

**THE GUAHATI HIGH COURT AT GUWAHATI**

(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Main written examination for direct recruitment to Grade-III of Nagaland Judicial Service, 2018

Date: 18-01-2019 (Friday)

Time: 9.00 am to 12 noon

Total marks: 100

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Duration: 3 (Three) hours

PAPER- I

1. Write essays on any two of the following topics: 20x2 = 40

(i) Customary Law and the Constitution.

(ii) Independence of Judiciary.

(iii) Judicial ethics.

2. Read carefully the speech of Dr. B. R. Ambedkar in the Constituent Assembly on 4<sup>th</sup> of November, 1948 and answer the 5 (five) questions in a few sentences: 5x3 = 15

".....As to the accusation that the Draft Constitution has produced a good part of the provisions of the Government of India Act, 1935, I make no apologies. There is nothing to be ashamed of in borrowing. It involves no plagiarism. Nobody holds any patent rights in the fundamental ideas of a Constitution. What I am sorry about is that the provisions taken from the Government of India Act, 1935, relate mostly to the details of administration. I agree that administrative details should have no place in the Constitution. I wish very much that the Drafting Committee could see its way to avoid their inclusion in the Constitution. But this is to be said on the necessity which justifies their inclusion. Grote, the historian of Greece, has said that:

*"The diffusion of constitutional morality, not merely among the majority of any community but throughout the whole, is the indispensable condition of a government at once free and peaceable; since even any powerful and obstinate minority may render the working of a free institution impracticable, without being strong enough to conquer ascendancy for themselves."*

By constitutional morality Grote meant "a paramount reverence for the forms of the Constitution, enforcing obedience to authority acting under and within these forms yet combined with the habit of open speech, of action subject only to definite legal control, and unrestrained censure of those very authorities as to all their public acts combined too with a perfect confidence in the bosom of every citizen amidst the bitterness of party contest that the forms of the Constitution will not be less sacred in the eyes of his opponents than in his own." (*Hear, hear.*)

.....

The most criticized part of the Draft Constitution is that which relates to Fundamental Rights. It is said that Article 13 which defines fundamental rights is riddled with so

many exceptions that the exceptions have eaten up the rights altogether. It is condemned as a kind of deception. In the opinion of the critics fundamental rights are not fundamental rights unless they are also absolute rights. The critics rely on the Constitution of the United States and to the Bill of Rights embodied in the first ten Amendments to that Constitution in support of their contention. It is said that the fundamental rights in the American Bill of Rights are real because they are not subjected to limitations or exceptions.

I am sorry to say that the whole of the criticism about fundamental rights is based upon a misconception. In the first place, the criticism in so far as it seeks to distinguish fundamental rights from non-fundamental rights is not sound. It is incorrect to say that fundamental rights are absolute while non-fundamental rights are not absolute. The real distinction between the two is that non-fundamental rights are created by agreement between parties while fundamental rights are the gift of the law. Because fundamental rights are the gift of the State it does not follow that the State cannot qualify them.

In the Draft Constitution the Fundamental Rights are followed by what are called "Directive Principles". It is a novel feature in a Constitution framed for Parliamentary Democracy. The only other constitution framed for Parliamentary Democracy which embodies such principles is that of the Irish Free State. These Directive Principles have also come up for criticism. It is said that they are only pious declarations. They have no binding force. This criticism is of course superfluous. The Constitution itself says so in so many words.

If it is said that the Directive Principle have no legal force behind them, I am prepared to admit it. But I am not prepared to admit that they have no sort of binding force at all. Nor am I prepared to concede that they are useless because they have no binding force in law.

- (i) Do you think that Indian Constitution has borrowed from other Acts and Constitutions?
- (ii) Why did Dr. Ambedkar say that nobody holds any patent rights in the fundamental ideas of a Constitution?
- (iii) What do you understand by constitutional morality?
- (iv) Are Fundamentals Rights under Indian Constitution absolute?
- (v) Wherefrom our Constitution has adopted Directive Principles of State Policies and what is the difference between Fundamental Rights and the Directive Principles of State Policies?

3. First, choose the correct/nearest meaning of the following words, and thereafter, make five separate sentences with each of these five words.

1x5 = 5

1x5 = 5

- (i) *Prima facie*
  - (a) Prime Fact
  - (b) First Face
  - (c) First Sight

- (ii) *Ipsa facto*
  - (a) Instant fact
  - (b) False fact
  - (c) By the fact itself
- (iii) *Dehors*
  - (a) Outside the scope of
  - (b) Dethroning
  - (c) Without horns
- (iv) *Plausible*
  - (a) Laudable
  - (b) Comfortable
  - (c) Conceivable
- (v) *Expeditiously*
  - (a) Expensively
  - (b) Hurriedly
  - (c) Expediently

4. Change the following "direct speeches" to "indirect speeches".

1x5 = 5

- (i) He said, "Will you be there on Sunday?"
- (ii) He said, "What a beautiful state Nagaland is!"
- (iii) The leader said, "Farewell my friends. See you again soon!"
- (iv) She said, "Let's leave the bag in the room"
- (v) The Captain said, "Hurrah! We have won the match! Let's celebrate!"

5. Write the synonyms of the following words:

1x5 = 5

- (i) Abstruse
- (ii) Confess
- (iii) Exculpate
- (iv) Lenient
- (v) Refute

6. Write the antonyms of the following words.

1x5 = 5

- (i) Candid
- (ii) Malice
- (iii) Obscure

- (iv) Indigent
- (v) Prudence

7. Fill in the blanks with the most appropriate words:

1x5 = 5

- (i) After the trial the accused was ..... of all the charges.
  - (a) informed
  - (b) explained
  - (c) exonerated
  
- (ii) During the trial, the accused ..... not guilty.
  - (a) expressed
  - (b) admitted
  - (c) pleaded
  
- (iii) The two persons ..... to cheat the gullible unemployed youths for which they were convicted for cheating.
  - (a) agreed
  - (b) conspired
  - (c) proposed
  
- (iv) It was a ..... combination of circumstances which led to discovery of the weapon of the crime.
  - (a) good
  - (b) fortunate
  - (c) fortuitous
  
- (v) The ..... reply of the accused intrigued the instigating officer.
  - (a) interesting
  - (b) silent
  - (c) evasive

8. Rewrite and correct the following sentences, if there be any:

1x5 = 5

- (a) Neither the Principal or the teachers was present in the function.
- (b) The jury is divided in the opinion.

- (c) None but the best candidate deserve to be selected.
- (d) Not only did she participated in the test and also topped the merit list.
- (f) More than one candidate were present in the written examination.

9. Correct the spellings, if there be any, and rewrite the words:

1x5 = 5

- (a) acknowladgement
- (b) counterfite
- (c) exageration
- (d) senctimoneous
- (e) fecilitate

10. Change the voice from active to passive:

1x5 = 5

- (a) Do not lie.
  - (b) People speak English all over Nagaland.
  - (c) Who broke this beautiful plate?
  - (d) Whom have you called?
  - (e) Please take your seat.
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PAPER- II

**GENERAL KNOWLEDGE- [Group-A]**

**1. Mention the places where the following International Organizations are head quartered :-** **5x1 = 5**

- |       |   |    |
|-------|---|----|
| (i)   | International Court of Justice (ICJ)    | -- |
| (ii)  | International Labour Organization (ILO) | -- |
| (iii) | United Nations (UN)                     | -- |
| (iv)  | World Bank                              | -- |
| (v)   | UNESCO                                  | -- |

**2. Name the authors of the following books:-**

**5x1 = 5**

- |       |                          |       |
|-------|--------------------------|-------|
| (i)   | Neither Rose nor Thorns  | ..... |
| (ii)  | The Argumentative Indian | ..... |
| (iii) | My Experiment with Truth | ..... |
| (iv)  | The Golden Gate          | ..... |
| (v)   | One Day Wonders          | ..... |

**3. Mention the sporting activity with which the following sports persons are associated :-** **5x1 = 5**

- |       |             |      |
|-------|-------------|------|
| (i)   | Hima Das    | .... |
| (ii)  | Shiva Thapa | .... |
| (iii) | P.V.Sindhu  | .... |

- (iv) Mithali Raj .....
- (v) Gagan Narang .....

**4. Name the States in India where the following National Parks are located :-**

**5x1=5**

- (i) Orang National Park .....
- (ii) Silent Valley National Park .....
- (iii) Simlipal National Park .....
- (iv) Bandavgarh National Park .....
- (v) Sundarban National Park .....

**5. Answer the questions below by choosing the correct option from the choices given against each question: -**

**30x1=30**

- (i) Good and Service Tax (GST) is :-  
[A] Indirect Tax [B] Direct Tax  
[C] Property Tax [D] Income Tax
- (ii) The only land locked country in South East Asia is :-  
[A] Thailand [B] Laos  
[C] Singapore [D] Cambodia
- (iii) Which is the main constituent of bio-gas? -  
[A] Butane [B] Methane  
[C] Ethane [D] Propane
- (iv) Who refused his Knighthood after the Jallianwala Bagh massacre?  
[A] Mahatma Gandhi [B] C.R.Das  
[C] Rabindranath Tagore [D] Balgangadhar Tilak
- (v) Rickets occurs due to deficiency of: -  
[A] Iron [B] Vitamin A  
[C] Vitamin D [D] Iodine
- (vi) Public holidays are declared under:-  
[A] Government of India Act, 1935  
[B] Negotiable Instruments Act, 1881

[C] Public Employees Act, 1967

[D] Essential Commodities Act, 1955.

(vii) Which of the following Cups is associated with the game of hockey:-

[A] DCM Trophy [B] Agha Khan Cup

[C] Durand Cup [D] Davis Cup

(viii) River Yarlung Tsangpo is the upper stream of the river:

[A] Ganges [B] Narmada

[C] Krishna [D] Brahmaputra

(ix) Which of the following pairs with reference to the Constitution of India, is correctly matched?

[A] Article 19 – Right to Life

[B] Article 14 – Right to equality

[C] Article 21 – Right to Education

[D] Article 16 – Freedom of Religious practice

(x) Which of the followings best describes the NITI Ayog :-

[A] National Institute of Information Technology

[B] National Institution for Transforming India

[C] National Institute for Technical Inputs in India

[D] National Industrial and Technical Institute in India

(xi) Block Chain Technology is associated with -

[A] Nuclear Reactors [B] Bitcoin

[C] Vacuum brakes [D] Aviation turbine

(xii) Which nation won the Under-17 FIFA Football World Cup finals in 2017?

[A] Germany

[B] Spain

[C] Columbia

[D] England.

(xiii) In which year was the Gauhati High Court Established?

[A] 1950 [B] 1948

[C] 1952 [D] 1963

(xiv) What is the National flower of India?

- [A] Rose
- [B] Lily
- [C] Lotus.

(xv) Who wrote the verse "Vande *Matarani*" ?

- [A] Bankim Chandram Chattopadhyay
- [B] Sarat Chandra Chattopadhyay
- [C] Rabindranath Tagore
- [D] Mahatma Gandhi

(xvi) Who amongst the following Indians is not a Nobel Laureate:-

- [A] C.V.Raman
- [B] C.N.R. Rao
- [C] Kailash Satyarthi
- [D] Har Gobin Khurana

(xvii) Boxing Day test match in cricketing parlance refers to :-

- [A] Every test match played in Australia between the host and the Indian team.
- [B] Cricket Match played at Melbourne between Australian cricket team and a visiting National Cricket team which begins on 26<sup>th</sup> December every year.
- [C] A cricket match played only between the Australian and Indian cricket team during Christmas every year.
- [D] None of the above.

(xviii) Which of the following is not a Naga Tribe:-

- [A] Ao
- [B] Lotha
- [B] Mina
- [D] Pochury

(xix) Pakyong Airport is situated at -

- [A] Leh
- [B] Sikkim
- [C] Arunachal Pradesh
- [D] Kashmir

(xx) Assam was annexed by the British in the year: -

- [A] 17
- [B] 1786
- [C] 1826
- [D] None of the above

(xxi) Quit India Movement was organized in the year:-

- [A] 1930 [B] 1942  
[C] 1945 [D] 1947

(xxii) Who was the First Chief Justice of the Republic of India?

- [A] Mohammad Hidayatulla  
[B] H.J.Kanaia  
[C] Sabyasachi Mukherji  
[D] Y.V.Chandrachud

(xxiii) Telephone was invented by:-

- [A] Galileo Galelei [B] Alexander Graham Bell  
[C] Robert Frost [D] Micheal Faraday

(xxiv) In medical terms, the abbreviation DNA stands for :-

- [A] Deoxy Ribonucleic Acid  
[B] Dioxi Ricin Acid  
[C] Detoxification of Reticent Ammonia  
[D] None of the above

(xxv) The Indian National Army was founded by

- [A] Field Marshal K.M.Cariappa  
[B] Lala Lajpat Rai  
[C] Netaji Subhash Chandra Bose  
[D] Bal Gangadhar Tilak

(xxvi) National Judicial Data Grid (NJDG) is a

- [A] New system for appointment of Judges in the higher judiciary.  
[B] Web portal launched by the Supreme Court of India for tracking pending case at the district courts?  
[C] Network that connect all the High Courts in India with the Supreme Court  
[D] Web based legal aid services network.

(xxvii) Which of the following Countries is not a member of the SAARC?

- [A] Bangladesh [B] Myanmar  
[C] Afganisthan [D] Bhutan

(xxviii) Who among the following was the Chairman of the Constituent Assembly which was entrusted with the responsibility of drafting the Indian Constitution?

- [A] Jwahaar Lal Nehru [B] Lala Lajpat Rai

[C] J.B.Kriplani [D] B.R. Ambedkar

(xxix) Which is the largest continent in Earth?

[A] Africa [B] Europe

[C] Asia [D] Antarctica

(xxx) Who among the following was the Chairman of the 7<sup>th</sup> Pay Commission set up by the Government of India?

[A] Justice A.K.Mathur [B] Justice P.B. Sawant

[C] Justice. C. Dharmadhikari [D] None of the above

### APTITUDE TEST [Group-B]

6. Mark the item that does not belong to the group :- 10x1 =10

(i) [A] Ostrich [B] Hornbill

[C] Megapode [D] Whale

(ii) [A] yellow [B] brown

[C] Violet [D] indigo

(iii) [A] charcoal [B] graphite

[C] gold [D] diamond

(iv) [A] aluminium [B] Copper

[C] Brass [D] Silver

(v) [A] Mount Everest [B] Kangchenjhunga

[C] Karakoram [D] Sahara

(vi) [A] Lap Top Computer [B] Tab

[C] Mobile Phone [D] LCD Projector

(vii) [A] Advocate General [B] Solicitor General

[C] Attorney General [D] Accountant General

(viii) [A] Apple [B] Banana

- |      |              |               |
|------|--------------|---------------|
|      | [C] Grape    | [D] Asparagus |
| (ix) | [A] Elephant | [B] Dog       |
|      | [C] Cheetah  | [D] Turtle    |
| (x)  | [A] Japan    | [B] Turkey    |
|      | [C] Iceland  | [D] Cambodia  |

**7. In the following number series find the odd one out:-**

**5 X 2=10**

- (i) 1,4,9,16,23,25,26  
(a) 1  
(b) 4  
(c) 16  
(d) 23
- (ii) . 10, 14, 16, 18, 21, 24, 26  
(a) 14  
(b) 16  
(c) 18  
(d) 21
- (iii) 41, 43, 47, 53, 61, 71, 73, 81  
(a) 81  
(b) 71  
(c) 61  
(d) 41
- (iv) 1, 9, 21, 28,31,45  
(a) 9  
(b) 21  
(c) 28  
(d) 45
- (v) 10,25,35, 45, 54, 60, 80

- (a) 35
- (b) 45
- (c) 54
- (d) 80

**8. Find the statement that must be true according to the given information.**

**5 x 2=10 Marks**

(i) Rajnish has a paper route. Each morning, he delivers 45 newspapers to customers in his neighborhood. It takes Amit 50 minutes to deliver all the papers. If Ramesh is sick or has other plans, his friend Thomas, who lives on the same street, will sometimes deliver the papers for him.

- A. Rajnish and Amit live in the same neighborhood.
- B. It takes Amit more than 50 minutes to deliver the papers.
- C. It is dark outside when Rajnish begins his deliveries.
- D. Amit would like to have his own paper route.

(ii) Erin is twelve years old. For three years, she has been asking her parents for a dog. Her parents have told her that they believe a dog would not be happy in an apartment, but they have given her permission to have a bird. Erin has not yet decided what kind of bird she would like to have.

- A. Erin's parents like birds better than they like dogs.
- B. Erin does not like birds.
- C. Erin and her parents live in an apartment.
- D. Erin and her parents would like to move.

(iii) Jhon's commute never bothered him because there were always seats available on the train and he was able to spend his 40 minutes comfortably reading the newspaper or catching up on paperwork. Ever since the train schedule changed, the train has been extremely crowded, and by the time the doors open at his station, there isn't a seat to be found.

- A. Jhon would be better off taking the bus to work.
- B. Jhon's commute is less comfortable since the train schedule changed.
- C. Many commuters will complain about the new train schedule.
- D. Jhon is likely to look for a new job closer to home.

(iv) When they heard the news of the hurricane, Maya and Julian decided to change their vacation plans. Instead of traveling to the island beach resort, they booked a room at a fancy

new spa in the mountains. Their plans were a bit more expensive, but they'd heard wonderful things about the spa and they were relieved to find availability on such short notice.

- A. Maya and Julian take beach vacations every year.
- B. The spa is overpriced.
- C. It is usually necessary to book at least six months in advance at the spa.
- D. Maya and Julian decided to change their vacation plans because of the hurricane.

(v) On weekends, Mr. Sanchez spends many hours working in his vegetable and flower gardens. Mrs. Sanchez spends her free time reading and listening to classical music. Both Mr. Sanchez and Mrs. Sanchez like to cook.

- A. Mr. Sanchez enjoys planting and growing vegetables.
- B. Mr. Sanchez does not like classical music.
- C. Mrs. Sanchez cooks the vegetables that Mr. Sanchez grows.
- D. Mrs. Sanchez enjoys reading nineteenth century novels.

**9. D. Find out the correct answer**

**5 x 2=10**

(i) Odometer is to mileage as compass is to

- A. speed
- B. hiking
- C. needle
- D. direction

(ii) Marathon is to race as hibernation is to

- A. winter
- B. bear
- C. dream
- D. sleep

(iii) Cup is to coffee as bowl is to

- A. dish
- B. soup
- C. spoon
- D. None of the above

(iv) Bird is to Ostrich as flower is to

- A. petal

- B. stem
- C. daisy
- D. alligator

(v) Play is to actor as concert is to

- A. symphony
- B. musician
- C. piano
- D. percussion

**10. E. In each question below is given a statement followed by two conclusions numbered I and II. You have to assume everything in the statement to be true, then consider the two conclusions together and decide which of them logically follows beyond a reasonable doubt from the information given in the statement.**

**5 x 2= 10 Marks**

(i) Statements: In a one day cricket match, the total runs made by a team were 200. Out of these 160 runs were made by spinners.

Conclusions:

I. 80% of the team consists of spinners.

II. The opening batsmen were spinners.

- A. Only conclusion I follows
- B. Only conclusion II follows
- C. Either I or II follows
- D. Neither I nor II follows

(ii) Statements: The old order changed yielding place to new.

Conclusions:

I. Change is the law of nature.

II. Discard old ideas because they are old.

- A. Only conclusion I follows
- B. Only conclusion II follows
- C. Either I or II follows

D. Neither I nor II follows

(iii) Statements: Population increase coupled with depleting resources is going to be the scenario of many developing countries in days to come.

Conclusions:

I. The population of developing countries will not continue to increase in future.

II. It will be very difficult for the governments of developing countries to provide its people decent quality of life.

A. Only conclusion I follows

B. Only conclusion II follows

C. Either I or II follows

D. Neither I nor II follows

(iv) Statements: Prime age school-going children in urban India have now become avid as well as more regular viewers of television, even in households without a TV. As a result there has been an alarming decline in the extent of readership of newspapers.

Conclusions:

I. Method of increasing the readership of newspapers should be devised.

II. A team of experts should be sent to other countries to study the impact of TV. on the readership of newspapers.

A. Only conclusion I follows

B. Only conclusion II follows

C. Either I or II follows

D. Neither I nor II follows

(v) Statements: The Government run company had asked its employees to declare their income and assets but it has been strongly resisted by employees union and no employee is going to declare his income.

Conclusions:

I. The employees of this company do not seem to have any additional undisclosed income besides their salary.

II. The employee's union wants all senior officers to declare their income first.

A. Only conclusion I follows

- B. Only conclusion II follows
  - C. Either I or II follows
  - D. Neither I nor II follows
-

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PAPER- III

**Code of Civil Procedure**

1. What is the difference between a Reference, Revision and Review? Briefly explain. (5 marks).
2. What is the difference between an order, decree and the judgment? Briefly explain. (5 marks).
3. Can suits be transferred from one Court to another and if so, for what reasons and under what section of law? (3 marks)
4. Where can a suit be instituted and what are the different kinds of jurisdictions of a Court that would have to be considered before a Civil Suit is instituted? (3 marks)
5. Give an example of why an Official Receiver is appointed under the CPC and for what purpose? (2 marks)
6. What is the meaning of Mesne profits? (2 marks)
7. CPC makes a provision for the Arrest and Detention of all persons in certain cases and specific circumstances. This provision for Arrest and Detention of a person can be made by executing Court in what type of a case? (1 mark)
8. The question of deciding a substantial question of law has to be done in relation to an appeal under Section 96, 98, 100 or Section 102 CPC. Pick the correct Section. (1 mark)
9. Can there be a joinder of causes of action? If so, under what provision of law? (1 mark)
10. Amendment of pleadings is provided for in which provision of the CPC:- (1 mark)  
  
(a) Order 1 CPC  
  
(b) Order 2 CPC

(c) Order 6 CPC

11. Discovery and Inspection of Documents is provided for in which provision of the CPC:- (1 mark)

(a) Order 9 CPC

(b) Order 11 CPC

(c) Order 14 CPC

### **Constitution of India**

12. Write a short note on the Nature of Indian Federalism, keeping in view Article 245 and 246 of the Constitution. (5 marks)

13. The general principle of jurisprudence is that there is no right without a remedy. Article 32 provides that a person can move to Supreme Court for violation of his fundamental rights. Give a brief note on Article 226 and Article 227 of the Constitution. (5 marks)

14. What do you mean by the executive power of the Union? (4 marks)

15. Give a brief note on the doctrine of Pith and Substance. (4 marks)

16. Name 4 (four) different types of writs that can be issued by the High Courts. (2 marks)

17. What does Article 25 of the Constitution of India dwell upon? (2 marks)

18. The 6<sup>th</sup> Schedule of the Constitution deals with administration in which specific areas in India? (1 mark)

19. The promotion of educational and economic interest of Schedule Caste, Schedule Tribe and other weaker Sections is provided under which Directive Principles of State Policy:- (1 mark)

(a) Article 43 of the Constitution.

(b) Article 45 of the Constitution.

(c) Article 46 of the Constitution.

(d) Article 48 of the Constitution.

20. The Article providing that the State shall take steps to separate the Judiciary from the Executive in the public service of the State is provided under which Directive Principles of State Policy:- (1 mark)

- (a) Article 48 – A.
- (b) Article 49.
- (c) Article 50.
- (d) Article 51.

### **Transfer of Property Act, 1882**

21. Elucidate the doctrine of part performance with reference to the Transfer of Property Act, 1882. (5 Marks)

22. Distinguish between Sale, Mortgage and Lease. (5 Marks)

23. What is the meaning of redemption? Who can exercise this right? (4 Marks)

24. Answer either one of the questions:- (2 Marks)

(a) What is onerous gift?

Or

(b) What are the essential elements of a valid gift?

25. What do you mean by lispendens? (2 Marks)

26. What do you understand by the term Fraudulent transfer? (2 Marks)

27. Doctrine of Part Performance is provided in Sec \_\_\_\_\_ of the Transfer of Property Act, 1882

(a) Sec 53 (A)            (b) Sec 53

(a) Sec 52                (d) None of the above (1 mark)

28. Sale is defined in Sec \_\_\_\_\_ of the Transfer of Property Act, 1882. (1 mark)

(a) 53                      (b) 54

(b) 55                      (d) 56

29. Under the Transfer of Property Act, 1882, provision for conditional transfer is provided under

(a) Sec 25                      (b) Sec 26

(b) Sec 27                      (d) Sec 30    (1 mark)

30. Mortgage's right to foreclosure on sale is provided under Section \_\_\_\_\_ of the Transfer of Property Act, 1882

(a) 57                      (b) 67

(c) 77                      (d) 87    (1 mark)

31. Immovable Property does not include

(a) Standing timber                      (b) growing crops

(b) Both (a) and (b)                      (c) None of the above    (1 mark)

**Indian Contract Act, 1872**

32. All agreements are not contracts. Explain.    (4 marks)

33. What is Contract? What are the essential elements of contract?    (4 marks)

34. What is voidable Contract? Can a voidable Contract be enforced?    (4 marks)

35. What do you mean by contingent Contract? What are the rules governing the enforcement of contingent contracts?    (4 marks)

36. Write a brief note on 'Promissory Estoppel'?    (4 marks)

37. What is breach of contract? What are the remedies available for breach of contract under the Indian Contract Act, 1872?    (3 marks)

38. What are the contracts that need not be performed?    (2 marks)

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(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Main written examination for direct recruitment to Grade-III of Nagaland Judicial Service, 2018

Date: 19-01-2019 (Saturday)

Time: 1.00 pm to 4.00 pm

Total marks: 100

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Duration: 3 (Three) hours

PAPER- IV

INDIAN PANEL CODE

25 MARKS

1. Answer any five of the following - (2 X5=10 )
- What is unlawful assembly? When unlawful assembly is rioting?
  - What is trafficking of a person and exploitation of a trafficked person?
  - What constitute the offence of rape? Explain the essential ingredients of rape.
  - Define theft. When theft becomes robbery?
  - What is the essence of the offence under Section 354 IPC?
  - Distinguish wrongful restraint from wrongful confinement.
  - What is consent? Explain consent of child?
2. Answer any three of the following- (3x5=15)
- Explain the law relating to abetment under Indian Panel Code.
  - State the circumstances when culpable homicide does not amount to murder? What is the punishment provided in the IPC for culpable homicide not amounting to murder?
  - Discuss the mental incapacity (insanity) as a general exception.
  - Write a note on section 304 B IPC.
  - Discuss the law relating to exemption of criminal liability on the ground of infancy.

CODE OF CRIMINAL PROCEDURE

30 MARKS

3. Answer any four questions from question Nos. 1 to 5 (4X5=20)
- What is the hierarchy of Criminal Courts and their power to pass sentences

- ii) Elaborate the procedure to be followed by a Magistrate in a summon case.
- iii) Explain the circumstances in which a wife is entitled to claim maintenance from her husband under the Code of Criminal Procedure. Can a daughter be asked to maintain her father? If so, under what circumstances?
- iv) Describe the law relating to the disposal and custody of property pending trial. Mention the relevant sections of CrPC under which property can be disposed at the conclusion of trial.
- v) When the members of public are required to assist a Magistrate or police officer.

4. Answer any five questions- (2 X5=10)

- i) Can police arrest a person without a warrant? If yes, under what circumstances can he do so?
- ii) What is the use of statement recorded under section 164 CrPC
- iii) Whether a Judicial Magistrate 1<sup>st</sup> Class can grant Anticipatory bail? Can Anticipatory bail be granted in bailable offences?
- iv) What is plea bargaining?
- v) What is the necessity of framing charge?
- vi) Whether charge can be altered at the time of delivery of judgment.
- vii) Can a person be convicted of an offence not specified in charge?
- viii) Discuss 'Joinder of charges' under the Code of Criminal Procedure.
- ix) When additional charge sheet can be filed?
- x) Whether a person discharged from criminal charges may again be charged with the same offence? If yes when he can be charged again?

INDIAN EVIDENCE ACT

25 MARKS

5. Answer any three questions from question Nos. 1 to 4 (3X5=15)
- i) Whether on the basis of retracted confession and extra judicial confession accused can be convicted? Explain.
  - ii) What is exculpatory and inculpatory confession and value there of?

iii) Discuss the law regarding the admissibility of the evidence of an accomplice.  
Can a conviction be based on the testimony of an accomplice?

iv) What is burden of proof and what is the standard of proof in civil and criminal cases?

6. Answer the following questions- (4X1=4)

i) Doctrine of Estoppel applied to civil proceeding only. Yes/No

ii) In civil proceedings the issue is required to be proved beyond all reasonable doubt. Yes/No.

iii) All confessions are admission. Yes/No

iv) Leading question can be asked in re-examination. Yes/No

7. Is it necessary to call an attesting witness in proof of the execution of a document required by law to be attested? 2

8. Discuss the evidentiary value of the followings: (2X2=4)

(i) Testimony of an 'Accomplice'

(ii) Opinion of a 'Handwriting Expert'

### LAW OF TORTS

20 MARKS

9. Answer any four questions of the following- ( 4X4=16)

i) What are differences between Tort and Crime?

ii) What is trespass to land and trespass ab-initio? State the remedies of trespass of land.

iii) What do you mean by malicious prosecution? Explain.

iv) Describe Assault and Battery.

v) What do you mean by vicarious liability? Explain.

vi) What is public nuisance? What is the major difference between public nuisance and private nuisance?

10. Answer any two of the following-

(2X2=4)

- i) Difference between false imprisonment and malicious prosecution.
- ii) What is tortious liability?
- iii) What is defamation?