

LAW5007

PRINCIPLES OF CONSTITUTIONAL
LAW

EXAM NOTES

TRIMESTER ONE 2018

Topic 2: State Legislative Power

Plenary Legislative Power

<i>Union Steamship Co v King (1988) CLR</i>	
Facts	-King developed deafness as a result of working and sought compensation -The Workers Compensation Act 1926 NSW applied to King's circumstances -Union Steamship argued that it was not for the 'peace, welfare, and good government'
Issue	-Were the words of limitation?
Held	-They words were not of limitation
Rationale	-The High Court interpreted the phrase in support of parliamentary sovereignty -The Imperial Parliament did not have any territorial restraint and hence the NSW Parliament did not either
Key Legal Principle	-'Peace, order and good government' are not words of limitation -Legislation does not have to make laws for want of peace, order and good government

<i>Taylor v AG of Queensland (1917) CLR</i>	
Facts	-The government in 1908 passed the Parliamentary Bills Referendums Act 1908, under which a deadlocked Bill could be put to a referendum and if the voters approved the Bill it could receive assent regardless of the Councils failure to pass it -In 1917 the Government tried to use that procedure to abolish the Council -Members of the Council sought an injunction, arguing that the Referendums Act could not apply to a fundamental element like the bicameral nature of Parliament
Issue	-Did the Referendums Act apply in these circumstances?
Held	-The Act applied
Rationale	-The Act was authorised by the CLV Act as a law with respect to the powers and procedure of the legislature, and would extent to the abolition of the Council
Key Legal Principle	-State's parliament plenary power includes the capacity to abolish a house of parliament

<i>McCawley v R [1920] AC</i>	
Facts	-The Queensland Parliament enacted the Industrial Arbitration Act 1916, which created a Court of Industrial Arbitration -Judges only had tenure for seven years with the possibility for renewal -The Act provided that its judges could be made Judges of the Supreme Court, despite a limit on the judges that appeared in the Supreme Court Act itself -Thomas McCawley was appointed as the first President of the new Court and was given a commission as a judge of the Supreme Court -The validity of his appointment was challenged by the leaders of the Bar, on the ground that his presumed seven year appointment to the Supreme Court was a breach of the life tenure implied by S 15 of the Constitution Act 1867
Issue	-Was the new legislation invalid?
Held	-The new legislation was found to be valid
Rationale	-The legislature of Queensland had the power to enact the Queensland statute both under s 5 of the 1865 Act and under clause 22 of the Order in Council -Found that the doctrine of implied repeal or amendment applied to the Constitution Acts
Key Legal Principle	-Authority for the applicability of the doctrine of implied repeal

Topic 3: Manner and Form Requirements

Making State Constitutions Rigid – Manner and Form Requirements

<i>A-G (NSW) v Trethowan (1931) CLR</i>	
Facts	<ul style="list-style-type: none"> -After the abolition of the Legislative Council in QLD, NSW tried to do the same -This attempt failed, and the government sought to safeguard against future attempts by amending the Constitution Act adding in section 7A which declared that the Legislative Council could not be abolished except by referendum -Then within s7A, there was clause (6) which said that s7A could not be repealed except by referendum -Later the government tried to abolish the Legislative Council without a referendum
Issue	-What limitations do manner and form provisions provide to governments trying to modify laws?
Held	<ul style="list-style-type: none"> -Section 7A coupled with S7A(6) double-entrenched the clause -The current government could not remove the clause without a referendum
Rationale	<p><u>Rich and Dixon JJ:</u></p> <ul style="list-style-type: none"> -If a 'manner and form' provision has not been "doubly-entrenched", a parliament is free to legislate to remove the entrenchment and amend the protected provision by its own sovereignty under the doctrine of parliamentary sovereignty -For measures affecting the constitution, powers and procedure of the State legislature, the requirement of submission to a referendum is a valid 'manner and form' requirement -If the manner and form provisions are not abided by, the law shall have no force or effect (note: it will not be invalidated to uphold the principle of parliamentary sovereignty)
Key Legal Principle	<ul style="list-style-type: none"> -If a manner and form provision has been double-entrenched, it will remain effective and later governments must abide by the manner and form procedures -If the manner and form provisions are not abided by, the law will have no effect

<i>West Lakes Ltd v SA (1980) SASR</i>	
Facts	<ul style="list-style-type: none"> -An agreement was entered into between the Premier of SA and a corporation to enable the development of West Lakes for residential purposes -The agreement contained regulations for the planning of the area provided with the consent of the corporation -It was approved and ratified by the West Lakes Development Act, which provided that the agreement should be carried out and have effect as if the provisions were expressly enacted in the Act -A Bill was introduced into Parliament which provided that the consent of the corporation should not be required for the variation for this purpose -The corporation was opposed to the proposal and claimed that the West Lakes Development Act was binding upon the State
Issue	-Was a requirement that West Lakes Ltd approve of any legislative changes a valid manner and form requirement?
Held	-It was not a valid manner and form requirement
Rationale	<p><u>King CJ:</u></p> <ul style="list-style-type: none"> -It was it was not entrenched itself making it subject to removal -It involved the authority of a non-parliamentary body, which valid manner and form requirements cannot do -It abdicates the power of Parliament as it gives away their power ultimately to a non-representative body -No case tests special majority requirements but in obiter King CJ "there must be a point where a special majority deprives parliament of power" meaning they are not always assumed valid 1) Look to the extent of the special majority required, how onerous is it? 2) How important is the subject matter being entrenched?
Key Legal Principle	-Outlines the limitations to what may be considered manner and form requirements

Topic 4: Commonwealth Legislative Power

Rejection of 'Reserved State Powers'

<i>R v Barger (1908) CLR</i>	
Facts	<ul style="list-style-type: none">-Commonwealth sought to impose a tax on the manufacturers of agricultural tools-Section 2 of the Act in question exempted 'goods manufactured by any person under conditions which were declared by the Parliament to be fair and reasonable'-The Commonwealth argued that this law was valid due to s 51(ii)-The law however had an ulterior purpose aside from raising revenue-It was encouraging adoption of some labour practices within the agricultural sector
Issue	-Was the law valid?
Held	-The law did not fall under s 51(ii) of the Constitution and was not valid
Rationale	<p><u>Griffith CJ, Barton & O'Connor JJ:</u></p> <ul style="list-style-type: none">-The power to make laws on tax is a separate and independent grant-In interpreting this law, it must be considered with reference to other powers, such as the power regulate trade and commerce and the powers reserved for the States-This proposed law sought to regulate the internal affairs of the States, and therefore is a State power and thus denied to the Commonwealth-The purpose of the Act in its substance was more directed to regulating the conditions of labour rather than raising revenue <p><u>Isaacs & Higgins JJ in dissent:</u></p> <ul style="list-style-type: none">-All taxes are on some form of goods or services-To draw such a conclusion is to contradict the Commonwealth's power as where can a line be drawn? (Uses cigarettes as an example)-All taxes bear a motive or object
Key Legal Principle	<ul style="list-style-type: none">-Commonwealth laws are incapable of dual characterisation-The thing being taxed must fall outside the State's reserved powers <p>Note: This contradicts the later judgment of the Engineers case and is likely no longer good law</p>

<i>The Engineer's Case (1920) CLR</i>	
Facts	<ul style="list-style-type: none">-An industrial claim was lodged in the Commonwealth Arbitration Court by an engineers trade union against 843 employers-This included three WA government employers-Under the reserved powers doctrine, the Court could not have exercised jurisdiction under a Commonwealth Act so as to affect the labour relations between a State and its employees
Issue	-Can the Commonwealth make laws binding State instrumentalities under s 51(xxxv) of the Constitution?
Held	-Commonwealth heads of power are to be interpreted in accordance with the natural meaning of the words therein and therefore can bind State instrumentalities
Rationale	<ul style="list-style-type: none">-No implied limitations such as the reservation of non-enumerated areas exclusively to the States should be read into the heads of power, unless it naturally or logically follows from the text-Industrial disputes involving State instrumentalities are not sectioned off from the scope of power as no such limitation was evident in the words of the Constitution-States, when parties in a dispute relating to industrial disputes are subject to the Commonwealth legislation under s 51(xxxv)
Key Legal Principle	<ul style="list-style-type: none">-A literal approach must be taken to the interpretation of the Constitution looking at the ordinary and natural meaning of the words-Perceived desirable outcomes or political necessities should not be considered

Section 96 Grants

<i>Victoria v Commonwealth (Federal Roads Case) 1926 CLR</i>	
Facts	<ul style="list-style-type: none"> -The Federal Aid Roads Act 1926 (Cth) made conditional grants to the States -The conditions required that the States use the grant funds to construct 'Federal Aid Roads' as directed by the Commonwealth Government -Two States challenged the scheme arguing that the Parliament could not use section 96 with conditions attached
Issue	-Could the Commonwealth under this head of power, attach conditions to a grant that gave them powers beyond the Scope of section 51?
Held	-The Commonwealth could do so, as the head of power was interpreted to be broad
Rationale	<p><u>Dixon CJ:</u></p> <ul style="list-style-type: none"> -The grant of the money to the states was valid under section 96 despite the fact that: 1) The States were bound to use it for the specific purpose state 2) The States were bound to also contribute money to the scheme 3) The Commonwealth has no head of power with respect to roads 4) The Minister had absolute discretion over when and how to grant the payments
Key Legal Principle	<ul style="list-style-type: none"> -Outlined that the Commonwealth had power to impose a wide variety of conditions -These stipulations could be used to influence the means by which the States exercised their exclusive and concurrent legislative powers -The terms and conditions imposed with a grant need not be financial in nature

<i>DCT v WR Moran P/L 1939 CLR</i>	
Facts	<ul style="list-style-type: none"> -The Commonwealth imposed a tax on flour millers, but reimbursed the States based on their production of wheat in order to reimburse the flour millers -The flour industry was ultimately being used to subsidise the wheat industry -Tasmania mills flour, but does not produce wheat (paying tax; getting no subsidy) -The Act provided for the reimbursement to Tasmania of revenue raised as a grant -Section 51(ii) prohibits the Commonwealth from discriminating between with regard to taxation -Section 99 prohibits the Commonwealth from giving preferences to one State
Issue	-Was the scheme valid under section 96?
Held	Both Acts were held to be valid
Rationale	<p><u>Latham CJ:</u></p> <ul style="list-style-type: none"> -Each of the Acts must be considered separately and independently -Under the Tax Act all flour millers were treated equally (no discrimination) -Under the Wheat Industry Assistance Act, the grants were valid as there was found to be no constitutional impediment to granting money discriminately -Section 96 is a means by which the Commonwealth, 'when it thinks proper' can adjust inequalities between States <p><u>Evatt J (in dissent):</u></p> <ul style="list-style-type: none"> -The scheme was designed to evade the constraints of the taxation power -Section 96 could not be used to evade the constitutional limitations on the Commonwealth found elsewhere in the Constitution <p><u>Other:</u></p> <ul style="list-style-type: none"> -A grant can be bestowed on a state even if the State was required to pass on all of the money to private institutions within the State
Key Legal Principle	<ul style="list-style-type: none"> -When considering a scheme, Acts must be considered separately -Section 96 is a means by which the Commonwealth, 'when it thinks proper' can adjust inequalities between States and thus is not subject to limitations imposed by other sections of the Constitution -The State acting as a mere conduit for grants is valid even if they do not receive actual financial assistance under the scheme

Appropriations and Expenditure

<i>Pape v Commissioner of Taxation 2009 CLR</i>	
Facts	<ul style="list-style-type: none">- Parliament passed two acts which formed the economic stimulus package-The plaintiff challenged the legislation on grounds that they payments were actually a gift and were not supported by the taxation power in the Constitution
Issue	Was the Act valid?
Held	The Act was valid under the nationhood power (s 61)
Rationale	<ul style="list-style-type: none">-The Commonwealth argued that the powers granted under section 81 to appropriate and spend money was unlimited; this was unanimously rejected-Expenditure must be supported by legislation or under a separate head of power-Sections 81 and 83 cannot support the spending of money by the Commonwealth <u>Gummow, Crennan, Bell JJ:</u> <ul style="list-style-type: none">-‘There is no support in the text or structure of the Constitution for treating the phrase in section 81 ‘for the purposes of the Commonwealth’ as containing words of limitation of legislative power <u>Hayne & Kiefel JJ:</u> <ul style="list-style-type: none">-Will not be practical to investigate what the purposes of the Commonwealth are – effectively makes appropriation non-justiciable
Key Legal Principle	<ul style="list-style-type: none">-Narrowed the Commonwealth’s previously very broad spending powers-Sections 81 and 83 on their own cannot support the spending of money by the Commonwealth

<i>Williams v Commonwealth (No 1) 2012 CLR</i>	
Facts	<ul style="list-style-type: none">-As part of the National School Chaplaincy Program, the Commonwealth government entered into a funding agreement for the provision of chaplaincy services at a State school in Queensland-The agreement was challenged as that the funding was not authorised by statute-The Commonwealth argued that the executive had unlimited power to spend money as they had power to contract like an ordinary citizen-The Commonwealth also stated that the executive can spend money on subjects of federal legislative power without statutory authorisation
Issue	Was the expenditure valid?
Held	The expenditure was invalid
Rationale	-In absence of statutory authority, section 61 did not empower the Commonwealth to enter into the Funding Agreement or to make the challenged payments
Key Legal Principle	-Statutory authorisation is required to spend Commonwealth money

<i>Williams v Commonwealth (No 2) 2014 CLR</i>	
Facts	<ul style="list-style-type: none">-The Commonwealth passed retrospective legislation to provide support for the Chaplain’s program-The Commonwealth argued that Williams No 1 was incorrectly decided – that no legislation was necessary to authorise spending and that the legislation provided supported spending on the chaplains program
Issue	-Was the spending invalid? Was the Act invalid?
Held	-Both the spending and Act were invalid
Rationale	-Although there was legislation to authorise the spending, there was no head of power to enact the legislation validly
Key Legal Principle	-Legislation enacted to authorise spending must be enacted under a valid head of power

State Immunities from Commonwealth Laws
Discrimination Against the States

<i>Melbourne Corporation v Commonwealth 'State Banking Case' 1947 CLR</i>	
Facts	<ul style="list-style-type: none"> -Section 48 of the Banking Act 1945 (Cth) provided that a bank could not engage in business with a State government etc. without the consent of the Federal Treasurer -Its purpose was to force State governments to conduct its banking solely with the federally owned bank -Melbourne Corporation was a local government authority that banked with a private bank, the National Bank of Australia -The Treasurer would not grant such permission -The Melbourne Corporation sought a declaration that section 48 was invalid
Issue	Was the legislation valid?
Held	The legislation was held to be invalid
Rationale	<ul style="list-style-type: none"> -The law breached two fundamental limitations 1. The Commonwealth cannot discriminate against the States -The majority found that Section 48 breached the restriction on discriminatory laws, as it clearly singled out the States for special disadvantage (did not regulate others) 2. Laws of general application cannot impede essential governmental functions -The restriction will destroy or curtailed the continued existence of the States of their ability to govern
Key Legal Principle	-Outlined the two implied limitations to Commonwealth power to bind the States

<i>Queens Electricity Commission v Commonwealth 1985 CLR</i>	
Facts	<ul style="list-style-type: none"> -The QEC generated 97% of Queensland's electricity -The union was involved in a dispute with the QEC Board -The Commonwealth passed the Act imposing a special process for the dispute
Issue	Was the Act passed by the Commonwealth discriminatory, and therefore invalid?
Held	The Act was discriminatory and thus invalid
Rationale	<p><u>Mason J:</u></p> <ul style="list-style-type: none"> -'When the Parliament singles out disputes in the electricity industry to which agencies of the State of Queensland are parties and subjects them to special procedures... it discriminates against the agencies of the State by subjecting them to a special disability'
Key Legal Principle	<ul style="list-style-type: none"> -Discrimination is possible against a single State rather than all the States -Discrimination is possible against a statutory government instrumentality rather than just central organs of the government

<i>Richardson v Forestry Commission 1988 CLR</i>	
Facts	<ul style="list-style-type: none"> -A Commonwealth Act established a Commission of Inquiry to determine whether two areas of Tasmania forests qualified for inclusion on the World Heritage List -This required consideration of whether an area specified by a law located within Tasmania was subject to special treatment (discrimination) -The Commonwealth legislated to protect the land as there was a chance it would be heritage listed in the future
Issue	-Was the Act invalidated on grounds of discrimination?
Held	The Act was valid
Rationale	<ul style="list-style-type: none"> -The Act was valid as it was based on the international obligation regarding environmental protection under the External Affairs power -The special treatment was not arbitrary or unreasonable -The rationale of the act was for a non-discriminatory purpose
Key Legal Principle	-If the Act which is alleged to discriminate has a rational or non-discriminatory purpose, it will be held to be valid and non-discriminatory

Principle Two: Chapter 3 Courts may only exercise Federal Judicial Power

<i>R v Kirby (Boilermakers Case) (1956) CLR</i>	
Facts	-The Commonwealth Court of Conciliation and Arbitration was established by the Conciliation and Arbitration Act 1904 -However the Court was vested by the Act with executive power -It exercised a mixture of non-judicial and judicial power
Issue	-Was the new court a chapter III court? -Could a chapter III court exercise non-judicial power?
Held	-It was not a chapter III court (arbitrary tribunal); It could not exercise judicial power -It is not constitutionally permissible for the legislature to vest in a body having non-judicial functions any part of the judicial power of the Commonwealth
Rationale	<u>No mixing of judicial and non-judicial power:</u> -‘The Constitution does not allow the use of courts established by or under Chapter III for the discharge of functions which are not in themselves part of the judicial power and are not auxiliary or incidental thereto’
Key Legal Principle	-Chapter three courts cannot exercise non-judicial power -Only chapter III courts can exercise judicial power

<i>R v Wakim; ex parte McNally (1999) CLR</i>	
Facts	-Involved a challenge to a cross-vesting scheme -State jurisdiction was conferred on federal or family courts (Federal courts could interpret state laws) -The Constitution clearly allows the Commonwealth to invest State courts with Federal jurisdiction (question of whether the principle was reversed)
Issue	-Can Federal Courts be vested with State jurisdiction?
Held	-Federal courts cannot be vested with State judicial power
Rationale	-Federal courts cannot be vested with State judicial power
Key Legal Principle	-State courts may be vested with federal judicial power pursuant to chapter III - <i>Federal courts may only exercise federal judicial power</i> -Federal courts may not exercise state judicial power

Exceptions to the Federal Separation Principles

The Delegated Legislation Exception

<i>Harris v Caladine (1991) CLR</i>	
Facts	-Section 37A of the Family Law Act 1975 (Cth) authorised the delegation of discrete judicial functions by the Family Court to Family Court registrars -Examples include the making of consent orders for the dissolution of a marriage, and regarding the custody, guardianship and welfare of children
Issue	Was section 37A valid?
Held	The section was valid
Rationale	-Some activities can be delegated to administrative officers in the courts, when the judges nevertheless have the overall control and can review decisions -It cannot delegate to such an extent as to remove major responsibility from judges and the exercise of delegation must be subject to review by judge
Key Legal Principle	-Delegation of judicial power is permissible subject to two conditions: 1. The judge must continue to bear the major responsibility for the exercise of the judicial power (must be available to appeal to the judge) 2. Discrete exceptions

<i>Wotton v Queensland 2012 CLR</i>	
Facts	<ul style="list-style-type: none"> -In November 2008 Mr Wotton was sentenced to six years' imprisonment for his part in the Palm Island Riots on 26 November 2004, which followed the controversial death of Mulrunji whilst in police custody the week before -He was eligible for and released on parole in July 2010 -The Parole Board released Mr Wotton pursuant to an order made under section 200(2) of the Corrective Services Act 2006 -By way of Special Case in the High Court of Australia, Mr Wotton sought declarations to the effect that the relevant provisions of the Corrective Services Act 2006 (Qld) are invalid
Issue	-Did the parole orders impermissibly burden the political freedom?
Held	-No – dismissed Wotton's challenge
Rationale	<p>Limb One:</p> <ul style="list-style-type: none"> -The law imposed a burden in that prisoner interviews can be political speech (incidentally burdened) -On the facts public discussion of ATSI affairs were political communications capable of affecting matters on a nation and not merely local level <p>Limb Two:</p> <ul style="list-style-type: none"> -The law had a legitimate purpose in that it was designed for the purpose of community safety and crime prevention -The law was reasonably appropriate and adapted in that it only applied in parole conditions -The restrictions were also subject to administrative and judicial review, making them proportionate
Key Legal Principle	-Application of Lange Test

<i>Monis v The Queen 2012 CLR</i>	
Facts	<ul style="list-style-type: none"> -It was alleged that Monis wrote letters to relatives of Australian soldiers killed in active service in Afghanistan -The letters expressed opposition to the war in Afghanistan in 'intemperate and extravagant terms' and directly insulted those who had died -Mr Monis and Ms Droudis claimed that s 417.12 violated the implied constitutional freedom of political communication
Issue	Were the relevant sections of the criminal code valid?
Held	<p>-3:3 decision</p> <ul style="list-style-type: none"> -Section 23(2)(a) of the Judiciary Act states that if the Court is equally divided in opinion, in the case where a decision of the Supreme Court of a State is called into question by appeal or otherwise, the decision appealed from shall be affirmed -Monis' conviction was upheld
Rationale	<p>Limb One:</p> <ul style="list-style-type: none"> -The law imposed a burden <p>Limb Two:</p> <p>French CJ, Hayne and Heydon JJ:</p> <ul style="list-style-type: none"> -The purpose of the law, to prevent the use of the postal service in an offensive way, was not legitimate <p>Crennan, Kiefel, Bell JJ:</p> <ul style="list-style-type: none"> -The purpose of the law was to protect people from intrusive, seriously offensive communications -The offences committed by Monis were so extreme -The law was reasonably appropriate and adapted as the relevant section was not directed at political communications but only incidentally burdened them -The burden on political communication in this context was unlikely to be extensive and therefore was proportionate -Therefore the freedom was not infringed
Key Legal Principle	-Application of Lange Test

<i>Bath v Alston Holdings Pty Ltd 1988 CLR</i>	
Facts	<ul style="list-style-type: none"> -The law in question imposed a substantial licence fee on Victorian tobacco retailers if they bought from out of state wholesalers -It virtually exempted retailers if they bought from local wholesalers
Issue	-Was the law valid?
Held	The law was invalid
Rationale	<p><u>4:3 majority decision</u></p> <ul style="list-style-type: none"> -The majority viewed the legislation in isolation <u>Majority's application of the test:</u> <ol style="list-style-type: none"> 1. Does the law impose a burden on interstate trade and commerce? (Yes) 2. Is that burden discriminatory, either on its face or in practical effect? (Yes) 3. Does the burden have a protectionist effect? <ul style="list-style-type: none"> -Yes, protectionism arises when a State law confers a competitive advantage on local industry or a State law removes a competitive advantage from interstate industry -The legislation was protectionist in both form and substance 4. Is the protectionist effect reasonably appropriate and adapted to a non-protectionist purpose? (No) <u>Minority:</u> <ul style="list-style-type: none"> -Looked at the fee as part of a wider scheme in which Victorian wholesalers were the primary target (the practical operation of the Act)
Key Legal Principle	<ul style="list-style-type: none"> -A potentially protectionist law which is not discriminatory does not breach section 92 -A discriminatory law will not breach section 92 if it does not have a protectionist effect -Defined protectionist laws as ones which would result in one of two consequences: <ol style="list-style-type: none"> 1. The conferral of a competitive advantage on local industry 2. The removal of a competitive advantage from interstate industries

<i>Castlemaine Tooheys v South Australia 1990 CLR</i>	
Facts	<ul style="list-style-type: none"> -Bond was selling beer across the states using refillable and non-refillable glass -SA provided for a 5 cent refundable deposit on beverage containers but exempted refillable beer bottles (Bond used non-refillable bottles) -The local brewers sold their beer in refillable bottles -The pressing issue at hand that the was how to determine the validity of State legislation which attempts to solve a pressing social problem by imposing a solution, which disadvantages interstate traders
Issue	Was the law invalid?
Held	The law was invalid
Rationale	<ul style="list-style-type: none"> -The law in effect gave SA brewers a competitive market advantage that amounted to discriminatory protectionism that was not appropriate and adapted -As there was no satisfactory non-protectionist explanation, the law failed this test -Although it was open to any brewer to use either kind of bottle, the Court must have regard to the way in which people actually do business <u>Limitation</u> <ul style="list-style-type: none"> -Even if a law did place interstate trade at a competitive disadvantage compared with intrastate trade, the law could be valid if the burden on interstate trade was 'necessary or appropriate and adapted', either to the protection of the community from a real danger or threat to its welfare, or to the enhancement of its welfare
Key Legal Principle	<ul style="list-style-type: none"> -Introduced an exception to the test reformulating the fourth question, allowing burdens which are appropriate and adapted for the protection of the community from a danger or threat to welfare, or to the enhancement of welfare: <u>New Question 4:</u> <ul style="list-style-type: none"> -Were there rational and legitimate grounds behind the object of the legislation -Were the legislative measures appropriate and adapted to the achievement of the object or resolution of those problems?