

GUJARAT NATIONAL LAW UNIVERSITY
SILVASSA CAMPUS
Course: Legislative Drafting and Interpretation of Statutes
Semester- IV (Batch: 2023-28)
End Semester Examination: April – May 2025

Date: 23rd April, 2025

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: Min -Max words

Answer any Five Questions

Marks

- Q.1 A female government employee filed a case before the Central Administrative Tribunal (CAT) under the Maternity Benefit Act, 1961, after her application for maternity leave was rejected by her department. The department denied her leave on the grounds that she had previously availed Child Care Leave under Rule 43-C of the Central Civil Services (Leave) Rules, 1972, to care for her husband's children from a previous marriage. (10)

The department argued that since she had already received leave benefits related to child care, she was not entitled to maternity leave for her own biological child under Section 5 of the Maternity Benefit Act. The CAT upheld this decision.

Aggrieved by the outcome, she has now approached the Supreme Court, arguing that her statutory right to maternity benefit cannot be denied based on earlier childcare leave taken for non-biological children.

Relevant legal provisions include:

- Long Title of the Act
An Act to regulate the employment of women in certain establishments for certain periods before and after childbirth and to provide for maternity benefits and certain other benefits.
- Rule 43-C of the CCS (Leave) Rules, 1972:

Child Care Leave (1) A woman Government servant having minor children below the age of eighteen years and who has no earned leave at her credit, may be granted child care leave by an authority competent to grant leave, for a maximum period of two years, i.e., 730 days during the entire service for taking care of upto two children whether for rearing or to look after any of their needs like examination, sickness, etc.

(2) During the period of child care leave, she shall be paid leave salary equal to the pay drawn immediately before proceeding on leave.

- Section 5 of the Maternity Benefit Act, 1961:
Section 5 (3)-The maximum period for which any woman shall be entitled to maternity benefit shall be twenty-six weeks of which not more than eight weeks shall precede the date of her expected delivery.

Provided that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery.

As a Supreme Court judge, how would you resolve this matter? Which rules of interpretation would you apply to determine if the denial of maternity leave was justified?

- Q.2 The Surrogacy (Regulation) Act, 2021, was enacted to regulate surrogacy in India. A Public Interest Litigation (PIL) has been filed challenging certain provisions of these Acts on the grounds that they infringe upon constitutional rights, including the right to equality (Article 14) and the right to privacy (Article 21). (10)

Key provisions under challenge include:

1. Definition of "Intending Woman": Section 2(s) of the Surrogacy Act defines "intending woman" as a widow or divorcee between the ages of 35 to 45 years. This definition excludes unmarried women and those outside the specified age bracket from availing surrogacy services.
2. Prohibition of Commercial Surrogacy: Sections 4(ii)(b) and 4(ii)(c) of the Surrogacy Act prohibit commercial surrogacy, allowing only altruistic surrogacy arrangements. This has raised concerns about potential exploitation within familial relationships and the creation of unregulated surrogacy markets.
3. Exclusion of Same-Sex Couples and Live-in Partners: The Act limits access to surrogacy to heterosexual married couples, thereby excluding same-sex couples and individuals in live-in relationships.

Relevant Statutory Provisions

Long Title of the Surrogacy Act, 2021- An Act to constitute National Assisted Reproductive Technology and Surrogacy Board, State Assisted Reproductive Technology and Surrogacy Boards and appointment of appropriate authorities for regulation of the practice and process of surrogacy and for matters connected therewith or incidental thereto.

As a Judge, how would you approach the interpretation of the relevant statutory provisions in light of the Constitutional rights involved? Which rules or principles of statutory interpretation would you apply to strike a balance between the legislative intent and the protection of fundamental rights?

- Q.3 As a legislative draftsman, you are tasked with drafting a penal statute. What key principles must you consider to ensure the legislation is clear, precise, and effective? (10)

Enumerate and briefly explain the fundamental rules and best practices for drafting a well-structured penal statute.

- Q.4 What are internal and external aids to the construction of statutes? (10)

Assess the importance of the following in the interpretation of statutes.

- (a) Preamble and Long Title
- (b) Parliamentary History of an Act
- (c) Illustrations and Explanations

Q.5 Write briefly on the following (10)

- (a) Purposive Rule of Interpretation
- (b) Mischief Rule of Interpretation
- (c) Golden Rule of Interpretation

Q.6 Statutory provisions often contain lists or enumerations followed by general words. In such cases, courts apply certain subsidiary rules to ascertain the true legislative intent. (10)

With reference to relevant case laws, explain the principles of *Ejusdem Generis* and *Noscitur a Sociis*.
