



## Previous Year Paper

### U.P. Judicial Service Civil Judge Main Examination, 1999

#### PAPER – I {GENERAL KNOWLEDGE}

**Note:**

- Candidates must attempt all 5 questions.
- All questions are carry equal marks.

**1.**

- (a) As compared to other federal constitution what are the distinctive features of the Indian Constitution?
- (b) "The fact of Judiciary has a say in the matter of amendment of the constitution is the most notable aspect of the doctrine of basic structure. Elucidate.

**2.**

- (a) Discuss the constitutional position of the President of India.
- (b) What are the grounds, duration and consequences of the proclamation issued by the President of India pertaining to the failure of constitutional machinery in States? Is such a proclamation justiciable?

**3.**

- (a) 'Freedom of speech and of the press lies at the root of all democratic organisation.' Examine Refer to leading cases.
- (b) Discuss the expanding horizons of Article 21 of the Constitution of India.

**4.**

- (a) "Environmental pollution bomb is more dangerous than a 'nuclear bomb'." Comment and discuss the international legal regime for the protection of environment.
- (b) 'Of all the organs of the U.N. none has shown a greater discrepancy between promise and performance that the Security Council'. Elucidate and give some suggestions for strengthening the U.N.

**5.**

- (a) 'Law should be in consonance with the spirit of the people'. Comment with reference to India.
- (b) Define 'legal right' and indicate its characteristics. Are rights and duties correlative? Give suitable illustrations.





## U.P. Judicial Service Civil Judge Main Examination, 1999 PAPER – II {LANGUAGE}

Translate into simple language spoken in Courts in Devnagari Script:

On a review of the relevant provisions of the evidence Act, we have come to the conclusion (1) that it cannot be laid down as an absolute rule of law that a dying declaration cannot form the sole basis of conviction unless it is corroborated (2) that each case must be determined on its own facts keeping in view the circumstances in which the dying declaration was made (3) that it cannot be laid down as a general proposition that a dying declaration is a weaker kind of evidence (4) that a dying declaration stands on the same footing as another piece of evidence and has to be judged in the light of surrounding circumstances and with reference to the principle governing the weighing of evidence (5) that a dying declaration which has been recorded by a competent Magistrate in the proper manner in the form question and answers, and as far as practicable, in the words of the makers of the declaration, stands on a much higher footing than a dying declaration which depends upon oral testimony which may suffer from all the infirmities of human memory and human character, and (6) that in order to test its veracity the Court has to keep in view the circumstances like the opportunity of the dying man for observation, for examples, whether there was sufficient light if the crime was committed at night, whether the capacity of the man to remember the facts stated has not been impaired at the time he was making the statement by circumstances beyond his control, that the statements have been consistent throughout if he had several opportunities of making a dying declaration, that the statement has been made at the earliest opportunity and was not the result of tutoring by interested person or parties.

It is true that a dying declaration is not a deposition in Court and it is neither made in the presence of the accused on oath. It is, therefore, not tested cross-examination on behalf of the accused. But a dying declaration is admitted in evidence by way of an exception to the general rule against the admissibility in evidence on the principle of necessity. The weak point of dying declaration just mentioned merely serve to put the court on its guard while testing its reliability, by imposing on it an obligation to closely scrutinise all the relevant attending circumstances.





## U.P. Judicial Service Civil Judge Main Examination, 1999 LAW PAPER – I {SUBSTANTIVE LAW}

Time Allowed: Three Hours

Maximum Marks: 200

### SPECIFIC INSTRUCTIONS

- Candidates have to attempt Question Nos. 1 and 2, and any four of the remaining ones. Attempt six questions in all.
- Marks carried by each question are indicated at its end.

1.

- (a) "Once a partition made, once is a damsel given in marriage. Once does a man say 'I give these' are by good-men done once for all." (Manu) Explain.
- (b) "Life estate is unknown to Muslim law as administered in India, but life interest can be created." Discuss

2

- (a) "Initial impossibility renders an agreement void and subsequent impossibility renders a contract void. " Discuss with reference to the provisions of Indian Contract Act 1872 and decided cases.
- (b) What are the effects of non-registration of a firm? Can a partner of unregistered firm sue for the realisation of property on its dissolution?

3.

- (a) What do you understand by 'clog on redemption? Answer with illustrations. Does taking collateral benefit amount to clog on redemption? Examine the Indian position
- (b) "Equity will not suffer a wrong to be without remedy" Discuss

4.

- (a) "The foundation of Doctrine of Election is that no one can approbate and reprobate at the same time." Discuss with illustration.
- (b) "Payment received by mistake must be refunded." Discuss with reference to decided cases,

5.

- (a) "Justice demands that a person wrongfully dispossessed of property shall recover it." Explain how is the Specific Relief Act, 1963 operating for this purpose.
- (b) How far creation of "Constructive Trust" is recognized under Indian Trust Act?





**6. Answer any three-**

- (a) A has taken abode in a vacant house in which he has no title. B forcibly dispossesses him. Can A sue B for trespass?
- (b) "Intention to defame is an essential ingredient of tort of defamation." Discuss.
- (c) How does easementary rights come to an end? Can they be revoked? If so how? Discuss
- (d) How far lack of care is a relevant factor in determining liability under an action of nuisance?

**7.**

- (a) A despatches the letter of acceptance to B which B does not receive. When A sues B for enforcement of contract, B contends that there is no contract with A. Decide.
- (b) Is plaintiff entitled to damages for mental distress and social stigma caused due to breach of contract?
- (c) A gives a lakh of rupees to B, reserving to himself, with B's consent, the right to take back at pleasure Rs. 10,000 out of the lakh Is such transfer valid?

**8.**

- (a) What are the consequences if (i) consent could not be obtained due to mistake, and (ii) consent if obtained by mistake?
- (b) Define "partnership at will" State rules of its dissolution. Can such partnership be dissolved by the order of the Court?

**9. Discuss any three-**

- (a) Maintenance of wife in Hindu law.
- (b) Maintenance of divorced wife in Muslim law.
- (c) Distinction between contract of indemnity and contract of guarantee.
- (d) Principles and rules granting temporary injunction.
- (e) Extinction and revocation of trust.

**10. Discuss any three with reference to Indian law-**

- (a) Where there is equal equity, the law shall prevail.
- (b) Where the equities are equal, the first in time shall prevail.
- (c) Equity imputes an intention to fulfil obligation.
- (d) Equity look on that as done which ought to have been done.





## U.P. Judicial Service Civil Judge Main Examination, 1999 LAW PAPER – II {PROCEDURE & EVIDENCE}

Time Allowed: Three Hours

Maximum Marks: 200

### SPECIFIC INSTRUCTIONS

- Attempt five questions in all. Question No. 1 is compulsory.
- At least one question must be attempted from each Section.
- Marks carried by each question have been indicated against the question.

1. M was married with A in April, 1986. His mother B was torturing Smt. M as she did not bring sufficient dowry at the time of Money and valuable things were sent to Smt. M by her father at several times but A and B were not satisfied. Smt. M was not given food for many days. On 28-1-99, A and B planned to kill M. When 'M' was preparing tea, her mother-in-law, B poured kerosene oil on her and A threw a burning match stick upon her and closed the door of the kitchen. Thereafter A and B started shouting that M is dead due to burns. Some of the neighbours informed the police about the incident. Police sent the dead body for post-mortem and after investigation submitted a charge-sheet against A and B under Section 304-B of I.P.C. for the offence of dowry death. In the light of above facts, prepare charge and write a judgment of conviction.

Or

B obtains house from A on rent and continues to pay monthly rent to 'A' 'S' on the ground that the said house has been sold to him by A on 1-1-96 prepare a plaint on behalf of 'S' and write a short judgment.

### Group A

- 2.
- (a) How and to what extent a decree can be executed against legal representative of a deceased judgment-debtor?
  - (b) Discuss those provisions of C.P.C. which are applied in determination of forum for filing a suit relating to immovable property?
- 3.
- (a) Discuss the doctrine of restitution.
  - (b) Write a short note on inherent powers of civil court?
- 4.
- (a) Who can file a pauper suit?
  - (b) Can a person be a defendant in a suit as a pauper?







- (c) A filed an application plaint as a pauper. A dies before the disposal of his application. Can his legal representative continue with that application?
- (d) 'A' after filing an application plaint as pauper sold his property worth Rs. fifteen thousand. Will 'A's application be accepted?

### Group B

- 5. What do you understand by conclusive and rebuttable presumptions explain?
- 6.
  - (a) A is tried for murder of B. Whether the facts that C knew that A had murdered B and the C has tried to extort money from A by threatening to make his knowledge public, are relevant? Answer with reference to legal provisions
  - (b) What facts are relevant when the question is as to the question of any right or custom? Answer with examples.
- 7.
  - (a) Whether a judgment in a previous case is admissible as an evidence in a subsequent case? If so for what purpose?
  - (b) Who is said to be co-accused under Evidence Act? Under what circumstances a conviction can be made on the basis of evidence of co-accused?

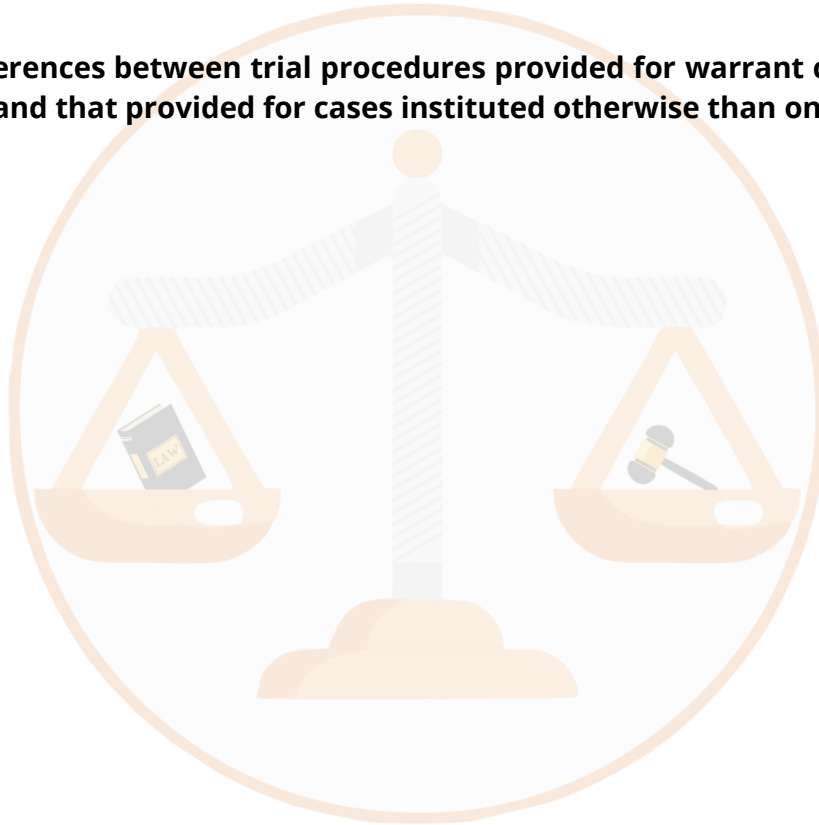
### Group C

- 8. Referring to statutory provisions, discuss the validity of the following
  - (a) Where investigation cannot be completed within 24 hours, the police officer produces the accused before an Executive Magistrate upon whom the power of a Judicial Magistrate has been conferred. Such Magistrate remands the accused to 10 days police custody.
  - (b) A Magistrate in a summary trial proceeding on conviction passes sentence order for 4 month's imprisonment.
  - (c) A person arrested on accusation of bailable offence is not released on bail by the police officer, though the person is ready to furnish bail.
  - (d) For complaint against the accused without reasonable cause, Magistrate orders payment of compensation in favour of the accused. For default in payment of compensation passes an order of sentence for 60 days' imprisonment.
  - (e) If accused deserves to plead guilty. Magistrate issues a special summon specifying rupees one hundred and fifty a fine.





9. Mention the situation in which release on bail of an accused in custody mandatory under Criminal Procedure Code.
- 10.
- (a) What are the reasons for providing different procedures for trial of warrant cases instituted on police report and cases instituted otherwise than on police report by Magistrate. Discuss.
- (b) Point out differences between trial procedures provided for warrant case instituted on police report and that provided for cases instituted otherwise than on police report



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**U.P. Judicial Service Civil Judge Main Examination, 1999**  
**LAW PAPER - III {REVENUE & CRIMINAL}**

Time Allowed: Three Hours

Maximum Marks: 200

**SPECIFIC INSTRUCTIONS**

- Candidates should answer six questions in all. Question Nos. 1 and 2 are compulsory and rest two each should be from Section - A and Section -B.
- Marks carried by each question are indicated at its end.

**1.**

- (a) Describe briefly the main reasons for the abolition of Zamindari in the State of Uttar Pradesh.
- (b) Define Sir and distinguish it from Khudkasht land. Explain the privileges connected with "Sir" land.
- (c) Who can make a bequest of his holdings under U.P.Z.A. and L.R. Act, 1950. What are the requisites of valid will.

**2.**

- (a) Describe in brief consequences of vesting of estates in State of U.P.
- (b) Describe the procedure for ejectment of trespasser on Gram Sabha land.
- (c) How can a bhumidhar get his share separated from a joint holding? Under what circumstances a holding cannot be partitioned?

**3.**

- (a) Who has a right to transfer his holding under the U.P. Zamindari Abolition and Land Reforms Act, 1950? Whether a bhumidhar with non-transferable rights or an asami can also transfer his holding? If so, under what circumstances?
- (b) Discuss the restrictions on the right of a bhumidhar with transferable rights to transfer his holding by sale or gift.
- (c) Discuss the procedure for surrender of holding by a bhumidhar with non-transferable rights.

**4.**

- (a) State in brief the effect of Zamindari Abolition on the rights and interests of a thekedar of an estate.
- (b) Is letting of land permissible under the U.P. Zamindari Abolition and Land Reforms Act, 1950? If so, under what circumstances?





- (c) A male bhumidhar dies intestate, leaving behind his unmarried daughter, mother and father. Who will succeed to his land?

**5.**

- (a) Describe in brief the constitution and function of Land Management Committee.
- (b) Write short note on any two of the following: -
1. Agricultural year
  2. Date of vesting
  3. Intermediary
- (c) 'A' a female landholder dies intestate leaving behind her husband, son and daughter. Who will succeed to her land? Discuss.

### Group B

**6.**

- (a) The right of private defence is not available for retaliation, but for averting an impending danger not of his creation. Discuss and also state under what circumstances, a man can go to the extent of killing in defence of his person?
- (b) State with reasons, what offence, if any, has been committed by 'A' in the following cases-
- (i) 'A' finds a valuable ring on the road. He picks it up sells it immediately. and
  - (ii) 'A' instigates 'B' to commit theft in the house of 'C': 'B' commits theft and afterwards sets fire to it.

**7.** State with reasons, what offence, if any, has been committed in the following cases:-

- (i) A flew away with an aeroplane without permission of the authorities. However, he restored the aeroplane at its place a day after.
- (ii) Six armed persons entered the house of 'A' but on an alarm being raised they took to their heels without any booty.
- (iii) The Chief Minister of a State asked an industrialist to donate Rs. 10 lac to his party fund, otherwise his licence shall be cancelled. Industrialist quietly gave the desired amount to his political party.

**8.** Distinguish between any three of the following-

1. Kidnapping and Abduction
2. Theft and Robbery
3. Rioting and Affray
4. Murder and Culpable Homicide not amounting to murder.



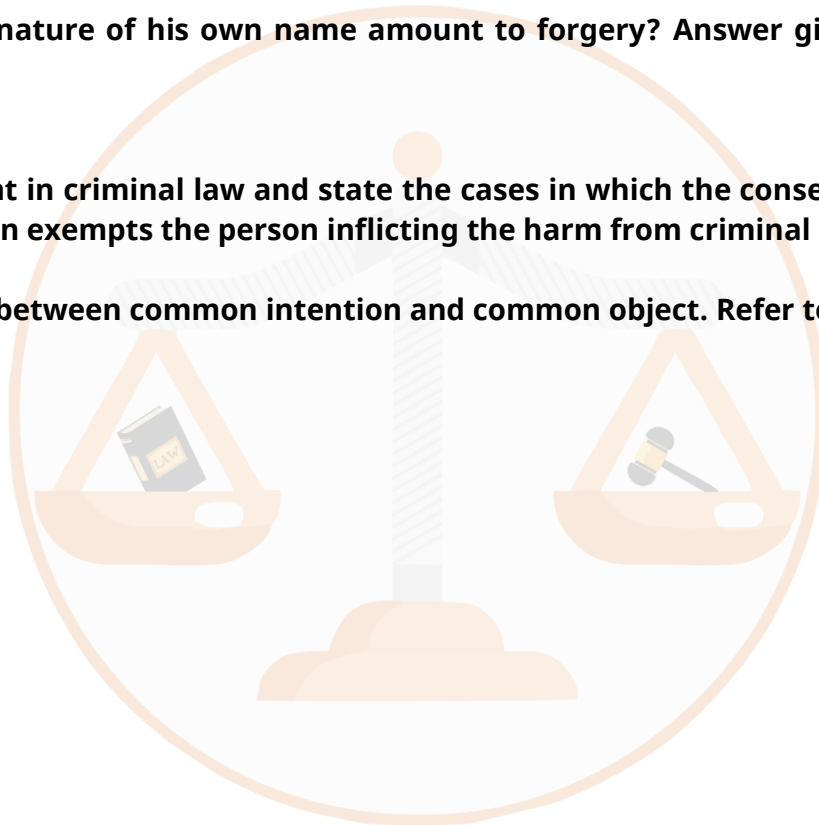


9.

- (a) Discuss the law relating to the "grave and sudden provocation" as contained in the Indian Penal Code and state the extent to which it mitigates the responsibility of an accused for the offence of murder. Refer to case law to illustrate your answer.
- (b) It is said that in every robbery or dacoity either there is theft or extortion Explain with help of cases and illustrations.
- (c) Can one's signature of his own name amount to forgery? Answer giving reasons and illustrations.

10.

- (a) Define consent in criminal law and state the cases in which the consent of the harmed or his guardian exempts the person inflicting the harm from criminal liabilities.
- (b) Differentiate between common intention and common object. Refer to leading cases.



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