

First Year – Second Semester

COURSE-V; FAMILY LAW – II; MOHAMMEDAN LAW AND INDIAN SUCCESSION ACT

Objectives:

The knowledge of family laws is important for lawyers. This course is designed to endow the students with knowledge of both the codified and unmodified portions of Mohammedan Law. The course concerns itself with the sources, schools, institutions, succession, maintenance, menace of dowry, etc., In addition, the students have to familiarize themselves with the provisions of the Indian Succession Act.

Course contents:

UNIT – I

Development of Islamic Law: Advent of Islam & development of Muslim Law, Schools of Islamic Law, the Shariat Act, 1937, Concept of Marriage: Definition object, nature, essential requirements of a Muslim marriage, classification of marriage-Legal effects of valid, void and irregular marriage – Muta marriage; Sources of Islamic law; Customary practices and State regulation :Polygamy: Child marriage; Pre-emption; Wakf; Dower.

UNIT – II

Conversion and its consequences on family; Marriage, Guardianship, Succession; Child and Family: Legitimacy, Custody, maintenance and education, Guardianship and parental rights.

UNIT – III

Matrimonial Remedies under Islamic Law and Indian Divorce Act, 1869 [Amended Act] – Nullity of marriage – Bar to matrimonial relief; Alimony and Maintenance; Alimony and Maintenance as an independent remedy. A review under Muslim law, Indian Divorce Act, 1869, provisions under the Criminal Procedure Code, 1973; Maintenance of divorced Muslim Women under the Muslim Women [protection of Rights on Divorce] Act, 1986.

UNIT – IV

Will and Inheritance: Will-Meaning, difference between will and gift, Will made in death bed or during illness; Muslim law of Inheritance- Shia and Sunni schools; Distribution of property under Indian Succession Act of 1925 [Of Christians, Parsis and Jews]- Domicile – Parsis Intestate succession and Non Parsis Intestate succession, Succession certificate, Probate and letters of administration, powers and duties of executors.

UNIT – V

Wills – Privileged and unprivileged wills – Construction of Wills in brief – Void bequests, void wills, kinds of legacies – Protection of property of the deceased; Family Courts Act, 1984- Constitutions, powers, and its functions; Need for Uniform Civil Code- Article 44 of Indian Constitution.

Prescribed Books:

Mulla – Principles of Mohammedan Law.

Paras Diwan – Law of Intestate and Testamentary Succession.

Reference Books:

B.B.Mitra – Indian Succession Act, 1925

A.A.A. Fyzee – Outlines of Mohammedan Law.

D.D.Basu – Law of Succession

Paras Diwan – Family Law: Law of Marriage and Divorce in India.

A.M.Bhattachargee – Muslim Law and the Constitution.

Tahir Mohamood – Mohammedan Law.

Indian Divorce Act, 1869 – Bare Act