

CORE COURSE 201 Family LAW – I

OBJECTIVE OF THE COURSE:

The course structure is designed mainly with three objectives in view. One is to provide adequate sociological perspectives so that the basic concepts relating to family are expounded in their social setting. The next objective is to give an overview of some of the current problems arising out of the foundational inequalities writ large in the various family concepts. The third objective is to view family law not merely as a separate system of personal law based upon religions but as the one cutting across the religious lines and eventually enabling us to fulfill the constitutional directive of uniform civil code. Such a restricting would make the study of familial relations more meaningful.

SYLLABUS :

1. General :

- 1.1 Concept of Family and Development of Family System, Types of Family
- 1.2 Sources of Family Law
- 1.3 Schools of Family Law
- 1.4 Uniform Civil Code : Concept, reasons, Need to enact, problems, relevant Constitutional provisions, Judicial pronouncements

2. MARRIAGE ;

- 2.1 Concept of Marriage, Essentials of valid Marriage under Different laws- Hindu, Muslim, Parsi, Christian laws and Special Marriage Act,
- 2.2 Emerging concepts : Maitri Sambandh (Live in Relationship) and divided home
- 2.3 Regular, irregular and void marriages under different family laws and effects thereof
- 2.4 Iddat and its types under Muslim Law
- 2.5 State Regulations over customary practices like Polygamy, Concubine, Child Marriage, Dowry, Sati System etc. by different legislations
- 2.6 Guardianship in Marriage (Jabar) and option of puberty under Muslim law

3. MATRIMONIAL DISPUTES AND REMEDIES :

- 3.1 Non-judicial resolution of marital conflicts.
- 3.2 Matrimonial Remedies : Restitution of Conjugal Rights, Judicial Separation and Dissolution of Marriage
- 3.3 Dissolution of Marriage ;
 - 3.3.1 Customary dissolution of marriage
 - 3.3.2 Unilateral divorce
 - 3.3.3 Divorce by mutual consent
 - 3.3.4 Other modes of dissolution of marriage like cruelty, desertion, adultery etc.

3.4 Emerging concept : Irretrievably breakdown Theory for granting divorce and Judicial pronouncements

3.5 Divorce under Muslim personal law –

3.5.1 Talak and its kinds, Talaq-e-tafweez, Kinds of divorce

3.5.2 Grounds for Divorce under the Dissolution of Muslim Marriages Act, 1939

3.5.3 Judicial Approach on Triple Talaq

3.6 Re-marriage under different Family Laws

Judicial resolution of marital conflicts: the family court

4. GUARDIANSHIP, ADOPTION, ALIMONY AND MAINTENANCE:

4.1 Guardianship under different family laws

4.2 Provisions for adoption under various family laws and CARA Guidelines for Adoption

4.3 Maintenance and alimony under the Criminal Procedure Code and various Family Laws:

4.3.1 Maintenance of neglected wives and divorced wives

4.3.2 Maintenance of children : disabled, legitimate and illegitimate

4.3.3 Maintenance of Parents and Grand Parents

4.3.4 Alimony and maintenance as an independent remedy: a review under different personal laws - need for reforming the law, Alimony and maintenance as an ancillary relief

4.3.5 Maintenance of divorced Muslim women under the Muslim Women (Protection of Rights on Divorce) Act, 1986: a critical review, Judicial pronouncement on the issue : Shah Banoo's case and Danial Litfi v. Union of India's case

Suggested Reading :

1. Paras Diwan, Law of Interstate and Testamentary Succession, Universal
2. Basu, N.D. Law of Succession, Universal
3. Kusern, Marriage and Divorce Law Manual, Universal
4. Machanda S. C. Law and Practice of Divorce in India, Universal
5. P.V. Kane, History of Dharmasastras Vol.2 Pl.1 at 624-632
6. Kuppuswami (ed) Mayne's Hindu Law and Usage Ch.4
7. Sivaramayys, Inequalities and the Law
8. K.C. Daiya, "Population control through family planning in India" Indian Journal of Legal Studies,
9. J.D.M. Derrett, Hindu Law Past and Present
10. J.D.M. Derrett, Death of Marriage Law
11. A.A.A. Fyzee, Outline of Muhammadan Law, Alladi Kuppuswami, Mayne's Hindu Law and Usage J.D.M. Derrett, A Critique of Modern Hindu Law
12. Paras Diwan, Hindu Law
13. Juvenile Justice (Care and Protection of Children) Act, 2015 : Bare Act (Adoption related provisions)