

**All India Bar Examination
Model Question Paper 1**

Instructions

This question paper has **one hundred (100) multiple-choice questions** spread across twenty subjects. These subjects are divided into 'Category I' and 'Category II' subjects.

The paper comprises seven (7) questions from each 'Category I' subject. The paper also has twenty-three (23) questions from the 'Category II' subjects as a whole. These twenty-three questions include questions from at least five (5) Category II subjects. **Category I subjects are tested in Part I of the question paper, and Category II subjects are tested in Part II of the question paper.**

Please mark the correct answer to each question on the Optical Mark Recognition ("OMR") format answer sheet provided to you; do not write any answers on this question paper.

You will be allowed a maximum of **three hours and thirty minutes (3 hours, 30 minutes)** to complete this question paper.

This is an 'open book' examination, which means that you may bring in any reading materials or study aids that you choose, such as the AIBE Preparatory Materials, textbooks and treatises, and even handwritten notes. You may not, however, bring in any electronic devices, such as laptop computers, mobile phones, or any device equipped with a radio transceiver (such as pagers) at the examination centre.

PART I

Subject 1: Alternative Dispute Resolution

Category A

Question 1: Which provision of the Code of Civil Procedure, 1980 ("**the CPC**") specifically provides for the settlement of disputes through alternative dispute resolution?

Options:

- (a) There is no specific provision of the CPC providing for alternative dispute resolution.
- (b) The CPC as a whole provides for alternative dispute resolution.
- (c) Section 89 of the CPC expressly provides for settlement of disputes through alternative dispute resolution.
- (d) It is not the CPC, but rather, the Arbitration Act of 1987 which is the governing law on alternative dispute resolution in the country today.
- (e) Section 5 of the CPC expressly provides for alternative dispute resolution.

Question 2: Which of the following most accurately describes the requirements of a valid arbitration agreement under the Arbitration and Conciliation Act, 1996 (“**the Arbitration Act, 1996**”)?

Options:

- (a) There is no need for parties to a dispute to frame an arbitration agreement under the Arbitration Act, 1996 (“**the Arbitration Act**”).
- (b) The parties need not concern themselves with the validity of the arbitration agreement.
- (c) The provisions of the Indian Contract Act, 1872 (“**the Contract Act**”), do not apply to such agreements.
- (d) The arbitration agreement must be valid as per the Contract Act, and the parties must be competent to contract.
- (e) The only requirement is that the parties must be competent to contract; all other requirements of validity under the Contract Act are unnecessary.

Question 3: Which of the following most accurately describes the enforceability of an arbitral award?

Options:

- (a) An arbitral award is not binding on the parties; they may choose to follow it if they so wish.
- (b) An arbitral award, unless set aside by a court of competent jurisdiction, is enforceable in the same manner as a decree of a civil court.
- (c) An arbitral award can only be enforced if there is a specific direction from a court that it should be so enforced.
- (d) An arbitral award can be enforced, but only upon an application by the arbitrator to a court to do so.
- (e) An arbitral award cannot be enforced in the case of commercial disputes.

Question 4: Under the Arbitration Act, does the arbitrator have to provide reasons for the award?

Options:

- (a) An arbitrator must always provide reasons for the award.
- (b) An arbitrator need never provide reasons for the award.
- (c) An arbitrator need only provide reasons for the award when specifically requested by the parties to do so.
- (d) An arbitrator must always provide reasons for the award, unless the parties have agreed that no reasons are to be given, or the award is an arbitral award on agreed terms.
- (e) An arbitrator must always provide reasons for the award, and the only exception to this rule is in the case of an arbitral award on agreed terms.

Category B

Question 5: A, a party to a dispute, consented to arbitration by an arbitral tribunal in accordance with the terms of the arbitration agreement. A participated in the arbitration proceedings, but later wishes to take the plea that there was no arbitration clause in her agreement with the other party to the dispute, B. Can A take such a plea?

Principle: In view of the principles of acquiescence and estoppel, it is not permissible for a party to challenge an arbitration clause after proceeding in an arbitration proceeding.

Options:

- (a) A can take the plea that there was no arbitration clause at any time after the award of the tribunal.
- (b) A has acquiesced to the arbitration by participating in the arbitration proceedings, and cannot now take the plea that there was not arbitration clause.
- (c) A cannot take the plea that there was no arbitration clause, but can choose whether or not to follow the arbitral award.
- (d) A can take the plea that the arbitration proceedings were not validly conducted.
- (e) A can take the plea that there was no arbitration clause only if B agrees to do the same.

Question 6: International commercial arbitration proceedings in a matter commenced before the coming into force of the Arbitration Act. The foreign award, however, was given only after the coming into force of the Arbitration Act. The parties did not at any time have an agreement to the effect that the Arbitration Act would be excluded. A, a party to the arbitration, wishes to know whether the award can be enforced under the provisions of the Foreign Awards (Recognition and Enforcement) Act, 1961 ("the Foreign Awards Act").

Principle: The Arbitration Act covers domestic as well as international commercial transactions unless the parties to an international commercial arbitration, by express or implied agreement, exclude it or any of its provisions.

Options:

- (a) Since the arbitration commenced before the coming into force of the Arbitration Act, it would not apply to it.
- (b) Since the parties have specifically excluded the Arbitration Act, the award can only be enforced under the Foreign Awards Act.
- (c) The parties may choose to enforce the award under either the Arbitration Act, or the Foreign Awards Act, as they wish.
- (d) The award, being a foreign award, can only be enforced under the provisions of the Foreign Awards Act.

- (e) The Arbitration Act would apply in this case, since there was no agreement between the parties to exclude its provisions. The award cannot be enforced under the Foreign Awards Act.

Question 7: A, a party to a conciliation proceeding, seeks to enforce the settlement agreement. The other party to the proceeding, B, has not signed the agreement. Can A have the settlement agreement enforced?

Principle: Section 73 of the Arbitration Act, mandates that the settlement agreement signed by the parties will be final and binding on the parties, and persons claiming under them respectively.

Options:

- (a) A cannot have the settlement agreement enforced, since it has not been signed by both parties.
- (b) A can have the settlement agreement enforced, since Section 73 of the Arbitration Act provides that a settlement agreement will be final and binding on the parties.
- (c) Only persons claiming under A can have the settlement agreement enforced.
- (d) A can have the settlement agreement enforced by approaching a court of law, and asking that it pass a decree in terms of the agreement.
- (e) A settlement agreement has the same force as an arbitral award, that is, the force of a decree of a court, and so, A can enforce it.

Subject 2: The Civil Procedure Code, 1908, and The Limitation Act, 1963

Category A

Question 8: Which of the following questions about jurisdiction under the CPC is least accurate?

Options:

- (a) Any person who has a civil dispute with another person has a right to institute a civil suit in a competent court unless its cognizance is either expressly or impliedly barred by any law.
- (b) In order to commence a legal action the plaintiff must have a cause of action against the defendant.
- (c) In order to succeed in a legal action the plaintiff must be able to locate and produce the defendant before the court.
- (d) The plaintiff must commence legal action against the defendant within a particular period of time.
- (e) Every court has its own geographical territorial limit beyond which it cannot exercise its jurisdiction.

Question 9: In which of the following cases is a plaintiff precluded from filing a suit?

Options:

- (a) Where a proposed suit is barred by *res judicata*.
- (b) Where questions in the proposed suit relate to execution, discharge, or satisfaction of a decree.
- (c) Where an order is made determining an application for compensation for arrest, attachment or temporary injunction, no suit of any nature may be filed.
- (d) Where there is an omission to sue or where there has been relinquishment in respect of part of a claim by a plaintiff without the leave of the court, a separate suit cannot be instituted for such part of the claim.
- (e) Where a suit is dismissed for non compliance with an order of discovery, the plaintiff cannot institute a new suit on the same cause of action.

Question 10: Which of the following statements is least accurate about the principles of *res judicata*?

Options:

- (a) The matter directly and substantially in issue in the subsequent suit or issue must be the same matter which was directly and substantially in issue either actually or constructively in the former suit.
- (b) The former suit must have been a suit between the same parties or between parties under whom they or any of them claim.
- (c) The parties must have been litigating under the same title in the former suit.
- (d) The matter directly and substantially in issue in the subsequent suit must have been decided in favour of the plaintiff by the court in the former suit.
- (e) The court which decided the former suit must be a court competent to try the subsequent suit or the suit in which such issue is subsequently raised.

Question 11: A plaint may be rejected in which of the following cases?

Options:

- (a) Where the suit appears from the statements in the plaint to be barred by any law.
- (b) The facts show that the court has jurisdiction.
- (c) Where the defendant or the plaintiff is a minor or a person of unsound mind.
- (d) Where the plaintiff has allowed a set-off or relinquished a portion of his claim.
- (e) Where the plaintiff has an actual existing interest in the subject-matter.

Category B

Question 12: A has a civil dispute with B, and wishes to institute proceedings against B. A and B live in the same state, and the dispute relates to some property situated in

the same state. A decides to approach the High Court in another state. Can A institute proceedings in that High Court?

Principle: The CPC provides that any person, who has a civil dispute with another person, has a right to institute a civil suit in a competent civil court, unless its cognizance is either expressly or impliedly barred by any law. The CPC provides that the territorial jurisdiction of a High Court in a state is limited to the territory of that state, and not beyond it.

Options:

- (a) A can institute proceedings in that court, since she has a right approach any civil court.
- (b) A can institute proceedings in that court, since that court is also governed by the CPC.
- (c) All courts of law in the country, no matter where they are situated, are governed by the Constitution, and so, A can approach any court whatsoever.
- (d) Parties to a dispute can choose any court that they wish to approach, and by doing so, they confer jurisdiction on that court. A can approach the court in the other state.
- (e) A can only approach a competent civil court; the CPC sets out the rules of jurisdiction for civil courts; the High Court in the other state does not have jurisdiction over this matter, and is not a competent civil court in this state.

Question 13: A deposited title deeds to certain immovable property with B. A then took a debt from C, against the security of the same title documents. When the time for repayment of the debt from A to C was over, C alleged that A had not paid the debt back, whereas A alleged that the debt had been paid. A and C both claim the title documents from B. B wishes to return the title deeds to the rightful claimant, and to recover her charges for keeping the title deeds in safekeeping. Can B institute an interpleader suit against A and C?

Principle: Where two or more persons claim adversely to one another the same debt, sum of money, or other property, movable or immovable, from another person, who claims no interest therein other than for charges and costs and who is ready to pay or deliver it to the rightful claimant, such other person may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to the person to whom the payment or delivery shall be made and for obtaining indemnity for himself.

Options:

- (a) B cannot institute an interpleader suit, since this matter relates only to a dispute between A and C, and B has no interest in it.
- (b) B cannot institute an interpleader suit, since she is claiming an interest in the property, that is, the title deeds.
- (c) B cannot institute an interpleader suit, since title deeds in themselves are not property.
- (d) B cannot institute an interpleader suit, since she does not wish to deliver the title deeds to the rightful claimant.

- (e) B can institute an interpleader suit, since she was entrusted with the title deeds, which both A and C claim, and which B is willing to return to the rightful claimant.

Question 14: A sues B and C for Rs.10,00,000/-. A owes B Rs.5,00,000/- in relation to another transaction. Can this amount be set off between A and B in this action?

Principle: In a suit for recovery of money, where there are ascertainable mutual debts between the plaintiff and the defendant, one debt may be settled against the other. The particulars of set-off must be stated in the written statement.

Options:

- (a) Yes, B can set off the amount in this action.
(b) No, B cannot set off the amount in this action.
(c) B can set off the amount in this action, but only if C consents to the same.
(d) B cannot set off the amount in this action, since A sued both B and C, and the debt was due to B alone.
(e) B cannot set off the amount in this action, since it is lower than the amount that A claims against B.

Subject 3: Constitutional Law

Category A

Question 15: Which of the following rights is not provided to citizens by A.19(1) of the Constitution of India (“**the Constitution**”)?

Options:

- (a) Freedom of speech and expression.
(b) Right to equality.
(c) Freedom to form associations or unions.
(d) Freedom to reside or settle in any part of the territory of India.
(e) Freedom to form associations or unions.

Question 16: Which provision of the Constitution provides that no person shall be deprived of his life or personal liberty except according to procedure established by law?

Options:

- (a) Article 19(1)(a).
(b) Article 14.
(c) Article 21.
(d) Article 20(1).
(e) Article 20(2).

Question 17: In what cases may the Supreme Court's jurisdiction under A.32 of the Constitution be invoked?

Options:

- (a) In any appeal from the High Court.
- (b) In any appeal from the High Court where a substantial question of law is involved.
- (c) In any appeal from the High Court where there is an error apparent on the face of the record.
- (d) In any case where the Supreme Court has original jurisdiction by virtue of the pecuniary value of the suit.
- (e) Any matter for the enforcement of the rights conferred in Part III of the Constitution.

Question 18: In which of the following cases can the Supreme Court be approached under A.32 against private individuals?

Options:

- (a) When the private individual has violated A.21 of the Constitution by imprisoning someone against their will.
- (b) When the private individuals are too powerful to be effectively prosecuted by lower courts.
- (c) When the private individuals are employees of the Central Government.
- (d) When the private individuals have violated A.23 of the Constitution by forcing someone to work as bonded labour against their will.
- (e) When the private individuals have refused to appear before lower courts.

Category B

Question 19: A government-run college changes its rules to provide that students who were residents of other states, and who applied for admission to the college, would have to pay a capitation fee, whereas students who were resident in the state that the college was located in would not have to pay the capitation fee. A, a student residing in another state, challenges this rule, claiming that her fundamental right under A.15 of the Constitution has been violated. Will she succeed?

Principle: "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them." (A.15(1) of the Constitution)

Options:

- (a) A will not succeed, since the discrimination in this case was on the basis of residence, and not on any of the grounds prohibited by A.15(1).
- (b) A will not succeed, since the State is not obliged to provide education to any citizen.

- (c) A will not succeed, since a government-run college does not fall within the definition of 'State' for the purposes of Part III of the Constitution.
- (d) A will succeed, since the college, being a government-run college, is 'State' for the purposes of Part III of the Constitution.
- (e) A will succeed, since the college has unfairly discriminated against students residing in other states, and this is violative of the Constitution.

Question 20: A approached the Supreme Court under A.32 of the Constitution, alleging that her fundamental right under A.19(1)(a) had been violated. The Government contends that A should first approach the High Court under A.226 before approaching the Supreme Court, and that, on this ground alone, her petition should be dismissed. Can A's petition be dismissed on this ground?

Principle: "The right to move the Supreme Court by appropriate proceedings for the enforcement of the right conferred by this Part [Part III] is guaranteed." (A.32(1) of the Constitution)

Options:

- (a) The Supreme Court, being the highest court of the land, cannot be approached directly. A's petition can be dismissed on this ground.
- (b) The Supreme Court is the ultimate protector of the fundamental rights, and not the court of first instance to protect fundamental rights. A's petition cannot be dismissed.
- (c) The right to approach the Supreme Court under A.32 is itself a fundamental right. A's petition cannot be dismissed.
- (d) A violation of a fundamental right is a serious matter. A's petition cannot be dismissed.
- (e) High Courts have no authority to decide matters involving the violation of a fundamental right. A's petition cannot be dismissed.

Question 21: The Supreme Court was hearing a matter involving proceedings for contempt of court brought against some police officers for assaulting and maliciously prosecuting a judge of a High Court. The Supreme Court not only convicted the police officers of contempt of court, it also quashed the proceedings against the judge. The police officers challenge the quashing of the proceedings, claiming that the quashing of the proceedings against the judge was beyond the powers of the Supreme Court in this matter.

Principle: "The Supreme Court in the exercise of its jurisdiction may pass such decree or order as is necessary for doing complete justice in any cause or matter pending before it..." (A.142(1) of the Constitution)

Options:

- (a) The Supreme Court can only decide upon the issue of contempt of court brought against the police officers in this matter.
- (b) The Supreme Court can only pass orders or decrees to do complete justice in matters involving the violation of a fundamental right, and not for matters such as malicious prosecution, as in this case. The police officers will succeed.

- (c) The Supreme Court can pass the order quashing the proceedings against the judge if it feels that it is necessary to do so in order to do complete justice in this matter.
- (d) The Supreme Court can pass the order quashing the proceedings, since it involves the judge of a High Court, who has constitutional protection in such cases.
- (e) The Supreme Court cannot pass the order quashing the proceedings, since it does not have jurisdiction in criminal matters.

Subject 4: Contract Law including Specific Relief, Special Contracts and Negotiable Instruments.

Category A

Question 22: Which of the following statements is least accurate about contract law in India?

Options:

- (a) The Contract Act is not an exhaustive code.
- (b) Parties to an agreement must have the intention to create legal obligations in order to give rise to a contract.
- (c) An invitation to treat does not constitute a valid offer.
- (d) An offer can be accepted through a counter-offer.
- (e) An offer may be revoked at any time before acceptance is completed.

Question 23: Which of the following persons are not competent to enter into a contract?

Options:

- (a) Minors.
- (b) Illiterate people.
- (c) Senior citizens.
- (d) Alcoholics.
- (e) Criminals.

Question 24: An agreement in restraint of marriage is:

Options:

- (a) Voidable at the option of the promisor.
- (b) Voidable at the option of the promisee.
- (c) Expressly declared void.
- (d) Cannot be enforced as there is no privity of contract.
- (e) A valid contract.

Question 25: A contract of insurance is what kind of contract?

Options:

- (a) Contract of guarantee.
- (b) Contract of indemnity.
- (c) Contract of surety.
- (d) Contract of bailment.
- (e) Contract of agency.

Category B

Question 26: A and B were negotiating the sale of A's house to B over the telephone. They finalised a price for the house, and A told B to send her a letter confirming that B wished to buy the house for the price finalised. B told A over the telephone that she would buy A's house. Is A bound by B's acceptance over the telephone?

Principle: If a particular mode or time limit is specified for the acceptance of an offer, the acceptance will only be valid if made in that mode and within that time. If no such mode or time is specified, the acceptance must be made in a reasonable mode, and within a reasonable time.

Options:

- (a) A is not bound by B's acceptance, since it was not made in the mode prescribed by A, that is, by sending a letter.
- (b) A is not bound by B's acceptance, since a sale of immovable property should not be discussed or finalised over the telephone.
- (c) A is not bound by B's acceptance, since B did not make it in a reasonable time.
- (d) A is bound by B's acceptance, since the acceptance was communicated to A.
- (e) A is bound by B's acceptance, since the telephone is a more reliable and speedy means of communication than a letter.

Question 27: A wishes to subscribe to an insurance policy provided by XYZ Insurance Co. Ltd. The application form contained a set of instructions, clearly telling the applicant to mark the box provided if she had consulted a doctor in relation to any illness in the past three years. A had consulted a doctor in relation to her heart ailment the previous year, but did not mark the box. A felt that this would be a violation of her privacy. Has A committed fraud?

Principle: Fraud means and includes actively concealing a fact by a party to a contract having knowledge or belief of that fact, with intent to deceive the other party or her agent, or to induce her to enter into a contract. Insurance contracts are considered *uberrimae fidei*, meaning, of utmost good faith, and there must be full disclosure of all material facts in such cases.

Options:

- (a) A has not committed fraud, since her medical history is private to her, and forcing her to disclose the same would be violation of her privacy.
- (b) A has not committed fraud, since it is up to the insurance company in all such cases to examine the medical fitness of a subscriber.
- (c) A has not committed fraud, since the insurance company had the option not to provide the policy to her.
- (d) A has committed fraud, since an insurance contract is one of utmost good faith, and she actively concealed a material fact by not disclosing the fact that she had consulted a doctor in relation to her heart ailment.
- (e) A has committed fraud, since she had consulted a doctor in relation to her heart ailment in the past year, and while this may not be a material fact, it could be a relevant fact for the purposes of the Evidence Act.

Question 28: A buys some goods from B, who is located in another city. When B asks for payment for the goods to be sent to her by way of a demand draft, A refuses, and instead, asks B to come to her office and collect the payment in cash. Is B bound to go A's office in the other city to collect payment, or must A send the payment to B, as requested?

Principle: The promisor must call upon the promisee to appoint a reasonable place for performance. Where the contract does not specify a place, the proper place has to be inferred from the terms of the contract.

Options:

- (a) A is the purchaser of the goods in this case, and, according to the doctrine of 'buyer is always supreme', has the ability to call upon B to collect the payment from her office. B cannot insist upon the payment being sent to her.
- (b) A cannot insist upon B coming to her office to collect the payment. It is reasonable for B to ask that the payment be sent to her.
- (c) A can insist upon B coming to her office to collect the payment, since cash is always a better mode of payment than a demand draft.
- (d) The doctrine of *caveat emptor* provides that a buyer must carefully consider any goods before purchasing them. As such, A is within her rights to insist that B come to her office and collect the payment, so that A has time to examine the goods and verify that they are fine.
- (e) It is reasonable for A to insist that B come to her office to take the purchase money, since this is the only way that A can ensure that no fraud is committed in the contract.

Subject 5: Criminal Law I - IPC

Category A

Question 29: Which of the following words, when used in the Indian Penal Code, 1860 (“the IPC”), is not related to the concept of *mens rea*?

Options:

- Dishonestly.
- Fraudulently.
- Logically.
- Voluntarily.
- Maliciously.

Question 30: Which of the following statements about conspiracies under the IPC is most accurate?

Options:

- (a) The IPC divides conspiracies into three categories.
- (b) For a conspiracy to exist, some act besides the agreement between the parties must be done in pursuance to the agreement.
- (c) A conspiracy is always hatched in secrecy.
- (d) Each of the conspirators must have taken an active part in the commission of each and every one of the conspiratorial acts for the offence of conspiracy to be made out.
- (e) The offence being conspired must also have been committed.

Question 31: Which of the following statements is least accurate about S.304A of the IPC which deals with cases where death is caused by a rash or negligent act.

Options:

- (a) A rash act is primarily an over hasty act and is different from a deliberate act.
- (b) Premeditation is a crucial element requiring to be satisfied to establish culpability under S.304A of the IPC.
- (c) Death caused by an act without due consideration is covered by S.304A of the IPC.
- (d) Death caused by lack of adequate or proper care is covered by S.304A of the IPC.
- (e) Every rash or negligent act leading to the death of a person would not fall within the purview of S. 304A of the IPC.

Question 32: Which of the following statements about the offence of theft under S.378 of the IPC is most accurate?

Options:

- (a) Only the moving of a movable property of a person out of his possession without his consent would constitute theft under S.378 of the IPC.
- (b) The person’s consent at the time of moving the movable property of such person is not material to establish the charge of theft under S.378 of the IPC.

- (c) Dishonest intention coupled with (a) constitutes theft under S.378 of the IPC.
- (d) A person is not guilty of theft if the victim is unaware of theft of the IPC.
- (e) A person is not guilty of theft if he subsequently returns the wrongfully obtained property.

Category B

Question 33: Which of the following statements most accurately applies the principle given below?

Principle: A person is presumed innocent until proven guilty.

Options:

- (a) The onus of proving that an act lies within an exception to an offence is on the accused.
- (b) The burden of proving the existence of circumstances bringing a case within exceptions to offences lies on the accused and the court shall presume the absence of such circumstances.
- (c) In conspiracy cases since a conspiracy is usually hatched in secrecy, the prosecution need not necessarily prove what the accused persons expressly agreed to do.
- (d) The standard of proof required for an accused to discharge his burden of proving that his act come within a general exception is that of preponderance of probabilities.
- (e) At the third stage for considering the operation of S.300 of the IPC, the court should determine whether the facts proved by the prosecution bring the case within the definition of murder contained in that section.

Question 34: A, a police officer, is directed by her superior to arrest B. A arrests B's identical twin, C, in the mistaken belief that she is actually B. Later, C wishes to prosecute A. Has A committed an offence?

Principle: S.76 of the IPC excuses a person who has done what by law is an offence under a mistake of facts (and not under a mistake of law), that lead her to believe in good faith that she was bound by law to do such an act.

Options:

- (a) A has committed an offence, since a mistake as to the identity of a person is a mistake of law, and not a mistake of fact.
- (b) A has not committed an offence, since she was acting under the directions of a superior officer.
- (c) A has committed an offence, since she was bound by law to arrest C, having been directed by her superior to do so.
- (d) A has not committed an offence, since she had made a mistake of fact, and not a mistake of law, in arresting C instead of B.
- (e) A has not committed an offence, since police officers have immunity from prosecution in relation to any act committed in the course of their duties.

Question 35: A is a door-to-door salesperson. One day, A went to a house in the course of her daily sales rounds, and found that B, a six-year-old child, was alone at home. A offered B a chocolate, and told her that she would take B to an amusement park for the day. B believed A, and A took B out of the house. Later, A is prosecuted for kidnapping. Is A guilty?

Principle: S.361 of the IPC defines kidnapping from lawful guardianship as the act of taking or enticing any minor (under 16 years for a male; and under 18 years for a female) or any person of unsound mind, out of the keeping of, and without the consent of a lawful guardian.

Options:

- (a) A has not committed the offence of kidnapping, since B was alone at home, and as such, was not in the custody or guardianship of a lawful guardian.
- (b) A has committed the offence of kidnapping, since she enticed B by offering her a chocolate and a visit to an amusement park, and took her out of her house without the consent of her lawful guardian.
- (c) A has committed the offence of kidnapping, since B is a minor.
- (d) A has not committed an offence, since was merely offering B a chocolate and a visit to an amusement park, and had not done anything harmful to B.
- (e) A has not committed an offence, since she was only concerned about B's safety, having found her alone at home.

Subject 6: Criminal Law II - Criminal Procedure Code

Category A

Question 36: Which of the following statements of the Code of Criminal Procedure, 1973 ("the Cr.P.C.") is least accurate?

Options:

- (a) The First Schedule of the Cr.P.C. provides procedural information regarding a list of offences under the IPC.
- (b) The First Schedule of the Cr.P.C. exhaustively marks all criminal offences as bailable and non-bailable.
- (c) In a bailable offence, a person has a right to be released on bail upon arrest.
- (d) In a non-bailable offence, the release of a person on bail is possible.
- (e) State Legislatures are free to modify the Cr.P.C.

Question 37: Which of the following statements about the powers of criminal courts is most accurate?

Options:

- (a) Only the High Court may pass a sentence of death.
- (b) Only the Supreme Court may pass a sentence of death.
- (c) Only a Sessions Court may pass a sentence of death.
- (d) The court of a Chief Judicial Magistrate may pass a sentence of death.
- (e) A sentence of death passed by a Sessions Court is subject to confirmation by the High Court.

Question 38: Which of the following statements about arrest procedures is least accurate?

Options:

- (a) The words arrest and custody are synonymous.
- (b) Arrest is a form of custody.
- (c) Not all custody is arrest.
- (d) In making an arrest, the police officer must actually touch or confine the body of the arrested person unless such person submits to custody by words or by action.
- (e) A police officer may cause the death of a person while arresting that person accused of an offence punishable with imprisonment for life.

Question 39: Which of the following statements about First Information Reports is most accurate?

Options:

- (a) An FIR is the earliest information regarding a cognizable offence that reaches a police station.
- (b) An FIR is a substantive piece of evidence.
- (c) Delay in lodging FIR will automatically render the prosecution case doubtful.
- (d) An FIR must contain minute details of the offence.
- (e) The police must conduct an investigation prior to registering an FIR.

Category B

Question 40: A is arrested on a charge for an offence that is cognizable, but bailable. The police officer did not have a warrant to arrest A, but exercised her power to arrest A since the charge involved a cognizable offence. A applies for bail, but is denied bail by the Magistrate. Can A be denied bail in such a case?

Principle: Under S.436 of the Cr.P.C., when any person, other than a person accused of a non-bailable offence, is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before the court and is prepared to give bail, such person shall be released on bail.

- (a) A can be denied bail in this case, since the charge involved a cognizable offence.
- (b) A cannot be denied bail in this case, since the offence was a bailable offence.

- (c) A can be denied bail in this case, since the police officer had exercised her power to arrest A in relation to a cognizable offence.
- (d) A cannot be denied bail in this case, since the police officer had arrested her without a warrant.
- (e) A can be denied bail in this case, since she did not surrender before the court.

Question 41: A is arrested by a police officer in relation to a cognizable offence. A had evaded arrest for some months, and had also evaded summons as well as non-bailable arrest warrants in the matter. A now applies for bail. Can the court consider these facts while deciding upon whether or not to grant A bail?

Principle: In considering whether or not to grant bail in a non-bailable case, the court can consider, among other things, circumstances which are peculiar to the accused, as well as a reasonable possibility of the presence of the accused not being secured at the trial.

Options:

- (a) The court can consider these facts, because they point to a reasonable possibility of A's presence not being secured at the trial.
- (b) The court can consider these facts, because they are in relation to a non-bailable offence.
- (c) The court can consider these facts, because A has evaded non-bailable warrants in the matter.
- (d) The court can consider these facts, because A has evaded arrest in the matter.
- (e) The court can consider these facts, for all the reasons set out in (a) to (d) above.

Question 42: The prosecution wishes to have summons issued to compel A's presence in a trial. A is a businessperson, and regularly travels outside the country. At the time, A was planning a trip to another country, and had already booked her tickets. Can the court take this fact into consideration to issue a warrant for the arrest of A after the issuance of summons?

Principle: S.87 of the Cr.P.C. provides that a Court that can issue summons for the appearance of any person, may also issue a warrant of a person's arrest either before the issuance/service of the summons or after, upon recording its reasons in writing.

Options:

- (a) The court cannot take this fact into consideration, since A has not evaded any summons in the past.
- (b) The court cannot take this fact into consideration, since A, as a citizen of India, is guaranteed the freedom of movement as a fundamental right.
- (c) The court cannot take this fact into consideration, since its powers are limited to issuing summons in this case, and not to issuing a warrant.
- (d) The court can take this fact into consideration, since they may lead to a reasonable belief that A may not be present in court for the trial.
- (e) The court can take this fact into consideration since A was leaving the country.

Subject 7: Drafting, Pleading & Conveyancing

Category A

Question 43: Which of the following statements about amendment of pleadings is least accurate?

Options:

- (a) The CPC permits amendment of clerical errors in judgments.
- (b) The CPC permits amendment of arithmetical mistakes in orders.
- (c) Amendment can be claimed as a matter of right.
- (d) The court has discretion in the power to grant or refuse amendments.
- (e) Amendment of pleadings is permitted at any stage of the proceedings.

Question 44: Which of the following is not of the one of the mandatory particulars which must be stated in a plaint?

Options:

- (a) The facts constituting the cause of action.
- (b) The facts showing that the court has jurisdiction.
- (c) The name, description and place of residence of the plaintiff.
- (d) The name of the advocates representing the parties.
- (e) The relief which the plaintiff claims.

Question 45: Which of the following statements about conveyancing is the most accurate?

Options:

- (a) The Indian Stamp Act, 1899 defines the term 'conveyance' by listing out every type of instrument that is deemed to be a conveyance.
- (b) The granting of an encumbrance is an example of conveyancing.
- (c) A typical conveyancing transaction deals only with the passing of equitable title.
- (d) There is no requirement for a deed to be reduced to writing.
- (e) All legal instruments are deeds.

Question 46: Which of the following statements about attestation of documents is the least accurate?

Options:

- (a) Signatures as evidence are essential to the attestation of a document.

- (b) The deed or instrument must be signed by the witnesses in the presence of the executant.
- (c) All deeds must be attested under law.
- (d) Mortgage deeds must be attested to be valid under law.
- (e) Only a Commissioner of Oath or a Notary Public may attest an affidavit.

Category B

Question 47: A statute declared that any person authorised to carry a gun or similar weapon must keep the safety catch of the gun on, and keep the gun in a holster at all times when the gun is not in use. A carried a gun in the pockets of her trousers. Has A violated the statute?

Principle: The rule of *noscitur a sociis* is used to construe words with reference to words found in immediate connection with them. This is a contextual principle whereby a word or phrase is not to be construed as it stands alone, but in the light of its surroundings.

Options:

- (a) A has violated the statute, since the word holster implies a special case for carrying a gun, and keeping the gun in one's pockets would not satisfy the conditions of the statute.
- (b) A has violated the statute, since she did not keep the safety catch of the gun on.
- (c) A has violated the statute, since she should not have been carrying a gun around in a public place.
- (d) A has not violated the statute, since the idea behind the statute is to conceal the gun, and she has done so by keeping the gun in her pocket.
- (e) A has not violated the statute, since she was authorised to keep a gun.

Question 48: The Constitution provides that all citizens are allowed to vote in elections for representatives to the Lok Sabha. A, a non-citizen, is prevented from voting by an Election Officer. A wishes to challenge this action of the Election Officer, and contends that the Constitution does not specify that non-citizens are not allowed to vote, and so, she should have been allowed to vote in the elections. Will A succeed?

Principle: The doctrine of *expressio unius est exclusio alterius* may be understood to mean that the expression of one thing is the exclusion of another, and is used to construe a provision that may have covered a number of matters but in fact mentions only some of them. Unless these are mentioned as examples, or not mentioned for some other sufficient reason, the rest are taken to be excluded from the proposition.

Options:

- (a) A will succeed, since the Constitution does not state clearly that non-citizens are not allowed to vote.

- (b) A will succeed, since an Election Officer does not have the authority to prevent people from voting in an election.
- (c) A will not succeed, since the Constitution has clearly provided citizens the right to vote, and this may be implied to mean that non-citizens do not have the right to vote.
- (d) A will not succeed, since she should have filed a writ petition in this case.
- (e) A will succeed, since the rule of *expressio unius est exclusio alterius* provides that where something is not clearly mentioned, it cannot be implied.

Question 49: A files a suit against B to recover some money that A had lent to B. The debt is time-barred at the time that A files the suit, but B had promised to pay the time-barred debt to A in any event. A, however, does not mention B's promise to pay the time-barred debt in her pleadings. Can A take the plea in the trial that B promised to pay the time-barred debt?

Principle: A material fact is one which is essential to the Plaintiff's cause of action or to the Defendant's defence. Material facts are those facts which must be alleged and proved in order to establish the existence of the cause of action or defence. Omission to state material facts is fatal for the suit or for the defence, and no amount of proof can substitute pleadings.

Options:

- (a) A can take the plea in the trial, because B had promised to pay the time-barred debt, and this would override a mere technical error in the pleadings.
- (b) A cannot take the plea in the trial, since B's promise to pay the time-barred debt is a material fact, and it should have been mentioned in the pleadings.
- (c) A can take the plea in the trial, since B's promise to pay the time-barred debt is a material particular, and not a material fact.
- (d) A can take the plea in the trial, since the omission of a material particular is not fatal for a suit or defence.
- (e) A cannot take the plea in the trial, since the debt is time-barred, and A is now prevented from suing for the money under the Limitation Act, 1963.

Subject 7: Evidence Act

Category A

Question 50: When is a fact said to be proved?

Options:

- (a) A fact is said to be 'proved' when, prior to considering the matters before it, the court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does exist.
- (b) A fact is said to be 'proved' when, after considering the matters before it, the court either believes it to exist, or considers its existence so probable that a

prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does exist.

- (c) A fact is said to be 'proved' when, after considering the matters before it, the court is convinced beyond all doubt of its existence.
- (d) A fact is said to be 'proved' when, after considering the matters before it, the court considers its existence very probable.
- (e) A fact is said to be 'proved' when, after considering the matters before it, the court believes that a prudent man would believe that it does exist.

Question 51: Which if the following statements about standard of proof is least accurate?

Options:

- (a) The standard of proof depends on the nature of proceedings.
- (b) In civil cases, the standard of proof is generally a preponderance of probabilities or balance of probabilities.
- (c) In criminal cases, the standard of proof is that of beyond all reasonable doubt.
- (d) The more serious the offence, the stricter the degree of proof that is required.
- (e) It is enough for the presumption of innocence to remain not proved to secure a conviction in a criminal case.

Question 52: Which if the following statements about admissions is most accurate?

Options:

- (a) Admissions are seldom admitted as evidence against a party, since they are inconsistent with the truth of a contention put forward by that party.
- (b) Admissions can be broadly classified into judicial and executive admissions.
- (c) Judicial admissions are made by a party at a proceeding prior to the trial.
- (d) Judicial admissions are never binding on the party that makes the admission.
- (e) Judicial admissions are only binding partially, except where they have the effect of estoppel.

Question 53: Which if the following statements about primary and secondary evidence is least accurate?

Options:

- (a) The contents of documents can be proved either by primary or secondary evidence.
- (b) S.63 provides an exhaustive definition of secondary evidence.
- (c) There are certain prescribed circumstances where secondary evidence can be used to prove a document.
- (d) Primary evidence affords the greatest certainty of facts in question.
- (e) Secondary evidence cannot be given of a document, when the original is found to be inadmissible.

Category B

Question 54: A is accused of having murdered B by hitting her repeatedly with a blunt instrument. At A's trial, the prosecution wishes to introduce the following facts: (i) that A caused B's death, (ii) that A intended to cause B's death, (iii) that A received grave and sudden provocation from B, and (iv) that B was suffering from a grievous illness at the time of her death. Which of these are facts in issue?

Principle: A 'fact in issue' includes any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability, or disability, asserted or denied in any suit or proceeding, necessarily follows.

Options:

- (a) All four are facts in issue.
- (b) Only the fact that B was suffering from a grievous illness at the time of her death is a fact in issue.
- (c) None of these are facts in issue - these are all relevant facts.
- (d) The first three are relevant facts, and the fourth is a fact in issue.
- (e) The first three facts are facts in issue, and the fourth is a relevant fact.

Question 55: A is accused of having committed the theft of some property belonging to B. C was an eyewitness to the theft. A paid C some money, and made C promise that she would not appear as a witness at A's trial. A also paid D, a friend of hers, to appear at the trial as a witness, and state that A was in another city at the time the theft was committed. Are these facts relevant?

Principle: S.8 of the Evidence Act, 1872 ("**the Evidence Act**") provides that any fact that shows or constitutes motive or preparation for any fact in issue or relevant fact is also a relevant fact. S.8 also includes 'preparation' and 'conduct' of a party in relation to any suit or proceeding as being relevant.

Options:

- (a) These facts are not relevant facts; they relate to actions taken after the theft occurred, and therefore, cannot be considered.
- (b) These facts are relevant, because they relate to A's 'preparation' and 'conduct' in relation to her trial for theft.
- (c) These facts are relevant, because they relate to A's motive in committing the theft.
- (d) These facts are relevant, because they relate to A's preparation to commit the theft.
- (e) These facts are not relevant, because they took place after the trial against A had commenced.

Question 56: Certain land is in the possession of A. B claims title to the land, and files a suit for declaration of title to the land in her favour, and to direct A to hand over possession of the land to B. B claims title on the basis of certain facts, including some documents she alleges relate to a previous transfer of the land from A to B. B denies these facts. Who must prove these facts?

Principle: S.101 of the Evidence Act states that whoever asserts the existence of a fact must prove that those facts exist, and when a person is bound to prove the existence of the fact, it is said that the burden of proof lies on that person.

Options:

- (a) B must prove these facts, but the burden of proof lies on A.
- (b) B must prove these facts, but only if A fails to do so.
- (c) B need not prove these facts, but A must disprove them.
- (d) B must prove these facts, because she has asserted their existence.
- (e) A must prove these facts, because she has denied their existence.

Subject 8: Jurisprudence

Category A

Question 57: What does the Natural Law theory postulate?

Options:

- (a) Law consists of rules that are in accordance with reason.
- (b) There are no objective moral principles.
- (c) Moral principles arise through popular consensus.
- (d) Moral principles must mirror the laws of nature.
- (e) The laws of nature must mirror moral principles.

Question 58: Which of these statements about the Hart-Devlin debate is most accurate?

Options:

- (a) The Hart-Devlin debates surround the criticisms levelled by Hart and Devlin against J.S. Mill's 'harm principle'.
- (b) A major premise of Devlin's argument is that society's moral code may be defended at the expense of individual liberty.
- (c) A major premise of Hart's argument is that society's moral code may be defended at the expense of individual liberty.
- (d) Devlin could be said to support J.S. Mill's views as enshrined in his 'harm principle'.
- (e) The Hart-Devlin debates surround the criticisms levelled by Hart against Devlin's advocacy of polygamy.

Question 59: Which of the following statements about Hohfeld's framework is least accurate?

Options:

- (a) If A has a claim against B, this implies the absence of liberty in A.
- (b) If A has a claim against B, this implies that B has a duty to A.
- (c) If A has a duty towards B, this implies the absence of liberty in A.
- (d) If A has a duty towards B, this implies that B has a claim towards A.
- (e) If A enjoys a privilege from B, this implies that B has no duty towards A.

Question 60: Which of the following rules of statutory interpretation would require courts to examine the purpose for which the statute under question was enacted?

Options:

- (a) The literal rule.
- (b) The context rule.
- (c) The rule of *ejusdem generis*.
- (d) The mischief rule.
- (e) The rule of *noscitur a sociis*.

Category B

Question 61: Let us assume that a Cybercrimes Act is passed by Parliament, which provides that all previous criminal laws stand repealed and substituted by the Cybercrimes Act. A is arrested for murder, and argues that there is no law prohibiting murder since the IPC stands repealed by the Cybercrimes Act. Which of the following statements is the most accurate application of the principle set out below?

Principle: The "golden rule" states that the literal (primary) meaning must be adopted unless this results in absurdity.

Options:

- (a) A cannot be prosecuted, since the literal reading of the Cybercrimes Act implies the repeal of the IPC.
- (b) The Cybercrimes Act must be held *ultra vires* the Constitution, as it is against public policy.
- (c) The repeal clause of the Cybercrimes Act must be interpreted to mean that only those provisions of previous criminal laws that relate to cybercrimes are repealed and substituted by the Cybercrimes Act.
- (d) Only the repeal clause of the Cybercrimes Act must be held *ultra vires* the Constitution, as it is against public policy.
- (e) The Cybercrimes Act must be struck down in its entirety, as it causes great mischief.

Question 62: Let us assume that a Cybercrimes Act is passed by Parliament, which provides that all cybercafes must take photographs of persons who use their computers. A owns a cybercafe, and duly takes photographs of all his customers. However, when the police ask A to hand over the photographs of some of his users suspected of cybercrimes, A refuses, on the grounds that the Cybercrimes Act only requires him to take the photographs, but not to share them with the police. Which of the following statements is the most accurate application of the principle set out below?

Principle: The mischief rule states that a statute should then be interpreted in such a manner as to suppress the mischief and advance the remedy.

Options:

- (a) A does not have to give the photographs to the police, as the Cybercrimes Act does not require him to.
- (b) A does not have to give the photographs to the police, as it would violate the right to privacy of his customers.
- (c) A does not have to give the photographs to the police, since the Cybercrimes Act is *ultra vires* A.19(1)(g) of the Constitution.
- (d) A must give the photographs to the police, as the purpose of the Act is evidently to curb cybercrimes, which would be defeated by a narrow reading of the Act.
- (e) A must give the photographs to the police, as the police wish to suppress the mischief caused by the suspects.

Question 63: Let us assume that a Cybercrimes Act is passed by Parliament, which provides that all cybercafes, hotels, restaurants, shops and other public places must install some surveillance software on their Internet-enabled computers. A, the principal of a school, is arrested for not installing the software on the school's Internet-enabled computers. Which of the following statements is the most accurate application of the principle set out below?

Principle: The rule of *Ejusdem generis* suggests that when a general word or phrase follows specific words or phrase, the general word or phrase will be interpreted to include only the items of the same type as those listed.

Options:

- (a) A is guilty as a school is a public place.
- (b) A is not guilty as a school is not a public place.
- (c) A is guilty, as the purpose of the Cybercrimes Act is evidently to curb cybercrimes, which would be defeated by not monitoring school computers.
- (d) A is not guilty, as the purpose of the Cybercrimes Act is evidently to curb cybercrimes, which is not achieved by monitoring school computers.
- (e) A is not guilty, as the public places mentioned in the Cybercrimes Act are commercial establishments.

Subject 10: Professional Ethics and the Code of Conduct for Advocates

Category A

Question 64: Which of the following governs the conduct of advocates?

Options:

- (a) The rules framed by the Bar Council of India.
- (b) The CPC.
- (c) The Advocates Act, 1961.
- (d) The rules framed by the various High Courts.
- (e) All of the above.

Question 65: Which, among the following, is an advocate not prohibited from doing?

Options:

- (a) Personally engaging in business.
- (b) Being the managing director of a company.
- (c) Being a full-time salaried employee of a company.
- (d) Running for political office.
- (e) Participating in the management of a business that she has inherited.

Question 66: Which of the following statements about the duties of advocates is least accurate?

Options:

- (a) An advocate must accept any brief in the Courts or Tribunals or any other authorities.
- (b) The fees charged by the advocate should be consistent with the advocate's standing at the Bar and the nature of the case
- (c) If an advocate withdraws from an engagement, the advocate must refund any part of unearned fee to the client.
- (d) An advocate may never refuse to accept any briefs.
- (e) An advocate should not accept a brief or appear in a case in which an advocate has reason to believe that she will be a witness.

Question 67: Which of the following statements about the duties of advocates to their opponents is least accurate?

Options:

- (a) An advocate must only communicate or negotiate with an opposing party through the counsel representing the opposing party.
- (b) An advocate must never communicate or negotiate with an opposing party at all.

- (c) An advocate must only communicate or negotiate with an opposing party regarding the controversy, through the counsel representing the opposing party.
- (d) An advocate must never communicate or negotiate with an opposing party regarding the controversy.
- (e) None of the above.

Category B

Question 68: A inherited a family business from her father. A subsequently enrolled as an advocate, and continued to manage the business. Has A violated the Advocates' Code of Conduct?

Principle: An advocate who has inherited, or succeeded by survivorship to a family business may continue in the family business. An advocate may not, however, personally participate in the management of such a business. (BCI Rules, Part VI, Chapter II, Section VII, Rule 50)

Options:

- (a) Yes, since A should have parted with the business' assets as soon as she inherited them.
- (b) No, as long as she does not solicit business for her family business from other advocates or clients.
- (c) Yes, since A was personally involved in the management of the business.
- (d) Yes, since A was also enrolled on the rolls of the Bar Council.
- (e) No, since this was a family business, and not a professional concern.

Question 69: A was appearing as an advocate for B in a case involving the partition of certain family property between B and his brother, C. B produced an affidavit from D, which was critical to the case. The affidavit contained identification by the advocate, A. C then filed an application to have A barred from the case, claiming that A was a material witness in the case, since she could be called upon to prove the identity of D. Can A be disbarred from the case?

Principle: A civil court has an inherent power to order a person to cease to appear as an advocate, if the advocate has become a material witness, and a *bona fide* application for withdrawal of the advocate is made. (S.151, CPC)

Options:

- (a) Yes, A can be disbarred from the case, since she may be called upon as a material witness to prove the identity of D.
- (b) No, A cannot be disbarred from the case, since she has done nothing wrong by identifying D in the affidavit, but rather, has helped her client collate evidence.
- (c) Yes, A can be disbarred from the case, since she had a personal interest in the matter.

- (d) No, A cannot be disbarred from the case, since she did not have a personal interest in the matter.
- (e) Yes, A can be disbarred from the case because she had acted in furtherance of the opposing side's case.

Question 70: A was appearing as an advocate for B in a case involving the recovery of a debt owed by C to B. C agrees to settle the matter and sends a briefcase containing the disputed sum to A's chambers. In which of the following cases is A not in violation of the BCI Rules?

Principle: Where an advocate receives any amount given by or on behalf of a client, the advocate must inform the client, as early as possible, of the receipt.

Options:

- (a) A informs B of the receipt of the money after fifteen days, as A was busy with other matters in court for that time.
- (b) A informs B of the receipt of the money after fifteen days, as A was holidaying with his family during that time.
- (c) A informs B of the receipt of the money after fifteen days, as A was not aware of the briefcase having been sent to him until that time.
- (d) A informs B of the receipt of the money after fifteen days, as A was travelling to another city on work for that time.
- (e) A should not have accepted money in a briefcase, so A is in violation of BCI Rules in all of the cases above.

Subject 11: Property Law

Category A

Question 71: Under the Transfer of Property Act, 1882, which among the following would be considered a material attached to earth?

Options:

- (a) Standing timber.
- (b) Growing crops.
- (c) Grass.
- (d) Blocks of stone in a builder's yard.
- (e) A dry wall without any mortar or cement, but made up of only blocks of stone.

Question 72: Which of the following statements about covenants is least accurate?

Options:

- (a) Covenants that run with the land affect the nature, quality or value of the land.
- (b) A positive covenant is an obligation to perform an act or pay money.
- (c) In the case of immovable property, all covenants run with the land.
- (d) All restrictive or negative covenants run with the land.
- (e) No positive covenants run with the land.

Question 73: Which of the following statements about contingent interest is least accurate?

Options:

- (a) A contingent interest takes effect only on the happening or not happening of a specified uncertain event.
- (b) A contingent interest becomes a vested interest if the contingent event happens or becomes impossible, as the case may be.
- (c) A contingent interest is never transferable.
- (d) In a contingent interest, no proprietary right is created in the present.
- (e) Title is in existence on the date of the transfer, but it is incomplete on account of the future contingency.

Question 74: Which among the following is an example of an equitable mortgage?

Options:

- (a) A borrows some money from B, and a few days later also hands over the title deed of his house to B for safekeeping.
- (b) A hands over possession of his house to B as a security against a loan he took from B.
- (c) A sells his house to B with the understanding that when A repays his loan to B, B will sell the house back to A.
- (d) A hands over the title deed of his house to B as a security against a loan he took from B.
- (e) A borrows some money from B and tells B that in default he shall on the security of his house repay the loan.

Category B

Question 75: A transfers certain property to B on the condition that B marries C. In which of the following cases would the transfer of interest fail?

Principle: Where an interest is created in a property dependent upon a condition, the interest fails if the condition becomes impossible.

Options:

- (a) C dies after the transfer is effected.
- (b) C dies before the date of the transfer.
- (c) C falls ill after the transfer is effected.
- (d) C falls ill before the date of the transfer.
- (e) B falls ill before the date of the transfer.

Question 76: A transfers property to B on the condition that the income from the property must be accumulated for a period of 30 years. Which of the following statements is the most accurate application of the principle set out below?

Principle: if the terms of transfer are such that the income from the property sought to be transferred is required to be accumulated for a period longer than the life of the transferor, or a period of eighteen years from the date of transfer, then such condition, to the extent it exceeds the abovementioned period, is void.

Options:

- (a) The transfer of the property is void.
- (b) The restrictive condition is void.
- (c) The income may be disposed off after 18 years.
- (d) The income may be disposed off after 12 years.
- (e) The income may not be disposed off for 30 years, but the income will earn interest for 12 of those years.

Question 77: Which of the following restrictions on transfer of property would be void by application of the principle set out below?

Principle: Under S.10 of the Transfer of Property Act, any condition or limitation absolutely restraining the transferee (or any person claiming under him) from transferring the property is void.

Options:

- (a) A restriction that A shall not transfer the property by way of gift for a period of five years.
- (b) A restriction that A shall not transfer the property by way of gift to B.
- (c) A restriction that A shall not transfer the property by way of gift is valid to anyone for any period of time.
- (d) A restriction that A shall not transfer the property by way of gift to B for a period of five years.
- (e) None of the above.

PART II

Question 78: An authority, in framing certain Rules under the empowering Act, fails to afford hearings to affected parties. The affected parties file a writ petition challenging the Rules. Which, among the following consequences, are most likely to arise?

Principle: Authorities are required to adhere to the principles of natural justice in their exercise of *quasi-judicial* functions.

Options:

- (a) The Court hearing the matter would dismiss the petition, as the authority's actions were in exercise of its legislative functions.
- (b) The Court hearing the matter would allow the petition, as the authority's actions were in exercise of its *quasi-judicial* functions.
- (c) The Court hearing the matter would allow the petition, as the authority's actions were in exercise of its administrative functions.
- (d) The Court hearing the matter would allow the petition, as the authority's actions were in exercise of its legislative functions.
- (e) The Court hearing the matter would dismiss the petition, as the authority's actions were in exercise of its *quasi-judicial* functions.

Question 79: An enactment empowers an authority to levy certain taxes, but only after affording the affected parties an opportunity for hearing. The enactment also permits the authority to modify the application of the enactment. By a notification under this enactment, the authority subjected a category of persons to taxation, but excluded the operation of provisions providing for hearing. The affected persons challenge the notification on the grounds that the opportunity for hearing had not been afforded to them. What would be the most likely verdict of the court?

Principle: A delegate cannot use the power to modify an Act to change the policy provided by the statute itself.

Options:

- (a) The notification would be invalidated as it would be a clear case of excessive delegation.
- (b) The notification would be invalidated as it modified an essential feature of the enactment, namely the right of hearing before decision.
- (c) The notification would be upheld as the enactment provides for such modification.
- (d) The notification would be invalidated as the power to modify an Act cannot be delegated.
- (e) The notification would be invalidated as the authority did not adhere to principles of natural justice, namely the right of hearing before decision.

Question 80: An enactment empowers an authority to regulate the activities of a certain category of merchants and levy certain fees. The enactment also permits the authority to give retrospective effect to its regulatory notifications under the enactment. By a notification under this enactment, the authority levied certain fees on that category of merchants, and applied levy of fees retrospectively. The affected merchants challenge the retrospective application of the fees. What would be the most likely verdict of the court?

Principle: In order to give retrospective effect to delegated legislation, the power to do so must be explicitly and clearly conferred by the parent enactment, and in the absence of the same, delegated legislation operating retrospectively will be held *ultra vires*.

Options:

- (a) The notification would be held *ultra vires* as it would be a clear case of excessive delegation.
- (b) The notification would be held *intra vires* as the enactment clearly and specifically provides for retrospective application of all notifications under the enactment.
- (c) The notification would be held *ultra vires* as case law clearly provides that taxes may not levied retrospectively.
- (d) The notification would be held *ultra vires* as the enactment does not clearly and specifically provide for retrospective levy of fees.
- (e) The notification would be held *ultra vires* as the authority did not adhere to principles of natural justice, namely the right of hearing before decision.

Question 81: A, B, and C are members of a company. A owes a money debt to B, which A acknowledges, but has not repaid. In a shareholders' meeting, B, and C, who is a close friend of B, propose an amendment to the Articles of Association of the company to provide that A must repay the money debt to B within a specified period of time. Despite A's opposing vote, the amendment is passed by the shareholders with the requisite majority. Which of the following statements would be most correct application of the principle set out below?

Principle: Any provision that aims to regulate the relation between the members *inter se* may be incorporated in the Articles. However, the Articles of Association of a company regulate only such rights of the members of the company which can be enforced through the company.

Options:

- (a) A will be bound by the amendment, and must repay the money debt, as the Articles of Association bind a company and its members, as if they had been signed by the company and each member.
- (b) If A continues to default in repayment, B would not be able to directly take recourse to the amendment to enforce the right of repayment, but would have to seek relief through the Company.
- (c) The amendment would be invalid since the money debt is a private dispute between members and does not concern the rights of the members with respect to the company.

- (d) A will not be bound by the amendment, since he had voted against it.
- (e) A will be bound by the amendment, but may safely ignore it, since the company has no way of enforcing the repayment obligation.

Question 82: The Articles of Association of a company stipulate that all agreements by the company must be signed by at least two directors. A accepts an agreement from the company that was signed by only one director. The company subsequently refuses to honour the agreement. Which of the following statements is the most accurate application of the principle set out below?

Principle: The doctrine of constructive notice provides that every outsider who deals with a company is deemed to have notice of the contents of the Memorandum of Association and the Articles of Association.

Options:

- (a) A has no remedy, because A would be deemed to be in constructive notice of the Articles of Association of the company, which renders agreements so signed invalid.
- (b) The agreement is valid, but voidable at the option of A, since only one director of the company had signed the agreement.
- (c) The director who signed the agreement would be guilty of the offences of fraud and cheating under the IPC.
- (d) The director who did not sign the agreement would be deemed to be in constructive notice of the agreement, and the company would therefore be bound by the agreement.
- (e) None of the above.

Question 83: A is a majority shareholder and director of company X. A allows the assets of company X to be sold to company Y at 10% of the actual value of those assets. The minority shareholders of company X initiate proceedings for breach of fiduciary duty against A. What would be the most likely outcome of the proceedings?

Principle: If a director takes an action which is not beneficial for the company or its members, the director can be held liable for breach of fiduciary duty towards the company.

Options:

- (a) The suit would fail, since A is the majority shareholder, and was most aggrieved by the poor deal.
- (b) The suit would fail, since A was not the only director who voted in favour of the deal.
- (c) The suit would fail, since A is the majority shareholder, and is in the best position to determine the best interests of the company.
- (d) The suit would succeed, as A's fiduciary duty as a director is to the company as a whole, which is distinct from individual shareholders.
- (e) The suit would succeed, since A cheated the other shareholders.

Question 84: Company B is a subsidiary of Company A. Which of the following statements is rendered unlikely by these facts?

Principle: A company is deemed to be subsidiary of another company (that is, the parent company) if: (a) the composition of its board of directors is controlled by the parent company; or (b) more than half, in face value, of its equity share capital is held by the parent company; or (c) where it is the subsidiary of a company which is subsidiary of the parent company.

Options:

- (a) Company A is the holding company of Company B.
- (b) Company A holds more than half of the equity share capital of Company B.
- (c) Company A is a subsidiary of Company B.
- (d) Company A controls the composition of the board of directors of Company C.
- (e) If Company C is a subsidiary of Company B, then Company C is also a subsidiary of Company A.

Question 85: Which of the following statements is most likely to be accurate about a company in good standing that has seventy members and restricts the right of members to transfer its shares?

Principle: A private limited company limits the number of its members to fifty, and in determining this number of fifty, employee-members and ex-employee members are not considered.

Options:

- (a) The company is a public company as it has more than fifty members.
- (b) The company is a listed company as it restricts the right of members to transfer its shares.
- (c) The company is a private limited company, and at least twenty of its members must be employees or ex-employees.
- (d) The company is a holding company as it restricts the right of members to transfer its shares.
- (e) All of the statements above are equally likely to be accurate.

Question 86: Which of the following results from a company being formed and registered under the Companies Act, 1956 (“the Companies Act”)?

Principle: A company has the capacity to own property, to sue and be sued, borrow money, have a bank account and enter into contracts in its own name.

Options:

- (a) The company can own shares of another company.
- (b) The company can own vehicles.
- (c) The company can own land.
- (d) The company can hire its members as employees.

- (e) All of the above.

Question 87: A and B, both Hindus, were married as *per* Hindu customs. Subsequently, A converted to Islam and married C, a Muslim. A then dies intestate. Which of the following statements most accurately applies the principle of *Sunni Hanafi* law set out below?

Principle: A Hindu cannot succeed to the estate of a Muslim.

Options:

- (a) Since A was a Muslim at the time of his death, property will only pass to C and not to B.
- (b) Since A was a Hindu at the time of marriage to B, property will pass to B and to C.
- (c) Since A was a Hindu at the time of marriage to B, property will only pass to B and not to C.
- (d) Even though A was a Muslim at the time of his death, property will pass to both B and C.
- (e) Even though A was a Muslim at the time of his death, property will only pass to B and not to C.

Question 88: A and B are married to each other under the Hindu Marriage Act, 1955 (“**the Hindu Marriage Act**”). A subsequently meets with an accident, and as part of the treatment receives a blood transfusion. The blood was infected with a communicable venereal disease, which A contracts, and subsequently transmits to B. Can A use this as grounds for divorce?

Principle: One of the grounds for divorce under S.13 of the Hindu Marriage Act is the spouse suffering from a communicable venereal disease.

Options:

- (a) Yes, as S.13 does not prescribe the modality of contracting the communicable venereal disease.
- (b) Yes, but only if the communicable venereal disease was unknowingly communicated to B.
- (c) Yes, but only if the communicable venereal disease is not curable.
- (d) No, since the venereal disease was contracted innocently by B.
- (e) No, if it can be proved that A refused to take precautions to prevent the transmission of the disease to B.

Question 89: A, born to Hindu parents, was baptised at birth and attended a Christian school. However, A got married as per Hindu ceremonies and rites. Which of the following statements most accurately applies the principle set out below?

Principle: As per the Indian Christian Marriage Act, 1872, the term ‘Christian’ means a person professing the Christian religion, and includes converts to Christianity.

Options:

- (a) A is a Christian, as he could be said to have professed the Christian religion by his act of attending a Christian school.
- (b) A was born a Hindu, but became a Christian by conversion by virtue of the baptism.
- (c) A is a Christian, by virtue of a combination of (a) and (b) above.
- (d) A is a Hindu, but only if he never professed the Christian faith.
- (e) A was born a Hindu, but became a Christian by conversion by virtue of the baptism, but then reconverted to Hinduism by his act of marrying as per Hindu ceremonies and rites.

Question 90: What happens when the Central Government and one of the State Pollution Control Boards notify different emission standards relating to air pollution?

Principle: The provisions of the Environment (Protection) Act, 1986 and the rules or orders made therein have effect notwithstanding anything inconsistent therewith contained in any enactment.

Options:

- (a) The more stringent standards would prevail.
- (b) The less stringent standards would prevail.
- (c) The standards notified by the Central Government would prevail.
- (d) The standards prescribed by the State Pollution Control Board would prevail.
- (e) No such conflict is possible.

Question 91: A operates an industrial machinery without obtaining consent under the Air Act. Which of the following actions could the authorities take?

Principle: Central and state boards are empowered to give directions to industries, which, if not followed, can be enforced by the board closing down the industry or withdrawing its supply of water and power.

Options:

- (a) The industrial premises can be sealed off from further access.
- (b) A can be ordered to discontinue the industrial activities.
- (c) A can be arrested for contempt of court.
- (d) A's property can be seized until A obtains the requisite consent.
- (e) No action will lie, since the A had not been specifically directed by the Board to obtain consent.

Question 92: Certain species of snakes are scheduled under the Wildlife Protection Act, 1972. A is found selling snakeskin handbags, but does not have a licence for the same. Which of the following statements is the most accurate application of the principle set out below?

Principle: S.49 of the Wildlife Protection Act, 1972 (“**the Wildlife Protection Act**”) imposes a prohibition on trade or commerce in certain scheduled species or derivatives.

Options:

- (a) A is in violation of the Wildlife Protection Act because A does not a license for dealing in snakeskin articles.
- (b) A is in violation of the Wildlife Protection Act because there is an absolute prohibition in snakeskin trade, and there would be no question of a licence for the same.
- (c) A is not in violation of the Wildlife Protection Act because the Wildlife Protection Act does not apply to snakes.
- (d) A would only be in violation the Wildlife Protection Act if the snakes used for the handbags were among the specific species of snakes protected by the Wildlife Protection Act.
- (e) A would only be in violation the Wildlife Protection Act if A had personally killed the snakes used for the handbags.

Question 93: A is an amateur chemistry enthusiast and stores large quantities of potentially dangerous chemicals in his house to support his hobby. Despite knowing this, B, an animal lover, moves into an adjacent house along with pet cats. One day, despite all possible precautions having been taken by A, the chemicals seep into B’s house, resulting in the death of some of B’s cats. Which, among the following, would be the most accurate application of the principle below to these facts?

Principle: The rule in *Rylands v. Fletcher*, L.R 1 Ex. 265, holds a person strictly liable when she brings or accumulates on her land something likely to cause harm if it escapes, and for damage that arises as a natural consequence of its escape.

Options:

- (a) A would be strictly liable to pay damages to B, as A had accumulated potentially dangerous chemicals on his property.
- (b) B has no remedy since B was aware of A’s hobby before moving in next door.
- (c) B has no remedy since the seepage occurred despite all possible precautions having been taken by A.
- (d) B has no remedy since the chemicals are harmless to humans, but only poisonous to cats.
- (e) B is guilty of participatory negligence, having allowed the pets to roam about the house unsupervised.

Question 94: A is accused of committing certain offences under the IPC. Owing to A’s poor financial condition, A cannot afford the services of a lawyer. Which,

among the following, would be the most accurate application of the principle below to these facts?

Principle: The right to free legal aid, which flows from A.21 of the Constitution, is a critical right available to accused persons.

Options:

- (a) A will have the right to represent himself during the trial.
- (b) The State is under a duty to provide a lawyer to A.
- (c) The guilty must always be punished, so the trial will continue regardless of whether A appoints a lawyer.
- (d) Since A cannot afford a lawyer, he cannot be prosecuted.
- (e) The State is not under an duty to provide a lawyer to A, but must reimburse to A the costs of any lawyer that A appoints.

Question 95: A group of monks run an *ashram*, and as part of the ashram's various philanthropic activities, the ashram employs some workers to prepare and distribute free food to the needy. Is the ashram an industry for the purposes of the Industrial Disputes Act, 1947 ("**the Industrial Disputes Act**")?

Principle: If an establishment undertakes several activities, the dominant activity of that establishment will determine whether that establishment is an industry for the purposes of the Industrial Disputes Act.

Options:

- (a) The ashram is not an industry, but since the act of preparing and distributing food is in the nature of an industry, the dominant activity of the kitchen alone would be considered an industry.
- (b) Yes, since the monks are engaged in a systematic activity for the distribution of goods calculated to satisfy human wants.
- (c) Yes, since the workers are engaged in a systematic activity for the distribution of goods calculated to satisfy human wants.
- (d) No, since the food is distributed for free, and there is no profit motive or desire to generate income.
- (e) No, since the monks are not engaged for remuneration or on the basis of master and servant relationship, the ashram is not an industry even if some servants are hired to support the dominant activity.

Question 96: The workmen of an industrial establishment and their employer enter into conciliation proceedings before a conciliation officer, and during these proceedings, the workmen strike work. Is this strike illegal?

Principle: S.23 of the Industrial Disputes Act prohibits strikes in any industrial establishment during the pendency of conciliation proceedings before a Board of Conciliation and till the expiry of 7 days after the conclusion of such proceedings.

Options:

- (a) This strike is only illegal, if the workers did not give sufficient notice of the strike.
- (b) This strike is not illegal, as S.23 allows the workmen to strike until the expiry of 7 days after the conclusion of such proceedings.
- (c) This strike is illegal, as S.23 of the Industrial Disputes Act prohibits strikes in any industrial establishment during the pendency of any conciliation proceedings.
- (d) This strike is not illegal, as the conciliation proceedings are before a conciliation officer.
- (e) This strike is only legal, if the conciliation officer has given prior permission for the strike.

Question 97: A is a workman who operates heavy machinery in a factory covered by the Workmen's Compensation Act, 1923 ("**the Workmen's Compensation Act**"). A has a history of epilepsy, but despite knowing that, continues to work in that employment. One day, A suffers an epileptic fit while operating heavy machinery, and is injured by the machine. Is the employer liable to compensate A for the injury?

Principle: The word "accident" for the purposes of the Workmen's Compensation Act, means "some unexpected event happening without design even though there may be negligence on the part of the workman."

Options:

- (a) The employer is liable to compensate A for the injury, even though there may have been some negligence on the part of A.
- (b) The employer is not liable to compensate A for the injury, since A was fully aware of the risks of operating heavy machinery in his condition.
- (c) The employer is liable to compensate A for the injury, because the factory is covered by the Workmen's Compensation Act.
- (d) The employer is not liable to compensate A for the injury, since the accident was caused by A's recklessness.
- (e) The employer is liable to compensate A for the injury only if A had withheld the fact of the health condition from the employer.

Question 98: A's servant B negligently injures visitor C while cleaning A's house. Which of the following statements most accurately applies the principle below?

Principle: Vicarious liability is a form of strict (and secondary) liability where the superior is responsible for the tortious acts of the subordinate.

Options:

- (a) A is not liable to compensate C since B caused the injury to C.
- (b) B liable to C for the tortious act of causing C injury.
- (c) B is vicariously liable to compensate A if C sues A for B's tortious act.
- (d) A is vicariously liable for the tortious act of B causing C injury.
- (e) C is vicariously liable for the tortious act of B causing A injury.

Question 99: Which of the following statements least accurately applies the taxation principle below?

Principle: A person is resident in India if she is in India for a period or periods aggregating to more than 182 days during the previous year, or she has been in India for more than 365 days in the four years preceding the previous year, and at least sixty days in the previous year.

Options:

- (a) A was in India for 183 days in the previous year, therefore A is a person resident in India.
- (b) A was in India for the first 160 days of the previous year, went abroad for 45 days, and returned to India for the remaining 160 days of the year, therefore A is a person resident in India.
- (c) None of the directors of an Indian Company A were in India for 183 days of the previous year, so Company A is not resident in India.
- (d) A spent all of the previous year in India, therefore A is resident in India.
- (e) A spent all of the previous year outside India, therefore A is not resident in India.

Question 100: Which of the following statements least accurately applies the Public International Law principle below?

Principle: A State's laws apply to ships flying its flag or aircraft registered with it, and on persons on board these carriers.

Options:

- (a) Indian laws apply to Australian passengers on a plane registered in India.
- (b) Australian laws apply to Australian passengers, whether or not they are on a plane.
- (c) Australian laws apply to Indian passengers on a plane registered in Australia.
- (d) Indian laws apply to Indian passengers on a plane registered in India.
- (e) Australian laws apply to Australian passengers on a plane registered in Australia.