

AIBE 20 Question Paper Set B with Solutions

Time Allowed :3 Hours	Maximum Marks :100	Total Questions :100
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General Instructions

Read the following instructions very carefully:

1. The test is of 3 hour duration.
2. This question paper consists of 100 questions. The maximum marks are 100.

1. What are the essentials of a valid Hindu marriage?

- (A) Age, Soundness of mind, Monogamy, Ceremonies
- (B) Only age requirement
- (C) Only consent of parents
- (D) Only registration of marriage

Correct Answer: (A) Age, Soundness of mind, Monogamy, Ceremonies

Solution:

Step 1: Understanding the Concept:

The Hindu Marriage Act, 1955, codifies the laws relating to marriage among Hindus. For a marriage to be legally valid (*Sui Juris*), it must satisfy certain substantive conditions regarding capacity and procedural conditions regarding solemnization.

Step 2: Key Statutory Provisions:

Section 5 (Conditions for a Hindu Marriage): A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled:

1. **Monogamy [Sec 5(i)]:** Neither party has a spouse living at the time of the marriage. Bigamy renders the marriage void *ab initio*.
2. **Soundness of Mind [Sec 5(ii)]:** At the time of marriage, neither party:
 - Is incapable of giving valid consent due to unsoundness of mind.
 - Though capable of giving consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and procreation of children.
 - Has been subject to recurrent attacks of insanity.
3. **Age [Sec 5(iii)]:** The bridegroom must have completed the age of 21 years and the bride, the age of 18 years.
4. **Prohibited Relationships [Sec 5(iv) & (v)]:** The parties are not within the degrees of prohibited relationship or are not *sapindas* of each other, unless the custom or usage governing each of them permits of a marriage between the two.

Step 3: Solemnization Requirement:

Section 7 (Ceremonies): A Hindu marriage must be solemnized in accordance with the customary rites and ceremonies of either party. Where such rites include the *Saptapadi* (taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken.

Step 4: Conclusion:

Option (A) correctly summarizes the primary essentials: Age, Soundness of Mind, Monogamy, and Ceremonies. Registration (Section 8) is for evidentiary purposes and does not affect the validity of the marriage itself. Consent of parents (guardianship in marriage) was removed by the Child Marriage Restraint (Amendment) Act, 1978.

💡 Quick Tip

Void vs. Voidable: Breach of Monogamy (5(i)), Prohibited degrees (5(iv)), or Sapinda (5(v)) makes the marriage **Void** (Sec 11). Breach of Soundness of mind (5(ii)) or Age (5(iii)) generally makes it **Voidable** (Sec 12) or punishable, respectively.

2. What is a cognizable offence?

- (A) Offence where police can arrest without warrant
- (B) Offence where police need court order to arrest
- (C) Only compoundable offences
- (D) Only bailable offences

Correct Answer: (A) Offence where police can arrest without warrant

Solution:

Step 1: Understanding the Concept:

The Criminal Procedure Code (CrPC) classifies offences into two main categories based on the nature of police powers: Cognizable and Non-Cognizable. This distinction determines how an investigation is initiated.

Step 2: Legal Definition [Section 2(c) CrPC]:

A "cognizable offence" implies a serious category of crime (like murder, rape, dowry death, kidnapping, theft) where immediate action is required. The definition states: "*Cognizable offence means an offence for which, and cognizable case means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant.*"

Step 3: Procedural Implications:

- **Arrest:** Police can arrest the accused without a warrant from a Magistrate.
- **Investigation:** Under Section 156(1) CrPC, the police can start the investigation **without** the permission of the court. An FIR (First Information Report) under Section 154 is registered only for cognizable offences.

Conversely, in non-cognizable offences (Section 2(1)), police have no authority to arrest without a warrant and cannot investigate without a Magistrate's order (Section 155).

Step 4: Analyzing Other Options:

- Option (B) describes a *non-cognizable* offence.
- Options (C) and (D) refer to different classifications (Compoundable/Non-compoundable and Bailable/Non-bailable), which are independent of cognizability. For example, some cognizable offences are bailable (e.g., simple hurt with a dangerous weapon), while others are non-bailable.

💡 Quick Tip

Schedule I of CrPC is the master list.

If the offence is punishable with imprisonment for **3 years or more**, it is generally **Cognizable** and Non-Bailable. If less than 3 years, it is generally **Non-Cognizable** and Bailable.

3. Who can proclaim a national emergency?

- (A) President
- (B) Prime Minister
- (C) Parliament
- (D) Supreme Court

Correct Answer: (A) President

Solution:

Step 1: Understanding the Concept:

Emergency provisions are contained in Part XVIII of the Indian Constitution. A "National Emergency" refers to an emergency due to war, external aggression, or armed rebellion.

Step 2: Constitutional Provision [Article 352]:

Article 352(1) explicitly vests the power in the **President of India**. It states: "*If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or armed rebellion, he may, by Proclamation, make a declaration to that effect.*"

Step 3: The Role of the Cabinet (Checks and Balances):

While the President is the proclaiming authority, he does not act on his own discretion. Article 352(3) (added by the 44th Amendment Act, 1978) mandates that the President shall not issue such a proclamation unless the decision of the Union Cabinet (consisting of the Prime Minister and other Ministers of Cabinet rank) has been communicated to him **in writing**.

Step 4: Conclusion:

The Prime Minister advises, the Parliament approves (within 30 days), and the Supreme Court can review (judicial review of mala fides), but the **act of proclamation** is legally performed by the **President**.

💡 Quick Tip

Grounds for National Emergency: War, External Aggression, or Armed Rebellion.
Note: "Internal Disturbance" was replaced by "Armed Rebellion" by the 44th Amendment, 1978, to prevent misuse.

4. What is a dying declaration?

- (A) Statement made by a person about cause of death before dying
- (B) Statement recorded only by a Magistrate
- (C) Statement recorded only by police
- (D) Confession made in court

Correct Answer: (A) Statement made by a person about cause of death before dying

Solution:

Step 1: Understanding the Concept:

The general rule of evidence is that "Hearsay is no evidence" (oral evidence must be direct). However, a "Dying Declaration" is a major statutory exception to this rule. It is based on the legal maxim *Nemo moriturus praesumitur mentiri* (a man will not meet his maker with a lie in his mouth).

Step 2: Legal Provision [Section 32(1) Indian Evidence Act]:

It makes relevant any statement (written or verbal) made by a person who is dead, when the statement relates to: 1. The **cause of his death**, or 2. Any of the **circumstances of the transaction** which resulted in his death. Such statements are relevant in cases where the cause of that person's death is in question.

Step 3: Analyzing the "Recording" Authority:

There is no strict statutory format for a dying declaration.

- It can be recorded by a Magistrate (most evidentiary value).
- It can be recorded by a Doctor.
- It can be recorded by a Police Officer.
- It can even be made to a private person (friend, relative) or be an oral utterance.

Therefore, options (B) and (C) claiming "only" are incorrect. Option (A) correctly defines the substantive nature of the statement.

Step 4: Conclusion:

It is a substantive piece of evidence and can form the sole basis of conviction if the court is satisfied that it is true and voluntary (*Kushal Rao v. State of Bombay*).

💡 Quick Tip

Difference from English Law: In India, a dying declaration is admissible in both civil and criminal cases, and the person need not be under an "expectation of imminent death" at the time of making the statement, as long as they eventually die of that cause.

5. Which provision deals with appeals from original decrees?

- (A) Section 96 CPC
- (B) Section 100 CPC
- (C) Order XLI CPC
- (D) Section 104 CPC

Correct Answer: (A) Section 96 CPC

Solution:

Step 1: Understanding the Concept:

In the Code of Civil Procedure (CPC), a "Decree" is the formal expression of an adjudication that conclusively determines the rights of the parties. An appeal against a decree passed by a court of first instance (original jurisdiction) is a statutory right.

Step 2: Analyzing the Provisions:

- **Section 96 (Appeal from Original Decree):** This is the substantive provision that creates the right to appeal. It states, *"Save where otherwise expressly provided... an appeal shall lie from every decree passed by any Court exercising original jurisdiction to the Court authorized to hear appeals..."*
- **Section 100 (Second Appeal):** This deals with appeals to the High Court from a decree passed in appeal (i.e., an appellate decree). It is restricted only to cases involving a "substantial question of law".
- **Section 104 (Orders):** This deals with appeals from specific "Orders" (not decrees).
- **Order XLI (41):** This details the *procedure* (filing memo, hearing, etc.) for appeals from original decrees, but the *power/right* flows from Section 96.

Step 3: Conclusion:

The question asks for the provision dealing with the appeal itself (the source of the right). Thus, Section 96 is the correct answer.

💡 Quick Tip

Key Restriction: No appeal lies from a decree passed by the court with the **consent of parties** (Compromise Decree) - Section 96(3) CPC.

6. Which authority can grant bail?

- (A) Police and Court
- (B) Only Supreme Court
- (C) Only High Court
- (D) Only Magistrate

Correct Answer: (A) Police and Court

Solution:

Step 1: Understanding the Concept:

Bail is a procedural instrument to release an accused from custody, ensuring their presence at the trial. The power to grant bail is distributed between the executive (Police) and the judiciary (Courts) depending on the gravity of the offence.

Step 2: Detailed Analysis:

The Criminal Procedure Code (CrPC) divides offences into "Bailable" and "Non-Bailable".

1. In Bailable Offences (Section 436 CrPC):

- Bail is a matter of **right**.
- It can be granted by the **Officer-in-charge of the Police Station** if the accused is prepared to give bail.
- It can also be granted by the Court.

2. In Non-Bailable Offences (Section 437 & 439 CrPC):

- Bail is a matter of **discretion**.
- Police generally cannot grant bail here (except in very specific default bail scenarios or specific provisions).
- It is granted by the Magistrate (Sec 437) or the Sessions Court/High Court (Sec 439).

Step 3: Conclusion:

Since the question asks broadly "Which authority can grant bail?", and the police have the statutory power to do so in bailable offences (which constitute a large number of offences), the correct answer is "Police and Court".

💡 Quick Tip

Anticipatory Bail (Sec 438): This is a pre-arrest bail direction. Unlike regular bail, this power is vested **only** in the High Court and the Court of Session.

7. Who can claim maintenance under Section 125 CrPC?

- (A) Wife, children, and parents
- (B) Only wife

- (C) Only minor children
(D) Only dependent parents

Correct Answer: (A) Wife, children, and parents

Solution:

Step 1: Understanding the Concept:

Section 125 of the CrPC is a social justice legislation designed to prevent vagrancy and destitution. It provides a quick and summary remedy for persons who are unable to maintain themselves.

Step 2: Beneficiaries under Section 125(1):

The section mandates that if any person having sufficient means neglects or refuses to maintain certain dependents, a Magistrate may order him to make a monthly allowance. These dependents are: 1. **Wife:** A legally wedded wife who is unable to maintain herself. Divorced wives who have not remarried are also included (Explanation (b) to Sec 125(1)). 2. **Children:**

- Minor children (Legitimate or Illegitimate, married or unmarried).
- Major children (Legitimate or Illegitimate) if they are unable to maintain themselves due to physical or mental abnormality/injury (excluding married daughters).

3. **Parents:** Father or Mother who are unable to maintain themselves. (This includes adoptive parents and step-mothers in many judicial interpretations).

Step 3: Conclusion:

The scope of Section 125 is broad and inclusive of the nuclear family structure and elderly parents. Therefore, Option (A) is the correct answer.

 Quick Tip

Secular Nature: In the landmark *Mohd. Ahmed Khan v. Shah Bano Begum (1985)* case, the Supreme Court held that Section 125 applies to all religions, distinct from personal laws.

8. Section 65B deals with what type of evidence?

- (A) Electronic evidence
(B) Secondary documentary evidence
(C) Expert evidence
(D) Oral evidence

Correct Answer: (A) Electronic evidence

Solution:

Step 1: Understanding the Concept:

With the advent of technology, the Information Technology Act, 2000, amended the Indian Evidence Act, 1872, to recognize electronic records.

Step 2: Legal Provision [Section 65B]:

Title: "*Admissibility of electronic records*". Section 65B provides a special procedure for proving the contents of electronic records (like emails, call logs, CCTV footage, hard drive data). It states that any information contained in an electronic record which is printed on paper or stored on optical/magnetic media shall be deemed to be a "document" and is admissible in evidence **without** further proof of the original, provided certain conditions are met.

Step 3: The "Certificate" Requirement:

Section 65B(4) mandates a certificate signed by a person occupying a responsible official position in relation to the operation of the relevant device. This certificate confirms that the computer was operating properly and the data is authentic.

Step 4: Conclusion:

Section 65B specifically governs the admissibility of secondary evidence relating to **Electronic Records**.

 Quick Tip

Legal Precedent: In *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal (2020)*, the Supreme Court clarified that a Section 65B certificate is a **condition precedent** (mandatory) for the admissibility of electronic evidence if the original device is not produced.

9. What is talaq under Muslim Law?

- (A) Unilateral divorce by husband
- (B) Mutual divorce by spouses
- (C) Court-granted divorce
- (D) Customary separation

Correct Answer: (A) Unilateral divorce by husband

Solution:**Step 1: Understanding the Concept:**

In Muslim Personal Law, the dissolution of marriage can occur through various modes. The specific terminology identifies who is initiating the divorce.

Step 2: Classification of Divorce:

1. **By Husband (Talaq):** The husband has the power to divorce his wife unilaterally. This can be *Talaq-ul-Sunnat* (approved forms like Ahsan/Hasan) or *Talaq-e-Biddat* (disapproved form/Triple Talaq - now declared unconstitutional in India).
2. **By Wife (Talaq-e-Tafweez):** If the power is delegated to her by the husband.
3. **By Mutual Consent:**
 - *Khula*: Divorce at the instance of the wife, where she gives consideration (return of dower) to the husband.

- *Mubarat*: Divorce by mutual consent where both parties desire separation.

4. **By Court (Faskh)**: Under the Dissolution of Muslim Marriages Act, 1939.

Step 3: Conclusion:

The term "Talaq" specifically refers to the mode of divorce where the husband exercises his unilateral right to dissolve the marital tie.

💡 Quick Tip

Shayara Bano v. Union of India (2017): The Supreme Court declared *Talaq-e-Biddat* (Instant Triple Talaq) as unconstitutional and violative of Article 14 (Equality).

10. What is an ex-parte decree?

- (A) A decree passed in absence of defendant
- (B) A decree passed after full trial
- (C) A decree passed by consent of parties
- (D) A decree passed by appellate court

Correct Answer: (A) A decree passed in absence of defendant

Solution:

Step 1: Understanding the Concept:

"Ex-parte" is a Latin legal term meaning "from (or for) one party". In the context of civil suits, courts are expected to hear both sides (Principles of Natural Justice). However, the legal process cannot be held hostage by a defendant who refuses to appear.

Step 2: Legal Provision [Order 9, CPC]:

Order 9 Rule 6(1)(a) states that where the plaintiff appears and the defendant does not appear when the suit is called for hearing, and it is proved that the summons was duly served, the Court may make an order that the suit be heard *ex-parte*. Consequently, the court proceeds to record the plaintiff's evidence and passes a judgment/decreed based solely on that evidence. This is an "Ex-parte Decree".

Step 3: Distinguishing Other Options:

- **Bi-parte Decree**: A decree passed after hearing both sides (Option B).
- **Consent Decree**: A decree based on compromise under Order 23 (Option C).

💡 Quick Tip

Remedy for Defendant: If an ex-parte decree is passed, the defendant can apply to the court under **Order 9 Rule 13** to "Set Aside" the decree by proving they had "sufficient cause" (e.g., illness, non-service of summons) for non-appearance.

