

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Legal Methods
Semester-I (Batch: 2019-24)

End Semester Examination: October-2019

Date: 17th October, 2019

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 anything 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 |
|--|--------------|
| Q.1 Answer the following: | (2x5=
10) |
| <p>(a) <i>'Any custom or usage irrespective of even any proof of their existence in pre-constitutional days cannot be approved as a source of law to claim any rights when it is found to violate human rights dignity, social equality and the specific mandate of the constitution and law made by the parliament'.</i> Analyse this view of the Apex Court on giving legal force to Custom by referring to the relevant judgments.</p> <p>(b) Identify the source of law and discuss the same in brief.</p> <p style="padding-left: 40px;">(i) The High Court Of Gujarat (Recruitment And Conditions Of Service Of Officers And Staff) Rules, 2011</p> <p style="padding-left: 40px;">(ii) The Trade Mark Act, 1999</p> | |
| Q.2 Answer the following: | (2x5=
10) |
| <p>(a) Define legal system and elucidate essential features of Indian Legal System.</p> <p>(b) Define Jurisdiction and draw a chart showing hierarchy of Judicial Systems in India.</p> | |
| Q.3 Answer the following: | (6+4=
10) |
| <p>(a) Answer the following in brief.</p> <p style="padding-left: 40px;">(i) Comment upon the significance of review of literature in research.</p> <p style="padding-left: 40px;">(ii) What is significance of comparative legal research?</p> <p style="padding-left: 40px;">(iii) What is meant by hypothesis?</p> <p>(b) All questions that arise for consideration and determination before a Court of Law are of two types. Identify whether the questions given below are question of Law or Fact and identify the same with rationable.</p> <p style="padding-left: 40px;">(i) Who was driving the car on 14 October 2019?</p> <p style="padding-left: 40px;">(ii) Is Ramesh a license holder?</p> | |
| Q.4 Answer the following: | (10) |
| <p>(a) 'The majesty of law must be maintained through punishments, which has to be exemplary also. A certain amount of terror is also desirable, and at times, even necessary. So the idea of deterrence cannot be ignored. Deterrence cannot be</p> | |

wholeheartedly and completely substituted by reformation pure and sole.' In light of the above statement, discuss the theoretical framework of punishment which is followed in Indian legal system.

- (b) 'Law should be based on the idea of justice and should be implemented and interpreted in a just manner without discriminations.' Discuss types of justice in light of this statement.

Q.5 Answer the following:

(5+5=10)

- (a) Discuss rules of interpretation adopted by the Courts in statutory interpretation and assess their merits.
- (b) Read the following Act carefully and answer the questions.

**THE MUSLIM WOMEN (PROTECTION OF RIGHTS ON MARRIAGE)
ACT, 2019**

ACT NO. 20 OF 2019 [31st July, 2019.]

An Act to protect the rights of married Muslim women and to prohibit divorce by pronouncing talaq by their husbands and to provide formatters connected therewith or incidental thereto. BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Muslim Women (Protection of Rights on Marriage) Act, 2019. (2) It shall extend to the whole of India except the State of Jammu and Kashmir. (3) It shall be deemed to have come into force on the 19th day of September, 2018.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) "electronic form" shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (b) "Magistrate" means a Judicial Magistrate of the first class exercising jurisdiction under the Code of Criminal Procedure, 1973 (2 of 1974), in the area where the married Muslim woman resides; and

(c) "talaq" means talaq-e-biddat or any other similar form of talaq having the effect of instantaneous and irrevocable divorce pronounced by a Muslim husband. **CHAPTER II
DECLARATION OF TALAQ TO BE VOID AND ILLEGAL**

3. Talaq to be void and illegal.—Any pronouncement of talaq by a Muslim husband upon his wife, by words, either spoken or written or in electronic form or in any other manner whatsoever, shall be void and illegal.

4. Punishment for pronouncing talaq.—Any Muslim husband who pronounces talaq referred to in section 3 upon his wife shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

5. Subsistence allowance.—Without prejudice to the generality of the provisions contained in any other law for the time being in force, a married Muslim woman upon whom talaq is pronounced shall be entitled to receive from her husband such amount of subsistence allowance, for her and dependent children, as may be determined by the Magistrate.

6. Custody of minor children.—Notwithstanding anything contained in any other law for the time being in force, a married Muslim woman shall be entitled to custody of her minor children in the event of pronouncement of talaq by her husband, in such manner as may be determined by the Magistrate.

7. Offence to be cognizable, compoundable, etc.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),— (a) an offence

punishable under this Act shall be cognizable, if information relating to the commission of the offence is given to an officer in charge of a police station by the married Muslim woman upon whom talaq is pronounced or any person related to her by blood or marriage; (b) an offence punishable under this Act shall be compoundable, at the instance of the married Muslim woman upon whom talaq is pronounced with the permission of the Magistrate, on such terms and conditions as he may determine; (c) no person accused of an offence punishable under this Act shall be released on bail unless the Magistrate, on an application filed by the accused and after hearing the married Muslim woman upon whom talaq is pronounced, is satisfied that there are reasonable grounds for granting bail to such person.

8. Repeal and savings.—(1) The Muslim Women (Protection of Rights on Marriage) Second Ordinance, 2019 (Ord. 4 of 2019) is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the Muslim Women (Protection of Rights on Marriage) Second Ordinance, 2019 (Ord. 4 of 2019), shall be deemed to have been done or taken under the provisions of this Act.

Answer the following questions;

- a. Identify the long as well as short title from the Act. (1)
- b. Explain the Repeal and saving clause as provided in the Act (1)
- c. Is there any *non-obstante clause* in this Act? If yes explain the same. (1)
- d. When was the Act enacted? To what parts of India does this Act apply? (1)
- e. Does the Act create civil or criminal liability? Answer by referring to the relevant section. (1)
