

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Family Law I
Semester-V (Batch: 2018-23)

End Semester Online Examination: December 2020

Date: 12th December, 2020

Duration: 8 hours

Max. Marks: 50

Instructions:

- 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.

Q.1 'A' and 'B', the husband and wife respectively, were married at Dwarka in Delhi on 3.6.2016. On the very first night, 'B' informed 'A' that she has been married to 'A' against her wishes and that 'A' is not a person of her dreams. Thereafter, with the course of time, 'B' started behaving indifferently towards 'A' and used to get irritated on minor issues. 'B' constantly used to state that, since she has been married against her wishes, she does not want to stay with 'A'. After about one month of marriage, 'B' went to her parents place and she was supposed to come back after 13 days. But she neither returned nor did she send any information to 'A' or his family members. On 30.8.2016, 'A' along with one of his friend went to bring back his wife but she refused to return to the matrimonial home. 'B's' relatives stated that she would be sent to her matrimonial home after a week. In furtherance of the same, she did return on 5.9.2016 along with her father and brother, but soon after her relatives left 'A's' house, she started raising disputes and quarrel with 'A'. Further, 'B' also threatened to commit suicide and to implicate 'A' and his parents in a criminal case. On 3.12.2016, she went back to her parental house again and since then she did not return. 'A' and his parents made efforts to bring her back and with the same view 'A' went to 'B's' paternal house on 17.9.2017 along with his friend and brother. However, 'B' refused to return.

Marks
(10)

On the other hand, 'B' denied all the allegations and asserted that 'A' and his relatives threw the articles gifted to them during the marriage and stated that, 'A' was angry as he was not gifted with a golden ring, chain and also the vehicle given to 'A' has been registered in the name 'B'. According to 'B', her husband and mother-in-law used to make her do rigorous work and were always finding fault with the foods prepared by her. She was always asked to prepare different dishes for the members of the family and was made to do entire household chores. 'B' specifically denied that on 30.8.2016 or on 17.9.2017 'A' came to her parental house. According to 'B', she visited her paternal house after her marriage as a part of a customary practice, according to which, newly wedded bride would not be allowed to stay in her matrimonial home in the month of Shraavan. Further, 'B' vehemently asserted that before her marriage she was preparing for Bank examination for becoming a Probationary Officer in the bank and her

examination for the same was scheduled on 25.8.2016, therefore, she went back to her paternal house to write the said examination with the consent of 'A' and his parents.

Based on the above factual matrix advice both the parties with regard to the legal recourse or defence available to them. Substantiate your answer with the help of appropriate legal reasoning, leading case laws and relevant provisions of the applicable law.

Q.2 A marriage between 'C' and 'D', the husband and wife respectively was solemnized on 11.5.2019 as per the Hindu rites. Thereafter, the parties cohabited together as husband and wife. One day 'C' received a letter from 'W' wherein it was stated that 'D' and 'W' were the student of B.com. Class in Sadananda College, Delhi and during their study in the said college they both developed a friendly relation and thereafter they both had a desire to marry each other. Further, 'W' stated in the letter that their marriage took place as per Hindu rites in a Kali Temple at Indraprastha, Delhi on 24.11.2018. Thereafter, 'D' and 'W' went to Shimla, with their common friends and their marriage was also consummated. On 26.11.2018 they all returned to Delhi and on the same day they also got their marriage registered before the Marriage Registrar. Along with the letter a copy of the marriage registration certificate was also annexed. 'C' thereafter, inquired from 'D' about the content of the said letter. Astonished and shocked with these questions 'D' accepted that she had a friendly relationship with 'W'. 'D' further stated that on 24.11.2018 'W' called 'D' over telephone to his residence and when she went to his residence he forcefully confined her in his house. Thereafter, she was forcefully taken to a Kali Temple and against her will marriage was performed. According to 'D' marriage was never solemnized as per Hindu rites, traditions and procedures. It was never performed by any authenticated and authorised person. Also, Saptapadi ceremony was not performed around the sacred fire.

'D' also stated that 'W' took her to a Marriage Registration Office on 26.11.2018 and thereafter compelled her to put her signature in the form. 'D' specifically denied that a marriage between her and 'W' was ever duly solemnised.

In light of the above mentioned factual matrix, advice 'C' and 'D' in detail, with regard to the legal recourse or defence available to them. Substantiate your answer with the help legal reasoning, leading case laws and relevant provisions of the applicable law/s.

Q.3 *There are various aspects under Muslim law which has been misunderstood by many. However, the Islamic law firmly believes in women's equality and social justice.* Critically analyse the statement in your own words. Substantiate your answer in light of the concepts of marriage, dower and divorce, with the help of leading case laws, relevant law and appropriate legal reasoning. (10)

Q.4 In 2010, 'L' was married to 'R', an accomplished gentlemen having high status in society. Due to matrimonial discord both the parties started living separately. 'L' expressed her willingness to her husband for adopting a child from the City Charity and Orphanage Home. 'L' completed all the formalities at City Charity and Orphanage Home for the said adoption. However, her request was rejected and she was informed that unless her husband gives his consent she cannot take a child in adoption as per the provisions of (5x2=10)

the Hindu Adoption and Maintenance Act, 1956. Aggrieved by the decision of the City Charity and Orphanage Home, 'L' filed the petition and emphasised on the enabling amendment in the Hindu Adoption and Maintenance Act, 1956 introduced by the Personal Laws (Amendment) Act, 2010. However, the management of the City Charity and Orphanage Home primarily submitted in the court that the Personal Laws (Amendment) Act, 2010 does not confer absolute, individual and independent right on a Hindu female to adopt a child.

During the pendency of the above petition, 'L' decided to terminate her marriage owing to the extramarital relationship of her husband and filed the petition under section 13(1) (i) of the Hindu Marriage Act, 1955, which also included the prayer of 'L' for maintenance under the Hindu Marriage Act, 1955. The court, after hearing the parties and after considering the evidences on record granted the decree for dissolution of marriage. The Court was also pleased to determine the maintenance of INR 10,000 per month for 'L'. Upon getting the divorce, 'L' adopted a girl child in 2017 from one Orphanage under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015. After the said adoption, 'L' filed an application for revision of her maintenance amount from INR 10,000 per month to INR 15,000/- in view of the changes in the circumstances and having additional responsibility of an adopted child. However, the same contention of 'L' was objected by 'R' on the ground that the child was adopted under the Juvenile Justice (Care and Protection of Children) Act, 2015 and not under Hindu Law. Hence, maintenance granted under the Hindu Marriage Act, 1955 cannot be revised for the adoption undertaken under any other law.

In view of the above facts, answer the following questions:

A. Argue on behalf of the City Charity and Orphanage Home on the contention that the Personal Laws (Amendment) Act, 2010 does not confer absolute, individual and independent right on Hindu female to adopt a child by citing relevant provisions of the Hindu Adoption and Maintenance Act, 1956.

B. With the help of relevant provisions of the Hindu Marriage Act, 1955 and in accordance with the factual circumstances as given above, decide the above case on revision of the maintenance amount.

- Q.5 'K' is a 16 years old Hindu girl. Her marriage has been arranged with 'M' a Hindu male, who is 21 years old. The family members of both the parties are willing to make an arrangement for the marriage. Advise both the parties and the family members regarding the nature, effect and legal consequences of the said marriage. Would it make any difference if 'M' is below the legal age of marriage and 'K' is an adult? Also, whether nature, effect and legal consequences would differ if both the parties would have been Muslims by religion? Substantiate your answer in your own words, with the help of leading case laws, legal reasoning and relevant provisions of the applicable laws. (10)
