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## LEGAL REASONING



## CONSTITUTIONAL LAW-II ANSWER KEY AND EXPLANATIONS

1. (c) Option C is the correct option in this case as the President is nowhere justified in declaring an emergency as there are no signs or threats by B given to I. this therefore, does not suffice the conditions to be present for an emergency to be declared.  
Option A is thus incorrect with respect to the above explanation.  
Option B is incorrect as well because it is clearly stated in the passage that "President may declare an emergency when the region is under a state of attack, external intrusion, or armed rebellion". In this case, merely not having good relations does not amount to any of these. Option D is incorrect as it is nowhere the concern mentioned in the passage.
2. (b) Option B in this question is the right answer as it is specifically mentioned about the location of the disputed borders in both the countries in the facts of the question. Moreover, there was no threat or signs of war shown by the country B against A which is important to declare emergency. Therefore, declaring an emergency nationwide was not justified in this case as A could have declared regional emergency for time being.  
Options A and D are thus incorrect with respect to the above explanation.  
Option C is incorrect as the emergency was introduced in A which means, threat or war should be declared by B against A. This states the opposite and hence is incorrect.
3. (b) Option B in the instant case is the correct answer as it is clearly given in the law provided in the question that "The constitution of India authorises the president to suspend the right to move to any court to enforce fundamental rights during a national emergency...." Therefore, as it was not justified for X to move to the court at the time of emergency, the decision of the court would definitely be null and void after the emergency period is over.  
Option A is thus incorrect with regards to the explanation above.  
Option C is not the answer as neither the passage nor the law in the question says the same.  
Option D is completely out of context and hence, cannot be the answer.
4. (b) Option B is the correct answer to this question as it is clearly mentioned in the passage that "President may declare an emergency when the region is under a state of attack, external intrusion, or armed rebellion (the term internal disturbance was changed to armed rebellion by the 44<sup>th</sup> amendment in 1978)". Therefore, declaring emergency because of internal disturbance does not suffice the grounds for the same. Option A is thus incorrect with respect to the above explanation. Option C is incorrect as there was no threat as such in the instant case to the national security. Option D is incorrect as the question was not about declaring emergency only in wars.
5. (a) Option A is the correct answer as the government is justified in declaring an emergency in such a case as this is armed rebellion as is also mentioned in the passage.  
Option B is incorrect as the passage does not talk about any sort of digital emergency.  
Option C is also not correct as China has not declared war at the moment which means the government is not justified in declaring emergency right at the same moment.  
Option D is incorrect as the passage talks about the emergency provisions under the Indian constitution and not that of Pakistan.

6. (b) The correct answer is Option B. Option A and option C both are incorrect because the measure taken by Armaan is arbitrary in nature as he proclaimed the emergency to exercise absolute control over the country and in a fear of losing the power and it was not backed by the adequate laws. Option D is also incorrect as the reasoning is inadequate thus option B is the most appropriate choice.
7. (b) Option A is incorrect as even though right to internet is fundamental right however it still could be limited for security interests.  
Option D is also incorrect as even though government is empowered to limit the fundamental rights of individual however it still is bound by the doctrine of proportionality as given in the passage "the proportionality doctrine is to shield the individual and his/her rights from the arbitrary brute power of the state, and conceives of the proportionality doctrine as having four components- namely- proper purpose, rationale connection, necessity and balancing" and also "four- part proportionality test that are- (i) that the measure is designated for a proper purpose (ii) that the measures are rationally connected to the fulfilment of the purpose (iii) that there are no alternative less invasive measures, and (iv) that there is a proper relation between the importance of achieving the aim and the importance of limiting the right."  
And as given in the question there was a proper purpose and the measure was rationally connected to the purpose and the measure was adequate thus option B is the most appropriate choice.
8. (d) The correct answer is Option D. Option A and C is incorrect as even though he was proven guilty of for misplacing a document entrusted to him still the action of committee is not valid as permanent termination of X from service for misplacing a document as the measure is more than what was required and has also given in the passage "four-part proportionality test that are- (i) that the measure is designated for a proper purpose (ii) that the measures are rationally connected to the fulfilment of the purpose (iii) that there are no alternative less invasive measures, and (iv) that there is a proper relation between the importance of achieving the aim and the importance of limiting the right."  
The test of the measure must be least intrusive is not fulfilled in the given question therefore the actions were not proportional and thus D is correct.
9. (d) The correct answer is Option D. Option A is not correct as even though crypto currency exchange involves uncertainty and high risk however prohibiting Banking Institutes from providing any banking services to the business involved in crypto currency exchange is extreme measure and more than what is required thus it is not proportional therefore option D is correct.  
Option B is not correct as it does not provide and explanation but directly states it as an inadequate/invalid measure. Therefore, option D is more appropriate.  
Option C is incorrect as it is stated in the above explanation that this is an extreme measure and thus, is not valid.
10. (c) The correct answer is Option C. Options A, B and D all are not correct as even though the laws have been enacted to meet with the state of exigency in the disputed land still, they are not proportional to the

purpose as it provides unfettering power to the military which could be used arbitrarily, and it unnecessarily restricts the fundamental rights of the residents. Thus, Option C is correct.

11. (a) The correct answer is Option (a). Health is one of the exceptions to article 25 of the Indian Constitution under which a religious practise can be protected. In the present case, the very reason behind sending the bodies of the deceased for cremation is the health-risk such bodies poses in terms of spreading infection and putting others' lives in peril. Therefore, regardless of the practise being an essential one or not, it would not be protected under article 25.  
Now, whether the practice is an essential one or not cannot be judged merely on the basis of the given information therefore it is pointless to even delve into it, therefore both options (b) and (c) are incorrect for such reason. (d) is incorrect as the rights of the deceased are not discussed in the passage and thus cannot be decided for the purpose of the present question.
12. (d) The correct answer is Option (d). The author in the passage makes a case that Hijab ruling by the Karnataka High Court is a primary example of cases where the court shall drop the essential religious test practise and adopt a ruling which proactively upholds individual rights such as choice, speech and expression, privacy, and an individual's right to religion in specific context of religious consciousness. This is what (d) says.  
(a) is incorrect as although the author does take a dig on the ruling by the court but does so not merely on the reasoning but the conclusion reached on by the court as well. (b) is incorrect as author does not compare the right to religious freedom with the State's power and hence the option is false. (c) is incorrect as author instead of commenting on the petitioner's approach to plead their case, actually comments on the court's reliance on the ERP test.
13. (b) The correct answer is Option (b). While the facts do not say much about why authorities object to the congregation, it shall be reasonably assumed from the use of words corona virus and the entire question shall be seen in the same light. Now while the article 25 provides for right to religious freedom but the same is subject to exceptions in the form of public order, morality and health. In the present case, hosting a feast at one's home and inviting hundreds of people (regardless of the same being for religious reasons) puts all the people at the risk of getting infected, which is both a health as well as public order concern. Therefore, the Kanyabhoj does not receive the protection of article 25 in the present case.  
(a) is incorrect for the same reasons as above, that even though essential religious practice, it forms an exception to the article 25. (c) is incorrect as compelling reasons or State interest are not given in the passage. (d) is incorrect as while the court in the passage relies on commentary on Quran, but the passage itself does not provide for how court shall decide on the essentiality of a religious practice.
14. (c) The correct answer is Option (c). The question demands an answer in the light of the Karnataka High Court ruling which relies on the ERP test, and takes into account the religious texts to conclude the same. In the present case as well, there is evidence placed before the court in terms of the division of

property being given in the Quran in the manner as it is practised in the religion. As a result, the succession laws of Muslim intestate succession would be granted protection under article 25 of the constitution.

(a) is incorrect as the veracity of the given statement cannot be determined on the basis of given limited information and therefore it is not the answer. (b) is incorrect for the same reason as (c) is correct that the succession is protected under article 25 for being an essential religious practice. (d) is incorrect as again the statement given is false and irrelevant to the question asked here.

15. (b) The correct answer is Option (b). The question expects the answer to be in line with the contentions made by the author in the above passage. The author says that instead of considering Hijab being an essential religious practise it makes more sense to see it as an individual right to choice and privacy which Constitution protects. Therefore, more than the essentiality, the author places reliance on the individual rights and choices, which are enshrined and protected in the Constitution. On the basis of this, (b) is the closest to the correct answer as instead of delving into the essentiality it concentrates on how forcing into the system takes away the choice and individual rights from these girls and women.

(a) and (d) are incorrect primarily because they attempt to determine the essentiality which is not possible given the limited information regarding the same in the question. (c) is incorrect as even if the practice does not fall within the exception, it cannot be allowed if it curtails an individual's rights and choices, furthermore, there is no way of knowing that claims of exploitation are actually true or not.

16. (a) The correct answer is Option (a). Article 25 itself does not read any other condition into the protection of this right, courts, over the years, have ruled that the right would protect only "essential religious practices" and not all religious practices. It has already been established before the court that the practise is a religious essential practise, but the bone of contention is not Azaan at all, but the use of loudspeakers for its recitation. Therefore, the use of loudspeaker is not itself protected under article 25.

(b) is incorrect as Azaan is still protected under article 25 but the use of loudspeakers is not in the given facts. (c) is incorrect as it is difficult to determine on what conditions can the court upheld or not an essential religious practice, the passage only goes on as to say that only essential religious practices are protected under article 25. (d) is incorrect as the statement given is not really deducible from the given passage and thus not true.

17. (d) The correct Option is D. The right to life, by the means of present judgment, has been extended to including right to smoothening of the process to die, subject to conditions such as a person is terminally ill, or is in vegetative state with no scope of recovery. Option A is incorrect since it cannot be logically deduced from the given judgment. The statement that the right to life also includes the right to die is not correct as per the information given in the passage. The passage merely talks about the instances of passive euthanasia that is given to a person in the permanently vegetative condition i.e. with no scope of improvement. Hence, Article 21, though provides

the methods to ease the death, does not provide a Fundamental Right to die.

Option B is incorrect since it cannot be logically deduced from the given judgment, given that it does not mention any failure of its enforcement.

Option C is incorrect. This is because unrestricted smoothening of the process to die is not mentioned nor can be implied from this judgment. The passage only states about the restricted smoothening of the process to die, and that too, in certain conditions. Hence, Article 21, indeed, provides restricted smoothening of the process to die.

18. (d) The correct answer is option D because as per para 2 of the passage, the Supreme Court allowed passive euthanasia, which means withdrawal of life support measures or withholding of medical treatment meant for artificially prolonging life. The act of withdrawing the life support system is valid, but the act does not extend to administering drugs within Ashish's body. Hence, the correct option is D.

Option A is incorrect because though the smoothening the dying process has now been recognized as a fundamental right in the constitution, it does not include administering drugs through an injection. Hence, option A does not provide the correct explanation

Option B is incorrect because though the order to proceed with the euthanasia was granted after due examination of Ashish and complying with all the procedural requirements, the Supreme Court allowed only passive euthanasia, which means withdrawal of life support measures or withholding of medical treatment meant for artificially prolonging life (see para 2 of the passage). The act of withdrawing the life support system is valid, but the act does not extend to administering drugs within Ashish's body.

Option C is incorrect because in the present case his life supports were not removed, which is allowed in the realm of passive euthanasia. In the present case, this does not extend to administering drugs within Ashish's body.

19. (b) Option B is the correct answer because the withdrawal or revocation of an Advance Directive must be in writing (see last line of the passage). In the present case, the withdrawal was only conveyed to the lawyer and not made in written and thus is not valid. Therefore, the advance directive can be a basis for granting passive euthanasia, making option B the correct answer.

Option A is incorrect because he withdrew it before undergoing into the vegetative condition but it was not in written form. Hence, the advance directives can be executed accordingly. Withdrawal or revocation of an Advance Directive must be in writing (see last line of the passage). In the present case, the withdrawal was only conveyed to the lawyer and not made in written and thus is not valid. Therefore, the advance directive can be a basis for granting passive euthanasia.

Option C is incorrect because the element of vested interest is inconsequential as long as the act done is lawful. The Withdrawal or revocation of an Advance Directive, is important, which must be in writing (see last line of the passage). Hence, the same cannot be the correct justification.

Option B is closer than option D since the former mentions the critical element of the lack of withdrawal of the Advance Directive in writing.

Because, the advance directives are the absolute in nature; the legal requirement should also be fulfilled. In the present case, the withdrawal was not as per the legal requirement; hence, option B is more appropriate than that of option D.

20. (c) The correct option is C. because as per para 4 of the passage, if permission to withdraw medical treatment is refused by the Medical Board, the executor of the Advance Directive or his family members or even the treating doctor or the hospital staff can approach the High Court by way of writ petition under Article 226 of the Constitution (see para 4 of the passage). Thus, in the present case, Samita, who is Aruna's nurse, can make a petition before the High Court.

Option A is incorrect because this is not the case that only friend and family member/s can file the petition. She, being the hospital staff, can also file the same. Option B is incorrect because the same principle has not been provided in the passage. Hence, the line of reasoning so given in the option is not correct.

Option D is incorrect because the reasoning that Samita can make a petition since she had been friends with Aruna before she went into vegetative stage is flawed since it does not draw any support from the passage provided. In the present case, she, in the position of the hospital staff, wants to file the petition; hence, option D is not the correct answer. If permission to withdraw medical treatment is refused by the Medical Board, the executor of the Advance Directive or his family members or even the

treating doctor or the hospital staff can approach the High Court by way of writ petition under Article 226 of the Constitution (see para 4 of the passage). Thus, in the present case, Samita, who is Aruna's nurse can make a petition before the High Court.

21. (b) The correct option is B because as per para 4 of the passage, the Division Bench decides upon grant of approval or to refuse of the passive euthanasia against board's order. The High Court will be free to constitute an independent Committee consisting of three doctors or medical practitioners. Therefore, the requirement to constitute a committee is a discretionary power, and shall not be mandatorily exercised, thereby making the order passed by the division bench to be lawful.

Option A is incorrect because constituting the board of three doctors is discretionary for the High Court; hence, the option does not provide an appropriate line of reasoning.

Option C is incorrect the proper examination has been done by the Court itself; constituting a board is not a pre-condition for the proper examination. Option B is closer than option D since the former is more aligned with the passage that is given because the question of law in the present case is whether the High Court is bound to constitute the board, or is it a discretionary power. Article 226, indeed, provides an absolute authority, but this is not the question in this factual matrix. The High Court will be free to constitute an independent Committee consisting of three doctors or medical practitioners (see para 4)