

**MODEL ANSWER**  
**AU- 7069**  
**B.A.LL.B./B.Com. LL.B (Third Semester) Exam -2014**  
**Constitution Law-I**  
**Section-A**

**Objective type question** **15x 2 = 30**

**Note: Attempt All question. Each question carries 2 marks.**

1. Choose the correct answer:

(i). Which one of the following aimed at providing a federal structure for India?

Ans- (d) Government of India Act, 1935.

(ii). The Preamble of the Constitution of India declares India to be:

Ans- (d) Sovereign, Socialist, Secular, democratic, republic.

iii. The concept of Directive Principle of State policy is borrowed from?

Ans- (c) Ireland

iv. Untouchability is abolished and its practice is punishable according to:

Ans- (c) Article 17

v. Article 19(1)(a) guarantees freedom of speech and expression to:

Ans- (a) All citizens of India.

vi. Article 19(1) (g) of the Constitution of India gives the right to practice any profession or to carry on any occupation, trade or business subject to:

Ans-(d) All above

vii. The doctrine of the 'Double jeopardy' in Article 20(2) means:

Ans-(a) No one can be tried and punished more than once for the same offence.

viii-The State cannot make special provision for which one of the following under Article 15?

Ans-(d) Economically Backward Classes.

ix- Fundamental Duties were inserted in the Constitution by:

Ans- (a) 42nd Amendment.

x-Respect for the National Flag and National Anthem is:

Ans-(b) Fundamental duty of every citizen.

xi-The President of India is elected:

Ans-(d) Indirectly by secret ballot and by proportional representation system by means of single transferable vote.

xii-The clemency to capital punishment is granted by:

Ans-(a) President of India.

xiii-What is the minimum age for a person to become member of House of People?

Ans-(a) 25 years

xiv-The Judge of the Supreme Court are appointed:

Ans- (c) By the President in consultation with the Chief Justice of India and out of the judges of the Supreme Court and High Court as he may deem necessary for the purpose.

xv- The Supreme Court of India:

Ans-(a) Is a Court of record and has a power to punish for the contempt.

**Section –B**  
**(Short Answer type question)**

5x4=20

**Note:** Attempt any five question. Each question carries 4 marks.

2. Write a brief note on the parliamentary privilege?

Ans - Article -105

-Difference between privilege and prerogative

- Ingredients

-Freedom of speech

-Right of publication of its proceeding

-Other privileges

i- Freedom from arrest

ii-Right to exclude strangers from its proceeding and hold secret sessions.

iii-Right to prohibit the publications of its reports and proceedings.

iv-Right to regulate internal proceedings.

v- Right to punish members or outsiders for contempt.

- Privilege and Fundamental Rights

- Supremacy of Indian Parliament

- Case Laws-

i-*M.S.M Sharma v. Shri Krishna Sinha*,AIR 1965 SC.

ii-*Keshav Singh v.Speaker Legislative Assembly*,AIR 1965 All.

iii-*P.V.Narsimha Rao v.State*.AIR 1998 SC.

iv- *Raja Ram Pal v.Hon'ble Speaker,Lok Sabha*.(2007)3 SCC

3. Write a brief note on national emergency?

Ans- Article -352

-Ingredients

- National Emergency

- Grounds
- Territorial extent of proclamation .
- Duration of emergency
- Effects of emergency
  - i-Extension of centre's executive power
  - ii- Parliament empowered to legislate on state subjects .
  - iii- Centre is empowered to alter distribution of revenue
  - iv-Extension of life of lok sabha
  - v-Suspension of Fundamental right

- Case laws-
  - i-*A.D.M. Jabalpur v. Shivakant Shukla*,AIR 1976 SC.
  - ii-*Makhan Singh v. State of Punjab*,AIR 1964 SC.
  - iii-*M.M Pathak v. U.O.I.*, (1978) 2 SCC 50

4- What is the writ of certiorari?

Ans- Article -226 –Brief explanation

- Brief introduction of writ of certiorari
- Nature of the writ
- Grounds on which it can be issued.
  - i-Want or excess of jurisdiction
  - ii-Violation of procedure or disregard of principle of natural justice.
    - (a) *Audi alteram partem*
    - (b) *Bias*
  - iii-Error of law apparent on the face of the record
- Case laws-
  - i- *Province of Bombay v. khusaldas S.Advani*,AIR 1950 SC.
  - ii-*Radheshyam v. State of M.P.* ,AIR1959 SC.
  - iii- *Board of High School & Intermediate v. Chitra*,AIR 1970 SC.
  - iv-*Rafiq Khan v.State of U.P.* ,AIR 1954 All.

5. What is ex post facto laws?

Ans- Meaning of Ex-post facto laws

- Article -20(1)
- Ingredients of Art.20(1)
- Explanation of ingredients
- Case laws-
  - i-*Rao Shiv Bahadur Singh v.State of V.P.*,AIR 1953 SC.
  - ii- *Hathisingh Manufacturing Co. v.U.O.I.*,AIR 1960 SC.
  - iii-*Kedar Nath Bajoria v. State of West Bengal.*, AIR 1953 SC.
  - iv-*Rattan Lal v. State of Punjab.*,AIR 1965 SC.
  - v-*Pareed Lubha v. Nilambaram.*,AIR 1967 Ker.

vi-*Kanaiyalal v. Indumati T. Potdar*, AIR 1958 SC.

6. Write a brief note on powers of Governor?

Ans -Brief introduction of Governor

-Powers of Governor

i- Executive Power

(a) appointment of C.M. and other Ministers and officers of state

(b) nomination of one member of Anglo Indian community

(c) nomination of 1/6 members of legislative council

ii-Financial Power

(a) money bill(discuss in brief)

(b) general bill(discuss in brief)

iii- Legislative Power

(discuss in brief)

iv – Pardoning Power

(discuss in brief)

v- Ordinance making power

(discuss in brief)

- Case laws-

i- *D.C. Badhawa v. State of Bihar*, (1987) 1SCC 378.

ii- *K.M. Nanavati v. State of Bombay*, AIR 1961 SC.

iii- *Ram Jawaya Kapoor v. State of Punjab*, AIR 1955 SC.

7. How a Judge of the High Court is removed?

Ans – Article- 217(proviso)

-Conditions

- procedure provided

i- Article 124(4)

- Grounds

i- proved misbehaviour

ii- incapacity

- Case laws

i- *S.P. Gupta v. U.O.I.*, AIR 1982 SC.

ii- *In Re, Presidential Reference Case*, (1994)6 SCC.

iii- *Supreme on-Record Association v. U.O.I.* (1993)4SCC.

- Conclusion with special reference to-

i- *V.Ramaswami Case*

ii- *P.D. Dinakaran Case*

iii- *Soumitra Sen Case*

8. Write a brief note on the structure of the Constitution?

Ans- -Introduction

-Federal Principle

Example-i- U.S.A. model

ii- K.C.Wheare's definition

- Federal features

i- Distribution of power

ii- Supremacy of Constitution

iii- Written Constitution

iv- Rigidity

v- Segregation of state from union

vi- Dual govt.

vii- Nature of polity

viii- Independence of judiciary

-Unitary features

Example -i- U.K. model

- Unitary features

i- Appointment of Governor

ii- Parliament's power to legislate on the state matter in national interest.

iii- Parliament's power to form a new state and alter boundaries of existing state.

iv- Emergency provisions

vi -Common all India service

vii- Single citizenship

-Conclusion

### Section-C

**(Long answer type Question)**

2x15= 30

**Note:** Attempt any two question. Each question carries 15 marks.

9. How the President of India is elected? Discuss the powers which he enjoys?

Ans-

i- Introduction

ii- Qualifications

iii- Conditions

iv- Salary, emoluments and allowances

v- Election- Art.-55(3)

- (a)proportional representation by means of single transferable system.(brief discussion )
- (b)Case- *N.B. Khare v.Election of India*,AIR 1957 SC.

vi-Oath

vi- Term

- (a) Eligibility for re-election (with reference to U.S.A.)

viii- Impeachment

ix- Privileges

x- Powers

- (a) Executive
- (b) Military
- (c) Diplomatic
- (d) Judicial

i-Advisory opinion-(Art.-143)

ii-Case- *Ismail Faruqi v. U.O.I.*, (1994)6 SCC

(e) Pardoning Power- (Art- 72)

Case laws-

i-*Kehar Singh v. U.O.I.*,(1989)1SCC.

ii-*Epurum Sudhakar v. Govt. of Andhra*,(2006)1SCC.

(f)Emergency Power

i- National emergency(Art.-352)

ii- State emergency(Art.-356)

iii- Financial emergency (Art.-360)

(g)Legislative Powers

i- Ordinance making(Art.-123)

ii-Summoning,prerogation, dissolution of Lok sabha(Art.- 85,)

iii-Opening address(Art.86,87)

iv-Laying reports of various commissions

v-Assent and dissent of legislation

vi-Nomination of members in both houses.

vii-Previous sanction to legislation.

Case laws-

i- *R.K. Garg v. U.O.I.*(1981) 1 SCC.

ii- *Special Bearer Bonds Ordinance-1981*

10. Do the freedom of speech and expression includes freedom of press? What are limitations on freedom of speech and expression?

Ans- Art-19 - Brief introduction

- Nature of Article

- i- To whom it is available
- Kinds of freedom
  - i-Freedom of speech and expression
  - ii-Freedom of assembly
  - iii-Freedom to form association
  - iv-Freedom of movement
  - v-Freedom to reside and to settle
  - vi-Freedom of profession, occupation ,trade or business
- Freedom of speech and expression(Art.19(i)(a))
  - i- Meaning and scope
    - (a)*Romesh Thaper v. State of Madras*,AIR 1950 SC.
  - ii-Freedom of press
    - (b)*Sakal Papers v. U.O.I.*,AIR 1962 SC.
    - (c) *Bennet Colmen v.U.O.I.*,(1972) 2 SCC.
    - (d)*Indian News papers v.U.O.I.*,(1985)1 SCC.
    - (e)*Express News papers Pvt .v.U.O.I*,AIR1958 SC.
  - iii-Autobiography
    - (a)*R.Rajagopal v.State of Tamilnadu*,(1994)6 SCC.
  - iv- Right to know
    - (a)*Prabhu Datt v.U.O.I.*,(1982)1 SCC.
    - (b) *With reference to R.T.I. Act 2005*
  - v- Right to silence
    - (a) *Bijoe Emmanuel v. State of Kerla*,(1986)3 SCC.
  - vi-Right to fly the flag
    - (a)*U.O.I. v. Naveen Jindal*,(2004)1 SCC.
  - vii- Commercial advertisements
    - (a)*Tata Press Ltd. v. M.T.N.L.*,(1995)5 SCC.
  - viii- Territorial Extent
    - (a)*Menka Gandhi v. U.O.I.*,(1978)1 SCC.
    - 1-Telephone tapping
      - (a) *P.U.C.L. v. U.O.I.*,AIR 1997 SC.
    - 2-Bandh
      - (a)*Bharat communist Party v. Bharat Kumar*,AIR 1998 SC.
    - 3- Dharana
      - (a) *Kameshwar v. State of Bihar*,AIR 1962 SC.
    - 4- Strike
      - (a) *O.K. Ghosh v. E.X. Josheph*,AIR 1963 SC.
- Restictions- Art. (19(2))
  - i- Grounds
    - (a) security of state
      - i- *Romesh Thaper v. U.O.I.*, AIR 1950 SC
    - (b) friendly relation with foreign state
      - i-brief explanation

- (c) public order
  - i-*Kishori Mohan v. State of W.B*,AIR 1973 SC.
  - ii-*Suptd. of central prison v.Ram Manohar*,AIR 1960SC.
  - iii- *Babu Lal Parate v.State of Madras*,AIR 1961SC.
- (d) decency and morality
  - i-*R. v. Hicklin. L.R. 3.Q.B.*
  - ii-*Ranjit D.Udeshi v. State of Maharastra*,AIR 1965 SC.
  - 1- film censorship
    - i- *K.A. Abbas v. U.O.I.*,AIR1971SC.
    - ii-*Boby International v. O.P.Singh*,AIR(1996)4SCC
- (e) contempt of court
  - civil
  - criminal
  - i-*Baradkant v. Registrar Orissa H.C.*,AIR1974SC
  - ii- *In Re Vinay Chandra Mishra Case*
- (f) defamation
  - explain with s.499 of I.P.C.
- (g) incitement of offences
- (h) sovereignty and integrity of India
  - explain with s.124 of I.P.C.
  - i- *Niharendu Datt v. Emperor*,AIR1942 FC.
  - ii- *Devisharan v. State*,AIR 1954 Pat.
  - iii- *Kedar Nath v. State of Bihar*,AIR1962 SC.

- Conclusion

11. How so far extent equality of opportunity in matters of public employment has been successful to providing Justice to weaker sections of society?

Ans- Art. 16 – Brief introduction

- Ingredients of Art. 16
- Explanation of ingredients
  - i- Equality of opportunity in employment(clause.1)
    - (a) *State of Kerala v. N.M. Thomas*,(1976)2SCC.
    - (b) *A.B.S.K. v.U.O.I*,AIR 1981 SC.
    - (c) *All India Station Masters Asso. v. General Manager Central Rail*.AIR 1960 SC.
    - (d) *C.B.Muthamma v. U.O.I.*,AIR 1979 SC.
    - (e) *Air India v. Nargish Mirza*,AIR 1981 SC.
      - Equal pay for equal work
        - (a) *Randhir singh v. U.O.I.*,AIR 1982 SC.
        - (b) *U.O.I. v. Mahjabin Akhtar*,AIR 2008 SC.
      - Seniority
        - (a) *J.C. Patnaik v. State of Kerala*,AIR 1998 SC.

- Probationer
  - (a) *V.P. Ahuja v. State of Punjab*, AIR 2008SC.
- Viva voce test
  - (a) *Praveen Singh v. State of Punjab*, AIR 2001 SC.
- Interview
  - (a) *K.H. Siraj v. High Court of Kerala*, AIR 2006 SC.
- ii- Decent and residence (clause.2)
  - (a) *D.P. Joshi v. State of M.B.*, AIR 1955 SC.
  - (b) *Pradeep Jain v. U.O.I.*, (1984)3 SCC.
- iii- Residence can be ground for reservation of post
  - (clause.3)
  - (a) *Narsimha Rao v. State of A.P.*, AIR 1970 SC.
- iv- Reservation for backward classes (clause.4)
  - (a) *Devasan v. U.O.I.*, AIR 1964 SC.
  - (discuss carry forward rule)
  - (b) *State of Kerala v. N.M. Thomas*, AIR 1976 SC.
  - (c) *A.B.S.K. Sangh (Rly.) v. U.O.I.*, AIR 1981 SC.
  - (d) *K.C. Vasant Kumar v. State of Kerala*, AIR 1985SC.
  - (e) *Indira Shawhany v. U.O.I.*, AIR 1993 SC.
  - (Discuss the *Ratio decidendi* of case)
- v- The 77<sup>th</sup> Constitution Amendment Act.
  - Contents of Art.16 (4-A)
  - (a) *U.O.I. v. Vipul Singh Chauhan*, (1995) 6 SCC.
  - (b) *Ajit Singh -II v. State of Punjab*, (1996)2 SCC.
  - (c) *Ashoka Kumar Thakur v. State of Bihar*, (1995)5 SCC.
- vi- The 81<sup>th</sup> Constitution Amendment Act.
  - Contents of Art. 16(4-B)
  - (a) *M.Nagraj v. U.O.I.*, AIR 2007 SC.
- vii- Contents of Art. 16(5)
  - Conclusion.