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(3rd November 2021)

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Fundamental Rights

Q.1) **Which article deals with the Right to Free Trial?**

A. Article 22

B. Article 21

C. Article 20

D. Article 19

Answer: B

Explanation

Right to Free Trial is dealt by Article 21

- A trial conducted by a judge in an impartial way is said to be a Fair Trial.
- The question of whether a trial is fair or not depends upon the procedure as laid down by the Code of Criminal Procedure, 1973 and the prevailing system of criminal justice.
- Fair trial obviously would mean a trial before an impartial judge, a fair prosecutor and an atmosphere judicial calm.
- A fair trial means a trial in which bias or prejudice for or against the accused, the witness or the cause which is being tried, is eliminated.
- Universal Declaration of Human Rights (UDHR) at global level recognizes the concept of a fair trial as the part of human rights.
- Article 10 of the UDHR provides that "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

Q.2) It prevents illegal usurpation of public office by a person. Which writ is being mentioned in the above statement?

A. Certiorari

B. Mandamus

C. Quo- Warranto

D. Prohibition

Answer: C

Explanation

- Quo- Warranto means 'by what authority or warrant'. It prevents illegal usurpation of public office by a person.
- 'Quo Warranto' means 'by what warrant'.
- Through this writ, the Court calls upon a person holding a public office to show under what authority he holds that office.
- If it is found that the person is not entitled to hold that office, he may be ousted from it.
- Its objective is to prevent a person from holding an office he is not entitled to, therefore preventing usurpation of any public office.

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- It cannot be issued with respect to a private office.
- The writ can be issued only when the following conditions are fulfilled:
- The public office is wrongfully assumed by the private person.
- The office was created by the constitution or law and the person holding the office is not qualified to hold the office under the constitution or law.
- The term of the public office must be of a permanent nature.
- The nature of duties arising from the office must be public.

Q.3) Consider the following statements regarding Martial Law.

1. **The Act of Indemnity made by the Parliament, during martial law, cannot be challenged in any court.**
2. **Article 34 clearly defines Martial law and it's specific provisions.**
3. **It suspends the government and ordinary law courts.**

Which of the above statements is/ are correct?

A. 1 and 3 only

B. 2 only

C. 3 only

D. All of the above

Answer: A

Explanation

- Article 33 does not define Martial law and it's specific provisions. Article 33 empowers the Parliament to restrict or abrogate the fundamental rights of the members of armed force, para- military forces, police forces, intelligence agencies and analogous forces.
- Martial law is justified when civilian authority has ceased to function, is completely absent, or has become ineffective.
- Further, martial law suspends all existing laws, as well as civil authority and the ordinary administration of justice.
- The concept of martial law has been borrowed in India from the English common law.
- However, the expression 'martial law' has not been defined anywhere in the Constitution. Literally, it means 'military rule'.
- It refers to a situation where civil administration is run by the military authorities according to their own rules and regulations framed outside the ordinary law.
- It thus implies the suspension of ordinary law and the government by military tribunals.
- It is different from the military law that is applicable to the armed forces.
- Martial law at times can be imposed in some areas of the country, but a national emergency is imposed on the whole of the nation.

- At times of war, invasion, riot, strike, revolt the situation can be called worse when a national emergency is imposed and martial law is enforced upon the whole of the country.
- Martial law imposed to restore the breakdown of law and order due to any reason, while National Emergency can be imposed only on three grounds (Article 352) i.e. War, External aggregation or armed rebellion.

Q.4) Which of the following rights are available to both citizens and foreigners (except enemy aliens)?

1. **Freedom of conscience and free profession, practice and propagation of religion.**
2. **Freedom from payment of taxes for promotion of any religion**
3. **Right to elementary education**

Select the correct code.

A. 1 and 2 only

B. 2 and 3 only

C. 1 and 3 only

D. 1, 2 and 3

Answer: D

Explanation

- **FR available to both citizens and foreigners (except enemy aliens):**
    - Equality before law and equal protection of laws (Article 14).
    - Protection in respect of conviction for offences (Article 20).
    - Protection of life and personal liberty (Article 21).
    - Right to elementary education (Article 21A).
    - Protection against arrest and detention in certain cases (Article 22).
    - Prohibition of traffic in human beings and forced labour (Article 23).
    - Prohibition of employment of children in factories etc., (Article 24).
    - Freedom of conscience and free profession, practice and propagation of religion (Article 25).
    - Freedom to manage religious affairs (Article 26).
    - Freedom from payment of taxes for promotion of any religion (Article 27).
    - Freedom from attending religious instruction or worship in certain educational institutions (Article 28).

Q.5) **Consider the following statements regarding Cultural and Educational Rights.**

1. **Article 29 grants protection to both religious as well as linguistic minorities.**
2. **The term 'minority' has been defined in the Constitution.**

3. **Political speeches or promises made for the conservation of the language of a section of the citizens amounts to corrupt practice under the Representation of the People Act, 1951.**

Which of the above statements is/ are correct?

A. 1 and 2 only

B. 1 only

C. 2 and 3 only

D. 1 and 3 only

Answer: B

Explanation

- The term 'minority' is not defined in the Constitution.
- Article 29 provides that any section of the citizens residing in any part of India having a distinct language, script or culture of its own, shall have the right to conserve the same.
- Article 29 grants protection to both religious minorities as well as linguistic minorities.
- However, the Supreme Court held that the scope of this article is not necessarily restricted to minorities only, as it is commonly assumed to be. This is because of the use of words 'section of citizens' in the Article that include minorities as well as majority.
- The Supreme Court also held that the right to conserve the language includes the right to agitate for the protection of the language.
- Hence, the political speeches or promises made for the conservation of the language of a section of the citizens does not amount to corrupt practice under the Representation of the People Act, 1951.