

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Legal Methods
Semester-I (Batch: 2018-23)

End Semester Examination: Oct-Nov. 2018

Date: 23rd October, 2018

Duration: 3 hours

Max. Marks: 50

Instructions:

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

- | | Marks |
|---|-----------------|
| <p>Q.1 (A) 'It is not for courts to decide what constitutes an "essential religious practice", and that interfering with such practices, which are considered to be essential or integral to the temple, would conflict with the rights of the devotees guaranteed by Article 25(1) to worship Lord Ayyappa in the form of a 'Naishtik Brahmachari'. Judicial review of religious practices ought not to be undertaken, as the Court cannot impose its morality or rationality with respect to the form of worship of a deity.'
Is it possible in this situation to discard the prevailing custom on the ground of it being against the Law? Answer the question by referring to the latest decision of the apex Court.</p> <p>(B) Identify the type of legislation as a source of law and discuss the same in brief (2+2).
(a) GNLU Examination Rules, 2015
(b) Gujarat High Court Rules, 1993</p> | <p>(6+4=10)</p> |
| <p>Q.2 Identify the legal system from the given details and discuss its main characteristics:
This system is dominant legal tradition today in most of the Europe. This system had its origin in the Roman Republic, before the beginning of the Empire, in the second century B.C. By the end of the Republic, in 27 B.C., a body of legal experts, or jurists, had gained prominence within this legal system, separate and apart from the courts of law. In contrast to the unified court system, several separate court systems often coexist in system. The judicial system is represented as a set of two or more distinct structures with no bridge between them.</p> | <p>(05)</p> |
| <p>Q.3 Write brief note on any two of the following:
(a) Deterrent theory of punishment
(b) Evolution of administration of justice
(c) Reformatory theory of punishment</p> | <p>(4+4=08)</p> |
| <p>Q.4 Draw a chart showing hierarchy of Judicial System in India.</p> | <p>(05)</p> |
| <p>Q.5 Read the following Act carefully and answer the questions:</p> | <p>(08)</p> |

THE DOWRY PROHIBITION ACT 1961
ACT NO. 28 OF 1961
[20th May, 1961]

An Act to prohibit the giving or taking of dowry. BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows.-

1. Short title, extent and commencement. (1) This Act may be called the Dowry Prohibition Act, 1961.

(2) It extends to the whole of India except the State of Jam and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definition of "dowry". In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly-

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by a other person, to either party to the marriage or to any other person; at or before or after the marriage as consideration for the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation I.-For the removal of doubts, it is hereby declare that any presents made at the time of a marriage to either party to the marriage in the form of cash, ornaments, clothes or other articles, shall not be deemed to be dowry within the meaning of this section, unless they are made as consideration for the marriage of the said parties.

Explanation II.-The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code. (45 of 1860.)

3. Penalty for giving or taking dowry. If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

4. Penalty for demanding dowry. If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both:

Provided that no court shall take cognizance of any offence under this section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf.

5. Agreement for giving or taking dowry to be void. Any agreement for the giving or taking of dowry shall be void.

6. Dowry to be for the benefit of the wife or her heirs. (1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman-

(a) if the dowry was received before marriage, within one year after the date of marriage; or

(b) if the dowry was received at the time of or after the marriage, within one year after the date of its receipt; or

(C) if the dowry was received when the woman was a minor, within one year after she has attained the age of eighteen years; and pending such transfer, shall hold it in trust for the benefit of the woman.

(2) If any person fails to transfer any property as required by subsection (1) and within the time limited therefor, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both; but such punishment shall not absolve the person from his obligation to transfer the property as required by sub-section (1).

(3) Where the woman entitled to any property under sub-section (1) dies before

receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being.

(4) Nothing contained in this section shall affect the provisions of section 3 or section 4.

7. Cognizance of offences. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, (5 of 1898.)--

(a) no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act;

(b) no court shall take cognizance of any such offence except on a complaint made within one year from the date of the offence;

(c) it shall be lawful for a presidency magistrate or a magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act.

8. Offences to be non-cognizable, bailable and non-compoundable. Every offence under this Act shall be non-cognizable, bailable and non-compoundable,

9. Power to make rules. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

10. Repeals. The Andhra Pradesh Dowry Prohibition Act, 1958, (Andhra Pradesh Act 1 of 1958.) and the Bihar Dowry Restraint Act, 1950, (25 of 1950.) are hereby repealed.

Answer the following questions:

- (a) When was the Act enacted? To what parts of India does this Act apply? (1)
- (b) Does the Act create civil or criminal liability? Answer by referring to the relevant section. (1)
- (c) Is there any long title of the Act? If yes reproduce the same. (1)
- (d) Is there any proviso in the Act? Explain the significance of Proviso (2)
- (e) Analyze the explanation clause under section 2 and also highlight its importance as part of a statute. (2)
- (f) Is there any repealing provision under the Act? If yes, reproduce the same. (1)

Q.6 Discuss and illustrate the Golden rule of interpretation. How far is it different from literal rule? (04)

Q.7 Assess the correctness of the following statements by giving appropriate reasons: (4x2.5 =10)

- (a) In doctrinal research an attempt is made to arrive at a doctrine that describes a practice or phenomenon.
- (b) Non-doctrinal legal research involves study of 'social impact' of law (existing or proposed) or of 'social-auditing of law'.
- (c) Research design is a blue print of the proposed research.
- (d) The law-fact distinction has troubled jurists for years and they have still not found any reasonable solution.
