

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

**Advanced Diploma in Family Dispute Resolution
P.G. Diploma in Family Dispute Resolution**

Academic Year: 2022-2023

Annual Examination (June 2023)

Paper I – 1.1. Family, Marriage and Matrimonial Remedies

Duration of the Examination : 3 hours

TOTAL MARKS: 100

INSTRUCTIONS TO CANDIDATES

- a) Read the instructions carefully and adhere to the same.
 - b) Please mention your DDE ID No., date of the exam, name of the programme & subject on the Answer Sheet and the Additional Answer Sheets, if any.
 - c) The questions are to be interpreted as given and no clarification can be sought from the Invigilator.
 - d) Indicate the question numbers while answering them. Answers without question numbers / wrong question numbers will not be evaluated.
 - e) Write the answers clearly and neatly. Answers in illegible handwriting will not be taken into consideration.
 - f) Candidates are prohibited to carry phones or any other electronic devices, books, material, etc. in the Examination Hall.
 - g) Copying is strictly prohibited and is considered a serious academic misconduct and the University will take action as it deems fit.
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Answer all four questions and each question carries 25 marks.

Q1: 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 and is a part of the family. The institution of family is unique in the sense that it is both private and publicly visible. Sociologically, a family is a group of two or more people who live together and are related by marriage, blood, or adoption. A family is not only made up of a husband and wife but also includes two brothers living together or a woman and her adopted son. A family further is a part of the network of families known as kinship. In accordance with the cultural backdrop family relationships are considered. Due to modernization, the lofty ideals of Law and equality have influenced the institution of the family. Further, the Law regulates the family and its members in various facets like marriage, divorce, succession, inheritance, adoptions, etc. Keeping the background of this scenario, answer the following:

- A. The functional dynamics of the family in general (15 marks)**
- B. The legal aspects of family in the Indian context (10 marks)**

Q2: The object of marriage is to enable a man and a woman to perform religious duties and beget progeny. Moreover, it is believed that a man is incomplete without a woman. Marriage is essential because all the ceremonies and rites are to be performed by a Hindu in the companionship of his wife, which would otherwise not bear any fruits. It is submitted that marriage under Hindu law is not regarded as a means of satisfaction of the corporeal trust nor does it have the connection of contractual obligations. On the contrary, it is simply a religious obligation and duty. Marriage is a permanent union which implies that marriage cannot be dissolved. It is also an eternal union which means the wife and the husband are united to each other not merely in this world but even in the heavenly world. It is an indissoluble union and only in exceptional cases the sages allowed a woman to abandon her husband and take another. In the present day, the concept of marriage has undergone certain changes. The greatest contribution of the industrial revolution is the emergence of the concept that all human and social relations must be based on the free will of the individuals. However, the Law has prescribed certain conditions for solemnization of marriage. Keeping the background of this paragraph, answer the following questions:

- A. The essential conditions of Hindu marriage (15 marks)**
- B. The conditions and procedure for solemnization of Christian marriage (10 marks)**

Q3: The 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 the 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 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 laws pertaining to matrimonial remedies are different as per the personal laws of the parties involved.

Write a detailed essay on the matrimonial remedies available to Hindus under Hindu Marriage Act, of 1955. **(25 marks)**

Q4: According to Ameer Ali, the reforms of Prophet Mohammad marked a new departure in the history of Eastern legislation. The Prophet of Islam is reported to have said "With Allah, the most detestable of all things permitted is divorce", and towards the end of his life he practically forbade its exercise by men without the intervention of an arbiter or a judge. The Quran ordains, "....if ye fear a breach between them twain (the husband and the wife) appoint an arbiter from his folk and an arbiter from her folk. If they desire amendment, Allah will make them of one mind". The Quran permits divorce partly because of some countenance to the customs and partly to enable men to get rid of an odious union.

- A. Explain different modes of Talaq under Islamic Personal Law in India including the recent controversies on the Triple Talaq. (15 marks)**
- B. The Christian Law in India after 2001, has undergone certain structural, functional and radical changes in the matters of divorce. Critically examine the Christian Law of divorce in India. (10 marks)**