and a plausible example of a radical reform of the IMF, which is also on the list.

 Quick Tip

The Bretton Woods Conference of 1944 created the two main pillars of international economic governance: the International Monetary Fund (IMF) and the World Bank. Any discussion of reforming this system will inevitably focus on these two institutions.

XII. "The power to pardon is a part of the constitutional scheme, and we have no doubt, in our mind, that it should be so treated also in the Indian Republic. It has been reposed by the people through the Constitution in the Head of the State, and enjoys high status. It is a constitutional responsibility of great significance, to be exercised when occasion arises in accordance with the discretion contemplated by the context. It is not denied, and indeed it has been repeatedly affirmed in the course of argument by learned counsels appearing for the Petitioner that the power to pardon rests on the advice tendered by the Executive to the President, who subject to the provisions of Article 74(1) of the Constitution, must act in accordance with such advice....."

We are of the view that it is open to the President in the exercise of the power vested in him by Article 72 of the Constitution to scrutinise the evidence on the record of the criminal case and come to a different conclusion from that recorded by the court in regard to the guilt of, and sentence imposed on the accused. In doing so, the President does not amend or modify or supersede the judicial record. The judicial record remains intact, and undisturbed. The President acts in a wholly different plane from that in which the Court acted. He acts under a constitutional power, the nature of which is entirely different from the judicial power and cannot be regarded as an extension of it. This is so, notwithstanding that the practical effect of the Presidential act is to remove the stigma of guilt from the accused or to remit the sentence imposed on him.

It is apparent that the power under Article 72 entitles the President to examine the record of evidence of the criminal case and to determine for himself whether the case is one deserving the grant of the relief falling within that power. We are of opinion that the President is entitled to go into the merits of the case notwithstanding that it has been judicially concluded by the consideration given to it by this Court. In *Kehar Singh v. Union of India*, 1989 SC, this court stated that the same obviously means that the affected party need not be given the reasons. The question whether reasons can or cannot be disclosed to the Court when the same is challenged was not the subject-matter of consideration. In any event, the absence of any obligation to convey the reasons does not mean that there should not be legitimate or relevant reasons for passing the order.

[Extract from the judgment of Shatrughan Chauhan v. Union of India 2014 (3) SCC 1]

56. Which one of the following statements is correct with respect to the granting of pardon by the President?

(A) The power to grant pardon is a constitutional duty. Hence, judicial review is available, just as any executive action is.

- (B) Granting pardon being the privilege of the President, no judicial review is available against the decision of the President in granting or refusing to grant a pardon.
- (C) The constitution expressly conferred the power to grant to the President hence, the President is not bound to rely on the aid and advice of the executive.
- (D) The President's power to grant pardon can be reviewed on the grounds of non-application of mind.

Correct Answer: (D) The President's power to grant pardon can be reviewed on the grounds of non-application of mind.

Solution:

Step 1: Understanding the Question:

The question asks for the correct statement regarding the President's power to pardon, particularly concerning its nature and amenability to judicial review.

Step 2: Analyzing the Passage and Relevant Law:

The passage states the power "is a constitutional responsibility of great significance". It also affirms that the President "must act in accordance with such advice" from the Executive. The passage from *Kehar Singh* notes that while reasons need not be given to the party, it "does not mean that there should not be legitimate or relevant reasons for passing the order." This implies that the decision-making process is not entirely beyond scrutiny. The Supreme Court in cases like *Epuru Sudhakar v. Govt. of A.P.* has clarified that while the President's pardon power is wide, it is not absolute and can be subject to limited judicial review on specific grounds, such as if the order is passed without application of mind, is mala fide, is based on extraneous considerations, or is arbitrary.

Step 3: Evaluating the Options:

- (A) While it is a constitutional responsibility, the review is not as broad as for any other executive action. It is a limited review.
- (B) This is incorrect. The courts have established that limited judicial review is available.
- (C) This is explicitly contradicted by the passage, which states the President "must act in accordance with such advice" from the executive.
- (D) This is a correct statement of the law. Non-application of mind is one of the established grounds on which the exercise of the pardoning power can be judicially reviewed.

Step 4: Final Answer:

The President's exercise of the power to pardon under Article 72 is subject to limited judicial review, and one of the grounds for such review is non-application of mind.

💡 Quick Tip

Remember the key grounds for judicial review of the President's pardon power: mala fides (bad faith), arbitrariness, irrelevant considerations, and non-application of mind. The court does not review the *merits* of the decision, but the *manner* in which the decision was made.

57. In the above case the Supreme Court held that a minimum period of _____ days be stipulated between the receipt of communication of the rejection of the mercy petition and the scheduled date of execution.

- (A) 60
- (B) 30
- (C) 14
- (D) No such timeline was fixed

Correct Answer: (C) 14

Solution:

Step 1: Understanding the Question:

The question asks about a specific guideline laid down in the case of *Shatrughan Chauhan v. Union of India* concerning the timeline for execution after a mercy petition is rejected.

Step 2: Recalling the Judgment:

The judgment in *Shatrughan Chauhan* is a landmark ruling on the rights of death row convicts. One of its key holdings was to ensure that the condemned prisoner has a final opportunity to organize their affairs, meet with family, and prepare mentally and spiritually for their death. To facilitate this and allow for any final legal recourse, the Court established a clear gap between the communication of rejection and the execution.

Step 3: Identifying the Specific Timeline:

The Supreme Court, in this case, held that there must be a minimum period of **14 days** between the receipt of the communication of the rejection of the mercy petition and the date of execution. This is to ensure that the prisoner has sufficient time to exhaust any remaining legal remedies and to prepare for the end of their life, thus upholding their right to dignity under Article 21.

Step 4: Evaluating the Options:

- (A) **60:** Incorrect.
- (B) **30:** Incorrect.
- (C) **14:** This is the correct timeline stipulated by the Supreme Court.
- (D) **No such timeline was fixed:** Incorrect, a specific timeline was fixed.

Step 5: Final Answer:

The Supreme Court in *Shatrughan Chauhan v. UoI* mandated a minimum period of 14 days.

 Quick Tip

The *Shatrughan Chauhan* case is a key authority for several rights of death row convicts, including the right to be informed of mercy petition rejection, the right against solitary confinement, the right to legal aid, and the rule that post-mercy rejection delay can also be a ground for commutation. The 14-day rule is one of its most important procedural safeguards.

58. What is not true about the pardoning power vis a vis Article 21 of Constitution of India?

- (A) Insanity is not a relevant supervening factor for commutation of death sentence.
- (B) Right to life of a person continues till his last breath and that Court will protect that right even if the noose is being tied on the condemned person's neck.
- (C) The anguish of alternating hope and despair, the agony of uncertainty and the consequence of such suffering on the mental, emotional and physical integrity and health

violates Art. 21 of the prisoners.

(D) Article 21 is a substantive right and not merely procedural.

Correct Answer: (A) Insanity is not a relevant supervening factor for commutation of death sentence.

Solution:

Step 1: Understanding the Question:

The question asks to identify the incorrect statement regarding the interplay between the pardoning power and Article 21 (Right to Life and Personal Liberty).

Step 2: Analyzing the Jurisprudence:

The Supreme Court, particularly in *Shatrughan Chauhan*, has extensively interpreted Article 21 in the context of death row prisoners.

- **Insanity:** The Court held that executing a person who has become mentally ill or insane on death row is a violation of Article 21. Therefore, post-conviction mental illness is a relevant supervening factor that can be a ground for commuting a death sentence.

- **Right to Life:** The Court has held that the right to life extends until the very last breath and includes the right to die with dignity.

- **Delay:** The Court recognized that inordinate and unexplained delay in deciding a mercy petition causes immense mental anguish ("agony of uncertainty"), which violates Article 21.

- **Nature of Article 21:** Article 21 is a cornerstone of the Constitution, considered a fundamental, substantive right, from which many procedural rights (like the right to a fair trial) also flow.

Step 3: Evaluating the Options:

(A) **Insanity is not a relevant supervening factor...:** This statement is false. The Supreme Court has explicitly held that post-conviction insanity **is** a relevant factor and a ground for commutation.

(B), (C), (D): These are all true statements reflecting the established jurisprudence of the Supreme Court on Article 21 for prisoners.

Step 4: Final Answer:

The statement in option (A) is not true. Insanity is a crucial supervening circumstance considered by courts.

 Quick Tip

Remember the key "supervening circumstances" that can warrant commutation of a death sentence, as laid down in *Shatrughan Chauhan*: inordinate delay, insanity, solitary confinement, and judgments declared per incuriam.

59. In which case, the Supreme Court held that if the crime is brutal and heinous and involves the killing of a large number of innocent people without any reason, delay cannot be the sole factor for the commutation of the death sentence to life imprisonment?

(A) Devender Pal Singh Bhullar v. State (NCT) of Delhi.

(B) V. Sriharan @ Murugan v. Union of India

(C) Yakub Abdul Razak Memon v. State of Maharashtra

(D) *Shatrughan Chauhan v. Union of India*

Correct Answer: (A) *Devender Pal Singh Bhullar v. State (NCT) of Delhi*.

Solution:

Step 1: Understanding the Question:

The question asks to identify the case where the Supreme Court created an exception to the general rule that delay in deciding a mercy petition is a ground for commutation, specifically for cases involving terrorism and heinous mass killings.

Step 2: Analyzing the Evolution of Jurisprudence on Delay:

The general rule that inordinate delay is a ground for commutation was established in cases like *T.V. Vatheeswaran*. However, in *Devender Pal Singh Bhullar v. State*, a case concerning a terror bombing, a two-judge bench of the Supreme Court carved out an exception. It held that in cases where the crime was an act of terrorism against the state, the delay in considering a mercy petition would not be a ground for commutation.

Step 3: Considering Subsequent Judgments:

It is important to note that this exception created in *Bhullar* was later explicitly **overruled** by a larger three-judge bench in the case of *Shatrughan Chauhan v. Union of India*. The court in *Shatrughan Chauhan* held that the "delay" ground for commutation applies to all cases, including terrorism cases, as the mental agony caused by delay is independent of the nature of the crime committed.

Step 4: Answering the Question as Asked:

The question asks in which case the exception was *held*. That holding, even though later overruled, was made in the *Devender Pal Singh Bhullar* case.

Step 5: Final Answer:

The principle that delay is not a factor for commutation in heinous terror crimes was laid down in *Devender Pal Singh Bhullar v. State (NCT) of Delhi*.

 Quick Tip

When studying case law, it is vital to understand not just the ruling in a single case, but how that ruling was treated by subsequent, larger benches. The journey of the "delay" principle from *Vatheeswaran* to *Bhullar* and finally to *Shatrughan Chauhan* is a classic example of judicial evolution. Note that *Shatrughan Chauhan* currently holds the field.

60. The President's power to grant a pardon

- (A) Can be delegated to the Prime Minister and his Council of Ministers
- (B) Cannot be delegated as it is an essential executive function
- (C) Cannot be delegated as it is expressly conferred on the President
- (D) Can be delegated to the Vice-president.

Correct Answer: (C) Cannot be delegated as it is expressly conferred on the President

Solution:

Step 1: Understanding the Question:

The question asks about the delegability of the President's pardoning power under Article 72.

Step 2: Analyzing the Nature of the Power:

The Constitution of India, in Article 72, explicitly vests the power to grant pardons, reprieves, respites, etc., in "the President". When a power is expressly conferred by the Constitution on a specific high authority, the general legal principle is that such a power cannot be delegated to another person or body unless the Constitution itself provides for such delegation. This is based on the maxim *delegatus non potest delegare* (a delegate cannot further delegate). The pardoning power is a high constitutional function entrusted specifically to the Head of State.

Step 3: Evaluating the Options:

(A) and (D): These are incorrect. The President cannot delegate this constitutional function to the PM, CoM, or the Vice-President. Note that acting on the *advice* of the CoM is different from *delegating* the power to them. The final decision, though based on advice, is formally that of the President.

(B) Cannot be delegated as it is an essential executive function: While it is an executive function, the more precise reason for its non-delegability is its explicit constitutional vesting in a specific office.

(C) Cannot be delegated as it is expressly conferred on the President: This provides the most accurate legal reason. The power is non-delegable because the Constitution itself has designated the specific authority (the President) to exercise it.

Step 4: Final Answer:

The President's power to grant a pardon cannot be delegated because it is a power specifically and expressly conferred on the President by the Constitution.

💡 Quick Tip

Distinguish between "acting on advice" and "delegation." The President exercises the pardon power on the aid and advice of the Council of Ministers (Article 74), but this does not mean the power has been delegated. The formal act and responsibility remain with the President. Delegation would mean another authority could exercise the power in their own name, which is not permissible.

XIII. To recall, the petitioners while challenging the 1951 and 1965 amendments to the AMU Act in Azeez Basha argued that the amendments were violative of the right to administration guaranteed by Article 30(1). The Union of India responded to the argument with the submission that the Muslim minority cannot claim the right to administration since it did not 'establish' the institution. Opposing this argument, the petitioners in Azeez Basha, submitted that Article 30(1) guarantees the 'right to administer' an educational institution to minorities even if it was not established by them, if by "some process, it had been administering the same before the Constitution came into force." The argument of the petitioners was rejected. This Court held that the words "establish" and "administer" must be read conjunctively, that is, the guarantee of the right to administration is contingent on the establishment of the institution by religious or linguistic minorities. . .

The issue before this Bench is the indicia for an educational institution to be a minority educational institution. Should it be proved that the institution was established by the

minority, or it was administered by the minority, or both? The petitioners and the respondents agree that the words ‘establish’ and ‘administer’ must be read conjunctively. They argue that administration is a sequitur to establishment. However, they disagree on the test to be applied to identify a minority education institution. The petitioners argue that the only indicia for a minority educational institution is that it must be established by a minority, while the respondents argue that the dual test of establishment and administration must be satisfied.

(Extracted with edits and revisions from Aligarh Muslim University v. Naresh Agarwal & Ors, 2024 SC 8)

61. Which of the following Supreme Court judgments does not deal with minority educational institution for the purpose of Article 30(1) of the Constitution of India?

- (A) TMA Pai Foundation v. State of Karnataka (2002) 8 SCC 481
- (B) S Azeez Basha v. Union of India AIR 1968 SC 662
- (C) Rev. Stanislaus v. State of Madhya Pradesh 1977 SCR (2) 611
- (D) Central Board of Dawoodi Bohra Community v. State of Maharashtra (2005) 2 SCC 673

Correct Answer: (C) Rev. Stanislaus v. State of Madhya Pradesh 1977 SCR (2) 611

Solution:

Step 1: Understanding the Subject Matter of Each Case: To solve this, we must identify the primary legal issue addressed in each judgment:

- **(A) TMA Pai Foundation (2002):** This is the landmark 11-judge bench decision that defined the scope of the right of minorities to establish and administer educational institutions under Article 30(1). It is the leading case on the subject.
- **(B) S. Azeez Basha (1968):** This case specifically dealt with the minority status of Aligarh Muslim University (AMU). It held that since AMU was established by a central statute, it was not “established” by the Muslim minority, a view recently overruled in 2024. It is central to Article 30(1) jurisprudence.
- **(C) Rev. Stanislaus (1977):** This case dealt with the constitutional validity of anti-conversion laws (Freedom of Religion Acts) in Madhya Pradesh and Orissa. The Supreme Court held that the “right to propagate” religion under Article 25 does not include the “right to convert” another person. This case deals with Article 25 (individual freedom of religion), not Article 30(1) (minority educational institutions).
- **(D) Central Board of Dawoodi Bohra Community (2005):** While this case primarily deals with excommunication (Article 26), it is heavily cited in the context of the Aligarh Muslim University (2024) judgment regarding the doctrine of precedents and bench strength (i.e., how a smaller bench can refer a matter to a larger bench). The 2024 AMU judgment relied on the principles laid down in Dawoodi Bohra (2005) to determine if the reference to the 7-judge bench was valid. Thus, it is procedurally relevant to the adjudication of Article 30(1) issues in the recent context, unlike Stanislaus which is unrelated.

Step 2: Conclusion: Rev. Stanislaus is the only case listed that deals exclusively with Article 25 (Freedom of Religion/Conversion) and has no direct nexus with the administration or establishment of minority educational institutions under Article 30(1).

 Quick Tip

Exam Strategy: In Constitutional Law questions, classify cases by Articles:

- **Art 25:** Rev Stanislaus (Conversion), Bijoe Emmanuel (National Anthem).
- **Art 26:** Shirur Mutt, Sabarimala, Dawoodi Bohra (Excommunication).
- **Art 30:** TMA Pai, Azeez Basha, St. Stephens, Islamic Academy.

Identifying the "Odd Article Out" is a quick way to solve such questions.

62. In determining the status of a minority educational institution, Article 30 of the Constitution of India is of significance. Which of the following statements regarding Article 30 is correct?

I. Article 30 prescribes conditions which must be fulfilled for an educational institution to be considered a minority educational institution.

II. Article 30 confers two group rights on all linguistic and religious minorities: the right to establish an educational institution and the right to administer an educational institution.

- (A) Only I is correct
- (B) Only II is correct
- (C) Both I and II are correct
- (D) Both I and II are incorrect

Correct Answer: (B) Only II is correct

Solution:

Step 1: Analyzing Statement I: Statement I claims Article 30 "prescribes conditions" for minority status.

- The text of Article 30(1) states: "All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice."
- The Constitution does not prescribe specific conditions (such as percentage of population, specific administrative structure, etc.) within the article itself. These "conditions" or "indices" (like the "twin test" of establishment and administration) have been evolved by the Judiciary (Supreme Court) in cases like Kerala Education Bill, St. Stephens, and TMA Pai. The Article grants the right; the conditions for recognition are regulatory/judicial.

Step 2: Analyzing Statement II: Statement II claims Article 30 confers two rights: to establish and to administer.

- This is a direct paraphrase of Article 30(1): "Right... to establish and administer".
- The Supreme Court has consistently held that these are two distinct but conjoint rights given to religious and linguistic minorities.

Step 3: Conclusion: Statement I is technically incorrect because the Article itself is a grant of right, not a prescription of conditions. Statement II is legally correct.

💡 Quick Tip

Legal Interpretation Tip: Be careful with words like "prescribes," "defines," or "enumerates" in Constitutional questions. The Constitution often provides broad rights, while definitions and conditions are often left to Parliament or the Courts. Article 30 confers a right; it does not prescribe a checklist of conditions.

63. Which core principle from the 1968 judgment in *S. Azeez Basha v. Union of India* was overruled by the Supreme Court in the 2024 judgment, *Aligarh Muslim University v. Naresh Agarwal & Ors.*?

- (A) That Article 30 protection is not available to 'Universities' established before the commencement of the Constitution.
- (B) That the words "establish and administer" in Article 30(1) must be read conjunctively.
- (C) That an educational institution is not established by a minority if it derives its legal character and incorporation through a statute.
- (D) That legislative amendments to the AMU Act violated Articles 14, 19, 25, 29, and 31 of the Constitution.

Correct Answer: (C) That an educational institution is not established by a minority if it derives its legal character and incorporation through a statute.

Solution:

Step 1: Understanding the Azeez Basha (1968) Ruling: In *S. Azeez Basha v. Union of India* (1968), the Supreme Court held that Aligarh Muslim University (AMU) was not a minority institution because it was established by an Act of the Central Legislature (AMU Act, 1920). The Court reasoned that since the university derived its legal status from the statute, it was "established" by the Government/Legislature, not by the Muslim minority.

Step 2: The Overruling in *AMU v. Naresh Agarwal* (2024): In November 2024, a 7-judge Constitution Bench overruled *Azeez Basha*. The Court held that:

- The mere fact that an institution is incorporated or regulated by a statute does not mean it was not "established" by the minority.
- Legal incorporation is a formal requirement for university status; it does not negate the historical fact of "founding" or "establishment" by the community.

Step 3: Matching with Options: Option (C) accurately captures the specific legal principle from *Basha* that was rejected: the idea that statutory incorporation disqualifies an institution from being "established" by a minority.

💡 Quick Tip

Current Affairs Update: The AMU (2024) judgment distinguishes between "Incorporation" (a legal formality) and "Establishment" (the act of founding). The Court ruled that minorities can establish a university, and the State provides the statutory incorporation; the latter does not erase the former.

64. The court in this case justified application of Article 30(1) to educational institutions established by religious and linguistic minorities before commencement of Constitution through a co-joint reading of Article 30, with Articles 13 and 372. In doing so it observed that 'Article 13(1) has a retroactive effect and not a retrospective effect.' Which of the following statement best captures the difference between the two effects?

- (A) A provision is retrospective if it alters the position of law before its enactment/commencement, it is retroactive if it imposes new results for previous actions
- (B) A retroactive effect applies only prospectively, whereas retrospective effect alters past rights and liabilities
- (C) A provision is retrospective if it applies to past and closed transactions, whereas provision is retroactive if it applies only to future cases
- (D) A retrospective provision alters both substantive and procedural rights in the past, while a retroactive provision affects only substantive law

Correct Answer: (A) A provision is retrospective if it alters the position of law before its enactment/commencement, it is retroactive if it imposes new results for previous actions

Solution:

Step 1: Defining the Terms in Constitutional Context: The distinction between "Retrospective" and "Retroactive" is subtle but important in Article 13 jurisprudence (specifically Keshavan Madhava Menon v. State of Bombay).

- **Retrospective:** A law is retrospective if it looks backward and changes the law as it was in the past. It acts as if the new law existed in the past, invalidating closed transactions or altering rights already vested and finalized.
- **Retroactive:** A law is retroactive if it operates from now onwards (or from enactment) but acts upon facts or actions that happened in the past. It imposes new consequences in the future for past actions.

Step 2: Analyzing the Options:

- **Option (A):** Clearly states that retrospective alters the law before enactment (changing the past), while retroactive imposes new results (consequences) for previous actions. This matches the legal definition used by the Court to explain that pre-Constitution laws (Art 13) aren't void ab initio (past is not erased/retrospective), but they become void from 1950 onwards based on their inconsistency (retroactive effect on existing laws).
- **Option (B):** "Retroactive applies only prospectively" is confusing phrasing. While it operates in the future, it is based on past acts.
- **Option (C):** This is a looser definition often used interchangeably in general English, but (A) is the precise legal distinction cited in the judgment.

💡 Quick Tip

Memory Hook: **Retro-spective** = Looking back and changing the picture (Re-writing history). **Retro-active** = Acting now based on the past (New penalty for old act). Article 13(1) does not rewrite history (laws were valid before 1950); it stops them from working now (retroactive effect).

65. The court observed that a holistic and realistic view should be taken keeping in mind the objective and purpose of the provision. From the judgements referred to by it, which of the following inferences can be drawn:

I. Existence of religious place for prayer and worship is a necessary indicator of minority character

II. Existence of religious symbols in the precincts of the educational institution are necessary to prove minority character

Select the most appropriate option:

- (A) Only I is correct
- (B) Only II is correct
- (C) Both I and II are correct
- (D) Both I and II are incorrect

Correct Answer: (D) Both I and II are incorrect

Solution:

Step 1: Analyzing the "Holistic and Realistic View": The Supreme Court in the AMU case (and prior precedents like TMA Pai) emphasized that the "minority character" is determined primarily by who established the institution (the genesis) and for what purpose (benefit of the community).

Step 2: Evaluating Indicators I and II:

- Statement I & II: Suggest that religious places (mosques, chapels) or symbols are necessary indicators.
- Court's Reasoning: The Court has explicitly held that a minority institution can impart purely secular education. It is not required to teach religion or have religious structures to claim Article 30 protection. For example, a Christian college teaching Physics does not lose its minority status if it lacks a chapel or religious symbols, provided it was established by the community to administer education to its members.
- Therefore, making these symbols "necessary" conditions would be incorrect and restrictive. The test is the origin (establishment by minority), not the architecture or symbolism.

Step 3: Conclusion: Both statements impose incorrect "necessary" conditions. Thus, both are incorrect.

💡 Quick Tip

Concept Clarity: "Minority Institution" $\neq$ "Religious Instruction". Article 30(1) protects the right to establish educational institutions of their choice. This includes purely secular schools (e.g., Engineering, Medical). Therefore, religious symbols are optional indicators, not mandatory legal requirements.

XIV. Ahmadi, J.(as he then was) speaking for himself and Punchhi, J., endorsed the recommendations in the following words-The time is ripe for taking stock of the working of the various Tribunals set up in the country after the insertion of Articles 323A and 323B in the Constitution. After the incorporation of these two articles, Acts have been enacted where-under tribunals have been constituted for dispensation of justice. Sufficient time has passed and experience gained in these last few years for taking stock of the situation with a view to finding out if they have served the purpose and objectives for which they were constituted. Complaints have been heard in regard to the functioning of other tribunals as well and it is time that a body like the Law Commission of India has a comprehensive look-in with a view to suggesting measures for their improved functioning. That body can also suggest changes in the different statutes and evolve a model on the basis whereof tribunals may be constituted or reconstituted with a view to ensuring greater independence. An intensive and extensive study needs to be undertaken by the Law Commission in regard to the Constitution of tribunals under various statutes with a view to ensuring their independence so that the public confidence in such tribunals may increase and the quality of their performance may improve.

Before parting with the case it is necessary to express our anguish over the ineffectiveness of the alternative mechanism devised for judicial review. The judicial review and remedy are the fundamental rights of the citizens. The dispensation of justice by the tribunal is much to be desired.

(Extracted with Edits from R.K. Jain v. Union of India, 1993 (4) SCC 119)

66. In which of the following case the Court held that though judicial review is a basic feature of the Constitution, the vesting of the power of judicial review in an alternative institutional mechanism, after taking it away from the High Courts, would not violate the basic structure so long as it was ensured that the alternative mechanism was an effective and real substitute for the High Court.

(A) L. Chandra Kumar v. Union Of India And Others 1997

(B) R.K. Jain v. Union of India : 1993

(C) S.P. Sampath Kumar v. Union of India : (1985)

(D) Kesvananda Bharti v. State of Kerala, 1973

Correct Answer: (C) S.P. Sampath Kumar v. Union of India : (1985)

Solution:

Step 1: Understanding the Legal Controversy: The core issue involves the validity of Article 323A and the Administrative Tribunals Act, 1985, which originally excluded the jurisdiction of High Courts (under Articles 226/227) in service matters, transferring it to Tribunals.

Step 2: Analyzing the Case History:

- **S.P. Sampath Kumar v. Union of India (1987):** In this judgment, the Supreme Court **upheld** the exclusion of High Court jurisdiction. The Court reasoned that while judicial review is a basic feature, it does not require the High Court specifically to exercise it. As long as the Tribunal acts as an **"effective and real substitute"** for the High Court, the arrangement is constitutional. This matches the text in the question exactly.
- **L. Chandra Kumar v. Union of India (1997):** A larger 7-judge bench **overruled** the Sampath Kumar view. It held that the power of judicial review vested in High Courts is a part of the Basic Structure and **cannot be ousted**. Tribunals can only be supplemental (courts of first instance), not substitutes.

Step 3: Conclusion: The question asks which case held that the exclusion would not violate the basic structure if there is an effective substitute. That is the holding of S.P. Sampath Kumar.

Quick Tip

Key Distinction: Sampath Kumar (1987): Theory of "Effective Substitution".
L. Chandra Kumar (1997): Theory of "Supplemental Jurisdiction" (High Court jurisdiction restored).

67. The provisions of the Administrative Tribunals Act, 1985 shall NOT apply to-
(A) Any member of the naval, military or air forces or of any other armed forces of the Union
(B) Officer or servant of the Supreme Court or of any High Court or Courts subordinate
(C) Person appointed to the secretarial staff of either House of Parliament or to the secretarial staff of any State Legislature or a House thereof or, in the case of a Union Territory having a Legislature, of that Legislature
(D) Officers of the Indian Police Services

Correct Answer: (D) Officers of the Indian Police Services

Solution:

Step 1: Analyzing Section 2 of the Administrative Tribunals Act, 1985: Section 2 of the Act specifically enumerates the categories of persons to whom the Act does **NOT** apply (Exclusions). These are: 1. Clause (a): Members of the naval, military, or air forces (Option A). 2. Clause (b): Officers or servants of the Supreme Court or High Courts (Option B). 3. Clause (c): Secretarial staff of Parliament or State Legislatures (Option C).

Step 2: Analyzing Option (D): Officers of the **Indian Police Services (IPS)** are members of an All India Service. Section 14 of the Act explicitly brings All India Services under the jurisdiction of the Central Administrative Tribunal (CAT). Therefore, the Act **DOES** apply to them.

Step 3: Addressing the Question Phrasing: The question asks "shall NOT apply to". Technically, A, B, and C are all correct answers because they are the exclusions. However, in multiple-choice competitive exams, when three options are valid exclusions and one is an

inclusion, the question usually intends to ask "To which of the following does the Act apply?" or "Which of the following is the odd one out?". Option (D) is the only category covered by the Act, making it the intended answer despite the likely typo in the question text ("NOT").

 Quick Tip

Exam Strategy: Watch out for "Negative" questions. If options A, B, and C are all valid exclusions listed in the statute, and D is an inclusion, the examiner likely wants you to mark the Inclusion (D) or there is a typo in the question word "NOT".

68. The first tribunal established in India is:

- (A) Central Administrative Tribunal
- (B) Railway Claims Tribunal
- (C) Armed Forces Tribunal
- (D) Income tax Appellate Tribunal

Correct Answer: (D) Income tax Appellate Tribunal

Solution:

Step 1: Chronological Analysis of Tribunals:

- **(D) Income Tax Appellate Tribunal (ITAT):** Established in **1941**. It is the oldest tribunal in India, created during the British era, and is often called the "Mother of Tribunals".
- **(A) Central Administrative Tribunal (CAT):** Established in **1985**, following the 42nd Amendment (1976).
- **(B) Railway Claims Tribunal:** Established in **1987**.
- **(C) Armed Forces Tribunal (AFT):** Established in **2009**.

Step 2: Conclusion: The ITAT (1941) predates the Constitution and all other options listed.

 Quick Tip

Trivia: The ITAT was the first experiment in tribunalization in India to separate judicial functions (appeals) from the executive (tax collection).

69. Article 323A and 323B of the Indian Constitution for the establishment of tribunal to adjudicate disputes in specific matters. While both articles deal with tribunals, there are key differences in their scope and application. Which of the following statements correctly reflect the distinction between Article 323A and 323B?

(A) Article 323A exclusively deals with administrative tribunals for public service matters, while Article 323B deals with the tribunals for a wider range of subjects including taxation and land reforms.

(B) While tribunals under Article 323A can be established only by Parliament, tribunals under Article 323B can only be established by State legislature, with matters falling within their legislative competence.

(C) Under Article 323A, only one tribunal for centre and no tribunal for state may be established. As far as Article 323B is concerned, there is no hierarchy of tribunals.

(D) Article 323A grant tribunals the power to hear appeals directly from the Supreme Court, by passing the high court. Under Article 323B there is no such power.

Correct Answer: (A) Article 323A exclusively deals with administrative tribunals for public service matters, while Article 323B deals with the tribunals for a wider range of subjects including taxation and land reforms.

Solution:

Step 1: Analyzing the Distinctions:

- **Subject Matter (Option A):** Article 323A is restricted to **Public Service** matters. Article 323B covers a **broad list** (Tax, Foreign Exchange, Industrial Disputes, Land Reforms, etc.). **Statement (A) is correct.**
- **Legislative Competence (Option B):**
 - 323A: Only **Parliament** can legislate.
 - 323B: Both **Parliament and State Legislatures** can legislate (based on the subject matter). Statement (B) is incorrect because it claims 323B is "only" by State Legislature.
- **Hierarchy (Option C):**
 - 323A: No hierarchy (Central/State tribunals).
 - 323B: Explicitly permits a **hierarchy** of tribunals. Statement (C) is incorrect.

Step 2: Conclusion: Option (A) accurately describes the difference in scope/subject matter.

💡 Quick Tip

Mnemonic: **323A** = Admin only (Service). **323B** = Big List (Tax, Labor, Land, etc.).

70. The creation of Administrative Tribunals to ease the burden of service related cases, on the High Courts and the amendment of the constitution to add articles 323A and 323B were based on the recommendation of :

- (A) Parliamentary Standing Committee
- (B) National Tribunals Commission
- (C) Swaran Singh Committee
- (D) Law commission of India's 272nd Report

Correct Answer: (C) Swaran Singh Committee

Solution:

Step 1: Context of the 42nd Amendment (1976): Articles 323A and 323B (Part XIV-A) were inserted into the Constitution by the **42nd Amendment Act, 1976**.

Step 2: Identifying the Committee: The 42nd Amendment was drafted based on the recommendations of the **Swaran Singh Committee**, appointed by the then Prime Minister Indira Gandhi. The committee recommended setting up administrative tribunals to reduce the mounting arrears in High Courts and ensure speedy disposal of service disputes.

 Quick Tip

Historical Note: The Swaran Singh Committee is responsible for the "Mini Constitution" (42nd Amendment), which also added Fundamental Duties (Article 51A) and the words "Socialist, Secular" to the Preamble.

XV. The Companies Act, 2013 does not deal with insolvency and bankruptcy when the companies are unable to pay their debts or the aspects relating to the revival and rehabilitation of the companies and their winding up if revival and rehabilitation is not possible. In principle, it cannot be doubted that the cases of revival or winding up of the company on the ground of insolvency and inability to pay debts are different from cases where companies are wound up under Section 271 of the Companies Act 2013. The two situations are not identical. Under Section 271 of the Companies Act, 2013, even a running and financially sound company can also be wound up for the reasons in clauses (a) to (e). The reasons and grounds for winding up under Section 271 of the Companies Act, 2013 are vastly different from the reasons and grounds for the revival and rehabilitation scheme as envisaged under the IBC. The two enactments deal with two distinct situations and in our opinion, they cannot be equated when we examine whether there is discrimination or violation of Article 14 of the Constitution of India. For the revival and rehabilitation of the companies, certain sacrifices are required from all quarters, including the workmen. In case of insolvent companies, for the sake of survival and regeneration, everyone, including the secured creditors and the Central and State Government, are required to make sacrifices. The workmen also have a stake and benefit from the revival of the company, and therefore unless it is found that the sacrifices envisaged for the workmen, which certainly form a separate class, are onerous and burdensome so as to be manifestly unjust and arbitrary, we will not set aside the legislation, solely on the ground that some or marginal sacrifice is to be made by the workers. We would also reject the argument that to find out whether there was a violation of Article 14 of the Constitution of India or whether the right to life under Article 21 Constitution of India was infringed, we must word by word examine the waterfall mechanism envisaged under the Companies Act, 2013, where the company is wound up in terms of grounds (a) to (e) of Section 271 of the Companies Act, 2013; and the rights of the workmen when the insolvent company is sought to be revived, rehabilitated or wound up under the Code. The grounds and situations in the context of the objective and purpose of the two enactments are entirely different.

(Extracted, with edits and revision, from Moser Baer Karamchari Union v. Union of India,

71. In which of the following cases, it was held by the Supreme Court that although a company is a separate legal entity distinct from that of its members, the corporate veil may be lifted and the corporate personality may be ignored?

- (A) Life Insurance Corporation of India v. Escorts Ltd. (1986) 59 Comp Case 548
- (B) R. K. Dalmia v. Delhi Administration, AIR 1962 SC 1821
- (C) Dale And Carrington Invt. P. Ltd. v. P.K. Prathapan AIR 2005 SC 1624
- (D) Rohtas Industries Ltd v. S.D. Agarwal, AIR 1969 SC 707

Correct Answer: (A) Life Insurance Corporation of India v. Escorts Ltd. (1986) 59 Comp Case 548

Solution:

Step 1: Understanding the Doctrine of Corporate Veil: The "Corporate Veil" is a legal concept that separates the personality of a corporation from the personalities of its shareholders and protects them from being personally liable for the company's debts and other obligations. However, this protection is not absolute.

Step 2: Analyzing the Case Law: In *Life Insurance Corporation of India v. Escorts Ltd. (1986)*, a Constitution Bench of the Supreme Court extensively discussed the circumstances under which the corporate veil may be lifted. The Court held: "Generally and broadly speaking, we may say that the corporate veil may be lifted where a statute itself contemplates lifting the veil, or fraud or improper conduct is intended to be prevented, or a taxing statute or a beneficent statute is sought to be evaded or where associated companies are inextricably connected as to be, in reality, part of one concern."

Step 3: Conclusion: The Court affirmed that while the company is a distinct legal entity (referencing *Salomon v. Salomon*), the veil can be lifted to look at the reality behind the legal facade if public interest or statutory enforcement requires it.

 Quick Tip

Key Case Mnemonic: Salomon v. Salomon: Established Separate Legal Entity.
LIC v. Escorts: Established the modern principles for **Lifting the Corporate Veil** in India.

72. The extent to which a Corporation as a legal person can be held criminally liable for its acts and omissions and for those of the natural persons employed by it is called?

- (A) Corporate manslaughter
- (B) Lifting the corporate veil
- (C) Corporate criminal liability
- (D) Corporate social responsibility

Correct Answer: (C) Corporate criminal liability

Solution:

Step 1: Defining the Concept: The question describes a situation where a corporation (a "juristic person") is held liable for criminal acts.

- **Corporate Criminal Liability:** This is the legal doctrine that holds corporations liable for criminal acts (like fraud, environmental damage, etc.) committed by their agents or employees acting within the scope of their employment. It attributes the mens rea (guilty mind) of the key decision-makers (alter ego) to the company.
- **Corporate Manslaughter:** This is a specific types of crime (killing), not the general principle of liability.
- **Lifting the Corporate Veil:** This is about ignoring the separate entity to reach the shareholders, not about the company itself being liable for crimes.
- **Corporate Social Responsibility (CSR):** This is a statutory obligation (Sec 135) to contribute to social causes, not a liability for crimes.

Step 2: Conclusion: The general term for holding a company liable for crimes is Corporate Criminal Liability (established in India in *Standard Chartered Bank v. Directorate of Enforcement*).

💡 Quick Tip

Legal Maxim: *Actus non facit reum nisi mens sit rea* (An act does not make one guilty unless the mind is also guilty). For corporations, the "mind" is derived from the people controlling it (Doctrine of Alter Ego).

73. In which of the following cases, the constitutionality of the Insolvency and Bankruptcy Code, 2016 was upheld by the Supreme Court?

- (A) RPS Infrastructure Ltd. v. Union of India, 2023 INSC 816
- (B) Paschimanchal Vidyut Vitran Nigam Ltd. v. Union of India, AIR 1971 SC 862
- (C) Union Bank of India v. Financial Creditors of M/s Amtek Auto Limited, (2023) IBC Law.in 85 SC.
- (D) Swiss Ribbons v. Union of India, (2019) SCC Online SC 73.

Correct Answer: (D) Swiss Ribbons v. Union of India, (2019) SCC Online SC 73.

Solution:

Step 1: Identifying the Landmark Judgment: The constitutional validity of the Insolvency and Bankruptcy Code (IBC), 2016 was challenged on various grounds, including the distinction between financial and operational creditors and the role of the Committee of Creditors (CoC).

Step 2: Analyzing the Decision: In *Swiss Ribbons Pvt. Ltd. v. Union of India* (2019), the Supreme Court upheld the constitutionality of the IBC in its entirety. The Court held that the classification between financial and operational creditors was based on an "intelligible differentia" and was not discriminatory (Article 14). It emphasized the economic goal of the Code: to revive the corporate debtor and maximize the value of assets.

Step 3: Conclusion: Option (D) refers to this specific landmark judgment.

💡 Quick Tip

Current Affairs Tip: *Swiss Ribbons* is to IBC what *Kesavananda Bharati* is to the Constitution—it cemented the law’s foundation.

74. A director other than a managing director or a whole-time director or a nominee director who does not have any material or pecuniary relationship with the company/ directors other than the remuneration is called

- (A) Founding Director
- (B) Promoter Director
- (C) Independent Director
- (D) Associate Director

Correct Answer: (C) Independent Director

Solution:

Step 1: Analyzing the Definition: The question lists the criteria for a specific type of director under the Companies Act, 2013:

- Not a Managing Director, Whole-time Director, or Nominee Director.
- No material/pecuniary relationship with the company (ensuring lack of bias).

Step 2: Statutory Reference: Section 149(6) of the Companies Act, 2013 defines an Independent Director exactly in these terms. Their role is to provide an objective, unbiased perspective to the Board to protect the interests of minority shareholders.

Step 3: Evaluating Other Options:

- Promoter Director: Usually has a high pecuniary interest/stake.
- Founding Director: Not a legal term defined in the Act; implies the founder who definitely has a relationship.
- Associate Director: Usually an employee title, not a specific statutory category of Board independence.

💡 Quick Tip

Key Section: Remember Section 149(6). An Independent Director is the "watchdog" for good corporate governance.

75. Which among the following is not a duty of a Director of the company?

- (A) To file return of allotments
- (B) To disclose interest
- (C) Duty to call upon the shareholders to attend the Board meetings
- (D) To convene General meeting

Correct Answer: (C) Duty to call upon the shareholders to attend the Board meetings

Solution:

Step 1: Understanding Corporate Governance Structure: A company functions through two main organs: 1. Board of Directors: Manages day-to-day affairs. Meets in Board Meetings. 2. Shareholders (Members): Owners who make major decisions. Meet in General Meetings (AGM/EGM).

Step 2: Analyzing the Options:

- **(A) To file return of allotments:** Section 39 places this duty on the company (acted upon by officers/directors).
- **(B) To disclose interest:** Section 184 mandates every director to disclose their concern/interest in any contract. This is a strict duty.
- **(D) To convene General meeting:** The Board has a statutory duty to call for Annual General Meetings (Section 96) and Extra-ordinary General Meetings (Section 100).
- **(C) Call shareholders to Board meetings:** Shareholders do not attend Board Meetings. Board meetings are exclusive to Directors. Shareholders attend General Meetings. Therefore, there is no duty (and in fact, no right) for a director to call shareholders to a Board meeting.

Step 3: Conclusion: Option (C) describes an action that contradicts the separation of powers in a company structure.

 Quick Tip

Exam Logic: Distinguish between the "Board" (Management) and the "General Body" (Owners). They meet separately. Any option mixing these two meetings is usually the incorrect one.

XVI. In his heroic efforts, my learned brother Krishna Iyer, if I may say so with great respect, has not discarded the tests of industry formulated in the past. Indeed, he has actually restored the tests laid down by this Court in *D. N. Banerji's* case and, after that, in the *Corporation of the City of Nagpur v. Its Employees*, and *State of Bombay v. The Hospital Mazdoor Sabha* to their pristine glory.

My learned brother has, however, rejected what may appear, to use the word employed recently by an American Jurist, "excrescences" of subjective notions of judges which may have blurred those tests. The temptation is great, in such cases, for us to give expression of what may be purely subjective personal predilections. It has, however, to be resisted if law is to possess a direction in Conformity with Constitutional objectives and criteria which must impart that reasonable state of predictability and certainty to interpretations of the Constitution as well as to the laws made under it which citizens should expect. We have, so to speak, to chart what may appear to be a Sea in which the ship of law like Noah's ark may have to be navigated. Indeed, Lord Sankey on one occasion, said that law itself is like the ark to which people look for some certainty and security amidst the shifting sands of political life

and vicissitudes of times. The Constitution and the directive principles of State policy, read with the basic fundamental rights, provide us with a compass.

This Court has tried to indicate in recent cases that the meaning of what could be described as a basic "structure" of the Constitution must necessarily be found in express provisions of the construction and not merely in subjective notions about meanings of words. Similar must be the reasoning we must employ in extracting the core of meaning hidden between the interstices of statutory provisions. Each of us is likely to have a subjective notion about "industry". For objectivity, we have to look first to the words used in the statutory provision defining industry in an attempt to find the meaning. If that meaning is clear, we need proceed no further. But, the trouble here is that the words found there do not yield a meaning so readily. They refer to what employers or workers may do as parts of their ordinary avocation or business in life.

(Extracted with edits from Bangalore Water Supply v. A. Rajappa & Others, AIR 1978 SC 548)

76. According to the Supreme Court's judgment, what is the most important factor in determining whether an activity constitutes an industry?

- (A) The profit-making motive of the employer
- (B) When there are multiple activities carried on by an establishment, its dominant function has to be considered. If the dominant function is not commercial, benefits of a workman of an industry under Industrial Dispute Act may be given.
- (C) The nature of the activity and the authority of the employer over its employees
- (D) When there are multiple activities carried on by an establishment, all the activities must be considered. Even if one activity is commercial, the employees will not get the benefit of workman of an industry under the Industrial Dispute Act.

Correct Answer: (B) When there are multiple activities carried on by an establishment, its dominant function has to be considered. If the dominant function is not commercial, benefits of a workman of an industry under Industrial Dispute Act may be given.

Solution:

Step 1: Understanding the Concept (Dominant Nature Test): The *Bangalore Water Supply* case established the "Dominant Nature Test" to handle complex establishments that perform mixed functions (some industrial, some non-industrial, like a university with a printing press or a hospital with a research wing).

Step 2: Analyzing the Judgment: Justice Krishna Iyer held that if an establishment undertakes multiple activities, the dominant nature of the activity determines whether the whole establishment is an "Industry".

- If the dominant function is industrial, the non-industrial parts are also covered.
- If the dominant function is non-industrial (e.g., spiritual or sovereign), the minor industrial activities do not convert the whole institution into an industry, though those specific minor departments might still be industries severally.

Step 3: Evaluating Options: Option (B) correctly reflects the "Dominant Nature Test". It states that the dominant function is the deciding factor. Note: The phrasing in option (B) "If the dominant function is not commercial..." seems to have a typo or awkward phrasing in the source text ("may be given" vs "may not be given"), but conceptually, the key is that the

Dominant Function controls the status. In the context of the options provided, (B) is the only one acknowledging the "Dominant Function" principle, which is central to the judgment. Option (A) is incorrect because profit motive was explicitly rejected as a requirement.

 Quick Tip

The Triple Test: 1. Systematic Activity. 2. Cooperation between Employer and Employee. 3. Production of Goods and Services. Note: Profit motive is NOT required.

77. Which of the following best describes the broader impact of the judgment?

- (A) It reduced labour protections for workers
- (B) It extended labour protections to a broader spectrum of workers
- (C) It had no significant impact on labour laws
- (D) It only affected private sector workers

Correct Answer: (B) It extended labour protections to a broader spectrum of workers

Solution:

Step 1: Analyzing the Impact of Bangalore Water Supply Case: The judgment in *Bangalore Water Supply v. A. Rajappa* is known for its expansive and liberal interpretation of the term "Industry" under Section 2(j) of the Industrial Disputes Act, 1947.

Step 2: Scope of Extension: Prior to this judgment, there was confusion regarding whether hospitals, educational institutions, clubs, and charitable institutions fell under the definition. The Supreme Court's "Triple Test" brought a vast array of institutions (Universities, Hospitals, Clubs, etc.) under the ambit of "Industry," thereby granting protection (dispute resolution, retrenchment compensation, etc.) to the employees of these sectors.

Step 3: Conclusion: The judgment significantly widened the net of labour law protections.

 Quick Tip

Exam Strategy: Landmark judgments in Labour Law (like Bangalore Water Supply) usually favor the "weaker party" (workmen) by interpreting definitions broadly to fulfill the social welfare objective of the Constitution.

78. Which of the following best describes the term 'industry' as defined by the Supreme Court in this judgment?

- (A) Any activity involving profit-making
- (B) Any systematic activity organized by cooperation between an employer and employees for producing or distributing goods and services
- (C) Only activities conducted by private enterprises
- (D) Activities limited to manufacturing sectors

Correct Answer: (B) Any systematic activity organized by cooperation between an employer and employees for producing or distributing goods and services

Solution:

Step 1: The Triple Test Definition: The Supreme Court in Bangalore Water Supply formulated the "Triple Test" to define an industry. An activity is an industry if it fulfills: 1. Systematic Activity: It is not casual or sporadic. 2. Organized by Cooperation: There is cooperation between employer and employee. 3. Production/Distribution: It results in the production of goods or services calculated to satisfy human wants and wishes.

Step 2: Exclusions: The Court specifically noted that:

- Profit motive is irrelevant (Rejecting A).
- It applies to Public and Private sectors alike (Rejecting C).
- It is not limited to manufacturing; it includes services (Rejecting D).

Step 3: Conclusion: Option (B) is the verbatim representation of the Triple Test.

 Quick Tip

Exclusions: The judgment excluded purely spiritual/religious functions, sovereign functions (law and order, defense), and domestic servants from the definition of Industry.

79. In which of the following landmark judgements, the Supreme Court held that when an association or society of apartment owners employs workers for personal services to its members, those workers do not qualify as workmen under the Act and the association is not an "Industry" under the Industrial Disputes Act?

- (A) Som Vihar Apartment Owners' Housing Maintenance Society Ltd v. Workmen, 2009 SC
(B) Anand Vihar Apartment Owners' Society Ltd. V. Workmen, 2024 SC
(C) Kanchanjunga Building Employees Union v. Kanchanjunga Flat Owner's Society & Anr., 2024 SC
(D) Workmen represented by Secretary v. Reptakos Brett AIR 1992 SC 504

Correct Answer: (A) Som Vihar Apartment Owners' Housing Maintenance Society Ltd v. Workmen, 2009 SC

Solution:

Step 1: Analyzing the Issue: The question deals with whether a housing society employing staff (security, cleaners) for the personal benefit of residents constitutes an "Industry".

Step 2: Precedent - Som Vihar Case (2002): In *Som Vihar Apartment Owners' Housing Maintenance Society Ltd. v. Workmen*, the Supreme Court distinguished between professional services and personal services.

- The Court held that when an association of flat owners employs people to render personal services (like cleaning, security) to the members, the association is acting as an extension of the owners themselves.
- Since domestic employment is excluded from "Industry", the society acting on behalf of owners for similar personal services is also excluded.

Step 3: Conclusion: The judgment established that such housing societies are not "Industries".

 Quick Tip

Key Distinction: If the society engages in commercial activity (e.g., renting out community halls for profit, running a shop), it might become an industry. But for pure maintenance/personal service to residents, it is not.

80. Under the Industrial Dispute Act, 1947, what is the role of the "Works Committee" and which of the following correctly describes its function?

- (A) The works committee is a body formed by the central government to address wage disputes between employer and employee in public sector industries.
- (B) The works committee is a grievance redressal body constituted by the employer, primarily to promote measures for securing and preserving amity and good relations between the employer and employee.
- (C) The Works Committee is responsible for making binding decisions on industrial disputes related to layoffs, retrenchment and closure of industrial units.
- (D) The Works Committee is responsible for adjudicating major industrial disputes regarding wages, bonus or retrenchment.

Correct Answer: (B) The works committee is a grievance redressal body constituted by the employer, primarily to promote measures for securing and preserving amity and good relations between the employer and employee.

Solution:

Step 1: Statutory Provision (Section 3 of IDA, 1947): Section 3 mandates the constitution of a Works Committee in industrial establishments employing 100 or more workmen.

Step 2: Functions of the Works Committee: Section 3(2) explicitly states the duty of the Works Committee: "To promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters."

Step 3: Evaluating Options:

- (A) Incorrect. It is formed by the employer (upon order by Govt), not directly by the Govt for wage disputes.
- (B) Correct. It focuses on "amity and good relations".
- (C) (D) Incorrect. The Works Committee does not have adjudicatory powers or the power to make binding decisions on major disputes like retrenchment. Those are for Labour Courts/Tribunals.

 Quick Tip

Hierarchy: 1. Works Committee: Negotiation/Amity (Internal). 2. Conciliation Officer: Mediation (External). 3. Labour Court/Tribunal: Adjudication (Binding).

XVII. The Act of 1948 defines “manufacturing process” and we clearly find that “washing, cleaning” and the activities carried out by the respondent with a view to its use, delivery or disposal are squarely attracted. The contention of the respondent that dry cleaning does not make any product usable, saleable or worthy of transport, delivery or disposal has only to be stated to be rejected.

“Manufacturing process” has been defined to mean any process for washing or cleaning with a view to its use, sale, transport, delivery or disposal. The linen deposited with the launderer is, after washing and cleaning, delivered to the customer for use. The ingredients of the section are fully satisfied. There is nothing in the Act of 1948, which is repugnant in the subject or context, constraining us to jettison the definition. Hence, we reject the findings of the High Court and hold that the activity carried out which on facts is not disputed is clearly covered by the definition of “manufacturing process” under Section 2(k) which, in turn, would bring the premises in question of the respondent under the definition of “factory” under Section 2(m). If that were so, the complaint lodged against the respondent could not have been quashed.

(Extracted with edits from The State of Goa v. Namita Tripathi, 2025 INSC 306)

81. According to the Supreme Court’s interpretation of Section 2(k)(i) of the Factories Act, 1948, the business of a laundry service involving cleaning and washing of clothes is considered a “manufacturing process” primarily because it involves:

- (A) Producing a new marketable commodity through transformation.
- (B) Washing or cleaning any article or substance with a view to its delivery or use.
- (C) Carrying on a service and not a manufacturing activity.
- (D) Employing more than 50 workers, regardless of the activity.

Correct Answer: (B) Washing or cleaning any article or substance with a view to its delivery or use.

Solution:

Step 1: Analyzing the Definition of Manufacturing Process (Section 2(k)): Section 2(k)(i) of the Factories Act, 1948 defines “manufacturing process” as any process for: “Making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal.”

Step 2: Applying to Laundry Services: The passage clarifies that the act of “washing and cleaning” clothes (linen) makes them ready for “delivery” back to the customer and subsequent “use”. Therefore, it fits perfectly within the statutory definition.

Step 3: Conclusion: Option (B) directly quotes the relevant part of the statutory definition cited in the judgment. Option (A) is incorrect because “manufacturing process” under the Act is broader than just creating a new commodity; it includes cleaning and repairing.

💡 Quick Tip

Definition Tip: The definition of "Manufacturing Process" in the Factories Act is extremely wide. It includes pumping oil, generating power, and even cold storage (preserving). It is not limited to "factory production" in the colloquial sense.

82. What rule of statutory interpretation did the Supreme Court explicitly state should be applied to the Factories Act, 1948, because of its nature?

- (A) Rule of Literal Interpretation.
- (B) Doctrine of Stare Decisis.
- (C) Liberal and Beneficial Construction.
- (D) Rule of Ejusdem Generis.

Correct Answer: (C) Liberal and Beneficial Construction.

Solution:

Step 1: Identifying the Nature of the Legislation: The Factories Act, 1948, is a Social Welfare Legislation aimed at protecting the health, safety, and rights of workers.

Step 2: Rule of Interpretation for Welfare Statutes: Courts consistently apply the rule of Beneficial (or Liberal) Construction to welfare statutes. This means if there are two possible interpretations of a provision, the one that furthers the object of the legislation and benefits the beneficiaries (workers) should be adopted.

Step 3: Context of the Case: In the *Namita Tripathi* case (as referenced in the passage), the Court rejected the narrow interpretation that laundry isn't manufacturing. Instead, it interpreted the terms "washing/cleaning" broadly to ensure workers in such establishments get protection.

💡 Quick Tip

General Rule: - **Penal Statutes (Criminal Law):** Strict Interpretation (in favor of accused). - **Taxing Statutes:** Strict/Literal Interpretation. - **Welfare Statutes (Labour/Consumer):** Beneficial/Liberal Interpretation.

83. The Supreme Court used the 'Mischief Rule' of interpretation to analyze the definition of "manufacturing process" by comparing the Factories Act, 1948, with its predecessor. What was the critical difference noted in the 1948 Act's definition (Section 2(k)) compared to the 1934 Act's definition (Section 2(g))?

- (A) The 1948 Act introduced the concept of "power" being used in the process.
- (B) The 1948 Act included the words 'washing, cleaning', which were absent in the 1934 Act.
- (C) The 1948 Act removed the exemption for mobile units of the armed forces.
- (D) The 1948 Act lowered the minimum age of employment for children.

Correct Answer: (B) The 1948 Act included the words 'washing, cleaning', which were absent in the 1934 Act.

Solution:

Step 1: Understanding the Legislative History: The Factories Act, 1948 replaced the Factories Act, 1934. The definition of "manufacturing process" was significantly widened in the 1948 Act.

Step 2: The Specific Change regarding Laundry: The Court in such cases (like *Namita Tripathi*) often looks at the legislative evolution to understand intent. The specific words "washing, cleaning, oiling, packing" were added in the 1948 Act to cover industries like laundries, packing units, etc., which were arguably not covered under the narrower 1934 definition.

Step 3: Applying the Mischief Rule: The "mischief" was the lack of protection for workers in these specific activities under the old law. The 1948 Act remedied this by explicitly adding these words. Thus, Option (B) represents the critical difference relevant to the passage.

💡 Quick Tip

Mischief Rule (Heydon's Case): Look at the old law, the defect (mischief) in it, and the remedy provided by the new law. The interpretation should suppress the mischief and advance the remedy.

84. A premises is defined as a "factory" under Section 2(m)(i) of the Factories Act, 1948, if:

- (A) Twenty or more workers are working without the aid of power.
- (B) Ten or more workers are working, and a manufacturing process is carried on with the aid of power.
- (C) Less than ten workers are working, but the process involves hazardous substances.
- (D) It is a hotel, restaurant, or eating place.

Correct Answer: (B) Ten or more workers are working, and a manufacturing process is carried on with the aid of power.

Solution:

Step 1: Analyzing Section 2(m) of the Factories Act, 1948: The section defines "Factory" based on two thresholds:

1. Section 2(m)(i): 10 or more workers working with the aid of power.
2. Section 2(m)(ii): 20 or more workers working without the aid of power.

Step 2: Evaluating Options:

- (A) describes 2(m)(ii) (requires 20 workers, no power).
- (B) accurately describes 2(m)(i).
- (C) is incorrect because the threshold is strictly 10/20 unless notified under Sec 85.
- (D) Hotels/Restaurants are generally covered under Shops & Establishments Acts, though their kitchens might be factories if they meet criteria, but Option (B) is the direct statutory definition requested.

💡 Quick Tip

Memory Aid: Power = Efficiency = Fewer People needed (10). No Power = More Manual Labor = More People needed (20).

85. The Supreme Court ruled that the Punjab and Haryana High Court judgment in Employees' State Insurance Corporation, Jullundur v. Triplex Dry Cleaners and Others (1982) was not applicable to the present case because:

- (A) The Triplex Dry Cleaners case was decided under the Shops and Establishments Act, not the Factories Act.
- (B) The Triplex Dry Cleaners case was decided before the definition of "manufacturing process" under the Factories Act, 1948, was incorporated into the Employees State Insurance Act (ESIC Act).
- (C) The Triplex Dry Cleaners case dealt with washing, not dry cleaning.
- (D) The ESIC Act was a penal statute, while the Factories Act, 1948, is a welfare statute.

Correct Answer: (B) The Triplex Dry Cleaners case was decided before the definition of "manufacturing process" under the Factories Act, 1948, was incorporated into the Employees State Insurance Act (ESIC Act).

Solution:

Step 1: Understanding the Legal Nuance: The Triplex Dry Cleaners case (1982) held that dry cleaning was not a manufacturing process. However, the 2025 judgment (State of Goa v. Namita Tripathi) distinguished/overruled this view.

Step 2: The Reason for Distinction: The ESIC Act (Section 2(14AA)) adopts the definition of "manufacturing process" from the Factories Act, 1948. The distinction lies in when this adoption happened or how the law was interpreted at that time. Option (B) points out a temporal/legislative amendment issue: the Triplex case was decided before the definitions were fully aligned or incorporated in the manner relevant to the current case (or the specific amendment incorporating Sec 2(k) of Factories Act into ESIC Act happened later or was interpreted differently).

Step 3: Validating with the Passage Context: The question asks specifically "because...". In legal reasoning, judgments are often distinguished based on the statutory landscape existing at the time of the previous decision. Option (B) provides a concrete legal reason (change in law/incorporation) for why the old precedent doesn't apply to the current case involving the Factories Act definition.

💡 Quick Tip

Precedent Analysis: A past judgment loses its binding value if the statute it was based on has been amended or if it was based on a law that didn't yet contain the provision currently under scrutiny.

XVIII. The element of gift is traceable to both 'settlement' and 'will'. As settled in law, the nomenclature of an instrument is immaterial and the nature of the document is to be derived from its contents. While so, a voluntary disposition can transfer the interest in praesenti and in future, in the same document. In such a case, the document would have the elements of both the settlement and will. Such document, then has to be registered and by operation of the doctrine of severability, becomes a composite document and has to be treated as both, a settlement and will and the respective rights will flow with regard to each disposition from the same document. It is pertinent to mention here that the reservation of life interest or any condition in the instrument, even if it postpones the physical delivery of possession to the donee/settlee, cannot be treated as a will, as the property had already been vested with the donee/settlee.

(Extracted from: NP Saseendran v. NP Ponnammamma 2025 INSC 388.)

86. Which of the following is NOT an essential of a valid gift:

- (A) It is a transfer of certain existing movable or immovable property.
- (B) It is made voluntarily.
- (C) It is made without consideration.
- (D) It must be accepted by or on behalf of the donee during the lifetime of the donor, even if the donor becomes incapable of giving the property.

Correct Answer: (D) It must be accepted by or on behalf of the donee during the lifetime of the donor, even if the donor becomes incapable of giving the property.

Solution:

Step 1: Analyzing Section 122 of the Transfer of Property Act, 1882: Section 122 defines a gift and outlines its essential elements:

- It is the transfer of certain existing movable or immovable property (Matches Option A).
- Made voluntarily (Matches Option B).
- Without consideration (Matches Option C).
- Accepted by or on behalf of the donee.

Step 2: The Requirement of Acceptance: The proviso to Section 122 specifically states: "Such acceptance must be made during the lifetime of the donor and while he is still capable of giving." If the donor dies or becomes incapable of giving (e.g., loses mental capacity) *before* acceptance, the gift is void.

Step 3: Evaluating Option (D): Option (D) claims acceptance is valid "even if the donor becomes incapable". This directly contradicts the statutory requirement that the donor must be capable at the time of acceptance. Therefore, this is the correct choice for "NOT an essential" (i.e., it is an incorrect statement of the law).

 Quick Tip

Key Concept: Acceptance is the final nail in the coffin for a Gift. It must happen while the donor is alive AND of sound mind.

87. The element of _____ is common to all the three transactions, i.e. Gift, Settlement and Will:

- (A) physical delivery of possession.
- (B) absence of consideration.
- (C) voluntary disposition.
- (D) vesting of the right in praesenti.

Correct Answer: (C) voluntary disposition.

Solution:

Step 1: Analyzing the Transactions:

- Gift: Voluntary transfer without consideration.
- Will: Voluntary declaration of intention regarding property, effective after death.
- Settlement: Voluntary disposition of property (often for family arrangements).

Step 2: Evaluating Options:

- (A) Physical delivery: Not required for a Will (effective on death) or a registered Gift of immovable property.
- (B) Absence of consideration: While generally true for Gifts and Wills, Settlements (like family settlements) can technically have "mutual peace and harmony" as consideration, though they are gratuitous in the commercial sense. However, the passage explicitly opens with "The element of gift is traceable to both...", implying the gratuitous nature, but "Voluntary disposition" is the broader and more legally accurate term covering the act of execution for all three.
- (C) Voluntary disposition: All three are acts where the owner voluntarily transfers or assigns rights. The passage explicitly uses the phrase "a voluntary disposition can transfer...".
- (D) Vesting in praesenti: A Will does *not* vest rights in praesenti (immediately); it vests only on death.

Step 3: Conclusion: "Voluntary disposition" is the fundamental commonality mentioned in the passage and legal theory.

💡 Quick Tip

Definition Tip: A Will is always "ambulatory" (moveable/changeable) until death, whereas Gifts and Settlements usually operate immediately.

88. The main test to find out whether a document constitutes a 'Will' or a 'Settlement' is to see whether the disposition of the interest in the property is in *praesenti* in favour of the settlee or whether the disposition is to take effect on the death of the executant. In view of this position of law, choose the CORRECT proposition:

(A) If the disposition is to take effect on the death of the executant, it will be a Settlement. But, if the executant divests his interest in the property and vests his interest in *praesenti* in the transferee, the document will be a Will.

(B) Whether the disposition is to take effect on the death of the executant or the executant divests his interest in the property and vests his interest in *praesenti* in the transferee, the document will nevertheless remain a Settlement.

(C) If the disposition is to take effect on the death of the executant, it will be a Will. But, if the executant divests his interest in the property and vests his interest in *praesenti* in the settlee, the document will be a Settlement.

(D) If the disposition takes effect on the assumption of death of the executant, it shall be a will.

Correct Answer: (C) If the disposition is to take effect on the death of the executant, it will be a Will. But, if the executant divests his interest in the property and vests his interest in *praesenti* in the settlee, the document will be a Settlement.

Solution:

Step 1: The Core Distinction (Vesting):

- **Settlement/Gift:** The interest vests in the transferee *immediately* (in *praesenti*) upon execution, even if the enjoyment of the property is postponed (e.g., "I give this house to you now, but I will live in it until I die"). The ownership transfers *now*.
- **Will:** The interest vests only *on the death* of the testator. Until death, the testator retains full ownership and can revoke the will.

Step 2: Analyzing the Options: Option (C) correctly applies this test:

- "Effect on death" → **Will**.
- "Divests interest... vests in *praesenti*" → **Settlement**.

Options (A) and (B) confuse or merge the definitions incorrectly.

💡 Quick Tip

Test of Revocability: A Will is revocable. A Settlement/Gift, once accepted, is generally irrevocable. If the document says "I reserve the right to revoke this at any time", it is likely a Will.

89. Which of the following propositions is **INCORRECT** about a valid gift:

- (A) A gift may be suspended or revoked.
- (B) A gift comprising both existing and future property is valid in totality.
- (C) Delivery of possession is not a condition *sine qua non* to validate the gift.
- (D) In so far as gift of an immovable property is concerned, registration is mandatory.

Correct Answer: (B) A gift comprising both existing and future property is valid in totality.

Solution:

Step 1: Analyzing Section 124 of TPA (Gift of Future Property): Section 124 explicitly states: "A gift comprising both existing and future property is void as to the latter." This means the gift is valid for the existing property but void for the future property.

Step 2: Evaluating the Statement in (B): Option (B) claims the gift is valid in totality. This is legally incorrect because the portion relating to future property is void.

Step 3: Checking other options:

- (A) Correct: Under Section 126, a gift can be suspended or revoked on the happening of a specified event (not depending on the will of the donor).
- (C) Correct: For immovable property, registration is the key (Section 123); physical delivery is not strictly mandatory if the deed is registered.
- (D) Correct: Section 123 mandates registration for gifts of immovable property.

 Quick Tip

Memory Aid: You cannot give what you do not have. "Future property" (e.g., "I will give you the crops that grow next year") cannot be gifted today.

90. Which of the following propositions is CORRECT about a Will:

- (A) It is revocable, as no interest in the property is intended to pass during the lifetime of the testator.
- (B) It is revocable, despite interest in the property being passed under the Will during the lifetime of the testator.
- (C) It is revocable because registration is not mandatory.
- (D) It is irrevocable because registration is not mandatory.

Correct Answer: (A) It is revocable, as no interest in the property is intended to pass during the lifetime of the testator.

Solution:

Step 1: Nature of a Will: A Will is an ambulatory document, meaning it has no effect until the testator dies. It is a mere declaration of intention.

Step 2: Revocability: Because no interest passes to the beneficiary during the testator's lifetime, the testator retains full ownership and the right to change (revoke) the Will at any time before death.

Step 3: Evaluating Options:

- (A) correctly links the revocability to the fact that no interest passes during the lifetime.
- (B) is incorrect because interest does not pass during the lifetime.
- (C) is weak reasoning; registration doesn't determine revocability (even registered wills are revocable).

💡 Quick Tip

Concept: A Will speaks from the grave. Until then, it is just a piece of paper with no binding effect on the property.

XIX. “Mortgage inter alia means transfer of interest in the specific immovable property for the purpose of securing the money advanced by way of loan. Section 17(1)(c) of the Registration Act provides that a non-testamentary instrument which acknowledges the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extension of any such right, title or interest, requires compulsory registration. Mortgage by deposit of title-deeds in terms of Section 58(f) of the Transfer of Property Act surely acknowledges the receipt and transfer of interest and, therefore, one may contend that its registration is compulsory.

However, Section 59 of the Transfer of Property Act mandates that every mortgage other than a mortgage by deposit of title-deeds can be effected only by a registered instrument. In the face of it, in our opinion, when the debtor deposits with the creditor title-deeds of the property for the purpose of security, it becomes mortgage in terms of Section 58(f) of the Transfer of Property Act and no registered instrument is required under Section 59 thereof as in other classes of mortgage.

The essence of mortgage by deposit of title-deeds is handing over by a borrower to the creditor title-deeds of immovable property with the intention that those documents shall constitute security, enabling the creditor to recover the money lent. After the deposit of the title-deeds the creditor and borrower may record the transaction in a memorandum but such a memorandum would not be an instrument of mortgage. A memorandum reducing other terms and conditions with regard to the deposit in the form of a document, however, shall require registration under Section 17(1)(c) of the Registration Act, but in a case in which such a document does not incorporate any term and condition, it is merely evidential and does not require registration.”

[Extracted from: *State of Haryana v Narvir Singh (2014) 1 SCC 105*]

91. Which of the following is NOT an essential of a mortgage under the Transfer of Property Act, 1882:

- (A) It is a transfer of an interest in specific immovable property.
- (B) It is for the purpose of securing the payment of money advanced or to be advanced by way of loan.
- (C) It is always in respect of an existing debt.
- (D) It is in respect of an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability.

Correct Answer: (C) It is always in respect of an existing debt.

Solution:

Step 1: Definition of Mortgage (Section 58, TPA): “A mortgage is the transfer of an interest in specific immovable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability.”

Step 2: Analyzing the Options:

- Option (C) claims it is always in respect of an existing debt.
- The statutory definition explicitly includes "future debt".

Step 3: Conclusion: Option (C) limits the scope incorrectly, making it the "NOT essential" (incorrect) statement.

💡 Quick Tip

Example: A "Running Account" or overdraft facility with a bank can be secured by a mortgage even though the debt fluctuates or arises in the future.

92. A mortgage by deposit of title-deeds is a form of mortgage recognised by section 58(f) of the Transfer of Property Act, 1882, which provides that:

(A) When the debtor deposits with the creditor the title-deeds of his property with an intent to create a security, the law implies a contract between the parties to create a mortgage, and no registered instrument is required under section 59 of the Transfer of Property Act, as in other forms of mortgage.

(B) When the debtor deposits with the creditor the title-deeds of his property with an intent to create a security, the implication of law (that there exists a contract between the parties to create a mortgage) is excluded, and a registered instrument is required under section 59 of the Transfer of Property Act.

(C) When the debtor deposits with the creditor the title-deeds of his property with an intent to create a security, the implication of law (that there exists a contract between the parties to create a mortgage) is excluded, and a registered instrument is required under section 58(f) of the Transfer of Property Act.

(D) When the debtor deposits with the creditor the title-deeds of his property with an intent to create a security, the implication of law (that there exists a contract between the parties to create a mortgage) is excluded, and a registered instrument is required under section 17(1)(c) of the Registration Act.

Correct Answer: (A) When the debtor deposits with the creditor the title-deeds of his property with an intent to create a security, the law implies a contract between the parties to create a mortgage, and no registered instrument is required under section 59 of the Transfer of Property Act, as in other forms of mortgage.

Solution:

Step 1: Understanding Section 58(f) and Section 59:

- Section 58(f): Defines Mortgage by Deposit of Title Deeds (Equitable Mortgage). The essential ingredients are debt, deposit of title deeds, and intent to create security.
- Section 59: Generally mandates registration for mortgages (value ≥ Rs 100). However, it contains a specific exception for mortgages by deposit of title deeds.

Step 2: Analyzing the Passage and Law: The passage explicitly states: "no registered instrument is required under Section 59 thereof as in other classes of mortgage." Option (A) mirrors this legal position accurately.

💡 Quick Tip

Practical Relevance: This is the most common form of bank loan mortgage because it saves Stamp Duty and Registration Fees.

93. As per section 96 of the Transfer of Property Act, the provisions which apply to _____ shall, so far as may be, apply to a mortgage by deposit of title-deeds.

- (A) A simple mortgage.
- (B) A mortgage by conditional sale.
- (C) A usufructuary mortgage.
- (D) An English mortgage.

Correct Answer: (A) A simple mortgage.

Solution:

Step 1: Direct Statutory Question: Section 96 of the Transfer of Property Act, 1882 states: "The provisions hereinbefore contained which apply to a simple mortgage shall, so far as may be, apply to a mortgage by deposit of title-deeds."

Step 2: Implication: This means the remedy for a mortgage by deposit of title deeds is the same as a simple mortgage—i.e., filing a suit for sale of the property (not foreclosure).

💡 Quick Tip

Mnemonics: Simple Mortgage $\approx$ Equitable Mortgage (Deposit of Title Deeds) [Remedy: Sale]. Conditional Sale $\approx$ English Mortgage [Remedy: Foreclosure/Sale varies].

94. The period of limitation for a suit to enforce payment of money secured by a mortgage or otherwise charged upon immovable property is:

- (A) 30 years.
- (B) 12 years.
- (C) 20 years.
- (D) 3 years.

Correct Answer: (B) 12 years.

Solution:

Step 1: Limitation Act, 1963: Article 62 of the Schedule to the Limitation Act prescribes the period of limitation for a suit "To enforce payment of money secured by a mortgage or otherwise charged upon immovable property".

Step 2: The Period: The limitation period is 12 years from when the money becomes due. (Note: The period for Redemption or Foreclosure (Article 61) is 30 years. But for payment of money (suit for sale), it is 12 years).

💡 Quick Tip

Distinction: Suit for Possession/Foreclosure/Redemption = 30 Years. Suit for Money (Sale) = 12 Years.

95. In a mortgage by deposit of title-deeds, after the deposit of the title-deeds, if the creditor and the borrower choose to record their transaction in a memorandum reducing other terms and conditions (in addition to what flow from the mortgage by deposit of title-deeds) with regard to the deposit in the form of a memorandum/document, then the memorandum/document requires registration under section 17(1)(c) of the Registration Act. In this context which among the following propositions is not correct?

- (A) The deposit and the document both form integral parts of the transaction and are essential ingredients in the creation of the mortgage.
- (B) The deposit alone is not intended to create the charge and the document, which constitutes the bargain regarding the security, is also necessary and operates to create the charge in conjunction with the deposit.
- (C) The implication of law (that there exists a contract between the parties to create a mortgage) is excluded by their express bargain, and the document becomes the sole evidence of its terms.
- (D) The deposit and the documents do not form integral parts of the transaction and hence they are not essential ingredients in the creation of the mortgage.

Correct Answer: (D) The deposit and the documents do not form integral parts of the transaction and hence they are not essential ingredients in the creation of the mortgage.

Solution:

Step 1: Understanding the Legal Principle (United Bank of India v.

Officer-in-Charge of Liquidation): The key distinction regarding registration of a memorandum is:

- **Scenario 1:** If the memorandum merely records a past transaction of deposit (evidential), no registration is needed.
- **Scenario 2:** If the memorandum constitutes the bargain (contains the terms of the contract and is executed contemporaneously), it is the instrument of mortgage and requires registration.

Step 2: Analyzing the Question's Premise: The question describes Scenario 2: "record their transaction in a memorandum... requires registration". In this scenario, the document IS the contract.

Step 3: Evaluating Options:

- (A) True: If the document is the contract, it is integral.

- (B) True: The document constitutes the bargain.
- (C) True: Written contract supersedes implied oral contract (Section 91 Evidence Act).
- (D) **False/Incorrect:** It claims the document is not integral. This contradicts the very premise that registration is required because it constitutes the bargain.

💡 Quick Tip

Exam Strategy: Identify the contradiction. If the question says "Document requires registration", it means the Document = The Contract. Any option saying "Document is NOT essential/integral" must be the wrong statement (and thus the correct answer).

XX. Having heard the learned Counsels for the parties, and on perusal of the material on record, the primary issue which arises for consideration of this Court is "whether a review or recall of an order passed in a criminal proceeding initiated under section 340 of CrPC is permissible or not?" [...] A careful consideration of the statutory provisions and the aforesaid decisions of this Court clarify the now-well settled position of jurisprudence of Section 362 of CrPC which when summarized would be that the criminal courts, as envisaged under the CrPC, are barred from altering or reviewing in their own judgments except for the exceptions which are explicitly provided by the statute, namely, correction of a clerical or an arithmetical error that might have been committed or the said power is provided under any other law for the time being in force. As the courts become functus officio the very moment a judgment or an order is signed, the bar of Section 362 CrPC becomes applicable. Despite the powers provided under Section 482 CrPC which, this veil cannot allow the courts to step beyond or circumvent an explicit bar. It also stands clarified that it is only in situations wherein an application for recall of an order or judgment seeking a procedural review that the bar would not apply and not a substantive review where the bar as contained in Section 362 CrPC is attracted. Numerous decisions of this Court have also elaborated that the bar under said provision is to be applied *stricto sensu*.

(Extracted with edits and revisions from Vikram Bakshi v. RP Khosla 2025 INSC 1020)

96. As per section 362 of Cr. P.C.(equivalent to section 403 of BNSS 2023), a criminal court has power to review or alter its own judgment or order only under the following circumstances.

- (A) If there is an error as to the question of fact.
- (B) If there is an error as to the question of law.
- (C) If there is/are clerical and arithmetical errors.
- (D) If the judgment or order is rendered *per in curiam*.

Correct Answer: (C) If there is/are clerical and arithmetical errors.

Solution:

Step 1: Analyzing Section 362 of CrPC (Section 403 BNSS): The statutory text of Section 362 CrPC states: "Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error."

Step 2: Understanding the Concept of *Functus Officio*: Once a criminal court signs its judgment, it becomes *functus officio* (having performed its office/duty) and loses jurisdiction over the case. It cannot revisit the merits (errors of law or fact).

Step 3: Conclusion: The only statutory exception allowed within the section itself is for minor "clerical or arithmetical errors" (e.g., typing 100 instead of 1000).

 Quick Tip

Comparison Tip: Civil Court (CPC): Has broad powers of Review (Order 47) for "error apparent on face of record". **Criminal Court (CrPC):** Has NO power of Review (except clerical errors).

97. The bench in this case referred to a distinction drawn previously in *Grindlays Bank* case, that of procedural review and substantive review by criminal courts. Which of the following statements most accurately captures the distinction between the two decisions?

- (A) A procedural review is exercised when a higher court finds an error in interpretation, while a substantive review is limited to correcting factual inaccuracies within the same court.
- (B) A procedural review is available only in appellate courts, whereas a substantive review may be conducted by the original court that issued in court
- (C) A procedural review is inherent or implied in a court to set aside a palpably erroneous order passed under misapprehension by it. However, a substantive review is when error sought to be corrected is one of law and is apparent on the face of the record.
- (D) A procedural review involves correcting errors of judgement made after hearing the parties while a substantive review is confined to omissions in recording of legal reasoning.

Correct Answer: (C) A procedural review is inherent or implied in a court to set aside a palpably erroneous order passed under misapprehension by it. However, a substantive review is when error sought to be corrected is one of law and is apparent on the face of the record.

Solution:

Step 1: The Principle in *Grindlays Bank Ltd. v. Central Government Industrial Tribunal*: The Supreme Court distinguished between two types of review: 1. Substantive

Review: Reviewing the merits of the case (errors of law/fact). This requires specific statutory authority. Since CrPC Sec 362 bans review, substantive review is not permitted. 2.

Procedural Review: Reviewing orders passed due to a procedural mishap (e.g., dismissing a case without serving notice to the other party). This power is inherent in every court/tribunal to prevent miscarriage of justice arising from its own acts (*actus curiae neminem gravabit*).

Step 2: Evaluating the Options: Option (C) correctly captures this: "Procedural review" fixes orders passed under "misapprehension" (like thinking notice was served when it wasn't), while "Substantive review" deals with errors of law/merits.

💡 Quick Tip

Key Concept: Procedural Review = Correcting the process (e.g., restoring an ex-parte order due to non-service). **Substantive Review** = Correcting the decision (e.g., re-arguing the law).

98. According to the Supreme Court's analysis, under which principle did the High Court claim to recall its Judgment, even though the Supreme Court ultimately rejected this basis?

- (A) *Ex debito justitiae*, to correct a factual error not brought to its notice earlier.
- (B) Inherent power under Section 482 of the CrPC to prevent the abuse of the process of any Court.
- (C) The power of a criminal court to conduct a "substantive review" on the merits of the case.
- (D) The binding nature of the Supreme Court's earlier Judgment which mandated a decision on the perjury application.

Correct Answer: (A) *Ex debito justitiae*, to correct a factual error not brought to its notice earlier.

Solution:

Step 1: Context of Recall Petitions: Courts often attempt to recall orders by invoking the maxim *ex debito justitiae* (as a debt of justice/in the interest of justice) to correct errors where a party claims they were unheard or a crucial fact was missed.

Step 2: Analysis of the Passage Case Law: The passage discusses the tension between the statutory bar (Sec 362) and the court's desire to do justice. While High Courts often use Section 482 (Inherent Powers), the principle justifying the recall is usually *ex debito justitiae*. In the specific context of Vikram Bakshi (and similar precedents like Hari Singh Mann), the High Court attempts to recall to correct a "factual error" claiming it's necessary for justice (*ex debito justitiae*). The Supreme Court, however, rejected this, stating that Section 362 is rigid and Section 482 cannot override an express statutory bar.

💡 Quick Tip

Legal Maxim: *Ex debito justitiae* implies a remedy that the applicant is entitled to as a matter of right to ensure justice is done, but it cannot override express statutory prohibitions like Sec 362 CrPC.

99. The court identified certain exceptional circumstances wherein the criminal court is empowered to alter or review its own judgement or a final order under Section 362 (CrPC). Which of the following is NOT one among them:

- (A) Such power is expressly conferred upon court by law
- (B) The court passing such a judgement or order lacked inherent jurisdiction to do so
- (C) Fact relating to non-serving of necessary party being non-represented, not brought to notice of court while passing such judgment or order

(D) A subsequent judicial precedent renders the earlier judgment legally untenable

Correct Answer: (D) A subsequent judicial precedent renders the earlier judgment legally untenable

Solution:

Step 1: Analyzing Valid Grounds for Review/Recall: Even under the strict bar of Section 362 CrPC, courts have recognized limited exceptions: 1. Statutory Exceptions: If any other law allows it (Option A is valid). 2. Nullity: If the order was passed without jurisdiction, it is void ab initio and can be ignored/recalled (Option B is valid). 3. Procedural Defect: If a party was not served notice and the order was passed ex-parte (violation of natural justice), it falls under "Procedural Review" (Option C is valid).

Step 2: Analyzing Option (D): A subsequent change in law or a new judgment by a higher court is never a ground to reopen concluded criminal cases. Once a judgment attains finality, it cannot be altered just because the interpretation of law changed later. Allowing this would create chaos and endless litigation. This constitutes "Substantive Review," which is barred.

 Quick Tip

Finality Principle: A change in the law by the Supreme Court applies prospectively to pending cases, but it does not automatically reopen cases that have already been decided and closed.

100. In relation to exceptional circumstances identified by the court under which the embargo on criminal courts to review or alter their judgement or final order after signing under Section 362 (CrPC) would not apply, which of the following statements is correct?

- I. The exceptions are exercisable only if a ground that is raised was not available or existent at the time of original proceedings before the Court**
- II. The said power cannot be invoked as a means to circumvent the finality of the judicial process or mistakes and/or errors in the decision which are attributable to a conscious omission by the parties.**

Select the most appropriate option:

- (A) Only I is correct
- (B) Only II is correct
- (C) Both I and II are correct
- (D) Both I and II are incorrect

Correct Answer: (B) Only II is correct

Solution:

Step 1: Analyzing Statement I: Statement I suggests exceptions apply if a ground "was not available/existent". This sounds like a ground for new evidence, which relates to the merits of the case. Section 362 CrPC generally does not allow review on merits, even if new grounds arise (unless it's a specific remedy like a curative petition in SC, but not for general criminal courts). The exceptions (like clerical error) don't depend on the "availability" of

grounds but on the nature of the error. Therefore, Statement I is legally inaccurate in the context of the strict Section 362 bar.

Step 2: Analyzing Statement II: Statement II asserts that the power of recall/review cannot be used to "circumvent finality" or fix "conscious omissions" by parties. This is the correct legal position. The Supreme Court has repeatedly held that "Recall" cannot be a disguise for "Review". If a party made a mistake or omitted an argument, they cannot use recall to fix it later; they must go to appeal. The bar under Section 362 is applied *stricto sensu*.

Step 3: Conclusion: Statement I is incorrect (too broad/merit-based), and Statement II is correct (upholds the strict bar).

 Quick Tip

Key phrase from judgment: "Review cannot be disguised as Recall." If the error is the party's fault or involves re-hearing, Section 362 blocks it.

XXI. A glance over all the Sections related to extortion would reveal a clear distinction being carried out between the actual commission of extortion and the process of putting a person in fear for the purpose of committing extortion. Section 383 defines extortion, the punishment therefor is given in Section 384. Sections 386 and 388 provide for an aggravated form of extortion. These sections deal with the actual commission of an act of extortion, whereas Sections 385, 387 and 389 IPC seek to punish for an act committed for the purpose of extortion even though the act of extortion may not be complete and property not delivered. It is in the process of committing an offence that a person is put in fear of injury, death or grievous hurt. Section 387 IPC provides for a stage prior to committing extortion, which is putting a person in fear of death or grievous hurt 'in order to commit extortion', similar to Section 385 IPC. Hence, Section 387 IPC is an aggravated form of 385 IPC, not 384 IPC. Having deliberated upon the offence of extortion and its forms, we proceed to analyze the essentials of both Sections, i.e., 383 and 387 IPC, the High Court dealt with.

(Extracted from Balaji Traders v. State of UP, 2025 INSC 806)

101. According to the Supreme Court's analysis in the judgment, Section 387 of the Indian Penal Code (IPC) deals with:

- (A) The actual commission of the act of extortion by putting a person in fear of death or grievous hurt.
- (B) The punishment for a completed act of extortion by putting a person in fear of death or grievous hurt.
- (C) The process or stage prior to committing extortion, specifically putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
- (D) A lesser, non-aggravated form of extortion defined in Section 383 IPC.

Correct Answer: (C) The process or stage prior to committing extortion, specifically putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.

Solution:

Step 1: Analyzing the Passage: The passage explicitly states: "Section 387 IPC provides for a stage prior to committing extortion, which is putting a person in fear of death or grievous hurt 'in order to commit extortion'..."

Step 2: Differentiating Sections: The Court clarifies that while Sections 383/384 deal with the actual commission (where property is delivered), Sections like 385 and 387 deal with the attempt or the process of putting someone in fear to get the property, even if the property is not actually delivered.

Step 3: Evaluating Options:

- (A) (B) are incorrect because they refer to the "actual commission" or "completed act", which falls under S. 384 or S. 386.
- (D) is incorrect because S. 387 is an aggravated form of S. 385 (fear of death vs fear of injury), not a lesser form of S. 383.
- (C) matches the text perfectly: "stage prior to committing extortion".

 Quick Tip

IPC Structure Tip: Extortion (Successful): Sec 383 (Definition), 384 (Punishment). Attempt to Extort (Fear induced but no delivery): Sec 385 (Fear of injury), 387 (Fear of Death/Grievous Hurt). Think of S. 387 as the "Attempt" version of the aggravated offence.

102. The core difference between Section 383/384 IPC (Extortion/Punishment) and Section 387 IPC (Putting person in fear of death or grievous hurt, in order to commit extortion), as established by the Supreme Court, is that:

- (A) Section 387 IPC requires the use of firearms, whereas Section 383/384 IPC does not.
- (B) Section 383/384 IPC deals with the actual commission of extortion and requires delivery of property, while Section 387 IPC deals with the process (putting a person in fear) and does not require the delivery of property.
- (C) Section 383/384 IPC is an aggravated form of Section 387 IPC.
- (D) Section 387 IPC involves only an attempt, while Section 383/384 IPC involves a completed offence.

Correct Answer: (B) Section 383/384 IPC deals with the actual commission of extortion and requires delivery of property, while Section 387 IPC deals with the process (putting a person in fear) and does not require the delivery of property.

Solution:

Step 1: Identifying the Crucial Distinction (Delivery of Property): The definition of Extortion (Section 383) requires that the person put in fear must eventually deliver the property to the offender. If the property is NOT delivered, the offence of Extortion (S. 383) is not complete.

Step 2: Role of Section 387: Section 387 punishes the act of putting a person in fear of death/grievous hurt in order to commit extortion. The crime is committed the moment the fear is induced, regardless of whether the victim actually hands over the money/property.

Step 3: Matching with Options: Option (B) accurately captures this legal nuance: S. 383/384 → Requires Delivery. S. 387 → Does not require Delivery (deals with the process/fear).

Note on Option (D): While (D) sounds similar ("attempt" vs "completed"), Option (B) is more precise legally because it explicitly mentions the element of "delivery of property," which is the specific ingredient missing in S. 387 but present in S. 383.

 Quick Tip

Key Element: Delivery is the dividing line. Fear + Delivery = Extortion (S. 384).
Fear + No Delivery = Attempt to Extort (S. 385/387).

103. What is the minimum essential ingredient that the Supreme Court found *prima facie* disclosed in the complaint for an offence under Section 387 IPC?

- (A) The transfer of at least Rs. 5 lakhs from the complainant to the accused.
- (B) The use of rifles, a specific type of weapon.
- (C) Putting the complainant in fear of death or grievous hurt in order to commit extortion, such as by pointing a gun and demanding Rs. 5 lakhs per month.
- (D) The existence of pending litigation regarding Trademark and Copyright claims.

Correct Answer: (C) Putting the complainant in fear of death or grievous hurt in order to commit extortion, such as by pointing a gun and demanding Rs. 5 lakhs per month.

Solution:

Step 1: Connecting Law to Facts: Based on the previous questions, we know Section 387 applies when there is "fear of death/grievous hurt" in order to commit extortion, even without delivery.

Step 2: Analyzing the Facts hinted in Options: Option (A) implies "Delivery" (transfer), which would make it S. 384 or S. 386, not S. 387. Option (C) describes the act: "Putting in fear... pointing a gun... demanding Rs 5 lakhs". This perfectly satisfies the ingredients of Section 387: 1. Putting person in fear of death (Gun). 2. Purpose: To commit extortion (Demand of money). 3. (Implied) No need for actual transfer.

Step 3: Conclusion: The Court found that the allegations of pointing a gun and demanding money were sufficient to constitute the offence under S. 387 *prima facie*.

 Quick Tip

Legal Reasoning: To charge someone under S. 387, you don't need to prove they got the money, only that they threatened the victim with death/grievous hurt to ask for it.

104. The Supreme Court cites which of the following as a well-settled principle of law regarding the interpretation of penal statutes?

- (A) Penal statutes must be given a wide and flexible interpretation to cover all intended mischief.

- (B) Courts are competent to stretch the meaning of an expression used by the Legislature to carry out the intention of the Legislature.
- (C) If two possible and reasonable constructions can be put upon a penal provision, the Court must lean towards the construction that imposes the maximum penalty.
- (D) If two possible and reasonable constructions can be put upon a penal provision, the Court must lean towards that construction which exempts the subject from penalty rather than the one which imposes penalty.

Correct Answer: (D) If two possible and reasonable constructions can be put upon a penal provision, the Court must lean towards that construction which exempts the subject from penalty rather than the one which imposes penalty.

Solution:

Step 1: Principle of Strict Construction: It is a cardinal rule of interpreting criminal (penal) statutes that they must be construed strictly. If a statute is ambiguous, the benefit of the doubt must go to the accused (the subject).

Step 2: Analyzing Options: (A) (B) suggest "wide interpretation" or "stretching meaning," which is contrary to criminal jurisprudence (Courts cannot create crimes by stretching words). (C) suggests leaning towards "maximum penalty," which violates the principle of leniency/favoring the accused. (D) correctly states the principle established in landmark cases like *Tolaram Relumal v. State of Bombay*: If two reasonable interpretations exist, the one exempting the subject from penalty must be chosen.

 Quick Tip

Latin Maxim: *In poenalibus causis benignius interpretandum est* (In penal causes, the interpretation ought to be more benign/lenient).

105. The Supreme Court's final decision on the appeal filed by M/s. Balaji Traders was to:

- (A) Dismiss the appeal and uphold the High Court's quashing order.
- (B) Dismiss the appeal but modify the charge to Section 384 IPC.
- (C) Allow the appeal, set aside the High Court's order, and restore the proceedings of Complaint case to the file of the Trial Court.
- (D) Allow the appeal and transfer the case to the High Court for a fresh hearing on merits.

Correct Answer: (C) Allow the appeal, set aside the High Court's order, and restore the proceedings of Complaint case to the file of the Trial Court.

Solution:

Step 1: Understanding the Context of the Judgment: The Supreme Court was analyzing whether the ingredients of Section 387 were met. The context implies that the High Court had likely quashed the complaint (probably because money wasn't transferred, mistakenly applying S. 383 standards).

Step 2: The SC's Reasoning: By clarifying that S. 387 does not require delivery of property (unlike S. 383) and finding that the complaint did allege pointing a gun (fear of death), the SC concluded that the offence was made out *prima facie*.

Step 3: The Result: Consequently, the SC would reverse the High Court's error. Result: Appeal Allowed. Action: HC Order (quashing the case) Set Aside. Outcome: Case restored to Trial Court for trial. This aligns with Option (C).

💡 Quick Tip

Pattern Recognition: In "Quashing" petitions (Section 482 CrPC), if the SC finds that the complaint does disclose an offence, the standard order is to Set Aside the quashing order and Restore the trial.

XXII. The reference essentially raises the following issue: whether a child who is conferred with legislative legitimacy under Section 16(1) or 16(2) is, by reason of Section 16(3), entitled to the ancestral/coparcenary property of the parents or is the child merely entitled to the self-earned/separate property of the parents. The questions that arise before us are - first, whether the legislative intent is to confer legitimacy on a child covered by Section 16 in a manner that makes them coparceners, and thus entitled to initiate or get a share in the partition - actual or notional; second, at what point does a specific property transition into becoming the property of the parent. For, it is solely within such property that children endowed with legislative legitimacy hold entitlement, in accordance with Section 16(3).[.]Holding that the consequence of legitimacy under sub-sections (1) or (2) of Section 16 is to place such an individual on an equal footing as a coparcener in the coparcenary would be contrary to the plain intendment of sub-section (3) of Section 16 of the HMA 1955 which recognises rights to or in the property only of the parents. In fact, the use of language in the negative by Section 16(3) places the position beyond the pale of doubt. We would therefore have to hold that when an individual falls within the protective ambit of sub-section (1) or sub-section (2) of Section 16, they would be entitled to rights in or to the absolute property of the parents and no other person.

(Extracted with edits and revisions from Revanasiddappa & Anr v. Mallikarjun 2023 INSC 783)

106. When a Hindu Mitakshara coparcener, who has a child legitimized under section 16 of Hindu Marriage Act 1955, dies intestate, after the 2005 Amendment of the Hindu Succession Act, 1956, what is the legal mechanism that determines the child's share in the parent's interest in the coparcenary property?

- (A) The Child becomes a coparcener by birth, and the entire coparcenary property is divided equally amongst all the coparceners.
- (B) The parent's interest devolves by traditional rule of survivorship, and the section 16 child receives no share
- (C) The parent's interest is first determined through a notional partition immediately before death under section 6 (3) of Hindu Succession Act 1956 and this determined share then devolves by intestate succession to all the deceased's children (including the section 16 child) under section 8/10 of Hindu Succession Act 1956.
- (D) The share of section 16 child is limited to receiving maintenance from the joint family estate.

Correct Answer: (C) The parent's interest is first determined through a notional partition immediately before death under section 6 (3) of Hindu Succession Act 1956 and this

determined share then devolves by intestate succession to all the deceased's children (including the section 16 child) under section 8/10 of Hindu Succession Act 1956.

Solution:

Step 1: Understanding the Rights of Section 16 Children: Children born of void or voidable marriages are statutorily legitimate under Section 16 of the Hindu Marriage Act (HMA), 1955. However, they are not "coparceners" by birth.

Step 2: The Mechanism of Succession (Revanasiddappa v. Mallikarjun, 2023):

The Supreme Court held that while such children cannot enforce partition during the parent's lifetime, they are entitled to a share in the parent's property upon death. Since the parent is a coparcener, their interest in the joint family property is determined by a Notional Partition (a legal fiction) assumed to have taken place immediately before their death, as per Section 6(3) of the Hindu Succession Act, 1956.

Step 3: Devolution: Once this share is ascertained (notionally separated), it becomes the parent's "separate property" and devolves by intestate succession (Section 8) to Class I heirs, which includes all children (legitimate and legitimized). It does not devolve by survivorship.

 Quick Tip

Legal Fiction: The concept of "Notional Partition" is the key mechanism. The law assumes the partition happened just before death to carve out the deceased's share so that heirs (including illegitimate children) can inherit it.

107. From the decisions rendered by the Supreme Court on this issue, which of the following correctly states the legal position of a child conferred with legitimacy under section 16 of Hindu Marriage Act

- (A) Such a child is a coparcener
- (B) Such a child is not a coparcener
- (C) Such a child is a coparcener, and has the power to seek partition of coparcenary property
- (D) Such a child is a coparcener, but does not have the power to seek partition of coparcenary property

Correct Answer: (B) Such a child is not a coparcener

Solution:

Step 1: Analyzing Section 16(3) of HMA: Section 16(3) explicitly states that such children are entitled to rights "in or to the property of the parents and no other person".

Step 2: Supreme Court's Interpretation: In *Revanasiddappa Anr. v. Mallikarjun (2023)*, the Supreme Court clarified that conferring the status of "coparcener" (who has a right by birth in the ancestral property) would go against the plain language of Section 16(3). Coparcenary is a narrower body than the joint family.

Step 3: Conclusion: While the child is legitimate for inheritance, they are not a coparcener. They only step into the shoes of the parent to inherit the parent's share.

 Quick Tip

Distinction: Legitimate Child: Coparcener (Right by birth). Legitimized Child (Sec 16): Not a Coparcener (Right by succession to parent's share).

108. Consider the following statements:

- I. A child born out of a null and void marriage is considered as legitimate by law**
- II. Conferment of legitimacy is irrespective of whether such child was born before or after the commencement of the Amending Act 1976**

Select the most appropriate option:

- (A) Only I is correct
- (B) Only II is correct
- (C) Both I and II are correct
- (D) Both I and II are incorrect

Correct Answer: (C) Both I and II are correct

Solution:

Step 1: Analyzing Statement I: Section 16(1) of the Hindu Marriage Act declares that children of null and void marriages (under Section 11) shall be legitimate. This is the core purpose of the section. (Statement I is Correct).

Step 2: Analyzing Statement II: Section 16(1) explicitly uses the phrase: "...whether such marriage was solemnized before or after the commencement of the Marriage Laws (Amendment) Act, 1976...". The amendment was given retrospective effect to protect children. (Statement II is Correct).

 Quick Tip

Statutory Note: The 1976 Amendment was a social welfare reform intended to remove the stigma of bastardy from innocent children, hence the retrospective application.

109. Which of the following statements is correct in relation to the property rights of children from void/voidable marriages

- (A) Such a child can ask for partition of coparcenary property
- (B) Such a child can claim share in their own right in the undivided coparcenary property of his parents
- (C) Such a child has rights only to self-acquired property of his parents
- (D) Such a child cannot ask for partition of coparcenary property

Correct Answer: (D) Such a child cannot ask for partition of coparcenary property

Solution:

Step 1: Analyzing the Right to Partition: The right to demand partition of the joint family property is a primary attribute of a coparcener. Since a Section 16 child is not a

coparcener (as established in Q107), they have no independent right to demand partition during the parent's lifetime.

Step 2: Evaluating Other Options:

- (A) Incorrect, as they are not coparceners.
- (B) Incorrect, they have no right "in the undivided coparcenary" in their own right; they only have a right to the parent's share upon death.
- (C) Incorrect, the SC in *Revanasiddappa* ruled that "property of the parents" includes the parent's share in ancestral property, not only self-acquired property.

Step 3: Conclusion: The correct legal limitation is that they cannot initiate/demand partition. They must wait for the succession to open.

 Quick Tip

Concept Clarity: Can they inherit ancestral share? Yes (via parent). Can they sue for partition? No (because they aren't coparceners).

110. Which of the following best summarises the conclusion reached by the Supreme Court regarding children conferred with legitimacy under Section 16 under the Hindu Marriage Act?

- (A) Such children are entitled to coparcenary rights in the ancestral property to their parents, equal to children born within a valid marriage
- (B) Such children are entitled only to the self-acquired or separate property of their parents, and not to ancestral/coparcenary property
- (C) Such children are entitled to inherit property only if no legitimate heirs exist from a valid marriage
- (D) Such children have no rights in any property of the parents, whether self-acquired or ancestral

Correct Answer: (B) Such children are entitled only to the self-acquired or separate property of their parents, and not to ancestral/coparcenary property

Solution:

Step 1: Understanding the Legal Nuance (The "Separate Property" Logic): This question tests the technical distinction made by the Supreme Court.

- The Court held that Section 16 children are not coparceners. Therefore, they have no direct right in "ancestral/coparcenary property" (which belongs to the joint family unit).
- However, upon the death of the parent, a "notional partition" occurs. The share carved out for the parent legally becomes the parent's "separate property".
- The child inherits this separate property.

Step 2: Interpreting the Options: Option (A) claims they have "coparcenary rights". This is legally incorrect and was explicitly rejected by the Court. Option (B) states they are

entitled to "separate property... and not to ancestral/coparcenary property". This is the technically correct summary because: 1. They inherit the share after it becomes "separate property" via partition. 2. They do not have rights in the "coparcenary property" as coparcenary property (i.e., by birth/survivorship).

Conclusion: While the practical effect is that they get a share of the ancestral estate, the legal mechanism classifies that share as "separate property" of the parent before it reaches the child. Thus, Option (B) is the most accurate legal summary of the status and nature of the property right.

 Quick Tip

Critical Distinction: The child gets the "Parent's Share" (which comes from ancestral property but becomes separate property upon death/partition). They do not get "Ancestral Property" in the traditional sense of a right by birth.

XXIII. Live-in relationship, as such, as already indicated, is a relationship which has not been socially accepted in India, unlike many other countries. In *Lata Singh v. State of U.P.* [(2006) 5 SCC 475 : (2006) 2 SCC (Cri) 478] it was observed that a live-in relationship between two consenting adults of heterosexual sex does not amount to any offence even though it may be perceived as immoral. However, in order to provide a remedy in civil law for protection of women, from being victims of such relationship, and to prevent the occurrence of domestic violence in the society, first time in India, the DV Act has been enacted to cover the couple having relationship in the nature of marriage, persons related by consanguinity, marriages, etc. We have few other legislations also where reliefs have been provided to woman placed in certain vulnerable situations. Section 125 CrPC, of course, provides for maintenance of a destitute wife and Section 498-A IPC is related to mental cruelty inflicted on women by her husband and in-laws. Section 304-B IPC deals with the cases relating to dowry death. The Dowry Prohibition Act, 1961 was enacted to deal with the cases of dowry demands by the husband and family members. The Hindu Adoptions and Maintenance Act, 1956 provides for grant of maintenance to a legally wedded Hindu wife, and also deals with rules for adoption. The Hindu Marriage Act, 1955 refers to the provisions dealing with solemnisation of marriage also deals with the provisions for divorce. For the first time, though, the DV Act, Parliament has recognised a "relationship in the nature of marriage" and not a livein relationship simpliciter. We have already stated, when we examine whether a relationship will fall within the expression "relationship in the nature of marriage" within the meaning of Section 2(f) of the DV Act, we should have a close analysis of the entire relationship. Invariably, it may be a question of fact and degree, whether a relationship between two unrelated persons of the opposite sex meets the tests judicially evolved.

(Extracted with edits and revisions from Indra Sarma v. V.K.V. Sarma, (2013) 15 SCC 755)

111. What is the scope of analysis required to determine if a relationship falls within the expression "relationship in the nature of marriage" under Section 2(f) of the DV Act?

- (A) Considering the number of children born in a live in relationship.
- (B) Considering only the cohabitation period of the relationship and their emotional

connectivity.

(C) Conducting a close analysis of the entire interpersonal relationship, taking into account all facets.

(D) Evaluating only the financial aspects and mutual agreements of the relationship, and if there is any written agreement between the partner.

Correct Answer: (C) Conducting a close analysis of the entire interpersonal relationship, taking into account all facets.

Solution:

Step 1: Understanding the Legal Test for Live-in Relationships: The phrase "relationship in the nature of marriage" is not explicitly defined in detail in the Domestic Violence Act (DV Act), but it has been interpreted by the Supreme Court to distinguish mere "live-in relationships" (which may be fleeting) from those entitled to legal protection.

Step 2: Analysis of the *Indra Sarma* Guidelines: In the landmark case of *Indra Sarma v. V.K.V. Sarma* (2013), the Supreme Court held that determining whether a relationship falls under Section 2(f) is a mixed question of fact and law. The Court laid down a set of guidelines to analyze the relationship, which includes:

- Duration of the relationship.
- Shared household.
- Pooling of resources and financial arrangements.
- Domestic arrangements (sharing chores).
- Sexual relationship.
- Children.
- Socialization (holding out to the public as husband and wife).

Step 3: Conclusion: The Court emphasized that no single factor is conclusive. Instead, the court must conduct a "close analysis of the entire interpersonal relationship" encompassing all these facets to determine if it mimics a valid marriage in substance.

💡 Quick Tip

Key Case: *D. Velusamy v. D. Patchaiammal* (2010) and *Indra Sarma* (2013) are the twin pillars defining "Relationship in the nature of marriage". Remember the criteria: **D**uration, **P**ooling resources, **S**exual relationship, **S**ocialization (DPSS).

112. In which of the following cases, the Supreme Court read down the word "adult male" in Section 2(q) of the Protection of Women from Domestic Violence Act, 2005?

(A) *Indra Sarma v. V.K.V. Sarma* (2013) 15 SCC 755

(B) *Hiral P Harsora v. Kusum Harsora*, (Manu/SC/1269/2016)

(C) *Uma Narayanan v. Priya Krishna Prasad*, (Laws (Mad) 2008-8-28)

(D) D Velusamy v. D Patchaiammal (AIR 2011 SC 479)

Correct Answer: (B) Hiral P Harsora v. Kusum Harsora, (Manu/SC/1269/2016)

Solution:

Step 1: Identifying the Issue in Section 2(q): Section 2(q) of the DV Act originally defined "Respondent" as any adult male person who is, or has been, in a domestic relationship with the aggrieved person. This definition prevented women from filing complaints against female relatives (like mothers-in-law or sisters-in-law) for domestic violence.

Step 2: The Supreme Court's Ruling: In *Hiral P. Harsora v. Kusum Harsora (2016)*, the Supreme Court struck down the words "adult male" from Section 2(q). The Court reasoned that domestic violence is not gender-specific to perpetrators and that the purpose of the Act is to provide effective protection to women. Restricting the definition to males violated Article 14 (Right to Equality).

Step 3: Conclusion: Post this judgment, a complaint under the DV Act can be filed against any adult person (male or female) in the domestic relationship.

 Quick Tip

Memory Aid: *Hiral Harsora* = **Her Husband's** female relatives are also liable. The case removed the gender immunity for respondents.

113. As per section 20 of the Protection of Women from Domestic Violence Act, 2005, while disposing of an application under Section 12(1), the Magistrate may direct the respondent to pay monetary relief to the aggrieved person so that the aggrieved person can:

- (A) Live a life that meets at least the bare minimum needs for survival and basic well-being.
- (B) Live a life that is consistent with her standard of living which she is accustomed.
- (C) Live a life that is consistent with her parent's standard of living.
- (D) Live a life which can cover her medical expenses and expenses incurred due to litigation of domestic violence.

Correct Answer: (B) Live a life that is consistent with her standard of living which she is accustomed.

Solution:

Step 1: Analyzing Section 20 (Monetary Reliefs): Section 20 of the DV Act empowers the Magistrate to grant monetary relief for expenses incurred and losses suffered.

Step 2: The Standard for Relief (Section 20(2)): Section 20(2) explicitly states: "The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed."

Step 3: Reasoning: The objective is to ensure that the woman is not reduced to destitution or a lower status due to the violence or separation. She is entitled to maintain the same lifestyle she enjoyed in the shared household. Option (B) reflects the exact statutory language.

💡 Quick Tip

Concept: Maintenance laws (DV Act/CrPC 125/HMA 24) generally aim to uphold the *status quo* of the wife's lifestyle, not just basic survival (bare minimum).

114. In which case, the three judge bench of the Hon'ble Supreme Court has recently interpreted the term "shared household" and has held that "...lives or at any stage has lived in a domestic relationship..." have to be given its normal and purposeful meaning. The living of woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household.

(A) Satish Chander Ahuja v. Sneha Ahuja, AIR 2020 SC 2485

(B) Rupa Ashok Hurra v. Ashok Hurra AIR 2002 SC 177

(C) S.R. Batra v. Tarun Batra (2007) 3 SCC 169

(D) B.R. Mehta Vs. Atma Devi (1987) 4 SCC 183

Correct Answer: (A) Satish Chander Ahuja v. Sneha Ahuja, AIR 2020 SC 2485

Solution:

Step 1: The Evolution of "Shared Household" Doctrine: Earlier View (S.R. Batra v. Tarun Batra, 2007): A 2-judge bench held that a "shared household" only includes a house owned or rented by the husband. It excluded houses owned by in-laws (parents-in-law). This was restrictive. **Current View (Satish Chander Ahuja v. Sneha Ahuja, 2020):** A 3-judge bench overruled S.R. Batra. It interpreted Section 2(s) broadly.

Step 2: The Ruling in Satish Chander Ahuja: The Court held that the definition of "shared household" is exhaustive and covers any house where the aggrieved person lives or has lived in a domestic relationship, regardless of whether the husband has any right, title, or interest in it (e.g., father-in-law's house). The Court emphasized "permanency" over "fleeting visits" to define "living".

Step 3: Conclusion: Option (A) is the correct 3-judge bench decision that expanded the scope and provided the interpretation cited in the question.

💡 Quick Tip

Landmark Overruling: Satish Chander Ahuja (2020) is crucial because it overruled the long-standing precedent of S.R. Batra, giving daughters-in-law the right to residence in the in-laws' property if they lived there as part of a joint family.

115. Under Indian Law, can a woman in a live in relationship claim maintenance under S. 125, CrPC despite not being a legally wedded wife?

(A) No, as per the interpretation of statute 'wife' means legally wedded wife and includes who has been divorced by, or has obtained a divorce from her husband.

(B) Yes, a woman in a live in relationship can claim maintenance u/s 125, CrPC as strict proof of marriage is not necessary and maintenance cannot be denied if evidence suggests

cohabitation.

(C) A woman in live in relationship can only claim maintenance if she has been cohabiting for more than five years and dependent children from the relationship.

(D) A woman in live in relationship can claim maintenance only through a civil suit as the protection of women from domestic violence act 2005 (PWDVA) does not apply to live in relationships.

Correct Answer: (B) Yes, a woman in a live in relationship can claim maintenance u/s 125, CrPC as strict proof of marriage is not necessary and maintenance cannot be denied if evidence suggests cohabitation.

Solution:

Step 1: Statutory Interpretation of Section 125 CrPC: Strictly speaking, Section 125 uses the term "wife". Historically, this meant a legally wedded wife (Yamunabai case).

Step 2: Progressive Judicial Interpretation: To fulfill the social welfare objective of Section 125 (preventing vagrancy), the Supreme Court in cases like *Chanmuniya v. Virendra Kumar Singh Kushwaha* (2011) and *Dwarika Prasad Satpathy v. Bidyut Prava Dixit* (1999) held that:

- The standard of proof for marriage in maintenance proceedings is not as strict as in bigamy trials.
- If a man and woman have lived together as husband and wife for a long period, the law will presume them to be married for the purpose of Section 125.
- Therefore, a woman in a "relationship in the nature of marriage" (live-in) is entitled to maintenance.

Step 3: Conclusion: Option (B) correctly states the legal position that strict proof of marriage is not required if there is evidence of long cohabitation.

 Quick Tip

Legal Nuance: While "adulterous" live-in relationships (where one party is married to someone else) may not get this benefit (as per Indra Sarma), a standard live-in relationship between unmarried persons raises a presumption of marriage for maintenance under S. 125.

XXIV. Section 2(47) of the Income Tax Act, 1961, which is an inclusive definition, inter alia, provides that relinquishment of an asset or extinguishment of any right therein amounts to a transfer of a capital asset. While the taxpayer continues to remain a shareholder of the company even with the reduction of share capital, it could not be accepted that there was no extinguishment of any part of his right as a shareholder qua the company.

A company under Section 66 of the Companies Act, 2013 has a right to reduce the share capital and one of the modes which could be adopted is to reduce the face value of the preference share.

When as a result of reducing the face value of the share, the share capital is reduced, the right of the preference shareholder to the dividend or his share capital and the right to share in the

distribution of the net assets upon liquidation is extinguished proportionately to the extent of reduction in the capital. Such a reduction of the right of the capital asset clearly amounts to a transfer within the meaning of section 2(47) of the Income Tax Act, 1961.

(Extracted with edits and revisions from Principal Commissioner of Income Tax v. Jupiter Capital Pvt Ltd., (2025 INSC 38))

116. What was the core issue before the Supreme Court in this Special Leave Petition filed by the Income Tax Department?

(A) Whether the assessee's claim for a long-term capital gain was correctly disallowed by the Assessing Officer.

(B) Whether the reduction in the number of shares due to a reduction in share capital amounted to a "transfer" under Section 2(47) of the Income Tax Act, 1961, allowing for a capital loss claim.

(C) Whether the High Court of Karnataka correctly relied on the decision of Anarkali Sarabhai v. CIT.

(D) Whether the face value of the shares remaining the same after the reduction nullified the claim of capital loss.

Correct Answer: (B) Whether the reduction in the number of shares due to a reduction in share capital amounted to a "transfer" under Section 2(47) of the Income Tax Act, 1961, allowing for a capital loss claim.

Solution:

Step 1: Understanding the Context of the Dispute: The passage discusses a scenario where a company reduced its share capital by reducing the face value of shares. The legal consequence discussed is whether this constitutes a "transfer" under Section 2(47) of the Income Tax Act.

Step 2: Identifying the Core Issue: In tax litigation, the question of "transfer" is pivotal for Capital Gains.

- If there is a transfer, capital gains or capital losses can be computed.
- If there is no transfer, no capital loss can be claimed.

The Revenue (Income Tax Department) typically argues that a reduction in face value (without selling the share) is not a transfer, thereby disallowing any capital loss claimed by the assessee. The Assessee argues it is a transfer to claim the loss.

Step 3: Analyzing the Options:

- (A) is incorrect because an assessee typically claims a loss to offset taxes, not a gain (which attracts tax). The AO disallows losses, not gains.
- (B) correctly frames the issue: determining if the reduction amounts to a "transfer" which would validate the assessee's claim for "capital loss". (Note: While the passage mentions reduction of face value, the option uses "reduction in number of shares" or implies the reduction of the capital base effectively serves the same legal point regarding extinguishment of rights).
- (D) is incorrect because the passage explicitly states the face value was reduced.

Step 4: Conclusion: The core issue is whether the reduction qualifies as a transfer to allow a capital loss claim.

 Quick Tip

Exam Strategy: In tax law questions, "Transfer" is the gateway to "Capital Gains/Loss". If the question asks about the validity of a "Transfer" in the context of share reduction, the underlying financial motive is almost always the claim of a Capital Loss by the shareholder.

117. According to the Supreme Court, why does a reduction in share capital that proportionately reduces a shareholder's rights amount to a "transfer" under Section 2(47) of the Income Tax Act, 1961?

- (A) Because the shareholder's voting percentage remains constant, which is a form of continuous transfer.
- (B) Because it involves a sale or exchange of the capital asset to another party.
- (C) Because it is covered under the inclusive definition of "transfer" as an extinguishment of any rights in the capital asset.
- (D) Because the face value of the shares remains unchanged, constituting a deemed transfer.

Correct Answer: (C) Because it is covered under the inclusive definition of "transfer" as an extinguishment of any rights in the capital asset.

Solution:

Step 1: Analyzing the Passage Text: The passage explicitly states: "Section 2(47)... is an inclusive definition... provides that relinquishment of an asset or extinguishment of any right therein amounts to a transfer".

Step 2: Applying to the Case: The Court reasoned that when face value is reduced, rights like the right to dividend and share in net assets are "extinguished proportionately".

Step 3: Conclusion: Therefore, the transaction is a transfer not because it is a sale (Option B is wrong) or because values remain unchanged (Option D is wrong), but because it fits the specific definition of "extinguishment of rights".

 Quick Tip

Key Concept: Section 2(47) of the IT Act is exhaustive. It covers not just 'Sale' or 'Exchange' but also 'Relinquishment' and 'Extinguishment'. Reduction of Capital = Extinguishment of Rights = Transfer.

118. The Supreme Court clarified a principle regarding the computation of capital gains/loss under Section 48 of the Income Tax Act. What was this clarification?

- (A) That the reduction of share capital must result in a change in the percentage of shareholding.
- (B) That the face value of the shares must be reduced for the transfer to be valid.

- (C) That the transfer must be a sale or relinquishment, and not merely an extinguishment of rights.
- (D) That receipt of some consideration in lieu of the extinguishment of rights is not a condition precedent for the computation of capital gains/loss.

Correct Answer: (D) That receipt of some consideration in lieu of the extinguishment of rights is not a condition precedent for the computation of capital gains/loss.

Solution:

Step 1: Understanding Section 48 Issues: Section 48 prescribes the mode of computation: $CapitalGain = FullValueofConsideration - CostofAcquisition$. A common defense in "extinguishment" cases is that if no consideration is received (or if the machinery provision fails), tax cannot be levied (based on B.C. Srinivasa Setty).

Step 2: The Supreme Court's Clarification: In the context of capital reduction (referencing principles from *Grace Collis* or *Kartikeya Sarabhai*), the Court clarifies that extinguishment itself is a transfer. Even if the consideration is strictly not a "price" like in a sale, or even if rights are extinguished, the computation can proceed. Specifically, for a Capital Loss, the cost of acquisition is known. If the consideration is zero or less than cost, a loss is computed. Therefore, the strict receipt of consideration (like a sale price) is not a condition precedent to recognizing the transfer/loss.

Step 3: Evaluating Options: Option (D) represents a significant legal principle regarding the applicability of computation provisions to "extinguishment" cases. Options (A) and (B) are factual/procedural details, and (C) is legally incorrect (extinguishment is a transfer).

 Quick Tip

Legal Precedent: The Supreme Court in *CIT v. Grace Collis* held that "extinguishment of rights" is a distinct category of transfer, independent of sale or exchange. This validated the taxability (or loss claim) of transactions where rights are destroyed rather than transferred to another.

119. The Supreme Court, in its summary of the principles from *Kartikeya V. Sarabhai*, stated that the right of a preference shareholder is extinguished proportionately to the extent of the capital reduction. Which of the following two specific rights were mentioned as being extinguished?

- (A) Right to voting power and right to attend general meetings.
- (B) Right to proportional share of debt and right to appoint directors.
- (C) Right to dividend/share capital and right to share in the distribution of net assets upon liquidation.
- (D) Right to face value of the share and right to receive consideration.

Correct Answer: (C) Right to dividend/share capital and right to share in the distribution of net assets upon liquidation.

Solution:

Step 1: Locating the Text in the Passage: The passage explicitly enumerates the rights that are extinguished: "...the right of the preference shareholder to the dividend or his share capital and the right to share in the distribution of the net assets upon liquidation..."

Step 2: Matching with Options: Option (C) is a verbatim match with the rights listed in the passage.

Step 3: Conclusion: The reduction of face value reduces the capital base, which directly reduces the shareholder's claim to dividends (calculated on capital) and assets during liquidation.

 Quick Tip

Reading Strategy: For "detail-oriented" questions, scan the passage for the specific keywords ("right to", "dividend", "liquidation") to ensure accuracy. Do not rely on general knowledge of shareholder rights (like voting) if the passage specifies others.

120. The Supreme Court emphasized that the expression "extinguishment of any right therein" is of wide import. What does this expression cover?

(A) Only transactions involving the sale or exchange of tangible capital assets.
(B) Only transactions resulting in the destruction, annihilation, or extinction of the entire capital asset.

(C) Every possible transaction that results in the destruction, annihilation, extinction, termination, cessation, or cancellation of all or any of the bundle of rights—qualitative or quantitative—that the assessee has in a capital asset.

(D) Only transactions where the face value of the shares is compulsorily reduced by a court order.

Correct Answer: (C) Every possible transaction that results in the destruction, annihilation, extinction, termination, cessation, or cancellation of all or any of the bundle of rights—qualitative or quantitative—that the assessee has in a capital asset.

Solution:

Step 1: Understanding "Wide Import": When a court describes a legal term as having "wide import," it implies an expansive definition intended to cover various scenarios, preventing loopholes.

Step 2: Analysis of the Legal Definition: The phrasing in Option (C)—"destruction, annihilation, extinction, termination, cessation, or cancellation of all or any of the bundle of rights"—is the classic judicial elaboration of "extinguishment" (famously articulated in *CIT v. Grace Collis*). The passage supports this by noting that even a partial reduction (quantitative reduction of face value) counts as extinguishment of any right.

Step 3: Eliminating Alternatives: (A) is too narrow ("only sale"). (B) is incorrect ("entire asset" is not required; partial rights suffice). (D) is a specific instance, not the definition of the expression.

 Quick Tip

Keywords: "Extinguishment" includes "Termination", "Cancellation", and "Destruction". It applies even if the asset itself continues to exist but the rights in it are reduced (as in share capital reduction).
