

BIET, SIKAR
SUBJECT :- LAWS FOR ENGINEERS
[8ME2A]

1st MIDTERM PAPER SOLUTION

Q.1. Explain. Fundamental. right

OR.

What is emergency provision.

Q.2. What is contract.? Also, write its types.

OR.

Define NHRC

Q.1.

Answer :- As. we know. that rights. are claims. that are necessary for the existence and development of individuals.

In. that sense there will a long list of rights. whereas, all these rights. are recognized. by the society. some are enshrined in the constitution. such. rights. are called fundamental. rights.

1. Right to Equality.
2. Right to Freedom.
3. Right Against Exploitation.
4. Right to. Freedom. of Religion.
5. Cultural and Educational. Right
6. Right to. constitutional. Remedies.
7. Right to. Education. (RTE).

1. Right to. Equality :- (a) Equality before Law.

(b) No. discrimination. on. the Basis. of Religion, Race, caste, sex, or place of Birth.

(c) Equality of opportunity to all. Citizens in Matter of public Employment.

(d) Abolition. of Untouchability.

(2). Right to Freedom:- (Articles 19-22).

- (a). Freedom of speech and expression.
- (b). Freedom to assemble peacefully and without arms.
- (c). Freedom to form Associations and Unions.
- (d). Freedom to move freely throughout the territory of India.
- (e) Freedom to reside and settle in any part of India
- (f). Freedom to practise any profession or to carry on any occupation, trade or business.

(3) Right Against Exploitation:

- (a). Prohibition of Traffic in Human Beings and Forced Labour.
- (b) Prohibition of Employment of children in Factories.

(4) Right to Freedom of Religion.

- (a). Freedom of Conscience and free Profession, Practice and Propagation of Religion.
- (b). Freedom to Manage Religious Affairs
- (c) Freedom as to the payment of Taxes for promotion of any Particular Religion.
- (d). Freedom as to Attendance at Religious Instruction or Religious Worship in certain Educational Institutions:

(5). CULTURAL and EDUCATIONAL RIGHTS.

- (a). Protection of Interests of Minorities.
- (b). Right of Minorities to Establish and Administer Educational Institutions:

(6) Right of the Constitutional Remedies:- Since, Fundamental Rights are justiciable, they are just like guarantees. They are enforceable, as every individual has the right to seek the help from courts, if they are violated. But in reality it is not so. Encroachment or violation of Fundamental Right in our day to day life is a matter of great concern.

(7). — Right to Education (RTE)

⇒ Emergency due to failure of Constitutional Machinery in a state :- It is duty of UNION Govt. to ensure that Governance of a state is carried on in accordance with the provisions of the Constitution. Under Article 256, the President may issue a proclamation to impose emergency in a state if he is satisfied on receipt of a report from the Governor of the state, or otherwise, that a situation has arisen under which the Government of state cannot be carried on smoothly. In such a situation, proclamation of emergency by the president is called "proclamation on account of the failure of constitutional machinery." In popular language it is called the president's rule.

- A National Emergency is already in operation
- The Election Commission certifies that the election to the state Assembly cannot be held.

Financial Emergency :- The third type of emergency is financial emergency provided under Article 360. It provides that if the president is satisfied that the financial stability or credit of India or any part is in danger.

(A). Effect of Financial Emergency :- The proclamation of financial emergency may have following consequences :-

- (i) The UNION GOVERNMENT may give direction to any of the state regarding financial matters.
- (ii) The president may ask the states to reduce the salaries and allowances of all or any class of person in government service.

OR.

Q. 2

Ans. Emergency Provision:- Emergency provisions are contained in Part XVIII of the Constitution of India. The President of India has the power to impose emergency rule in the Indian states if the security of part or all of India is threatened by war or external aggression or armed rebellion.

Political Science:- According to the Indian Constitution, the president has given extraordinary powers to deal with certain abnormal situations in order to protect the security, integrity, and stability of the country. For this purpose, there are three types of emergencies which can be proclaimed by the president of India on written advice of the Union Cabinet. These three types of emergencies are:-

1. National emergency (Article 352)
2. Emergency due to breakdown of constitutional machinery in a state (Article 356).
3. Financial emergency (Article 360).

* Proclamation of National Emergency (Article 352):- The Constitution of India has provided for imposition of emergency caused by war, external aggression or internal rebellion. This is described as the National Emergency. This type of Emergency can be declared by the president of India, if he is satisfied that the situation is very grave and the security of India or any part thereof is threatened or is likely to be threatened either:-

- (a). By war external aggression or
- (b). By armed rebellion within the country.

Que
(2)

Ans.

India. Contract Act (1872):- The law relating to contracts in India. Contract Act, 1872. This Act was passed by British India and is based on the principles of English common law. It is applicable to all the states of India except the state of Jammu and Kashmir. Each contract creates some rights and duties on the contracting parties. Hence, this act being of skeletal nature deals with the enforcement of these rights and duties on the parties in India. This act consists of the following content.

S.No.	Subject	Section
1	General principle of contract	1-75
2.	Sale of goods Act.	76-123.
3.	Indian and wear	124-147
4.	Bailment	148-181
5.	Agency	182-208
6.	Partnership Act.	239-266.

FUNDAMENTAL DEFINITION: :-

(a). Contract:- Contract is an agreement between two or more parties to perform or to refrain from some act now or in the future. It is legally enforceable Agreement.

(b) offer or proposal:- When one person signifies to another, his willingness to do or to abstain from doing anything with a view to obtaining the assent of that other person, either to such act or, or abstinence he is said to make a proposal.

(c) Acceptance:- When the person to, whom the proposal is made signifies his assent there to, the proposal it become promise.

(d) Promise:- A proposal, when accepted, the becomes a promise
In other words, when an offer is accepted it becomes promise.

(e) Promisor and promisee:- When the proposal is accepted, the person making the proposal is called a promisor and the person accepting the proposal is called as, promisee.

(f) Consideration:- When at desire of the promisor or may other person has done or abstained from doing something or, abstains from doing something, such act or abstinence or promise is called a consideration for the promise.

(g) Agreement: Every promise and set of, promise forming the consideration for each other in short,

$$\text{Agreement} = \text{offer} + \text{Acceptance}$$

(H) Void contract:- A contract which ceases to be enforceable to be enforceable

$$\text{offer} + \text{Acceptance} = \text{promise} + \text{Consideration.}$$

$$= \text{Agreement} + \text{Enforceability by law.}$$

↓
contract.

6.

DR.

Ans. NATIONAL HUMAN RIGHTS COMMISSION (NHRC):-

(a). ~~stat~~utory commissions:- The Government of INDIA established the National Human Rights Commission in 1993. in order to give effect to the National Human Rights Act 1993. The Head quarter of the commission is New Delhi. As per section 12 of the provisions of the Act, the Commission is empowered to inquire (ask) either on its own or based on a petition (request) submitted by a victim or any person on behalf of a victim on the violation of Human rights.

(b) National Commission on Women, children, Minority and Scheduled castes. and scheduled Tribes:- The United Nations apart from general Human rights, concerning men, over the years, recommendations. of various. organs components. the rights. of a Number of. disadvantaged section of the world.

(c). National Commission for Women (NCW):- The Government of India. considering the reports of various commissions of its own, and the UN Commission on Women's recommendation established the National Commission for Women in 1992. in New Delhi basing on the mandate of the National Commission for Women Act, 1990.

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