

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Family Law I
Semester- V (Batch: 2020-25)

End Semester Examination: November 2022

Date: 01st Nov, 2022

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.
- Bare Act **not** allowed.

- | | Marks |
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| <p>Q.1 Brijbhan got married with Radhika on 24.11.1993. Out of the wedlock, a daughter was born on 2.12.1994. In 1997, Brijbhan filed a petition under section 13 (1) (ia) and section 13 (1) (iii) of the Hindu Marriage Act, 1955 praying for a decree of divorce therein. The petition averred that although Brijbhan took due care of Radhika however, short after the marriage, the wife was not ready to do any domestic work and used to tell that all such domestic work was done by servants at her parent's home, thereby expressed her inability to do any sort of household work including taking care of child. Petition also averred that occasionally Radhika behaved abnormally in a barbaric manner and used to abuse Brijbhan and other family members with filthy and obnoxious language in a vociferous manner in front of outsiders without any reasonable cause.</p> <p>Contending that all these acts of misbehaviour amounted to cruelty by the wife and leading to the presumption of unstable mental condition, Brijbhan prayed for a decree of divorce. On the basis of facts and circumstances as placed before the court, the family court was pleased to pass an ex parte decree of divorce on 5.11.1998 based on cruelty. Upon said ex parte decree, wife filed an appeal challenging the said order along with an application for restitution of conjugal rights. Furthermore, she also got a complaint registered against her husband, father-in-law, mother-in-law and brother-in-law under sections 498A, 323 and 504 of the Indian Penal Code, 1860. In pursuance of the said complaint, the husband, his brother and father were arrested by the local police and they remained in jail. The husband remained behind bars for sixty three days before he was granted bail and the other two were released on bail after twenty five days.</p> <p>The appellate court, while hearing the appeal, was not convinced with the arguments of wife in her absence in the original petition for divorce filed by the husband. The appellate court further found that the competent court having jurisdiction on the matter had already acquitted the Brijbhan and other family members from the charges as levelled under sections 498A, 323 and 504 of the Indian Penal Code, 1860 on the ground of frivolous complaint. However, the appellate court also found that Brijbhan solemnised his second marriage during the pendency of said appeal without permission</p> | (10) |

of court. In view of above and the findings of appellate court, Brijbhan prayed the court to dismiss the appeal of wife including the prayer for restitution of conjugal rights specially on the ground of frivolous complaint of wife whereby he along with his relatives had to spend 60 days in jail.

In view of above facts, circumstances and in accordance with the provisions of the Hindu Marriage Act, 1955 decide the case as Judge of appellate court.

- Q.2 Sukhram and Reeta were Hindu by religion and married on 29.06. 2001 according to Hindu rites as prescribed under the Hindu Marriage Act, 1955. In year 2003, a daughter was born to them. In the year, 2008 Sukhram and Reeta together decided to adopt an abandoned girl child under the provisions of the Juvenile Justice (Care and Protection) Act, 2000 from district child care centre which was managed by a NGO called *Bachpan* which was fully managed through the annual financial grant received from the state government. On receipt of the adoption request, the head of the NGO rejected and denied to entertain the application of adoption on the ground that the parties must adopt the child under the provisions of the Hindu Adoption and Maintenance Act, 1956 and further, on the ground that the parties are already having a girl child therefore, another girl child cannot be given in adoption. Aggrieved by the decision of the NGO, Sukhram and Reeta were looking for legal advice on the subject matter. As an advocate, advise Sukhram and Reeta in accordance with the provisions of the Hindu Adoption and Maintenance Act, 1956 and the Juvenile Justice (Care and Protection) Act, 2000 so as to facilitate them in adoption of the same abandoned girl child from the district child care centre. (10)
- Q.3 *In comparison to India, the efforts on formation and enactment of full or partial Islamic family law codes has been the major legal trajectory in the Muslim world over the last century. Following the Ottoman Law of Family Rights (1917) that established an early template for a codified family law, the governments of many Arab nations endeavoured to codify Islamic family laws soon after their independence in the 1950s and thereby personal status codes were created by the early governments of newly-independent Jordan (1951), Syria (1953), Tunisia (1957), Morocco (1958), Iraq (1959). In view of this statement elaborate the developments pertaining to codification of Islamic family law in India with specific reference and elaboration on kinds of talaq and changes brought out by codified law (s) in this regard.* (10)
- Q.4 What is the scope of maintenance in Islamic law? Elaborate the scope and developments with specific reference to judicial pronouncements before and after the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986. (8)
- Q.5 Answer **Any Two** of the following: (6x2= 12)
- Differentiate between testamentary guardian and de-facto guardian in accordance with the Hindu Minority and Guardianship Act, 1956.
 - What are the essentials of Parsi marriage under the Parsi Marriage and Divorce Act, 1936?
 - What is the procedure of solemnisation of marriage under the Special Marriage Act, 1954?
