

**DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD**

Post-Graduate Diploma in Family Dispute Resolution (Batch 2020 – 2021)

Take Home – Annual Examination (June, 2021)

Paper I – 1.1. Family, Marriage and Matrimonial Remedies

TOTAL MARKS: 100

INSTRUCTIONS TO CANDIDATES

- a) Read the instructions for Take Home Examination carefully and adhere to the same.
 - b) *Please mention your name, ID No., subject name and total number of pages on the Answer Sheet.*
 - c) *Clearly indicate the question numbers while answering them.*
 - d) *Answer all the four questions and each question carries 25 marks.*
 - e) *The approximate word limit for a 25 marks question is 800-1000, for a 15 marks question, 600-700, for a 10 marks question, 400-500 and for a 5 marks question 200-250*
 - f) *All the candidates are required to submit only word / Pdf files containing the typed answers.*
 - g) *All papers will be uploaded on Turn-it-in for plagiarism check. Any paper with more than 15% similarity will be considered to be plagiarized and shall not be evaluated.*
 - h) *Since this is a take home exam, we expect your answers to be analytical rather than straight answers.*
 - i) **Copying from any source including from other students is strictly prohibited. Plagiarism is considered as a serious academic mis-conduct and the University will take action as it deems fit.**
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1. The family is the most permanent and pervasive of all social institutions. There is no human society without any family system. All societies large and small, primitive and civilized, ancient and modern have institutionalized the process of procreation of the species and the rearing of the young. It is a permanent and universal institution and one of the constants of human life. If there is a social institution which is universal it is the family. Almost everyone is born into a family is a part of family. The institution of family is unique in the sense that it is both private and publicly visible. The sociologists had always felt a difficulty is defining the family as a social institution since a family is a multifaceted institution which prevails over both the private and public life of an individual. However, a modest attempt has been made by many sociologists who had analyzed the institution of family from the functional perspective and well as other perspectives. But the concept of family can be understood only from the structural and functional theories developed by different sociologists basing on the theoretical and doctrinal approaches. Examine the different theories developed by the sociologists with respect to the importance, significance and functional dynamics of the family.

(25 Marks)

2. The laws pertaining to the matrimonial remedies are different as per the personal laws of the parties involved. Various matrimonial remedies available to the aggrieved spouse under their respective personal laws such as the restitution of conjugal rights, judicial separation, nullity of marriage, divorce and ancillary remedies. Out of these remedies

mentioned, the restitution of conjugal rights is the least severe of the remedies which tries to protect the companionship of husband and wife and tries to bring both of them together in order to protect the institution of marriage between them. On the other hand, we have divorce which is nothing but complete severance of the marital ties between both husband and wife and where the whole institution of marriage falls apart. The objective of matrimonial remedy is to protect an innocent, aggrieved party in the matrimonial adjudication. Keeping this objective in mind, present a detailed note on matrimonial remedies available under the Hindu Marriage Act 1955. **(25 Marks)**

3. Prophet Mohammad, the founder of Islam disliked the power of the husband to pronounce a divorce unilaterally without assigning any reasons therefore. He is reported to have said that "with Allah, the most detestable of all things permitted is Divorce". At the end of his life, Prophet Mohammad made some reforms that permits the exercise of divorce by the husband with the intervention of arbitrator or a Judge. However divorce is not favored in Islam and is permitted only in exceptional circumstances. Al-Ghazali remarks that divorce in Islam is permissible when the object is not to trouble the wife but only in case of extreme necessity and on just grounds. Critically examine different modes of Talaq and dissolution of Muslim marriage in India with the support of the recent developments through Judicial process. **(25 Marks)**

4. a. The young generation was attracted towards the liberalistic, western culture and lure for immigration started a chain reaction. This had two visible effects on society; firstly the practice of Barter marriages for easy migration of other family members on sponsorship basis and secondly the beginning of educational tourism, to secure validity scores to become eligible for foreign visa or residency status. NRI marriages became major reasons because of personal ambition, lack of employment opportunities in India etc. Further, NRI grooms also prefer Indian bride in lure for cultural roots and for instilling Indian values in children. As a result, sometimes, the Indian women and their parents fall prey to the frauds played by some NRI grooms, who exploit their weakness and craze for NRI marriages. Discuss the Law relating to NRI Marriages in India. **(15 Marks)**

b. The person who is approaching the court must come with the clean hands. This principle is no exception to matrimonial dispute resolution. The petitioner shall not be permitted to take advantage of one's own wrong, Collusion in suits, Condonation of others' wrong, Delay in filing of petition, claim of custody of children in case the petitioner is in disadvantageous position etc. Explain these matrimonial Bars in litigation. **(10 Marks)**