

WB Judicial Service (Main) - 2020

Optional Papers

WJM(O)/I/20

2020

HINDU LAW

Time Allowed — 3 Hours

Full Marks — 100

If the questions attempted are in excess of the prescribed number, only the questions attempted first up to the prescribed number shall be valued and the remaining ones ignored.

*Answers may be written either in **English** or in **Bengali** but all answers must be in one and the same language.*

Separate answer books to be used for Group-A & Group-B.

(In case a candidate writes answer to questions on Group-B in the answer book meant for Group-A and Vice-Versa, such answer will not be evaluated.)

Group-A

Answer Question No. 1 and any two from the rest.

1. (a) "Hindus are born as well as made."—Justify the statement with reasons.
(b) Define Legislation as a Source of Hindu Law. Mention some of the important Legislations of Hindu Law.
(c) Explain Equity, Justice and Good Conscience as a Source of Hindu Law. 8+6+6=20
2. (a) Discuss 'Cruelty' and 'Conversion to another religion' as grounds of divorce under the Hindu Marriage Act, 1955.
(b) Explain the concept of Fair Trial Rule. 10+5=15
3. (a) Discuss the provision regarding the Restitution of Conjugal Rights under the Hindu Marriage Act, 1955.
(b) What are the special grounds of Divorce available to the wife only under the Hindu Marriage Act, 1955? 8+7=15
4. (a) How does the succession pass when a certain heir is disqualified?
(b) Explain the provisions relating to right of absolute property of women under Hindu Succession Act, 1956. 5+10=15

Group-B

Answer Question No. 5 and any two from the rest.

5. Write short notes on *any four*: 5×4=20
- (a) Stridhan
 - (b) Sapinda Relationship
 - (c) Registration of Hindu Marriage
 - (d) Custody of Children
 - (e) Void and Voidable Marriage
6. (a) Discuss the powers of Marriage Officer in respect of objections to special marriage under the Special Marriage Act, 1954.
- (b) What are the grounds of divorce under the Special Marriage Act? 8+7=15
7. (a) What do you mean by 'Adoption'? Discuss the requisites of a valid adoption under the Hindu Adoption and Maintenance Act, 1956.
- (b) What are the provisions regarding maintenance of wife under the Hindu Adoption and Maintenance Act, 1956? 8+7=15
8. (a) What are the criteria of determining the award of maintenance amount by the Court?
- (b) Discuss the 'Maintenance of illegitimate children', under Hindu Adoption and Maintenance Act, 1956.
- (c) Whether registration is necessary for a Valid Adoption? Discuss. 5+5+5=15
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2020

MUHAMMEDAN LAW

Time Allowed — 3 Hours

Full Marks — 100

Answers may be written either in English or in Bengali but all answers must be in one and the same language.

Separate answer books should be used for Group-A and Group-B.

(In case a candidate writes answer to questions on Group-B in the answer book meant for Group-A and vice-versa, such answers will not be evaluated.)

Group-A

Answer all questions.

1. Answer the following: 2½×8=20
 - (a) Who is a Muhammedan for the purpose of application of Muhammedan Law?
 - (b) What is Quiyas?
 - (c) To what extent is Muhammedan Law a Codified Law?
 - (d) Can 'urf' abrogate any provision of the Sunna?
 - (e) What is Istihsan?
 - (f) Explain 'Khayer-ul-Bulugh'.
 - (g) What do you mean by 'Valid Retirement'?
 - (h) Explain Faskh.
2. (a) State the circumstances where marriage under Muhammedan Law is voidable but not void.
 (b) Discuss the validity of the following marriages:
 - (i) Marriage with another man's wife
 - (ii) Marriage with a non-muslim lady (other than Kitubia)
 - (iii) Marriage with a party where either of the party is completely blind 6+4=10
3. (a) What is Proper Dower? Who fixes the amount of dower? Can the elder brother of the girl fix the amount of dower in presence of father? Can the father of the wife remit the amount of dower once it is fixed?
 (b) What remedies are available to a muslim wife for non-payment of dower? (2+2+1½+1½)+3=10
4. (a) Make a distinction between 'Khula' and 'Mubarat'.
 (b) Point out the effect of Divorce. 5+5=10

Group-BAnswer *all* questions.

5. Answer the following:

 $2\frac{1}{2} \times 8 = 20$

- (a) When does inheritance open of a Muslim woman?
- (b) How far birth right is recognised under Muhammedan Law?
- (c) What do you mean by the rule of Ultimogeniture?
- (d) Explain Areat.
- (e) What is false grandfather?
- (f) Explain 'Musha' and its applicability in case of 'Hiba'.
- (g) What is 'Ila'?
- (h) What is the effect of 'apostacy' in Muslim marriage?

6. (a) Discuss the importance of delivery of Possession of the Property as to the validity of 'Hiba' under Muhammedan Law.

(b) Discuss the validity of the following under Muhammedan Law:

(i) 'X' a Sunni Muslim makes a gift to 'Y'

"The mangoes that may be produced by his mango tree this year".

(ii) Depriving all the sons and daughters 'M' a sunni muslim lady makes a gift of her ($\frac{1}{3}$) of assets to a non-muslim beggar.

 $6 + (2+2) = 10$

7. (a) Can a wakf be created in favour of any object which is not religious but charitable and secular in nature?

(b) 'For want of Mutawalli, the wakf fails.'— Justify this statement.

(c) A wakf is created by wakif and without any reservation. Can the wakif appoint any Mutawalli afterwards?

(d) Explain the power of Mutawalli regarding the Wakf Property.

 $2+2+2+4=10$

8. (a) A piece of cloth is deposited with R who says to the owner, 'give it to me', 'I have given it to thee'.

Is there any gift in the above transaction? Elaborate your answer.

(b) A child born within 6 months of the marriage is illegitimate. Will it be legitimate if the father acknowledges it? Answer with reasons.

(c) A legal guardian of a minor boy enters into an agreement for the purchase of an immovable property on behalf of the minor. Discuss the validity of the agreement.

(d) 'M' a sunni hanafi muslim makes a will of his entire property in favour of 'Al-Ameen-Mission, before his marriage. He thereafter got married to a muslim lady under the Special Marriage Act, 1954. A son is born. M died leaving behind wife and the only son. Can the son claim any property of his deceased father?

 $3+2+2+3=10$

2020

JURISPRUDENCE AND PRINCIPLES OF LEGISLATION

Time Allowed — 3 Hours

Full Marks — 100

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Answers may be written either in English or in Bengali but all answers must be in one and the same language.

Answer any Five Questions taking at least Two Questions from each group.

Group-A

1. Define jurisprudence. Discuss the nature and scope of jurisprudence. 20
2. Salmond defines "Jurisprudence as the science of law"—Explain. State the utility and the significance of Jurisprudence. 10+10
3. What are the essential elements of a legal right? How such rights are enforced? 15+5
4. What is the nature of precedent? Discuss the circumstances which destroy or weaken the binding force of precedent. 5+15

Group-B

5. "Ownership is a right indefinite in point of user, unrestricted in point of disposition and unlimited in point of duration" (Austin).
Write a critical note on Austin's definition of ownership. 20
6. Law is a social engineering balancing between social, public and private interest.— Roscoe Pound :
Critically examine the above statement with examples. 20
7. Discuss the theories regarding transformation of custom into law. What is the present position of the customary law? 15+5
8. Write short notes on: 5×4
 - (a) Doctrine of "Jus tertii"
 - (b) Subordinate legislation
 - (c) Legal status of unborn person
 - (d) Decision reached "per incuriam"

2020

PRINCIPLES OF EQUITY INCLUDING LAW OF TRUST AND SPECIFIC RELIEF

Time Allowed — 3 Hours

Full Marks — 100

*Answers may be written either in English or in Bengali
but all answers must be in one and the same language.*

The figures in the margin indicate marks for each question.

Group-A

Answer all questions.

1. (a) What do you understand by equity?
(b) Explain principle of equity in context to improvements made by bonafide holders under defective titles. 8+12=20
2. Write a note on rights and powers of trustees under the Indian Trusts Act, 1882. 15
3. Write a note on the rights and liabilities of the beneficiary under the Indian Trusts Act, 1882. 15

Group-B

Answer all questions.

4. (a) Explain “qui prior est tempore potior est jure”.
(b) Explain “acquiescit est correctio legis generalities latae, qua parte deficit”. 10+10=20
5. Explain doctrine of part-performance as an equitable doctrine. 15
6. (a) What is specific relief?
(b) What do you understand by temporary, perpetual and mandatory injunctions? 3+12=15

2020

PARTNERSHIP ACT

Time Allowed — 3 Hours

Full Marks — 100

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Separate Answer Books should be used for Group-A and Group-B.

(In case a candidate writes answer to questions on Group-B in the answer book meant for Group-A and vice-versa, such answers will not be evaluated.)

Group-A

Answer all questions

1. Critically discuss the modes of dissolution of a Partnership firm. 20
2. (a) What is the status of minors in partnership?
 (b) What do you know about incoming partners and outgoing partners?
 (c) Distinguish between Partnership and a Joint Hindu Family. 7+4+4=15
3. (a) What are the modes of determining existence of partnership? — Give your answer with reference to statutory provisions.
 (b) How can a partner transfer his interest? 10+5=15

Group-B

Answer question no.4 and any two from the rest.

4. (a) Define Partnership. What do you understand by implied authority of a partner? Are there any limitation on implied authority?
 (b) P, a partner of a firm of confectioners, purchases a horse on credit in the firm's name. Discuss the liability of the firm.
 (c) Y, a partner of a firm borrows money in his personal name. Discuss the liability of the firm. 3+5+7+2½+2½=20
5. (a) Define Partnership by holding out. How the liability of a partner arises in partnership by holding out?
 (b) X induces Y to believe that X is a partner of a firm AB and Y, believing that X is a partner gives credit to AB. Discuss the liability of 'X'.
 (c) Two brothers A and B carry on a business in the family name. Another brother C, having the same name attends the place of business and behaves with outsiders as if he was a partner. Discuss the liability of 'C'. 7+4+4=15

6. (a) Discuss the liability of the partners to outsiders.

(b) X, a member of a firm of solicitors, obtained loan for M, from some other clients of the firm. X said to M that the mortgagee required collateral security for the loan and M deposited certain share warrant payable to bearer. The security was actually not necessary. The other partners of the firm and the mortgagee had no knowledge of this deposit. X then misappropriated the share and absconded. Decide the case. $10+5=15$

7. (a) When and how should a public notice be given under the provision of the Indian Partnership Act?

(b) Briefly state the consequences if public notice is not so given in cases where it is required to be given. $7\frac{1}{2}+7\frac{1}{2}=15$

2020

LAW OF LIMITATION AND LAW OF PRESCRIPTION.

Time Allowed — 3 Hours

Full Marks — 100

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Separate answer books to be used for Group-A & Group-B.

(In case a candidate writes answer to questions on Group-B in the answer book meant for Group-A and Vice-Versa, such answer will not be evaluated).

Group-A

Answer Question No.-1 and any two from the rest.

1. (a) Write a note on applicability of Limitation Act, 1963.
(b) Explain the objects and reasons for the existence of the Limitation Act, 1963. 10+10=20
2. Explain in brief about computation of the period of limitation under the Limitation Act, 1963. 20
3. Discuss the effect of death, fraud, mistake etc. in computation of the period of limitation under the Limitation Act, 1963. 20
4. Write short notes on any two of the following: 10×2=20
 - (a) Rule of Lex Fori
 - (b) Sufficient Cause and Condonation of delay
 - (c) Rule of interpretation of Limitation Act, 1963

Group-B

Answer any two questions.

5. (a) Explain with illustration the concept of Easement.
(b) Distinguish between limitation and prescription. 10+10=20
6. Write a detail note on acquisition of ownership by possession (Section 25 to 27 of the Limitation Act, 1963). 20

7. Write short notes on *any two* of the following:

10×2=20

- (a) Functions of the Law of Prescription
 - (b) Adverse Possession
 - (c) Various Types of Prescription
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2020

THE INDIAN CONSTITUTION AND CONSTITUTIONAL LAW

Time Allowed — 3 Hours

Full Marks — 100

If the questions attempted are in excess of the prescribed number, only the questions attempted first up to the prescribed number shall be valued and the remaining ones ignored.

Answers may be written either in English or in Bengali but all answers must be in one and the same language.

All questions carry equal marks.

Answer any five questions choosing at least two questions from Group-A and two questions from Group-B.

Group-A

1. (a) Discuss the importance of Preamble in interpreting the provisions of the Constitution.
(b) Is the Preamble a part of the Constitution? 12+8=20
2. (a) Enumerate the persons who were citizens of India at the commencement of the Constitution of India.
(b) Will an Indian in origin born outside India and ordinarily residing outside India be an Indian citizen? If not what has to be done so that he can become an Indian citizen?
(c) Can a juristic person, such as a company, be a citizen of India? 10+5+5=20
3. (a) Define 'state' for the purpose of fundamental right.
(b) Can there be a law in contravention of the fundamental rights?
(c) Can the fundamental rights be waived? 10+5+5=20
4. (a) When can Parliament legislate on matters included in the state list?
(b) What are the constitutional provisions regarding inconsistency between laws made by Parliament and laws made by States? 15+5=20

Group-B

5. In the light of judicial decisions explain the relationship between fundamental rights and directive principles of state policy. 20
6. (a) Discuss the pardoning power of the President.
(b) Can there be a judicial review of President's pardoning power?
(c) What do you understand by the term "collective responsibility"? 10+5+5=20

7. (a) What is a Money bill? State the special procedure in respect of passing a Money bill in the Parliament. Who will decide whether a bill introduced in a Parliament is a Money bill or not?
- (b) Write a note on holder of office of profit under the Government. (2+10+2)+6=20
8. (a) Explain the provisions of the Constitution of India by which the independence of the Supreme Court is safeguarded.
- (b) Analyse the effect of the proclamation of emergency under Article 352 of the Constitution on Centre-State Relationship. 10+10=20
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