

WEST BENGAL JUDICIAL SERVICE (MAIN)-2022
OPTIONAL PAPERS

JSS(O)/II/22

2022

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 are ignored.

Answer 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 answers 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 Question No. 1 which is compulsory and *any two* from the rest.

1. (a) Describe the ancient and modern sources of Hindu Law.
(b) Examine the importance of 'Dharma' under Hindu Law. 15+5
2. (a) Do you think that the provision of 'Restitution of Conjugal Rights' is an intention to preserve the institution of marriage?— Justify your answer with suitable judicial decisions.
(b) Draw a distinction between Judicial Separation and Divorce under the Hindu Marriage Act,1955. 8+7
3. (a) Explain the rules of succession and distribution of property among heirs of a female Hindu dying intestate under the Hindu Succession Act,1956.
(b) Describe the concept of 'Streedhan' and 'Women's Estate'. 10+5
4. (a) Discuss the capacity of male Hindu to take in adoption under Hindu Adoption and Maintenance Act,1956.
(b) 'X' a male Hindu aged about 35 years wants to adopt a girl child of 15 years. Can 'X' take the child in adoption?
(c) 'P' a female Hindu wants to adopt 'D', a married girl. Can 'P' adopt 'D'?
(d) What are the effects of adoption? 5+2+2+6

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Please Turn Over

Group-B

Answer Question No. 5 which is compulsory and *any two* from the rest.

5. Write short notes on *any four*: 5×4=20
- (a) Factum Valet
 - (b) Prohibited Degrees of marriage
 - (c) Alimony Pende-ti-lite & Permanent Alimony
 - (d) Agnate, cognate, full blood, half blood and uterine blood
 - (e) Dependants
6. (a) What are the grounds of Divorce under Special Marriage Act,1954?
(b) Describe the process of registration of marriages under the Special Marriage Act,1954. 8+7
7. (a) Describe different types of guardian under the Hindu Minority and Guardianship Act, 1956.
(b) Discuss the powers of a testamentary guardian under Hindu Minority and Guardianship Act, 1956. 5+10
8. (a) State the provisions of Hindu Adoption and Maintenance Act, 1956 relating to maintenance of children, aged parents and widowed-daughter-in-law.
(b) Can the amount of maintenance be altered? Give reasons. 10+5
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2022

MUHAMMEDAN LAW

Time Allowed — 3 Hours

Full Marks — 100

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

Separate answer books to 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 the questions.

1. Answer the following: 2×10=20
 - (a) How far Muhammedan is a Codified Law in India?
 - (b) Can Ijma be changed afterwards?
 - (c) Is Shia sect of Muslim Community be governed by Muhammedan Law?
 - (d) Can Urf be used to change any Principle which is acquired through Qiyas?
 - (e) If any person believes in oneness of almighty but does not believe Hazrat Muhammad as Prophet, can he be treated as Muslim under Muhammedan Law in India?
 - (f) What do you mean by Istihsan?
 - (g) Point out the names of Sunni Sub Schools.
 - (h) What do you mean by 'KABIN NAMA'?
 - (i) What do you mean by Presumption of marriage?
 - (j) Is Polyandry allowed under Muhammedan Law?
2. (a) Who are the competent parties to make a contract of marriage under Muhammedan Law? 4
- (b) Discuss the validity of the following marriages:
 - (i) Marriage occurred in a bogey of Rajdhani Express train between two parties among whom one is Keralian Muslim and the another is Assamese Muslim, fulfilling all the essential conditions for a perfect marriage under Muhammedan Law. 2
 - (ii) A marriage occurred between the two parties where the woman is illiterate and deaf and dumb. 2
 - (iii) A beautiful Muslim woman of 55 years old makes a proposal of her marriage to a Muslim man of 25 years old and the marriage took place. 2
3. (a) What is dower or Mahr under Muhammedan Law? 4
- (b) Point out the object of dower. 3
- (c) Explain the provision for increase or decrease the amount of dower once it is fixed. 3

4. (a) Explain 'Talakul Ahsan' and 'Talakul Hasan'. 6
 (b) What do you mean by 'Talak-e-Tafwiz'? 4

Group-B

Answer *all* questions.

5. Answer the following: 2½×8=20
- (a) How far Spes successions is recognized under Muhammedan Law?
 (b) What do you mean by 'Hiba-bil-ewaz'?
 (c) What do you mean by Doctrine of Increase (Aul) in inheritance and succession?
 (d) Point out the legislations by which the Wakf-Alal-awlad became valid in India.
 (e) What do you mean by 'Doctrine of Cypres'?
 (f) Whether 'Dower' under Muhammedan Law and 'Dowry' as prevalent in the society import same and identical concept?
 (g) What do you mean by 'Rule of Primogeniture'?
 (h) Point out the different kinds of legal heirs of a muslim deceased person under Sunni Law.
6. (a) Define Hiba under Muhammedan Law. 4
 (b) Is there any difference of making Hiba of self acquired property and ancestral property? 2
 (c) Discuss the validity of the following:
 (i) X makes a Hiba of a house to Y on condition that he shall not sell it. 2
 (ii) A Muslim lady of 21 years old makes a Hiba of her property to B, without the consent of her husband, the property she got in lieu of dower. 2
7. (a) Explain Wakf under Muhammedan Law. 4
 (b) Can a Wakf be revoked once it is created by the lawful creator of the Wakf? 2
 (c) Once a lawful Wakf is created who becomes the owner of the Wakf property? 2
 (d) Mention one valid and one invalid object of wakf. 2
8. (a) In apprehension of death 'M' a Muslim while suffering from a serious illness makes a Hiba of his entire property to 'N', his daughter. The deed of Hiba is duly registered. 'M' dies very soon. X, the youngest son of 'M' wants to file a suit challenging the Hiba and claims property. X seeks your advice. 6
 (b) A Muslim makes a Wasiyat a piece of land by a written document to his one son. The document is duly registered. Subsequently A builds a house upon the same land.—
 Discuss the validity of the Wasiyat. 4
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2022

JURISPRUDENCE AND PRINCIPLES OF LEGISLATION

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 are ignored.

*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. Discuss importance of jurisprudence as subject for study in law and its relation with other social sciences. 20
2. (a) Explain the territorial nature of Law. 5
 (b) Discuss purpose and functions of law. 15=20
3. Critically evaluate the theories of punishment and mention with reasons, which theory you prefer most. 15+5=20
4. Write short notes on the following: 5×4=20
 - (a) Codification
 - (b) Ratio Decidendi
 - (c) Obiter dictum
 - (d) Advantages of Legislation over Precedent

Group-B

5. Discuss legal status of unborn person and corporation with reference to the theories of personality. 10+10=20
6. Discuss the basic principles of Natural law theory as explained by St. Thomas Aquinas and mention its demerits, if any. 20
7. (a) What do you understand by 'Question of Law' and 'Question of Fact'? 5
 (b) Explain the Golden Rule of interpretation and interpretation of penal statute. (5+5)+(5+5)=20
8. Explain the concept of 'property' and discuss different kinds of property in jurisprudential perspectives with examples. 5+15=20

2022

INDIAN LAW RELATING TO COMPANIES AND INSURANCE

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.*

Group-A

Answer question number 1 and *any two* from the rest.

1. (a) A husband and wife were the only two members of a Private Limited Company. They were killed by their relatives. They do not have children also. Explain what happens to company.
 - (b) The promoters of a company entered into an agreement proposing to be on behalf of the company at a time when the company was not yet incorporated. The company after incorporation purported to adopt and ratify the agreement. Discuss whether the agreement can be enforced against the company.
 - (c) Six of the seven signatures of the memorandum of association of a company were forged. The memorandum was duly presented, registered and a Certificate of incorporation was issued. The existence of the company was subsequently attacked in the ground of insufficiency of the required number and forgery and asked for cancellation of registration. Is this tenable?
 - (d) The Company's Articles provided that the Directors might borrow on bonds such sums as may from time to time be authorized by a resolution passed at a general meeting of the company. The directors borrowed Rs. 50,000/- from the plaintiff without any resolution being passed. The company refused to be bound by. The plaintiff sues the company for recovery of the amount. Decide. 5×4=20
2. "A company is an artificial entity born out of the process of law having perpetual succession and a common seal." Do you agree with this statement defining a company? Write a detailed note on the merits and demerits of incorporation of a company. 20
3. (a) What do you mean by Mis-statement in Prospectus? Discuss the liability for mis-statements in the prospectus.
 - (b) Directors are not only agents but they are in some sense and to some extent trustees or in the position of trustees. Comment. 10+10

4. Distinguish between: 5×4=20
- (a) Shareholder and Debenture Holder
 - (b) Transfer and Transmission of shares
 - (c) Share Certificate and Share Warrant
 - (d) Articles of association and Memorandum of a company

Group-B

Answer *any two* questions.

5. What are the characteristics of Fire insurance? 20
6. Indicate the requisites of a Marine Policy. 20
7. What are the differences between nomination and assignment in respect of a life insurance policy? 20
8. Write short notes on (*any two*): 10×2=20
- (a) Insurable Interest
 - (b) Principle of Utmost Good Faith
 - (c) Distinction between Double Insurance and Re insurance
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2022

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-AAnswer *all* questions.

1. Explain the meaning and applicability of the following maxims in India.
 - (a) He who comes to Equity must come with clean hands.
 - (b) Equality is Equity. 10×2=20
2. State the Duties and Liabilities of Trustees under the Indian Trusts Act, 1882? 15
3. How is a Trust created, revoked and extinguished under the Indian Trusts Act, 1882? 15

Group-BAnswer *all* questions.

4. Write short notes on the followings: 5×4=20
 - (a) Partial Redemption
 - (b) Foreclosure
 - (c) Tacking of Mortgage
 - (d) Doctrine of Marshalling
5. Enumerate the general principles regulating the grant of an Injunction. 15
6. State the various defences available to an action for specific performance. 15

2022

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 answers 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. (a) "The law of partnership is but an extension of the law of principal and agent" — explain.
(b) Distinguish between —
 - (i) A partnership firm and Hindu undivided family business and
 - (ii) A partnership and a Co-ownership 10+(5+5)
2. (a) "Although sharing of profit is an essential element of partnership, it is not the sole test" — comment.
(b) The Indian Partnership Act has effectively ensured the registration of firm, without making it compulsory — comment. 8+7
3. (a) What is meant by implied authority of a partner to bind the firm? Are the third parties affected by restrictions placed on such implied authority?
(b) Can a minor be admitted to a partnership? If so, what will be rights and liabilities during his minority and after he has attained majority? (6+2)+(2+5)

Group-B

Answer the Question No. 4 and any two from the rest.

4. (a) What is the doctrine of holding out? Has it any connection with estoppel? State the conditions necessary to make a person liable as a partner by holding out.
(b) A, B and C are partners of a firm. C retires and D is admitted as a new partner. No public notice of the change is given but the firm continues its business as its old name. M, a customer of the firm deals with the firm after the change and the firm becomes indebted to M. M sues A, B, C and D to recover his dues. Will he succeed?
(c) A, B and C are partners. C is a sleeping partner. He retires without giving a public notice. Is he liable for subsequent debts incurred by A and B? (3+2+5)+5+5

5. (a) Explain briefly the mode of settling accounts of a firm after its dissolution with special reference to a case where one of the partners has become insolvent and nothing is recoverable from his estate.
- (b) P is indebted to X for Rs. 10,000. Subsequently X becomes liable for a like sum to the firm in which P, Q and R are partners. P and X agree that the debt should be set off against each other. Is X absolved from liability to the firm? 10+5
6. (a) Discuss the rights and liabilities of incoming and outgoing partners of a partnership firm. When does a third party incur liabilities of a partner and why?
- (b) A and B are partners. A applied for insolvency and then endorses in the name of the firm a bill belonging to the partnership. Thereafter A is adjudged insolvent. Does the endorsee acquire a good title to the bill? Give reasons for your answer. (6+4)+5
7. (a) What is partnership property and how far is it liable for partner's separate debts?
- (b) What is understood by 'goodwill' of a business?
- (c) M, a partner of a firm of architects borrowed Rs. 1,000 on behalf of the firm from P. P knows that M had no express authority from the partners to borrow any money but he lent the money on an assurance from M that the money would be applied for payment of a debt of the firm. The money borrowed from P was in fact, so applied. Can P recover the amount from the firm? 5+5+5
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2022

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 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.)

The figures in the margin indicate marks for each question.

Group-A

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

1. Write notes on the following: 10+10=20
 - (a) Application of law of limitation in writ petitions
 - (b) Law of limitation bars remedy but does not extinguish right
2. Discuss the law relating to limitation of suits, appeals and applications (Sections 3 to 11). 20
3. Write distinction between any two of the following: 10×2=20
 - (a) Period of limitation and Prescribed period
 - (b) Legal disability (Section 6) and Disability of one of the several persons (Section 7)
 - (c) Suits against trustees (Section 10) and Rule of Lex Fori (Section 11)
4. Discuss law relating to computation of the period of limitation under Sections 12 to 24 of the Limitation Act 1963. 20

Group-B

Answer any two questions.

5. Write a critical note on the distinction between law of limitation and law of prescription. 20
6. Discuss the law relating to acquisition of easement by prescription. 20
7. Write notes on the following: 10+10=20
 - (a) Concept of Easement
 - (b) Law of Prescription

2022

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 are ignored.

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

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

Group-A

1. (a) Discuss the 'idea of Justice' as enshrined in the preamble to the Constitution of India.
(b) State whether preamble is part of the Constitution. Is it amendable? 15+5
2. In *S. R. Bommai vs. Union of India* (1994) 3 Sec 1 the Hon'ble Supreme Court of India has held that "Secularism is part of the basic structure of the Constitution".
(a) What do you mean by secularism?
(b) Write a critical note on the Right to Freedom of religion under Articles 25 to 28 of the Constitution of India with the help of decided cases. 5+15
3. (a) What do you understand by the expressions "Equality before the Law" and "Equal protection of Law" as enshrined in Article 14 of the Constitution of India? Discuss the remedies available to the aggrieved person.
(b) Can the Fundamental Rights be waived? 15+5
4. What is the amplitude of Supreme Court's jurisdiction under Article 32 of the Constitution of India? 20

Group-B

5. (a) What is a Money Bill?
(b) Discuss the special procedure in respect of passing a Money Bill in the Parliament. 10+10
6. (a) How is the President of India elected?
(b) Write a note on powers including the pardoning powers & functions of the President of India. 10+10
7. Write short notes on the following: 5×4=20
 - (a) Speaker of the Lok Sabha
 - (b) Attorney General of India
 - (c) Free and compulsory education of children
 - (d) Advocate General for the State