

Odisha Judicial Service Mains Exam - 2019

Paper: Jurisprudence And Constitution of India

Full Marks: 150

The questions are of equal value.

Answer Six questions, selecting three questions from each Section.

SECTION-A

1. Explain the scope and content of freedom of speech and expression guaranteed under the Constitution. Do you think that this freedom includes the Right to Information also ?

2. The Constitution should be so interpreted as not to disturb the humorous relationship between the Fundamental Rights and Directive Principles of State Policy. Explain this in relation to fundamental rights and directive principles of state policy under the Constitution.

3. What is meant by Right to Education ? Explain legal provisions for protection of education of children at the primary level in India.

4. Explain the procedure to amend the Constitution. Also, explain importance of basic structure doctrine in the amendment of the Constitution.

5. Explain the safeguards available to civil servants under the Constitution against arbitrary dismissal, removable and reduction in rank.

6. Right to life includes Right to Privacy which is recognized as a fundamental right. Explain judicial decisions in this regard.

SECTION - B

7. International law is vanishing point of jurisprudence. Explain.

8. Law is social engineering. Explain this with certain illustrations.

9. 'Custom is to society what law is to the State.' Elucidate. Explain the requisites of a legal custom.

10. Explain the concept of legal right. Also, mention the essential elements of a legal right.

11. Examine the concept of Possession and Ownership. Also, explain difference between possession and ownership.

12. What is meant by vicarious liability ? Explain with illustrious cases when the state is vicariously liable for tortious acts of its servants.

Paper : Law of Contract

Answer Six questions selecting two questions each from any two Sections and one each from the remaining two Sections.

SECTION-A

1. (a) Define 'consideration'. "No consideration, no contract." Comment. 10

1.(b) Explain the doctrine of 'Privity of Contract' and give an account of the exceptions to the doctrine. [15 marks]

2. (a) When is a contract said to be induced by 'undue influence'? When a party is deemed to be in a position to dominate the will of another? [15 marks]

2.(b) Discuss the effect of undue influence on a contract. [10 marks]

3. (a) What is bailment? [10 marks]

3.(b) Discuss the rights and duties of bailor and bailee. [15 marks]

SECTION - B

4. (a) Explain the nature of a contract of sale of goods and bring out clearly the distinction between sale and hire purchase agreement. [15 marks]

4.(b) What is the effect of destruction of specific goods in a contract of sale? [10 marks]

5. (a) Distinguish between "a condition" and "a guarantee". [15 marks]

5.(b) Explain the rule of caveat emptor and state how far it is modified by implied conditions. [15 marks]

6. (a) Who is an 'unpaid seller'? [10 marks]

6.(b) Under what circumstances is an unpaid seller who is in possession of goods entitled to retain possession of goods ? [15 marks]

SECTION - C

7. (a) Define partnership. What are its essential characteristics? [10 marks]

7.(b) "The law of partnership is but an exception to the law of principal and agent." Explain. [15 marks]

8. (a) "Distinguish between "Partnership firm" and "Hindu undivided family business". [10 marks]

8.(b) "Although sharing of profits is an essential element of partnership, it is not the sole test." Comment. [15 marks]

9. (a) What are the various circumstances in which a firm may be dissolved ? [15 marks]

9.(b) In what different cases will the court order dissolution of a firm at the suit of a partner ? [10 marks]

SECTION - D

10. (a) What is a 'negotiable instrument'? [10 marks]

10.(b) Explain its special characteristics. [15 marks]

11. "Dishonour of a cheque for want of funds is an offence under the Negotiable Instruments Act." Do you agree with this statement ? Discuss. [25 marks]

12. (a) Define a 'holder in due course'. What are his privileges under the Negotiable Instrument Act, 1881? [15 marks]

12.(b) "Partial endorsement does not operate as negotiation of an instrument." Discuss. [10 marks]

Paper: Law of Crime And Law of Torts

Full Marks: 150

The questions are of equal value.

Answer Six questions selecting three questions from each Section.

SECTION-A

1. It is said that mens rea is an essential element of an offence. Can mens rea be excluded from the definition of an offence ? Explain referring to decided cases.

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2. A attacks B. B has ample opportunity to save himself by running away from the scene. B, however, does not retreat and decides to defend himself. In the process, B causes injury to A. Was B validly exercising his right of private defence? Explain. Also point out the limitations of the Right of Private Defence.

3. "There may be a circumstance when a person is justified in doing a lesser evil in order to avoid a greater evil." Discuss in the light of Section 81 of the Penal Code.

4. Explain 'equivocality test' to determine attempt. Point out the difference between preparation and attempt.

5. "Every murder is culpable homicide but every culpable homicide is not murder." Explain, keeping in mind the scheme of the Penal Code in dealing with the two offences.

6. Five persons with intention to commit robbery proceeded towards the house of Z. The inmates of the household got the information and fled the house in panic. Five persons entered the house and took away the property without using any violence. Explain the offence committed by them. Will it make any difference had the inmates resisted them and all the five had to make a retreat without any property? Explain.

SECTION - B

7. What do you understand by 'Tortious Liability'? Is it 'law of tort' or 'law of torts'? Explain.

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8. Explain the extent and scope of the doctrine of Volenti non fit injuria in the law of torts. A is under an imminent danger created by the wrongful act of D. P, a stranger to A, intervenes to save A from the injury but injures himself in the process. Can P claim compensation from D?

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9. What is meant by the term 'course of employment for the purpose of determining vicarious liability of master of the wrongful act of his servant? Is the master liable for the act of his servant which the master had expressly forbidden his servant to do ?

10. Discuss the two defences of justification and fair comment available to a defendant in an action for defamation. Explain and illustrate.

11. What do you understand by false imprisonment ? A puts B in a room and locks the door from outside but leaves the second door of the room unlocked through which B can escape if he chooses to do so. Does this act of A amount to false imprisonment ? Discuss.

12. Explain the rule of absolute liability laid down by the Supreme Court in M. C. Mehta vs. Union of India (1987). In what respect this principle differs from the rule laid down in Rylands vs. Fletcher.

Paper: Personal Law

Full Marks: 150

The questions are of equal value.

Answer Six questions selecting three questions from each Section.

SECTION-A

1. Explain different sources of Hindu Law. Critically examine the importance of custom as a source of Hindu Law.

2. 'Judicial separation is the halfway house between Restitution of Conjugal Rights and Divorce.' Comment.

3. Explain the essentials of valid Hindu Marriage and discuss the ceremonies of Marriage with illustrations.

4. Who are legally eligible for taking maintenance and explain the circumstances for implementation of Hindu Adoption and Maintenance Act for seeking maintenance.

5. Explain the rights of legitimate and illegitimate children under Hindu Law.

6. Discuss various types of guardians and their powers and duties under Hindu Law.

SECTION - B

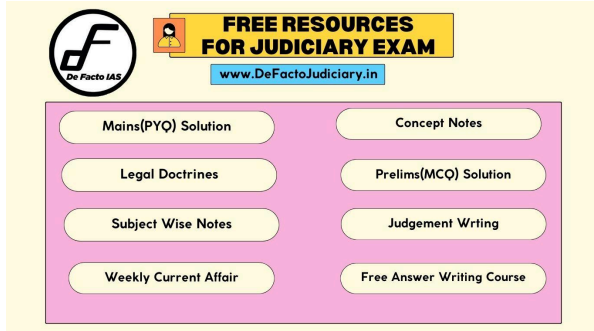
7. Discuss various types of Muslim Marriages and the contractual status of Muslim Marriage and its effect on parties to the Marriage.

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8. "The authoritarian nature of Muslim Husband in pronouncing Talaq (divorce) has reduced Muslim wife to the position of a chattel." Explain.

9. Explain the grounds of divorce to which a Muslim wife is entitled. In this regard Muslim Law of divorce is discriminatory in nature. Do you agree ?

10. Explain the sources of Muslim Law.



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11. A Muslim boy Habibullah aged 30 years fell in love with a Christian girl Margaret - aged 25 years. They approached a Christian father Dhan Raj who agreed to perform their marriage in the Church called St. Annes. Accordingly Mr. Dhan Raj performed their marriage in the Church St. Annes. Is this marriage valid ? Explain relevant Muslim Law practices in this regard.

12. Write explanatory notes on any two of the following:

- (a) Dower
- (b) Maintenance of Muslim divorced wife under Section 125 Criminal Procedure Code.
- (c) Acknowledgement of fatherhood in absence of adoption in Muslim Law.
- (d) Muta Marriage

Paper: Law of Property

Full Marks: 150

The figures in the right-hand margin indicate marks.

Answer Six questions selecting two questions from each Section.

SECTION-A

1. (a) Who is an 'Ostensible Owner' ? Under what circumstances a transfer of immovable property by an Ostensible Owner is binding on the real owner. [10 marks]

1.(b) Discuss the following doctrines: [5+10 = 15 marks]

- (i) Doctrine of Equitable Estoppel
- (ii) Doctrine of Lis Pendens

2.(a) What do you mean by 'Doctrine of Part Performance' ? Discuss this Doctrine with reference to the origin, rule in India. [15 marks]

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2.(b) What is a Sale under the Transfer of Property Act, 1882 ? Distinguish 'Sale' with 'Contract of Sale'. [10 marks]

3. (a) Define the term Mortgage and its essential ingredients. [10 marks]

3.(b) Explain the kinds of Mortgage enumerated under the Transfer of Property Act, 1882. [15 marks]

4. (a) Explain the 'Right of Redemption' under the Transfer of Property Act, 1882. [10 marks]

4.(b) Define and distinguish 'Marshalling and Contribution'. [15 marks]

SECTION - B

5. (a) Explain the contracts, which cannot be specifically enforceable under the Specific Performance Act, 1963. [15 marks]

5.(b) Who can obtain Specific Performance and against whom under the Specific Performance Act, 1963? [10 marks]

6. (a) Explain the defences available in a suit for Specific Performance under the Specific Performance Act, 1963. [15 marks]

6.(b) Describe the incidences where the contract with 'Non-enforcement except with variation' be applied under the Specific Performance Act, 1963. [10 marks]

7. (a) Explain the circumstances where the distinction between Rectification and Rescission of a contract be made under the Act. [15 marks]

7.(b) Whether all contracts are specifically enforced? If not, state exceptions. [10 marks]

8. (a) Define the term Injunction. Discuss the types of injunctions available under the Specific Performance Act, 1963 with suitable illustrations. [15 marks]

8.(b) "Justice demands that a person wrongfully disposed of property should recover it." Explain how the Specific Performance Act, 1963 operates for this purpose. [10 marks]

SECTION - C

9. (a) "It is difficult and undesirable to attempt to define the meaning of 'sufficient cause', it must be determined by the circumstances of the particular case." Discuss this statement with reference to the provisions of the Limitation Act, 1963. [15 marks]

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9.(b) (i) What is the difference between 'Limitation' and 'Prescription'? [05 marks]

9.(b)(ii) What are the circumstances for extension of limitation for fulfilling suits? 5

10. (a) Define and distinguish 'Limitation and Laches'. [10 marks]

10.(b) (i) The limitation period for instituting a suit for 'X' expired when he was still a minor. Can 'X' file the suit when he becomes a major ? Explain. [08 marks]

10.(b)(ii) "Time commences to run, the moment the right to sue accrues." State the exceptions if any with illustration. [07 marks]

11. (a) "The litigant is entitled, as a right to exclude the period spent in an infructuous proceeding in computing period of limitation." Discuss. [10 marks]

11.(b) What is the effect of death, fraud, and mistake, acknowledgement in writing and substitution or addition of new plaintiffs or defendants in counting limitations ? Explain. [15 marks]

12. (a) Explain the mode of acquisition of easement under the Limitation Act, 1963. [10 marks]

12.(b) (i) 'A' files a suit for possession of a vacant site on the 'basis of his title. The defence setup is that, the plaintiff has never been in possession of the said site within 12 years of the suit and as such the suit is barred by time. What is required by the plaintiff to prove his possession and if he has filed the suit within 12 years? Discuss with reference to possession under the Limitation Act, 1963. [10 marks]

12.(b)(ii) 'A' files a suit for breach of contract after expiry of the period limitation for such suits. 'A' prays for the condonation of delay in plaint. Can the delay be condoned? Discuss. [05 marks]

Paper: Procedural Laws

Full Marks: 150

The figures in the right-hand margin indicate marks.

Answer Six questions, selecting two questions from each Section.

SECTION-A

1. (a) Define the terms 'Information' and 'First Information Report' and compare them with the term 'Complaint'. [05 marks]

1.(b) What are the provisions relating to Public Prosecutors under the Criminal Procedure Code, 1973. [05 marks]

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1.(c) Describe the kinds of punishment and state the powers of various courts to punish. [05 marks]

1.(d) What powers of control have Sessions Courts over subordinate courts? [05 marks]

1.(e) Is a private person bound to assist a police officer ? If so, when? [05 marks]

2. (a) State the obligation of persons to allow search under the provisions of Criminal Procedure Code, 1908. What safeguards have been provided for fair conducting of search? [05 marks]

2.(b) A Sub-Divisional Magistrate without holding inquiry passes an order requiring a person to furnish security for good behaviour and directs that in default he shall suffer rigorous imprisonment for two years. Discuss the legality of the above order. [10 marks]

2.(c) Describe, in brief, the procedure relating to rejection and discharge of surety. [10 marks]

3. (a) How can a wife who has been abandoned by her husband to compel him to maintain her ? How does the criminal court enforce its order of maintenance ? [15 marks]

3.(b) Whether any alternation in the allowance of maintenance can be made ? [05 marks]

3.(c) What are the powers of a Magistrate in dispersing unlawful assemblies ? [05 marks]

4. (a) Under what circumstances can a Magistrate take action for the removal of a public nuisance and which Magistrates are competent to take such action ? [15 marks]

4.(b) Mr. B comes to know that Mr. A intends to shoot Mr. C next day in Connaught Place at 8:00 AM. Thereon Mr. B informs the police about it. The following day Mr. A is arrested by a Police Officer in the same place a few minutes before 8 : 00 AM and on searching him, a fully loaded pistol is found in his possession. Consider the legality of the action taken by the Police Officer ? [10 marks]

SECTION - B

5. (a) Explain the principle of Res Gestae. [05 marks]

5.(b) Explain the facts showing existence of state of a mind, or of a body, or bodily feeling. [10 marks]

5.(c) Explain 'Admission'. Explain as to how and when an admission is relevant in civil case. [05 marks]

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5.(d) Explain the difference between 'Confession' and 'Admission'. [05 marks]

6. (a) Explain the cases in which statement of a relevant fact by person who is dead or cannot be found, etc., is relevant. [15 marks]

6.(b) Whether in criminal cases previous good character is considered relevant or not ? [10 marks]

7. (a) When the language used in the document is, on its face, ambiguous and defective ? Can that document be amended or not? [10 marks]

7.(b) When 'abetment of suicide' by a married woman is presumed by the court? [15 marks]

8. (a) Explain the principle of Estoppel. Explain, in detail, the relief against government under promissory estoppels. [10 marks]

8.(b) A lunatic is competent to testify or not? [05 marks]

8.(c) Who is an 'Accomplice' ? Is an accomplice competent to give witness against an accused person? [10 marks]

SECTION - C

9. (a) Is there any presumption regarding a foreign judgment ? [05 marks]

9.(b) What are the circumstances in which a foreign judgment is not conclusive? [05 marks]

9.(c) Under what conditions can a suit be stayed? [05 marks]

9.(d) What is meant by the inherent powers of the court? [05 marks]

9.(e) Is res judicata a rule of substantive law or a rule of procedure? [05 marks]

10. (a) Write short note on 'Summons'. [15 marks]

10.(b) What do you understand by 'Defence' ? Is there any form of defence provided in Civil Procedure Code, 1908 ? [10 marks]

11. (a) When and how a judgment is pronounced and signed? [10 marks]

11.(b) Define 'Decree' and state its essential elements. [15 marks]

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12. (a) What is meant by Equitable Execution ? Illustrate your answer with suitable examples. [10 marks]

12.(b) Explain the procedure of sale of property attached in execution of a decree. [10 marks]

12.(c) What do you understand by 'Rateable Distribution' ? Illustrate it with suitable examples. [05 marks]

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