

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

***Post-Graduate Diploma in Family Dispute Resolution (Batch 2019 – 2020)***

**Take Home – Supplementary Examination (January, 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 answer for the 25 marks question should be written in 1200 - 1500 words and for the 10 marks / 15 marks question it should be 800 – 1000 words.*
  - f) *Since this is a take home exam, we expect your answers to be analytical rather than straight answers.*
  - g) 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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**Q.1. (A)** The sociologists had always felt a difficulty in 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. Keeping in view of this statement critically examine different theories propounded by sociologists to define the structural and functional dynamics of the institution of family. **(15 Marks)**

**Q.1. (B)** The *Mitakshara* school is based upon the commentary named —*Mitakshara* on *Yajnavalkya Smriti* by a scholar —*Vijnaneshwara* during the *Chalukyan* times. The *Mitakshara* school is best known for its theory of —inheritance by birth whereas the *Dayabhaga* is based on *Jimutavahana Smriti* which primarily focuses on inheritance procedure. *Dayabhaga* is generally considered to be the reformed version of *Mitakshara* whereas the later is considered to be Hindu Orthodox law. Over a period of time much water has flown under the bridge and both the schools lost their glory because of intra-religious codification. Still there are certain areas to be integrated through legislative process. Examine the points of similarities and differences between the two schools in the matters of succession and inheritance. **(10 Marks)**

**Q. 2. (A)** Marriage is an institution ordained for the protection of society, and in order that human beings may guard themselves from foulness and unchastely. (Ameer Ali) There is no formality or any religious ceremony required for a marriage. Since it is a contract, the usual conditions necessary to constitute a valid contract are to be fulfilled. Thus, the essential requirements for a valid Muslim marriage are capacity to contract marriage, proposal and acceptance and absence of any impediment to the marriage. The conditions of marriage to be strictly adhered to. Explain the whole process of marriage under *Islamic Law* with appropriate illustrations. **(15 Marks)**

**Q. 2. (B)** At present, NRI marriages are seen as two sides of the coin. They are transforming the living standard and economic welfare of most families and on the other hand, they are creating terrible problems for many families for which there is no easy remedy either in law or in civil society. In most of the NRI marriages, the victim is the Indian woman, who is subjected to problems like non consummation of marriage, concealment of earlier marriage, lack of social security on the foreign soil, assault, desertion, separation of child, snatching away the passport, ex parte divorces, etc. Describe legal position of NRI marriages in India.

**(10 Marks)**

**Q. 3** There is voluminous case law around the legal concept of cruelty in both English and Indian jurisprudence. In India, cruelty is a ground for dissolution of marriage, in all family systems. But no precise definition has been given to the word cruelty, since the acts or the conduct constituting cruelty can be so numerous and varied that it would be impossible to fit them into any water tight compartments. With the passage of time and advancement of the social conditions and standards of living, the concept of cruelty has undergone many changes, in the absence of any specific statutory definition for cruelty' in personal law, there is always scope for conflicting views in judicial adjudication. At the same time precise definition of cruelty will also create confusion and chaos, since the facts and circumstances are not similar in every case. Justify with the help of observations of different courts in India.

**(25 Marks)**

**Q. 4** The law states that one who approaches the court should come with clean hands. The bars imposed on seeking matrimonial reliefs give total effect to this principle. That means the person approaching the court to avail the matrimonial remedy sought by him / her owing to the wrongs committed on the part of the person approaching the court of law disqualifies him. Examine Indian Legal Framework on the **Bars** imposed to seek matrimonial remedies.

**(25 Marks)**