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Total number of printed pages-4

19 (II) FMLW-II 2·2

2019

FAMILY LAW – II

Paper : 2·2

Full Marks : 80

Time : Three hours

***The figures in the margin indicate
full marks for the questions.***

1. Choose the correct option : 1×10=10
- (a) Only Quran occupies the prominent place amongst the other primary and secondary sources of Muslim law. (True/False)
- (b) Marriage during pilgrimage (Ihram) Mecca is valid. (True/False)
- (c) Muta marriage is recognised amongst the Shias only. (True/False)
- (d) The substantive law of intestate and testamentary succession laid down in the Indian Succession Act, 1925 is applied to Muslim. (True/False)

Contd.

(e) The mandates of sec.125 to 128 of the Code of Criminal Procedure, 1973 can be applied to Muslims in India.

(True/False)

(f) Sec.19 of the Guardians and Wards Act, 1890, says that the Court cannot appoint the of a minor wife whose wife husband — is not unfit. (True/False)

(g) Under Muslim law a *de facto* guardian has no power to transfer any right or interest in the minors movable property.

(True/False)

(h) Delivery of possession by the donor and taking of possession by the donee is mandatory for a valid gift.

(True/False)

(i) The Muslim Personal Law (Shariat) Application Act, 1937 does not apply to the subject of preemption.

(True/False)

(j) In the eye of Law, a will is technically called a testamentary disposition.

(True/False)

2. Write short notes on :

2×5=10

(i) Sunnat and Ahadith

(ii) Legal incidence of Hiba

(iii) Succession certificate

(iv) The Sharia

(v) Sadaqah.

3. Is justice, equity and good conscience a source of Islamic jurisprudence in India? Discuss its applicability with the help of judicial pronouncement of the different H.Cs. in India. 12

Or

Write in details the School of Muslim law. 12

4. Define 'Nikah' and discuss the essentials of a valid Muslim marriage. 12

Or

Define Talaq. Discuss the various judicial and extra-judicial grounds of divorce and also write the legal consequence of divorce. 12

5. Define Guardian according to Muslim law and write the various kinds of guardian and their powers. 12

Or

What is maintenance ? Explain in brief the law of maintenance with reference to the Muslim (Protection of Rights on Divorce) Act, 1986. 12

6. "A gift is a transfer of property by one person to another with which includes Hiba, Shariat or sadaqa or Hiba-bil-iwaz or Hiba-ba-shartul-iwaz". Explain. 12

Or

Write the definition and essentials of right to pre-emption and discuss the various kinds of constitutional validity of right to pre-emption. 2+4+3+3=12

7. What is Uniform Civil Code ? Explain the needs for uniform civil in India. Also mention the impediments to the formulation of the Uniform Civil Code by referring to the Article 44 of the Constitution of India. 2+6+4=12

Or

Write the salient features of the Indian Succession Act, 1925. 12

2018

FAMILY LAW-II

Paper : 2·2

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

1. Choose the correct option : $1 \times 10 = 10$
- (a) Marriage of a woman during iddat period is _____ marriage. (an irregular/a void)
 - (b) Pre-emption on the ground of vicinage is _____ by judicial interpretation in India. (constitutional/unconstitutional)
 - (c) Talaq-ul-Biddat is _____ mode of talaq. (approved/disapproved)
 - (d) Wakf in Muslim Personal Law is a _____ dedication of property. (temporary/perpetual)

Contd.

(e) Wasiyat (will) _____ not included u/s 2 of the Muslim Personal Law (Shariat) Application Act, 1937. (is/is not)

(f) A marriage with a woman prohibited by reason of fosterage is _____. (void/irregular)

(g) A gift from donor to donee and a return gift from donee to donor complete the transaction in Hiba-bil-Iwaz.

(True/False)

(h) In Article _____ of the Constitution of India, there is a directive for Uniform Civil Code. (44/64)

(i) Section 125 of the Code of Criminal Procedure 1973 has conferred upon a wife a _____ right. (substantive/procedural)

(j) The Cr.P.C. 1973 is a _____. (substantive/procedural code)

2. Write short notes on :

2×5=10

(i) Certified guardianship

(ii) Ijma

(iii) Judicial forms of divorce in Muslim Law

(iv) Hiba-ba-shart-ul-Iwaz

(v) Pre-emption.

3. Write a precise jurisprudential account on the mandates of section 125 of the Code of Criminal Procedure, 1973. 12

OR

Discuss the facts of the case and the principles of law laid down by the Supreme Court of India in Mohd. Ahmed Khan vs Shah Banoo Begum, AIR 1985 SC 945-954. 12

4. Who is a Muslim? Can Muslim Law be treated as an integral part of the Indian Legal system? Give legal justification of your answer. 4+8=12

OR

What are the primary sources of Muslim Law? How do they differ from the secondary sources? Discuss precisely. 8+4=12

5. Is Muslim marriage a civil contract? Give logical explanation of your answer. 12

OR

Define the term 'dower'. Is it a consideration or an obligation? Discuss briefly, the salient features of dower. 4+8=12

6. Write notes on :

6+6=12

- (i) Tripple talaq and its constitutional validity in India
- (ii) Marriage and significance of Islam.

OR

Define the term "guardianship". What are the different kinds of guardianship in Muslim Law? Discuss precisely.

4+8=12

7. Discuss the conditions relating to solemnisation of special marriage under the Special Marriage Act, 1954. 12

OR

Write notes on :

3×4=12

- (i) Muslim Law of wakf
- (ii) Salient features of Muslim Law of succession
- (iii) Judicial and extra-judicial forms of divorce
- (iv) Washiyat.

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19 (II) FMLW-II 2·2

2017

FAMILY LAW-II

Paper : 2·2

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

Answer **all** questions.

1. Choose the correct option : $1 \times 10 = 10$
- (i) In the eye of law, a gift is technically called a *testamentary disposition/disposition inter vivos*.
 - (ii) The requirement of registration is *mandatory/optional* in respect of a gift of movable property.
 - (iii) As mandated in the Shariat (Muslim Personal Law) waqf property once dedicated in the implied ownership of almighty God *can/cannot* be alienated subsequently.

Contd.

(iv) The substantive law of intestate and testamentary succession laid down in the Indian Succession Act, 1925 *apply/does not apply* to Muslims.

(v) As interpreted by the Apex Court in India, Pre-emption on the ground of vicinage is *constitutional / unconstitutional*.

(vi) The mandates of Ss.125 to 128 of the Code of Criminal Procedure, 1973 *can/cannot* be applied to Muslims in India.

(vii) Section 112 of the Indian Evidence Act, 1872 *has/has not* abrogated by the Muslim law of legitimacy.

(viii) As interpreted by the judiciary in India, 'dower' in Muslim marriage *is/is not* amounting to 'dowry' within the meaning of the Dowry Prohibition Act.

(ix) In Muslim Personal Law, talaq pronounced by husband is *judicial/extra-judicial* form of divorce.

(x) As interpreted by the Supreme Court of India as well as provided in the Muslim Personal Law 'perpetuity' *is/is not* a pre-condition for the validity of waqf.

2. Write short notes on :

2×5=10

(a) Legislation as secondary source of Muslim Personal Law

(b) Section 125 of the Code of Criminal Procedure, 1973

(c) Shia schools of Muslim law

(d) Legal incidents of Hiba (gift)

(e) Essential of Wasiat (Will) in Muslim jurisprudence.

3. Write a detail account on the mandates of section 2 of the Muslim Personal Law (Shariat) Application Act, 1937. 12

Or

Is "justice, equity and good conscience" a source of Islamic jurisprudence in India?

Discuss its applicability with the help of judicial pronouncements of the different High Courts in India. 2+10=12

4. What political events were responsible for the creation of Sunni and Shia schools of Muslim law?

Discuss briefly the historical approach to trace their growth in Islamic law and jurisprudence. 6+6=12

Or

Is Muslim marriage a civil contract or a sacrament?

Justify your views with the help of legislations and judicial pronouncements in this regard. 2+10=12

5. What is amounting to 'cruelty' in the eye of law within the meaning of the Dissolution of Muslim Marriage Act, 1939 ?

Discuss the grounds for obtaining a decree for divorce under this Act. $4+8=12$

Or

Distinguish between judicial and extrajudicial forms of divorce in Muslim Personal Law. 12

6. Define the term 'guardianship'. Discuss the different kinds of guardianship as provided in Islamic jurisprudence. $2+10=12$

Or

Write a detailed account on the salient features of Islamic Law of Succession. 12

7. Discuss the conditions for solemnization of "Special Marriage" under the Special Marriage Act, 1954. 12

Or

Define the term 'dower'. What are the different kinds of dower ? Is it mandatory or optional ?

Discuss the law of dower giving reference to cases as decided by the higher judiciary in India. $2+4+2+4=12$

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19 (3-II) FMLW-II

2016

FAMILY LAW-II

Paper : 2-2

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

1. Choose the correct option : $1 \times 10 = 10$
- (i) The Muslim Personal Law (Shariat) Application Act, 1937 is prospective/retrospective in its application.
- (ii) The word "personal law" is used in contradiction to/to agree with "territorial law".

Contd.

- (iii) As interpreted by the Supreme Court of India, pre-emption on the ground of vicinage is constitutional/unconstitutional.
- (iv) The rules of Islamic law of succession and inheritance are to be found in the Holy Quran/legislations.
- (v) In the eye of law, a will is technically called a disposition inter vivos/testamentary disposition.
- (vi) The property proposed to be disposed of by waqf must be tangible/intangible property.
- (vii) On the basis of the decided cases, a grant to an Idgah has been declared to be valid/invalid object of waqf.
- (viii) The requirement of registration is mandatory/optional in respect of a gift of immovable property.

- (ix) As interpreted by the Apex Court in the Shahbanoo's case, the mandates of Section 125 of the Code of Criminal Procedure, 1973 are applicable/inapplicable to Muslim divorced wives.
- (x) In the absence of legal guardian, the duty of appointing a guardian for the protection and preservation of the minor's property fall in the Waqf Board/Court.

2. Write short notes on : 2×5=10

- (i) Legal incidents of waqf
- (ii) Essentials of valid muslim marriage
- (iii) Judicial divorce in Muslim law
- (iv) Hiba-bil-Iwaj and Hiba-ba-Shart-ul-Iwaj
- (v) Doctrine of consent.

3. Is Muslim Personal Law (Shariat) an integral part of the Indian Legal System?

Discuss the extent of application of Muslim Personal Law in India in the light of mandates of Section 2 of the Muslim Personal (Shariat) Application Act, 1937.

2+10=12

Or

Is "Judicial precedent" a source of Islamic Law and Jurisprudence in India?

Discuss with the help of judicial pronouncements of the Supreme Court of India in the landmark Shahbanoo's case as to how did the judicial precedents of the Apex Court modify the strict application of the orthodox Muslim Law of Maintenance in respect of a divorced wife in this country.

2+10=12

4. What are the different schools of Muslim Law? How did they separate from each other?

Write a detail account on the orthodox schools of Islamic Law and Jurisprudence.

4+4+4=12

Or

Discuss the salient features of the Muslim Law of marriage.

5. What are the extrajudicial forms of divorce in Muslim Personal Law?

How do they differ from the intervention of the courts in respect of divorce petitions filed by wives u/s 2 of the Dissolution of Muslim Marriage Act, 1939?

Discuss, briefly, the grounds of divorce as provided under this Act.

4+2+6=12

Or

Define the term 'dower'. Is it a consideration or an obligation? Give your own views with the help of decided cases.

6. How did the Hanafi School of Islamic Jurisprudence define the term 'waqf'?

Write a brief account on the provisions of Muslim Personal Law with regard to how waqf can be created.

4+8=12

Or

Define the terms "guardian" and "minor". Does the "law of puberty" govern the Muslims, in India, in respect of the issues relating to guardianship?

Discuss the different categories of guardianship as recognised in Muslim Personal Law with special reference to "Guardianship in Marriage".

2+2+2+6=12

7. What is Uniform Civil Code? Is there any specific provision for it under the Constitution of India?

What are the major hindrances on the path of implementation for achieving the goals of Uniform Civil Code? Discuss.

4+2+6=12

Or

Do the provisions of the Indian Succession Act, 1925 apply to Muslims in India?

What is the existing law, in this regard, for a Muslim whose marriage was registered under the Special Marriage Act, 1954? Discuss the conditions for registration of muslim marriages under the Act of 1954.

2+2+8=12

Total number of printed pages-7

19 (3-II) FMLW-II

2015

FAMILY LAW-II

Paper : 2-2

Full Marks : 80

Time : Three hours

***The figures in the margin indicate
full marks for the questions.***

1. (a) Choose the correct option : $1 \times 10 = 10$
- (i) Collection of rules or principles by the method of analogy and interpretation from the other sources of law is called
- (a) Qiyas
 - (b) Ijmaa
 - (c) Sunna
 - (d) Legislation

Contd.

- (ii) Under the Hanafi law, puberty in a minor of either sex, is presumed to have been attained on completion of the
- (a) 18 years
 - (b) 15 years
 - (c) 16 years
 - (d) 17 years
- (iii) The All India Muslim Personal Law Board adopted a "Model Nikahnama" at its meet in Bhopal in
- (a) April 2005
 - (b) January 2006
 - (c) December 2006
 - (d) May 2005.
- (iv) Which is the divine communication and revelation to the prophet of Islam.
- (a) Quaran
 - (b) Shariat
 - (c) Khitab
 - (d) Sunnat.

- (v) Right of guardianship of a minor is termed as
- (a) Hizanat
 - (b) Khankah
 - (c) Mutawalli
 - (d) Sufa
- (vi) A gift to a person not yet in existence at the time of making is called
- (a) Illegal gift
 - (b) Void gift
 - (c) Contingent gift
 - (d) Gift in future.
- (vii) A Muslim cannot dispose of his property by will more than
- (a) one-third
 - (b) two-third
 - (c) one-fourth
 - (d) none of above.

(viii) A Muslim does not lose his right of inheritance by relinquishing his religion after passing of the

- (a) Indian Succession Act, 1925
- (b) Freedom of Religion Act, 1850
- (c) The Muslim Personal Law Application Act, 1937
- (d) The Waqf Act, 1913

(ix) The only method of appointment of an administrator as indicated in the Indian Succession Act, 1925 is by grant of Letters of Administration

- (a) By a Chief Judicial Magistrate
- (b) By a High Court Judge
- (c) By a District Judge
- (d) None of above.

(x) If the amount of dower is stated in the marriage contract, it is called

- (a) Customary dower
- (b) Specific dower

(c) Proper dower

(d) None of above.

(b) Write short notes on the following :
2×5=10

- (i) Muslim by conversion
- (ii) Extrajudicial Divorce
- (iii) Muta Marriage
- (iv) Wasiyat
- (v) Rules of spes successionis.

2. "The Shariat Act 1937 is a land mark legislation in the history of Muslim Law". Do you agree? Substantiate your answer with reasons. 12

Or

What are the primary and secondary sources of Islamic jurisprudence? Discuss. 12

3. According to Mahammadan Law "marriage is a civil contract". Discuss this statement in view of the essential of a valid marriage. State the effects of a Fasid (irregular) marriage. 8+4=12

Or

What do you mean by "Talak"? Distinguish between Talak-ul-Sunnot and "Talak-ul-Biddat. 4+8=12

4. What is maintenance? Explain and discuss in brief the Law of maintenance with reference to the Muslim Women (Protection of Rights of Divorce) Act 1986. 12

Or

What are the different kinds of guardianship? Can right of hizanat be exercised only by a mother? Under what circumstances right of hizanat may be lost by a hazian. 6+2+4=12

5. What is pre-emption? Discuss the various kinds of pre-emption. Write a note on Constitutional validity of pre-emption. 2+8+2=12

Or

Define Hiba and its essentials. Discuss the instances when a gift can be revoked and when cannot. 6+6=12

6. Establish the nexus between Islamic Law of Succession and the provisions of the Indian Succession Act, 1925. 12

Or

Write short notes on the following: 12

- (a) Death-bed transaction
(b) Uniform Civil Code.

Total number of printed pages-4

19 (3-II) FMLW II

2014

FAMILY LAW II

Paper : 2-2

Full Marks : 80

Time : Three hours



*The figures in the margin indicate full marks
for the questions.*

1. Answer the following questions : $1 \times 10 = 10$
- a) A person becomes a Mahomedan usually by birth to parents professing _____
(Mahomedanism / Hinduism / Jainism)
 - b) If a Mahomedan husband becomes a convert to another religion the marriage is _____
(continuing / automatically at an end / none of the above)
 - c) Mahomedan law regards marriage as a _____
(sacrifice / holy purpose / civil contract)

Contd.

- d) A Mahomedan cannot have more than **four** wives _____
(at the same time / in the life time / none of the above)
- e) Dower is the amount payable by the husband to the wife in consideration of the _____
(talaq / marriage / both of the above)
- f) Unpaid dower becomes payable to the wife immediately on _____
(marriage / attaining puberty / divorce)
- g) _____ means peace or submission to God's will.
(Islam / Muslim / Marriage)
- h) If a Muslim youth marries his wife's niece, then the marriage is _____
(regular / irregular / voidable)
- i) Muta Marriage means a _____
(permanent marriage / legal marriage / temporary marriage)
- j) A Mahomedan (male or female) who has not attained puberty _____ directly contract a marriage.
(cannot / can / may)

2. Write short answers : 2×5=10

- a) Significance of Islam
- b) Extra-judicial divorce
- c) Comparison of Sunni and Shia Laws relating to Guardianship
- d) Sadaqah
- e) Death-bed transactions

3. Answer the following questions : 12×5=60

- a) Who is a Muslim ? Explain the history of Islamic Law in India.

OR

- b) Discuss the various Sources of Muslim Law. Also mention the School of Muslim Law of Sunni and Shia.
- c) What is Nikah ? Mention the Essential requirement of valid Muslim marriage. Also make the differences between Sunni and Shia law of marriage.

OR

- d) Write in brief :
 - 1) Mahr
 - 2) Talaq

- e) Who is a Minor ? Explain the process of Appointment of Guardian and Kinds of Guardian under Muslim Law.

OR

- f) What is Maintenance relating to Minority and Guardianship? Explain the Rights of Muslim divorced women to maintenance.
- g) Write in brief :
- 1) Hiba
 - 2) Shuffa

OR

- h) Write in brief :
- 1) Waqf
 - 2) Wasiyat
- i) Write a detailed note on The Indian Succession Act, 1925.

OR

- j) What is Uniform Civil Code ? Explain the Need for Uniform Civil Code in India. Also mention the impediments to the formulation of the Uniform Civil Code by referring to the Article 44 of the Constitution of India.