

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Family Law I

Semester- IV (Batch: 2022-27)

End Semester Examination: April-May 2024

**Date: 21<sup>st</sup> April, 2024**

**Duration: 3 hours**

**Max. Marks: 50**

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.

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| Q.1 | You are a legal researcher tasked with analysing the concept of "restitution of conjugal rights" about various personal laws in India. Your objective is to examine the legal provisions, principles, and practices related to the restitution of conjugal rights in different personal laws, including Hindu, Muslim, Christian, and Parsi and Special Marriage Act. | <b>Marks</b><br>(2x5=<br>10) |
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Answer the following Questions:

- a) Conduct a comprehensive review of the legal framework governing the restitution of conjugal rights in Hindu, Muslim, Christian, and other personal laws prevalent in India.
- b) Identify the key provisions, requirements, and procedures outlined in each personal law regarding the restitution of conjugal rights.
- c) Compare and contrast the approaches to restitution of conjugal rights across different personal laws, highlighting similarities, differences, and unique features.
- d) Evaluate the effectiveness and implications of the restitution of conjugal rights as a legal remedy for marital disputes in different religious and cultural contexts.
- e) Discuss any challenges, criticisms, or controversies surrounding the concept of restitution of conjugal rights within each personal law.

Considerations:

- i) Ensure accuracy and depth in your analysis of the legal provisions and principles governing the restitution of conjugal rights in different personal laws.
- ii) Address any potential conflicts or inconsistencies between the provisions of different personal laws.
- iii) Examine relevant case laws, judicial interpretations, and scholarly perspectives to understand the topic comprehensively.
- iv) Offer insights and recommendations for potential reforms or harmonization of laws to address emerging challenges or ensure equitable treatment across different personal laws.

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| Q.2 | Mr Ahmed Khan and Ms Fatima Begum, both Muslims, entered into marriage on May 15, 2010, in accordance with the rites and customs of Muslim law. However, Ms Fatima Begum later lodged complaints against Mr Ahmed Khan, alleging maltreatment, cruelty, and harassment. In response, Mr Ahmed Khan served Ms Fatima Begum with a legal notice seeking a divorce. Subsequently, he filed a petition for divorce against her in the | (2x5=<br>10) |
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family court. Additionally, Mr Ahmed Khan sent Ms Fatima Begum to her paternal home and failed to bring her back, effectively deserting her and their child.

Mr Ahmed Khan refuted the allegations made by Ms Fatima Begum and asserted that he had divorced her by pronouncing triple talaq. Furthermore, he argued that she was not entitled to maintenance after the iddat period. In an additional statement of objections, Mr Ahmed Khan alleged that Ms Fatima Begum had not obtained a divorce from her first husband. He claimed that she had concealed this fact and entered marriage with him. However, Ms Fatima Begum denied these allegations, stating that they were false and intended to humiliate and mentally torture her, as Mr Ahmed Khan was aware that her previous husband had passed away long ago.

With the help of the abovementioned factual matrix, answer the following questions.

- a) Define and explain the concept of dower (Mahr) in Muslim personal law, highlighting its historical origins, legal framework, and role within the institution of marriage.
- b) Explore the different types of dower recognized in Islamic jurisprudence, and analyse their respective characteristics and implications for spouses.
- c) What legal mechanisms are available for determining and enforcing dower obligations in Muslim marriages, considering both the statutory provisions and customary practices?
- d) Examine the significance of dower as a financial safeguard for Muslim spouses, particularly women, and assess its role in promoting economic autonomy, social welfare, and gender equity within marital relationships. Evaluate the social and cultural factors influencing attitudes towards dower.
- e) Discuss contemporary case laws of the Supreme Court and the High Court, reforms, and initiatives to enhance the protection and enforcement of dower rights, and propose strategies for addressing gaps or shortcomings in the legal framework.

- Q.3 The grounds of divorce, encompassing a range of legal, social, and personal considerations, serve as the foundation upon which the dissolution of marital bonds is justified and regulated within the framework of personal laws. These grounds delineate the circumstances under which spouses may seek legal termination of their marriage, reflecting diverse societies' evolving norms, values, and needs. Across different personal laws, including Hindu, Muslim, Christian, Parsi, and others, various grounds for divorce are recognized, each with its criteria, procedures, and implications. (2x5= 10)

With the help of relevant statutory provisions and case laws, write a critical comparative analysis of the following grounds of divorce across the law of marriage and divorce under The Hindu Marriage Act, 1955 Act No. 25 of 1955, Laws for Muslims, Indian Christian Marriage Act of 1872, the Divorce Act 1869, The Parsi Marriage and Divorce Act of 1936 and the Special Marriage Act 1954

These grounds may include factors such as

- a) Desertion as a ground for divorce
- b) Cruelty as a ground for divorce
- c) Insanity as a ground for divorce
- d) Venereal disease as a ground of divorce
- e) Conversion or apostasy as a ground for divorce



- Q.4 You are a legal consultant specializing in Muslim family law, and you have been approached by a client seeking advice on the concept of *iddat*. Your client, Fatima, is a Muslim woman who recently lost her husband, Ahmed, due to illness. Fatima is still determining the requirements and implications of *iddat* and seeks clarification on her rights and obligations during this period. (2.5x2=5)

Answer the following questions?

- a) Explain the concept of *iddat* in Muslim family law, including its purpose, duration, and significance.
  - b) Advise Fatima on the specific rules and guidelines she must follow during her *iddat* period and any exceptions or circumstances that may affect Fatima's *iddat* period based on her situation.
- Q.5 The appellant, Mr. Ganesh Joshi (Hindu male), a well-educated individual, married Mrs. Sunita Joshi (Hindu Female), whose father worked in the Ministry of the Government of India. The marriage, arranged by their parents in April 1956, took place after the respondent's father disclosed her history of mental illness due to sunstroke. Despite this, they had two children over three years of marriage. In January 1961, the appellant urged the respondent to undergo psychiatric examination, which she refused, leading to marital discord. The appellant sought police protection due to fears for his safety. Subsequently, the respondent accused the appellant of cruelty and sought maintenance for her and her children. The appellant intended to initiate proceedings for judicial separation in December 1961, alleging fraud in obtaining his consent for marriage. (3x2=6)
- Concerning the above mentioned factual matrix, answer the question
- a) What are the grounds for divorce that the appellant may contest?
  - b) Whether the burden of proof lies on the appellant and what the required standard is in civil (matrimonial) matters.
- Q.6 Answer the following questions with the help of relevant legal provisions and case laws. (3x3=9)
- a) A muslim dies, leaving a widow and his father. The widow is in the lawful possession of her husband's property instead of Mahr. Is the widow entitled to retain the said property?
  - b) X, a Hindu male, marries Y, a Hindu female and discovers after marriage that Y gets recurrent attacks of epilepsy. What matrimonial remedy, if any? Is it open to X against Y in the court of law?
  - c) Ahmed, a Shia male, marries a Christian woman according to Muslim Personal Law for a period of five years. Is the marriage valid?

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