



HIMACHAL PRADESH NATIONAL LAW UNIVERSITY, SHIMLA

Semester : V

B.A./B.B.A. LL.B. (Hons.)

Paper Code: LB-501

Family Law - I

Credits - 04

Introduction:

This course of the Family Law deals with laws governing to marriage, matrimonial remedies such as restitution of conjugal rights, judicial separation & divorce; ancillary remedies like maintenance, legitimacy, adoption, custody and guardianship. Matrimonial laws vary with the religion, region and tribe of the parties in India and co-exist with secular laws covering every aspect of domestic relations. The course explains and delas with these concepts of family and its relevance in modern times.

Course Objectives:

1. To understand the historical evolution of personal Laws in India and critically analyse emerging trends such as live-in relationships and same sex marriages;
2. To analyze and critically understand the concept of marriage as a social institution;
3. To examine the provisions related to judicial separation and divorce; and
4. To analyze it from sociological perspective thereby understanding the importance Adoption, Acknowledgement, Guardianship and Maintenance Law.

Learning Outcome:

On the successful completion of course, students will be able to:

1. Develop independent thinking on emerging trends in family law.
2. Understand the concept of marriage as a social institution.
3. Critically examine the provisions related to judicial separation and divorce.
4. Understand the importance adoption, acknowledgement, Guardianship and Maintenance law.

Module - I
Sources and Application of Family Law

- 1.1. Evolution of Personal Laws in India;
- 1.2. Hindu Law: Sources and Application;
- 1.3. Muslim Law: Sources and Application;
- 1.4. Uniform Civil Code and recent developments;
- 1.5. Emerging Trends in Family Law: Same sex marriages, live in relationships.

Module - II
Marriage

- 2.1. Concept of Marriage- Right to Marry; Conditions of Valid marriage; Registration of marriage; Prohibited Degrees and Sapinda Relationships under Hindu Law;
- 2.2. Void, voidable and valid Hindu marriage; Legitimacy of issues in void and voidable marriage and the rights of such children, issues relating to custody of the children;
- 2.3. Concept of Marriage (Nikah) - Nature of Muslim Marriage, Conditions of Valid Marriage, Effects of Legal Marriage, Muta Marriage, Consequences of Void, Irregular and Valid Marriages, Difference between Shia and Sunni law of Marriage;
- 2.4. Dower (Mehr): - Meaning, Kinds of Dower, Wife's Right and Remedies on Non-Payment of Dower, Difference between Shia and Sunni laws Relating to Dower, Kharcha-i-pandaan;
- 2.5. Marriage Under other Laws- A comparative analysis of Requisites of valid marriage under the Special Marriage Act, 1954; the Parsi Marriage and Divorce Act, 1936; the Anand Marriage Act, 1909; and the Indian Christian Marriage Act, 1872.

Module - III
Divorce

- 3.1. Divorce under Hindu Marriage Act, 1955;
- 3.2. Grounds of Matrimonial Reliefs: Irretrievable Breakdown of Marriage and Bars to Matrimonial Relief;
- 3.3. Divorce: - Difference Between Divorce and Talaq, Modes of Talaq: Talaq-ul-Sunnat, Talaqul-Biddat, Ha, Zihar, Talaq-e-Tafveez, Khula, Mubarat, Lian and Judicial Divorce, Legal Consequences of Divorce and Distinction between Shia and Sunni law of Talaq and Iddat;
- 3.4. Judicial Separation and Restitution of Conjugal Rights Under Hindu and Muslim Law;
- 3.5. Comparative analysis of provisions of divorce under Hindu Law, Muslim Law, Parsi Law, Christian Law and Special Marriage Act.

Module - IV

Adoption, Guardianship and Maintenance

- 4.1. Adoption under Hindu Law; Inter country Adoption;
- 4.2. Parentage, Legitimacy and Acknowledgment; Conditions of valid Acknowledgment and Distinction with adoption;
- 4.3. Guardianship: - Kinds of Guardians, Removal of Guardians. Comparison of Sunni and Shia law of Guardianship;
- 4.4. Maintenance of Spouse, Children and Parents: - Maintenance Under Hindu Marriage Act, Hindu Adoptions and Maintenance Act (HAMA) and under Code of Criminal Procedure, 1972;
- 4.5. Maintenance under Muslim Law; Principles of maintenance, persons entitled to maintenance, Arrears of Maintenance, Effect of Apostacy, Distinction between Shia and Sunni law regarding maintenance, Maintenance during *Iddat*.

Prescribed Legislations:

1. The Anand Marriage Act, 1909.
2. The Dissolution of Muslim Marriage Act, 1939.
3. The Hindu Adoption & Maintenance Act, 1956.
4. The Hindu Marriage Act, 1955.
5. The Hindu Minority and Guardianship Act, 1956.
6. The Indian Christian Marriage Act, 1872.
7. The Indian Divorce Act, 1869.
8. The Parsi Marriage and Divorce Act, 1936.
9. The Shariat Act, 1937.
10. The Special Marriage Act, 1954.


Prescribed Books:

1. Asaf A. A. Fyzee, OUTLINES OF MUHAMMADAN LAW, (2009).
2. Kusum, FAMILY LAW I, (LexisNexis, 2022).

Suggested Readings:

1. D. F. Mulla, MULLA'S PRINCIPLES OF MAHOMEDAN LAW, (Lexis Nexis, 2017).
2. Vijender Kumar, Ranganath Misra, Mayne's, TREATISE ON HINDU LAW AND USAGE, (Bharat Law House, 2014).

3. Paras Diwan, LAW OF MARRIAGE AND DIVORCE: A COMPREHENSIVE TREATISE ON MATRIMONIAL LAWS OF ALL THE INDIAN COMMUNITIES INCLUDING HINDUS, MUSLIMS, CHRISTIANS, PARSIS AND JEWS, (2017).
4. Sir D. F. Mulla and Satyajeet A. Desai, MULLA'S HINDU LAW, (Lexis Nexis, 2018).
5. Tahir Mahmood and Saif Mahmood, INTRODUCTION TO MUSLIM LAW, (Universal Law Publishing, 2017).
6. Tahir Mahmood, INTRODUCTION TO HINDU LAW PERSONAL LAW OF HINDUS, BUDDHISTS, JAINS & SIKH, (2014).
7. V. P. Bhartiya, SYED KHALID RASHID'S, MUSLIM LAW, (2009).
8. Virender Kumar, THE HINDU LAW AND USAGES (Bharat Law Books, 2020).


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