Haryana Prelims Test Series – 2024

TEST 23 (Hindu Law and Muslim Law)

EXPLANATIONS

1. A-The mother of the deceased always inherits as a class I heir and takes 1/3rd of the heritable estate if the deceased has not left behind a child or an eligible lower descendant - otherwise she takes 1/6th of it. Under Muslim Law, widow is entitled to 1/4th share of the property, if she is issueless, after meeting his funeral and legal expenses and debts. The widow who is having children and grand-children is entitled to 1/8th share of the deceased husband's property.
2. B-Once an acknowledgement of paternity is made, it cannot be revoked. This establishes a binding legal relationship between the father and the child.
3. C-Refer Section 7 of the Waqf Act, 1955.
4. C-Mutawalli is the manager or custodian of waqf (i.e. cheritable endowment). He is the trustee of waqf whose appointment is compulsory in Shia law. He has the power of management and administration of waqf properties. Mutawalli are the ones who are supposed to preserve the magnificent Islamic heritage.
5. D-An essential for the validity of wakf is that the dedication should be for a purpose recognized as religious, pious or charitable, under Muslim Law.

   On basis of decided cases and the text of eminent Mohammedan Jurists, certain objects which had been declared to be valid objects of wakf are:- Mosque and provisions for Imamas to conduct worship; Celebrating the birth of Ali Murtaza; Repairs of Imambaras; Maintenance of Khankahs;

Reading the Koran in public places and also at private houses; Maintenance of poor relations and dependant; Payment of money to Fakirs; Grant to an Idgah; Grant to the college and provisions for professors to teach in colleges; Bridges and Caravan Sarais; Distribution of alms to poor persons, and assistance to the poor to enable them to perform pilgrimage to Mecca etc.

6. C-Waqf Act, 1954 defines Waqf as, "Waqf means the permanent dedication by a person professing the Islam, of any movable or immovable property for any purpose recognized by Muslim Law as religious, pious, or charitable.
7. D-The bequest in favour of a child in the womb of his mother is valid provided he or she is born within six months of making a will in Sunni Law but it is up to ten months under Shia Law.
8. B-Where a legatee under a will is responsible for the murder or causing death to the testator, the will made in his or her favour will be invalid under Sunni Law. It is irrespective whether the murder was cause accidentally or intentionally. It is also immaterial if he knew about being a beneficiary in the will.
9. D-When a Muslim transfers his property through gift, without consideration made gratuitously, the transfer is known as Hiba. According to Hidayat, "Hiba is an unconditional transfer of an ownership in an existing property made immediately and without consideration". Thus, the four essentials derived from this definition are: 1) Unconditional transfer 2) Ownership 3) Existing Property 4) Made immediately.

10. A-Any movable or immovable property at present is a lawful subject matter of Hiba. However, gift of services is not a valid Hiba. Also, any future property is not a subject matter of Hiba.
11. A-Under Muslim Law, following essentials must be fulfilled to make valid Hiba1) Declaration by the Donor; and 2) Acceptance by the Donee; and 3) Delivery of possession.
12. D-Hizanat means the right of a mother over her children for bringing them up, for their education, and for the care of their property. ll the schools of Muslim law also agree that a hazina will forfeit her right of hizanat in any of the following cases: Insanity and minority; Apostasy; Subsequent marriage of hazina; Misconduct of the hazina; Removal of the child by the hazina; etc.
13. C-The mother in Hanafi Law is entitled to the custody of her male child upto the age of seven years and in the case of a female child till she attains puberty.
14. C-Father is recognized as the natural guardian of his kid underneath all the schools of Muslim law. The father's right to act as guardian of a minor is an independent right and is given to him underneath the substantive law of Islam. A natural guardian is additionally known as a legal guardian.
15. B-Refer Section 4 of the Muslim Women (Protection of Rights of Marriage) Act, 2019.
16. A-Talaq-ul-Bidaat (Irrevocable): This Talaq is also known as Talaq-ul-Bain. It is a disapproved mode of divorce. A peculiar feature of this Talaq is that it becomes effective as soon as the words are pronounced and there is no possibility of reconciliation between the parties.
17. B- Marriage can be dissolved by an agreement between the husband and wife for a consideration paid or to be paid by the wife to her husband.

The same agreement if the wife alone is desirous is called Khula, and if both husband and wife are desirous, it is called Mubarat.

18. B- Lian can simply be described as the wrong charge of **adultery on wife** by her husband. Whenever a husband imposes false adultery charges on his wife, then a wife can sue him and can also obtain a divorce on the same ground under the Act, by filing a regular suit for dissolution of marriage.

19. A-In Sunni law, if the husband pronounces the word "Talaq" in an intoxicated state, it is still valid and accepted. It is not accepted under an intoxicated state in Shia law.

20. B- Refer Section 4 of the Dissolution of Muslim Marriage Act, 1939.
The conversion of a married Muslim woman to a faith other than Islam does not by itself operate to dissolve her marriage. Moreover, even after renouncing Islam, if the wife wants, she may obtain a decree for the dissolution of her marriage on any of the grounds specified in Section 2 of the Act. Section 4 does not apply to a woman who converts to Islam from other faith and take back her former faith. Thus, if a Hindu woman converts into Islam and marries under Muslim law, the marriage would be ipso facto dissolved, on her renouncing Islam and re-embracing Hinduism.

21. B-Refer Section 2 of the Dissolution of Muslim Marriage Act, 1939.

22. A-Refer Second proviso of Section 4 of the Dissolution of Muslim Marriage Act, 1939.

23. B- Muslims believe that the Qur'an, the holy book of Islam, was revealed to Muhammad over a period of twenty-three years, starting with the initial revelation at Mount Hira.

24. B-The Sharia regulates all human actions and puts them into five categories: obligatory, recommended, permitted, disliked or forbidden.
25. C- Founded in the 8th century and based on the teachings of the imam Mālik ibn Anas, the Mālikīs stressed local Medinese community practice (ʿamal) as the lens through which to understand the legal implications of the Qurʾān and the Hadith (traditions concerning the Prophet Muhammad's life and utterances).
26. C- Within Sunni Islam, there are four schools of thought: Hanafi, Maliki, Shafi'i, and Hanbali. All are based on the teachings of different imams, or Islamic religious leaders.
27. A- **Khadijah bint Khuwaylid** was the first wife and the first follower of the Islamic prophet Muhammad.
28. C- The household of Muhammad, often referred to as **the Ahl al-Bayt.**
29. B-The Kitāb al-Umm is the first exhaustive compendium of Islamic code of law that is used as an authoritative guide by the Shafi'i school of fiqh (Islamic jurisprudence) within the Sunni branch of Islam. The work was composed by the founder of the Shafi'i school, Imām ash-Shāfi'ī.
30. A- On Muhammad's death (June 8, 632), the Muslims of Medina resolved the crisis of succession by accepting Abū Bakr as the first khalīfat rasūl Allāh (“deputy [or successor] of the Prophet of God,” or caliph).
31. C- **The Hijrah or Hijra** was the journey the Islamic prophet Muhammad and his followers took from Mecca to Medina.
32. C- Fiqh is an Islamic legal system based on the Qur'an and the Sunnah, which are the teachings and practices of the Prophet Muhammad. It is derived from the Arabic word for "understanding" and is the science of Islamic jurisprudence.

33. B- Prophet Muhammed was forced to flee from Mecca to Medina in the year 622. This event is known as Hijra which means migration. It marks the beginning of the Muslim calendar Hijri.

34. D- Fatima bint Muhammad was the daughter of the Islamic prophet Muhammad and his wife Khadija. Fatima's husband was Ali, the fourth of the Rashidun Caliphs and the first Shia Imam.

35. A- Muslims believe the Quran to be God's final revelation to humanity, a work of divine guidance revealed to Muhammad.

36. D- Al-Nawawi wrote about Sahih al-Bukhari, "The scholars, may God have mercy on them, have agreed that the most authentic book after the dear Quran are the two Sahihs of Bukhari and Muslim.

37. B-Rest are schools of jurisprudence under Sunnis.
Sunnī Islam is separated into four main schools of jurisprudence, namely Mālikī, Ḥanafī, Shāfiʿī, and Ḥanbalī.

38. C- The three major sects of Shi'a Islam are as follows: Athena Asharia, Ismaili, and Zaidiyyah.

39. A- Sunni Islam is the largest branch of Islam, followed by 85–90% of the world's Muslims, and simultaneously the largest religious denomination in the world.

40. B-The Usul which means the roots of law. It deals with Muslim Jurisprudence, that is the first principle of Muhammadan law.

41. B- Maliki school of thought was the second school of Islamic jurisprudence which was started from Medina the city of learning. Hence it is also called Madani school.

42. D- The **Dawoodi Bohras** are a religious denomination within the Ismāʿīlī branch of Shia Islam.

43. C- It was narrated from 'Abdullah bin 'Umar that: the Messenger of Allah said: "The **most hated** of **permissible things to** Allah is divorce.

44. A- According to Shia law, the Talaq must be pronounced orally, except where the husband is unable to speak. If the husband has capacity to utter the words but gives it in writing, the Talaq is void and ineffective under Shia law. Shia law provides that Talaq must be pronounced in the presence of two competent witnesses.

45. A-Talaq-e-Ahsan is the most considerable form of Talaq in Islam as it provides the husband with the adequate opportunity to reconsider his divorce if he has given the divorce in hastiness or under undue influence. Talaq is pronounced during the Tuhr period and it is pronounced thrice i.e., during three consecutive periods. After the third Talaq, Talaq becomes irrevocable.

46. A- In talaq-e-ahsan, the husband repudiates his wife by a single pronouncement in a period of tuhr during which he has not had intercourse with her and then leaves her to the observances of iddat. The divorce remains revocable during iddat.

47. A- In talaq-e-ahsan, the husband repudiates his wife by a single pronouncement in a period of tuhr during which he has not had intercourse with her and then leaves her to the observances of iddat. The divorce remains revocable during iddat. When the period of Iddat expires and the husband does not revoke the Talaq either expressly or through consummation, **the Talaq becomes Irrevocable and final**.

48. D- In Ila, the husband takes an oath not to have sexual intercourse with his wife. Followed by this oath, there is no consummation for a period of four months. After the expiry of the fourth month, the marriage dissolves

irrevocably. But if the husband resumes cohabitation with four months, ila is cancelled and the marriage is not dissolved.

49. A- Under hanafi law, a talaaq, pronounced under compulsion, coercion, undue influence, fraud and voluntary intoxication etc., is valid and dissolves the marriage. Talaaq pronounced under forced or involuntary intoxication is void even under the hanafi law.

50. C-Refer Section 3 (r) of the Waqf Act, 1995.

51. D- 'Muta' marriage is a marriage for temporary but a fixed period after specifying dower. 'Muta' marriage is void under Sunni Law because the words used at the time of proposal and acceptance must denote an immediate and permanent union. The specified period may be a day, a month or a year or term of years.

52. A-Under Muslim Sharia Law, the Muslim women can only marry Muslim men whereas a Sunni male can marry a Muslim female (Of any sect) or a Kitabia i.e. a woman who believes in a revealed religion possessing a Divine Book viz Islam, Christianity and Judaism and is valid under the Sunni Law but he cannot marry an idolatress or a fire-worshiper. A marriage, however with an idolatress or a fire worshiper is merely irregular in Sunni Law, but void in Shia Law. A Muslim woman cannot marry any man who is not a Muslim, whether he is Kitabia or not.

53. D- Thus, Subject matter of dower is not only confined to a sum of money or property, it includes personal services and other things.

54. B- According to Shia law, the Talaq must be pronounced orally, except where the husband is unable to speak. If the husband has capacity to utter the words but gives it in writing, the Talaq is void and ineffective under Shia law.

55. D-When the amount of dower is not specified in the marriage contract and even if it is agreed that the wife will not claim for dower, then also wife is entitled to proper dower.

56. B- If the husband, after taking a second wife against the wishes of the first, also wants the assistance of the Civil Court to compel the first to live with him, the Court will respect the sanctity of the second marriage, but it will not compel the first wife, against her wishes, to live with the husband under the altered circumstances and share his consortium with another woman, if it concludes, on a review of the evidence, that it will be inequitable to compel her to do so.

57. B- Hadith, corpus of the sayings or traditions of the Prophet Muhammad, revered by Muslims as a major source of religious law and moral guidance.

58. C-Refer Section 2 in The Dissolution Of Muslim Marriages Act, 1939

59. D- The legal consequences of divorce under Muslim law: The parties acquire the right to contract another marriage; Cohabitation becomes unlawful and Mutual rights of inheritance ceases.

60. C-Refer Section 2(vi) in The Dissolution Of Muslim Marriages Act, 1939

61. C-Under Muslim personal laws, marriages in violation of rules are known as Batil marriages. Those marriages which are in violation of conditions of affinity, fosterage, etc. are examples of Batil marriages (for example, marrying your mother's sister). Batil is another way of saying that your marriage is void.

62. B- Divorce by 'Khula' is a divorce at the instance of, and with the consent of the wife, by which she gives or agrees to give a consideration to the husband for her release from the marriage tie.

63. A- An illegitimate child is regarded as "a child of nobody" under Islamic law. Father has no legal claim to custody or care of his little children who are not his biological children. Even for her illegitimate minor children, the mother is not a natural guardian, although she is still entitled to custody.

64. D-The *Smritikars* perceived the concept of "Stridhan" as those properties which a female received by way of gifts from her relatives which majorly comprises movable property. Stridhan is voluntary gift given by members of bridal side.

65. A-Refer Section 18(3) of the Hindu Adoptions and Maintenance Act, 1956.

66. D-Refer Section 7 of the Hindu Adoptions and Maintenance Act, 1956.

67. D- In Hindu law only three persons are recognized as natural guardians father, mother and husband, Father. "Father is the natural guardian of his minor legitimate children, sons and daughters." Section 13 of the Hindu Minority and Guardianship Act which lays down that welfare of the minor is of paramount consideration and father's right of guardianship is 5;ubordinate to the welfare of the child. In **Gita Hariharan v. Reserve Bank of India** and **Vandana Shiva v. Jayanta Bandhopadhaya**, the Supreme Court has held that under certain circumstances, even when the father is alive mother can act as a natural guardian. The term 'after' used in Section 6(a) has been interpreted as 'in absence of' instead 'after the life-time.

68. A-Refer Section 6(a) of the Hindu Adoptions and Maintenance Act, 1956.

69. C- The recommendations contained in the 207th Report were aimed at suggesting changes in section 15 of the Hindu Succession Act so that

equal right is given to the parental heirs along with husband's heirs to inherit the property.

70. A- Section 16 of the Hindu Marriage Act, 1955, lays down that children of all void and annulled voidable marriages are deemed to be legitimate but are entitled to inherit the property.

71. A-A Hindu joint family is not a corporation. A Hindu joint family has no legal entity distinct and separate from that of the members who constitute it. It is not a juristic person either. Hindu family is a unit and in all affairs it is represented by its karta or head.

72. A-Refer Section 3(f) of the Hindu Marriage Act, 1955.

73. D-Refer to Section 9 of the Hindu Marriage Act, 1955. The same is applicable on "husband" or "wife". Here the second marriage is void.

74. C- In 2006, the Supreme Court in Seema v. Ashwani Kumar & ors. 6 observed that marriages of all persons who are citizens of India belonging to various religions should be registered compulsorily in their respective States, where the marriage is solemnized.

75. B- Refer Section 6 of the Hindu Succession Act, 1956. According to the amending Act of 2005, in a Joint Hindu Family governed by the mitakshara Law, the daughter of a coparcener shall, also by birth become a coparcener in her own right in the same manner as the son heir and will be subject to the same liabilities in respect of the said coparcenery property as that of a son, and any reference to a Hindu Mitakshara coparcener shall be deemed to include a reference to a daughter of a coparcener.

76. A- Refer Explanation to Section 3(d) of the Hindu Marriage Act, 1955.

In clauses (c) and (d), "ancestor" includes the father and "ancestress" the mother.

77. B- As per the Mitakshara school of hindu law, a coparcernary came into existence when a person inherits property from his father, grand father or great grand father. In the event he holds it as a joint tenant (coparcener) with his sons, grand sons and great grand sons. Once a coparcenary comes into being, the interest of a deceased coparcener in the coparcenary property devolves through survivorship and not through succession.
78. D-Refer Section 21 of the Hindu Succession Act, 1956.
79. A-Refer Section 20(2) of the Hindu Succession Act, 1956.
80. C-Refer Section 11(3) of the Hindu Succession Act, 1956.
81. A-Refer Section 6 of the Hindu Succession Act, 1956.
82. C- Refer Section 6 of the Hindu Succession Act, 1956.
83. A-Refer Section 2(e) (ii) of the Hindu Succession Act, 1956.
84. C-Refer Schedule of the Hindu Succession Act, 1956. Father is a class II heir.
85. C- A bigamous marriage contracted before the commencement of the Hindu Marriage Act, 1955 remains valid. However, it becomes a ground for divorce available to wife under Section 13(2) (i) of the Hindu Marriage Act, 1955.
86. A-Refer Section 28 of the Hindu Marriage Act, 1955.
87. A-both relate to alimony pendent lite, however the distinction which could be deciphered therefrom is that in case of Section 24 of the Hindu Marriage Act, both the wife and the husband can claim the maintenance against each other but Section 36 of the Special Marriage Act restricts the claim to the wife.
88. C-Refer Section 25 of the Hindu Marriage Act, 1955.
89. D- Breakdown theory is not recognised under the codified Hindu law and In the recent case of Shilpa Sailesh vs. Varun Sreenivasan (2023), the SC

has ruled that it has the power to dissolve a marriage if it is irretrievably broken down. The court can waive the mandatory six-month waiting period for divorce under the Hindu Marriage Act (HMA), 1955, and allow the dissolution of the marriage on grounds of an irretrievable breakdown even if one of the parties was not willing.

90. A-The courts have observed that in every petition for divorce or judicial separation on the ground that the respondent is living in adultery or has committed adultery with any person, the petitioner shall make such person a co-respondent.

91. D-Refer Section 12 of the Hindu Marriage Act, 1955.

92. C-Refer Section 12(1)(a) of the Hindu Marriage Act, 1955. Impotency is the inability to perform an act of sexual intercourse. It can be a physical, psychological, or emotional aversion.

93. A-Refer Section 11 of the hindu marriage act, 1955.

94. D-Refer Section 13 of the Hindu Marriage ACt, 1955.

95. C-Refer Section 27 of the Hindu Adoptions and Maintenance Act, 1956. A dependant's claim for maintenance under this Act shall not be a charge on the estate of the deceased or any portion thereof, **unless one has been created by** the will of the deceased, **by a decree of court**, by agreement between the dependant and the owner of the estate or portion, or otherwise.

96. A-Refer Section 13 of the Hindu Minority and Guardianship Act, 1956.

97. B-Refer to Section 3(a) of the Hindu Succession Act, 1956.

98. B-Refer Section 3(c) of the Hindu Succession Act, 1956.

99. C-Refer Section 3(f) of the Hindu Succession Act, 1956.

100. A- Although sons acquire by birth rights equal to those of a father in ancestral property, both movable and immovable, the father has the

power of making within reasonable limits, gifts of ancestral movable property without the consent of his sons for the purpose of performing indispensable acts of duty, and for purposes prescribed by texts of law, as gifts through affection, support of the family relief from distress and so forth.

101. A-Refer Schedule of the Hindu Succession Act, 1956. Father is a class II heir.

102. D-Refer Proviso to Section 7 of the Hindu Succession Act, 1956.

103. D-R/w O32 of CPC, Where a person is declared or appointed by the competent authority as a next friend or guardian, he must be a major, give his consent in writing and must not have an interest adverse to that of the minor.

104. C- Mayne stated in his treatise on `Hindu Law & Usage': "Hindu law is the law of the Smritis as expounded in the Sanskrit Commentaries and Digests which, as modified and supplemented by custom, is administered by the courts."

105. C-Refer Section 13(1A) (ii) of the Hindu Marriage Act, 1955.

106. A- Section 26 of the Hindu Marriage Act, 1955.

107. B-Refer Section 24 of the Hindu Marriage Act, 1955.

108. D- The law tries to prevent child marriage by punishing people who perform or participate in child marriages. However, if a child has been married, the law does not immediately make the marriage invalid. The child so married has the option to invalidate the marriage or continue to be married.

109. C-Refer Section 25 of the Hindu Marriage Act, 1955.

110. D-Refer Section 18 of the Hindu Marriage Act, 1955.

111. A-Refer under Section 13(1)(v) of Hindu Marriage Act, 1955.

112. B- In this case, cruelty was recognized as a ground for divorce and the wife who suffers it shall be entitled to maintenance from her husband.

113. B-Refer proviso Section 12 of Hindu Minority and Guardianship Act, 1956.

114. D-Refer Section 6(a) of Hindu Minority and Guardianship Act, 1956.

115. B-Refer Section 22 of the Hindu Marriage Act, 1955.

116. C- The three Modern sources are equity, fairness, good conscience; precedents and judicial decisions; and legislation.

117. D-Refer Section 7 of the Hindu Marriage Act, 1955.

Section 7(2) provides that ***Where such rites and ceremonies include the Saptapadi*** (that is, the 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.

Otherwise, as a general rule under Section 7(1) A Hindu marriage may be solemnized in accordance with the ***customary rites and ceremonies of either party thereto.***

118. D-Refer Section 29 of the Hindu Succession Act, 1956.

119. B-Refer Section 22 of the Hindu Succession Act, 1956.

120. C- In Lal Chand through LRS v. state of Haryana 2018, the court mentioned that if the property devolved upon the heirs in accordance with Section 8 of Hindu Succession Act, the property in the hands of recipients is not an ancestral property rather it is his individual property.

121. A-Refer Section 9(1) of the Hindu Adoption and Maintenance Act, 1956.

122. C-Refer Section 21 of the Hindu Adoption and Maintenance Act, 1956.

123. C- Hindu Succession Amendment Act, 2005 came into effect on 9th September, 2005

124. A- It is considered a landmark case as it challenged the constitutional validity of Section 9 of the Hindu Marriage Act, 1955 (HMA). The two-judge bench of the Supreme Court (SC) of India upheld the validity of the Restitution of Conjugal Rights enshrined under Section 9 of HMA.

125. B- Consanguinity is the prohibition on marriage on the basis of blood relation. Consanguinity is the quality of being descended from the same ancestor as another person.