

CLAT PG 2026 Set D Question Paper with Solution (Memory Based)

1.

Which Article permits reasonable restrictions for decency/obscenity?

Solution:

The power to impose reasonable restrictions on free speech for the purpose of decency and morality (including obscenity) arises from:

Article 19(2)

Article 19(1)(a) guarantees freedom of speech. Article 19(2) allows the State to impose reasonable restrictions on grounds of:

- decency,
- morality,
- public order,
- defamation,
- security of the State,
- contempt of court,
- incitement to an offence, etc.

Obscenity laws, including those under IPC/BNS and the IT Act, derive constitutional legitimacy from 19(2).

Quick Tip

Free speech → 19(1)(a). Obscenity/decency restrictions → 19(2). Always read restrictions narrowly (proportionality test).

2.

Which statute punishes the transmission of obscene material online?

Solution:

The primary statutory provision penalising online transmission of obscene material is:

Section 67, Information Technology Act, 2000

Section 67 punishes:

- publishing,
- transmitting,
- causing transmission of

obscene electronic material.

Sub-provisions:

- s.67A – sexually explicit material
- s.67B – child sexual material

Under the Bharatiya Nyaya Sanhita (BNS), 2023:

Sections 292–294 IPC equivalents survive as BNS provisions on obscenity, but IT Act s.67 remains the spe

Quick Tip

Online obscenity → always start with IT Act s.67. Offline obscenity → BNS 292/293/294 equivalents.

3.

Fact pattern: An influencer uses explicit sexual language on a live episode and receives FIRs across multiple States. Is the speech protected? Apply the three-part test (law, legitimate aim, proportionality). Compare College Romance (quash) vs Ranveer Allahbadia (SC critical).

Solution:

Whether explicit sexual speech online is protected depends on applying the three-part proportionality test under Article 19(1)(a)–19(2). The Supreme Court now requires:

(1) legality, (2) legitimate aim, (3) proportionality.

We analyse each:

1. Legality – Is there a “law” restricting speech?

Yes. Potential statutory provisions include:

- IT Act Section 67 – obscene online content.
- BNS equivalents of IPC 292/294 – obscenity in public domain.
- Other complaints may invoke 509 BNS (insulting modesty), though usually improperly.

Thus, the restriction is “prescribed by law.”

But the key question becomes:

Does the conduct satisfy the “obscenity test”?

Courts apply:

- “community standards test,”
- “overall message test,”
- “artistic / comedic context,”
- “intent and mode of communication.”

2. Legitimate Aim – Does the restriction protect decency/morality?

Yes. Sexualised speech online may trigger:

decency & morality (Art. 19(2)).

But “morality” must be constitutional morality, not subjective moral disapproval.

3. Proportionality – Is criminal prosecution a proportionate response?

This is where the outcome becomes nuanced.

Compare two leading cases:

(A) College Romance Case (2023) – Delhi High Court quashed prosecution

Facts: Web series contained explicit sexual dialogues.

Held:

- Obscenity requires a tendency to “deprave and corrupt.”
- Mere vulgarity or explicit slang = not automatically obscene.
- Content was comedic, intended for mature audiences, behind an age-gate.
- Prosecution was disproportionate and chilled artistic expression.

Thus:

Sexual language alone is not sufficient to prosecute unless it crosses the obscenity threshold.

(B) Ranveer Allahbadia (BeerBiceps) – SC expressed concern

Supreme Court (2024) held:

- Influencers with large public reach owe a higher responsibility.
- Digital speech has amplified societal effects.
- Courts should avoid blanket quashing; deeper factual inquiry needed.

Thus:

SC is more cautious about dismissing FIRs when the influencer has mass impact + widespread dissemination.

APPLICATION TO THE PRESENT FACTS

Influencer uses explicit language on a live stream.

Factors favouring speech protection:

- Context may be comedic / satirical / adult-oriented → College Romance analogy.
- Consent of viewers (they voluntarily joined the live).
- No sexual exploitation.
- No use of minors, no non-consensual display, no sexual act.
- Art. 19(1)(a) protects strong, vulgar, or uncomfortable speech.

Factors against the influencer (Ranveer factors):

- Mass audience → societal impact.
- Live content → minors may be present.
- Community standards may be breached if language is extremely graphic.
- Multiplicity of FIRs indicates public harm perception.

Proportionality Balance:

Criminal prosecution should be quashed if:

speech is vulgar but not obscene.

If sexual language:

- lacks prurient intent,
- is artistic/comedic,
- does not involve minors,
- does not intend corruption of morals,

then it fails the “obscenity threshold,” meaning prosecution is disproportionate.

But if the explicit content is:

- graphic,
- detailed sexual instructions,
- directed at minors or general public,
- with no artistic or comedic purpose,

then FIRs may survive scrutiny per the Ranveer caution.

Final Conclusion

The speech is likely protected if merely vulgar; not protected if crossing the obscenity threshold or causing

College Romance → supports quashing. Ranveer → warns against blanket quashing in mass-audience cases.

Quick Tip

Always apply: (1) Law → IT Act s.67 (2) Aim → decency/morality (19(2)) (3) Proportionality → vulgar obscene College Romance = liberal → protects speech Ranveer = cautious → influencers have higher responsibility

4.

Suppose a property has been used as a waqf by a user for decades without a formal deed; the Amendment now requires a formal deed / 5-year practising clause — is this property at risk? What constitutional rights are engaged?

Solution:

The new Waqf Amendment Act, 2025 introduces two major requirements: (1) a **formal written waqf deed**, and (2) proof that the waqif has **practised Islam for 5 years** before creating a waqf.

This creates tension for properties that have been used as waqf for decades purely through **long-standing religious usage (waqf by user)** without any deed.

1. Is the property at risk?

Yes — but only if the Amendment is strictly enforced. Traditionally, Islamic law and Indian case law recognise:

Waqf by user = *long, continuous, public religious use creates a valid waqf even without a deed.*

This principle has been upheld in several judgments (e.g., *Fakirappa v. Mutawalli* and others) and follows classical Hanafi doctrine.

The Amendment, however, requires:

- a written deed,
- verification of the waqif's 5-year Islamic practice.

Thus:

Long-standing waqf properties are at risk of being declared invalid or “non-waqf” under the Amendment u

However, since such properties have been used for religious purposes for decades, courts may apply:

- the doctrine of vested religious rights,
- the doctrine of legitimate expectation,
- constitutional protection of denominational autonomy.

Most importantly, the Supreme Court has already stayed the 5-year practice clause, suggesting that the judiciary recognises the serious constitutional concerns.

2. Constitutional rights engaged

The following rights are implicated:

(a) **Article 25 – Freedom of religion** Users have the right to practise and manage religious spaces that have existed functionally as waqf for decades.

(b) **Article 26(b) – Denominational autonomy** Muslim communities have the right:

“to manage their own affairs in matters of religion.”

Declaring a property “invalid” due to lack of deed interferes with internal religious administration.

(c) **Article 26(d) – Right to administer property dedicated to religion** A long-standing waqf is property “belonging to a religious denomination.” Imposing deed requirements could violate 26(d).

(d) **Article 14 – Arbitrary classification** Requiring a formal deed for a waqf, unlike trusts and Hindu religious endowments, may violate equality if it disproportionately harms Muslims.

(e) **Article 300A (Property rights)** Deregistration or takeover of property amounts to deprivation of property without authority of law unless justified.

Conclusion

Yes — the property is at risk, and Articles 14, 25, 26, and 300A are directly engaged.

Quick Tip

Waqf by user is a judicially recognised doctrine. Any amendment abolishing it engages Art. 25–26 (religion), Art. 14 (arbitrariness), and Art. 300A (property).

5.

If the State Waqf Board composition requires non-Muslim members exceeding the limit set by the Amendment, can it be challenged under Articles 25, 26, and 14?

Solution:

Yes. The composition of the Waqf Board is constitutionally challengeable if non-Muslim members exceed statutory limits or undermine denominational control.

1. Article 26(b) – Denominational autonomy

A Waqf Board administers a religious endowment belonging to a particular denomination (the Muslim community). Under Art. 26(b):

“Every religious denomination has the right to manage its own affairs in matters of religion.”

Excessive non-Muslim representation:

- intrudes into internal religious management,
- alters the denominational character of the Board,
- violates 26(b) and 26(d) (administration of religious property).

2. Article 25 – Freedom of religion

Administration of waqf property is integrally tied to religious practice (graveyards, mosques, madrasas). Interference dilutes the autonomous functioning of religious institutions.

3. Article 14 – Arbitrariness

If non-Muslims exceed limits set by the Amendment:

- classification loses rational nexus,
- it becomes arbitrary,

- Article 14 is violated because Hindu trust boards and Sikh gurdwara committees maintain denominational representation.

4. Precedent analogy

SC in:

- *Shirur Mutt* – autonomy of religious denominations is protected.
- *Sri Adi Visheshwara* – State cannot take over permanent management of religious property.

These principles apply similarly to waqf administration.

Conclusion

The Board composition can be struck down for violating Articles 25, 26(b), 26(d), and 14.

Quick Tip

Religious property → denominational autonomy must dominate. Excessive State control or non-believer participation violates Arts. 25–26.

6.

Which clause in the Waqf Amendment Act, 2025, was stayed by the Supreme Court for requiring 5-year practice of Islam for waqf creation?

Solution:

The Supreme Court stayed the operation of the **clause requiring that a waqif (person creating a waqf) must have practised Islam continuously for 5 years** before creating a waqf.

This requirement was contained in:

Section 3(1)(b) / Proviso to the definition of “waqif” in the Waqf Amendment Act, 2025

(Exact renumbering may vary by Bill draft, but the stayed clause is the “5-year practising Muslim” requirement in the definitional section.)

Why did the SC stay it?

Because it prima facie violates:

- **Article 25** – right to freely profess and practise religion,
- **Article 26** – denominational autonomy to administer religious endowments,
- **Article 14** – arbitrary classification between 5-year practitioners vs new converts,
- **Article 300A** – prevents valid religious dedication of property.

The Court observed that:

The State cannot condition the validity of a religious dedication on the “duration” of religious practice.

Thus, the stay protects:

- new converts,
- individuals wishing to dedicate property without waiting 5 years,
- waqf-by-user doctrines.

Quick Tip

The stayed clause = 5-year Islam practice requirement. Reason = violates Arts. 25–26–14; undermines waqf-by-user and new converts.
