



SGT UNIVERSITY, GURGAON FACULTY OF LAW

PROGRAMME	SEMESTER	COURSE NAME	COURSE CODE
LL.B. (Hons.)	I	Family Law - I	08040105

Family Law - I

Course Objective:

India is a country of multiple religions and faith. The Constitution of India has guaranteed the right to religion under Part III of the Constitution. So there are different sets of laws, secular and personal which are simultaneously operative in the country. Hindu law, Muslim law, etc are sets of personal law applied to respective communities for their personal and family rights and obligations. This course will introduce the students to the various concepts of family Law like sources, marriage, adoption, etc.

Module – I Introduction to Personal Laws

1. Sources of Hindu Law

- 1.1 Ancient Sources - Shrutis & Smritis, Commentaries & Digest, Custom
- 1.2 Modern Sources - Judicial Decisions , Legislations, Equity, Justice and Good Conscience

2. Sources of Muslim Law

- 2.1 Primary Sources – Quran, Sunnat, Ahadis, Ijma, Qiyas
- 2.2 Secondary Sources - Custom, Judicial Decision, Legislation, Equity, Justice and Good Conscience

3. Schools of Hindu Law & Muslim Law

Module – II Marriage Laws

1. Marriage under Hindu Law

- 1.1 Nature , Definition and Forms of Marriage
- 1.2 Conditions for Marriage & Registration of Marriage
- 1.3 Marriage Ceremonies and proof of Marriage
- 1.4 Degree of Prohibited relationship and Sapinda relationship
- 1.5 Grounds of Void & Voidable Marriage

2. Marriage under Muslim Law

- 2.1 Definition, Nature and Scope of Muslim Marriage (Nikah)

- 2.2 Difference between Hindu & Muslim Marriage
- 2.3 Essential Conditions of Muslim Marriage
- 2.4 Classification of Muslim Marriage
- 2.5 Distinction between Shia & Sunni Law of Marriage

Module – III Dissolution of Marriage

- 1. Judicial Separation & Restitution of Conjugal Rights**
- 2. Dissolution of Marriage under Hindu Law**
 - 2.1 Nullity of Marriage
 - 2.2 Grounds of Divorce & Wife’s Special Grounds for Divorce
 - 2.3 Divorce by Mutual Consent
 - 2.4 Irretrievable Breakdown of Marriage
- 3. Dissolution of Marriage under Muslim Law**
 - 3.1 Essentials of Talaq
 - 3.2 Modes of Talaq
 - 3.3 Judicial Separation under The Dissolution of Muslim Marriage Act, 1939
 - 3.4 Distinction between Shia & Sunni Law of Divorce

Module – IV Maintenance and Adoption

- 1. Maintenance under Hindu Law**
 - 1.1 Provisions under the Hindu Marriage Act, 1955
 - 1.2 Provisions under the Hindu Adoption & Maintenance Act, 1956
 - 1.3 Provisions under the Cr.P.C, 1973
- 2. Maintenance under Muslim Law**
 - 2.1 Maintenance to Muslim Wife
 - 2.2 Divorced Wife’s Right to Maintenance under Muslim Women (Protection of Rights on Divorce) Act, 1986
 - 2.3 Maintenance to Muslim Children
- 3. Adoption under Hindu Law**
 - 3.1 Who may adopt, who may give in adoption and who can be adopted
 - 3.2 Ceremonies of Adoption & Effects of Adoption
 - 3.3 Relationship of Adopted Child & Proof of Adoption

Module – V Guardianship

- 1. Guardianship of person-** Natural, Testamentary and Guardian appointed by court
- 2. Guardianship of minors property**
- 3. Defacto Guardian**
- 4. Guardianship under Muslim Law**
 - 4.1 Meaning , Appointment and Removal of Guardianship

4.2 Kinds of guardianship- guardianship in marriage, person and property

Course Outcome: After completion of the course the students will be able to:

1. Work efficiently and with critical engagement with primary family law concepts, having due regard to the practical implementation of the principles in actual life;
2. Develop coherent, comprehensive and persuasive law arguments from an adversarial point of view;
3. Understand the constitutional dimensions of the various aspects of the Indian family law relating to the various communities;
4. Understand the various aspects of the Indian law through the function of the Supreme Court, and the techniques of judicial interpretation, etc;
5. Demonstrate a thorough and contextual knowledge of the institutions of marriage, adoption, judicial separation, divorce, guardianship, etc. and the various leading cases particularly in its application to real law problems;
6. Demonstrate a high level of skill on academic and professional legal writing.

Suggested Reading:

1. Paras Diwan, Modern Hindu Law, Allahabad Law Agency, 1993
2. Mulla, Principles of Hindu Law, Lexis Nexis, 2007
3. A.A.A. Fyzee, Outlines of Mohammadan Law, Oxford University Press, 1974
4. Afzal Qutb, A Treatise on Faith Oriented Family Norms, 1990
5. Kusum, Marriage and Divorce Law Manual, Universal Law Publishing Co. Pvt. Ltd., 2000
6. B.M. Gandhi, Family Law, Eastern Book Company, 2012
7. Tahir Mahmood, The Muslim Law of India, Law Book Company, 1980
8. Paras Diwan – Family Law, Allahabad Law Agency, 2001
9. Mulla, Principles of Mohammadan Law, Lexis Nexis, 1906