

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Family Law-I
Semester-V (Batch: 2017-22)

End Semester Examination: October-2019

Date: 15th 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.
- Bare Act is not allowed.

Answer all questions	Marks
<p>Q.1 HH and HW were married on 27th January, 2002 at Nagpur according to Hindu rites and ceremonies and a child was born out of the wedlock of the parties on 20th August, 2003. However, the parties developed some temperamental differences, whereby the husband left his wife and started residing separately for more than two years. Efforts were made by the parents of both the parties to persuade the parties for reconciliation, but the same failed. Therefore, the parties considered that the marriage between them had irretrievably broken down and mutually agreed to dissolve their marriage. Thereafter, a petition for divorce by mutual consent was filed by both the parties under Section 13(B)(1) of the Hindu Marriage Act, 1955. The petition was filed by both the parties through a common Advocate. Simultaneously, both the parties had also filed a joint petition under Section 13(B)(2) of the Hindu Marriage Act, 1955 along with an application under Section 151 CPC to seek waiver of the statutory period of six months for entertaining the petition. During the pendency of the said petition HW filed an application for withdrawal of her consent from the petition filed under section 13(B)(1) of the Hindu Marriage Act, 1955 and asked her advocate to file a petition for restitution of conjugal right under section 9 of the Hindu Marriage Act, 1955. In furtherance to the decision of HW, husband HH asked his advocate to file an objection against the withdrawal of consent and also against the restitution of conjugal right petition as it was subsequent to the filing of petition under Section 13 (B)(1). Alternatively, HH also asked his advocate to file a counter petition for divorce on the grounds of desertion. In view of the above facts and the provisions of the Hindu Marriage Act, 1955, advise HW for the remedies available to her.</p>	(10)
<p>Q.2 Tejpal a resident of Ahmedabad and citizen of India was born on 15th January, 1993. The mother and father of Tejpal died on 20th March, 1995 leaving him alone. Mohinderpal, his real grand-father then took the custody of Tejpal and his entire estate. Mohinderpal, subsequently agreed to give Tejpal in adoption to Satpal (Uncle of Tejpal). Tejpal was dully adopted by Satpal vide a formal adoption deed dated 17th July 1997, which was executed and registered in the office of the Sub Registrar, Ahmedabad. On the basis of adoption deed, Satpal applied for a passport for Tejpal in 1999 in prescribed form and deposited requisite fee with the Regional Passport Office at Ahmedabad. However, the</p>	(10)

Regional Passport officer rejected the passport application of Tejpal on the ground that Mohinderpal was not having the due capacity of giving the child in adoption and hence the adoption is not valid. Furthermore, the Regional Passport Officer also informed that the due procedure and requirements for adoption as per the provisions of the Hindu Adoption and Maintenance Act, 1956 were not followed. In view of the above facts and essential requirements for adoption under the provisions of the Hindu Adoption and Maintenance Act, 1956, advise Satpal on the further course of action in this regard.

- Q.3 *Cruelty, a most dynamic ground for divorce in the Hindu Marriage Act, 1955 is always has the reference with human conduct or behaviour in relation to or in respect of matrimonial duties or obligations. Cruelty may be mental or physical, Intentional or unintentional but always a question of fact and degree and measure of cruelty may varies from time to time in matrimonial cases. The Supreme Court has tried to enlist some of the instances pertaining to cruelty in matrimonial cases on various instances however, each case must be decided on its own facts, circumstances, nature, extent & effect on other party.* (10)
- In view of the given statement discuss the nature and scope of cruelty as applicable for divorce under the provisions of the Hindu Marriage Act, 1955 with specific reference to condonation of cruelty.

- Q.4 Discuss various circumstances in which a Hindu marriage can be considered as voidable. (08)

OR

Scope of maintenance in the Hindu Adoption and Maintenance Act, 1956 is wider in comparison to other legislations. Write a short note on the above statement with specific reference to Section 18 and Section 20 of the Hindu Adoption and Maintenance Act, 1956.

- Q.5 Write short note on any two of the following: (2x6=12)
- The composition of Muslim Marriage is similar to that of a contract. But only on the basis of the contractual elements, it is not correct to define it as purely a civil contract. In its form or appearance a Muslim marriage may look like a contract but it is not so in its essence.*
 - Essentials of Muslim Marriage in Sunni School.
 - The reasons of ideological splitting among the followers of Islam.
