



**NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM**

**PROGRAMME: B.A., LL.B.(HONS.) FYIC**

**DETAILS OF COURSE OFFERED**

**ODD SEMESTER (V) – ACADEMIC YEAR .....**

<b>SL. NO</b>	<b>COURSE CODE</b>	<b>COURSE TITLE</b>	<b>L</b>	<b>T/P</b>	<b>CR</b>	<b>CH</b>
<b>1</b>	<b>BL504</b>	<b>FAMILY LAW II</b>	<b>4 PER WEEK</b>	<b>1 PER WEEK</b>	<b>4</b>	

- A. CODE AND TITLE OF THE COURSE:BL 504 ,FAMILY LAW II**
- B. COURSE CREDIT: 4 (TOTAL MARKS 200)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: DR. GITANJALI GHOSH**
- E. COURSE INSTRUCTOR: DR. GITANJALI GHOSH**

## 1. COURSE OBJECTIVES

Family law is an all-pervasive law. There is hardly anybody who is not under its purview and is not affected by the provisions thereunder. However, a vast majority of us are not quite aware of our rights and obligations under the same.

The objectives of the course, in particular, are as follows:

- To familiarize students with the dynamics of disputes under personal laws;
- To identify emerging issues in family law;
- To understand the lacunae in personal law;
- To analyse personal law from a gender perspective;
- To enhance capacity of students to form their own opinions on vital family law issues.

## 2. TEACHING METHODOLOGY

The teaching methodology shall aim at the generation of critical thinking among the students. The topic for a particular class shall be informed to the students beforehand and readings shall be assigned to them for the said topic. They are expected to have a basic idea about the topic prior to the class. Subsequent to a brief lecture on the topic, there shall be class discussion on the same as well as on the readings assigned. Pursuant to the class discussion, the teacher shall substantiate the issues raised and answer any questions posed or left unanswered. Case study method shall be also adopted for relevant topics.

## 3. EXPECTED OUTCOMES OF THE COURSE

At the completion of the course, it is humbly expected that the students shall:

- Comprehend the subject matter of the course
- Be able to analyze contemporary international criminal law problems in the light of the concepts learnt
- Be able to articulate their ideas on the subject matter of the course
- Produce at least one research paper of publishable quality
- Desire to take up personal law for further studies

## 4. COURSE EVALUATION METHOD

The Course shall be assessed for 200 marks. The Evaluation scheme would be as follows

Internal Assessment: 70% (140 marks)

Semester End Examination: 30% (60 marks)

Sl. No.	Marks Distribution	
1	Project Work	40 marks
2	Seminar/Group Discussion	20 marks

3	Assignment/Assessment	30 marks
4	Mid-Semester Test	40 marks
5	Attendance in class	10 marks
6	Semester End Examination	60 marks

## **5. DETAILED STRUCTURE OF THE COURSE (SPECIFYING COURSE MODULES AND SUB-MODULES)**

### **MODULE I**

- Hindu Law
  - Kinds of Property- Ancestral and Self-acquired/Separate
  - Mitakshara and Dayabhaga
  - Coparcenary
  - Joint Family and HUF
  - Survivorship and Succession
  - Karta
  - Alienation of HUF Property
  - Partition
  - Notional Partition
  - Pious obligation
  - Gains of learning
  - Doctrine of Blending

### **MODULE II**

- Stridhana- pre and post 1956
- Hindu Women's Rights to Property Act 1937
  - Rights of widows
  - Women's Estate
- Hindu Succession Act 1956
  - General principles
  - Intestate Succession to a male Hindu
  - Intestate Succession to a female Hindu
  - Succession rights of illegitimate children
  - Special provision regarding dwelling houses
  - Disqualifications
- Hindu Succession (Amendment) Act 2005

### **MODULE III**

- Muslim Law
  - Sunni (Hanafi) Law of Intestate Succession

- Shia (Ithna Ashari) Law of Intestate Succession
- Christian Law of Intestate Succession
- Parsi Law of Intestate Succession
- Disqualifications under different personal laws
- Constitution of India and Succession and Inheritance
- Law Commission of India on Succession and Inheritance

#### **MODULE IV**

- Testamentary Succession
  - Testamentary succession under different personal laws
  - Testamentary capacity
  - Wills
  - Construction of Wills
  - Procedures under the Indian Succession Act, 1925
  - Administration of Estates
- Pre-emption
- Law of gifts
- Hiba
- Wakf
- Wasiyat
- Deathbed bequests
- Marz-ul-maut
- Religious and Charitable Endowments

#### **6. PRESCRIBED READINGS**

- DF Mulla, *Hindu Law* ( Satyajeet A. Desai rev, 22nd edn, Lexis Nexis 2016) Part I Chapters 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 16 and Part II HSA, 1956.
- JD Mayne, *Hindu Law & Usage*, (Vijender Kumar rev, 17th ed, Bharat Law House 2014) Chapter 1, 12, 20.
- Poonam Pradhan Saxena, *Family Law II* (3rd edn, Lexis Nexis 2011) Chapters 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 14, 15, 16, 17.
- Flavia Agnes, *Family Law* vol 1 (OUP 2011) Chapter 1 Sections A, B, C, D.

- Vijendra Kumar, “Basis and Nature of Pious Obligations of Son to pay Father's Debt vis-à-vis Statutory Modifications in Hindu Law”, 1994 JILI 339.
- H.S. Sandhu, “Scope of Section 6 of Hindu Succession Act” AIR 1998 Jour 177.
- B. Sivaramayya, “HSA (Andhra Amendment) 1985: A Move in the Wrong Direction”, 1988 JILI 166.
- Bina Agarwal, “Far From Gender Equality” (2005) 20(2) FROM THE LAWYERS’ COLLECTIVE 16.
- Kirtee Singh, “Amendments to the Hindu Succession Act – Are they enough to bring about Gender Equality?” (2005) 4(1) COMBAT LAW.
- B. Sivaramayya, “Hindu Succession Act and Restricted Estates” 1964 JILI 338.
- “Shares to Female members at Partition under Mitakshara Law”, 1963 JILI 217.
- M.M. Bhalla, “Whether s. 8 HSA Sounds the Death Knell of Coparcenary Property For Descendants” AIR 1994 Jour 137.
- Kusum, “Rights and Status of Illegitimate Children” 1998 JILI 301.
- D.C. Jain, “Section 15 of the Hindu Succession Act, 1956: Some Anomalies and Inequities” 1968 SCJ 1.
- Aqil Ahmad, *Mohammedan Law* (I.A. Kan rev., 23rd edn, CLA 2011) Chapters 13, 14, 15, 16, 17, 19.
- Asaf A.A. Fyzee, *Outlines of Muhammadan Law* (Tahir Mahmood ed and rev, 5th edn, OUP 2008) Chapters 8, 9, 10, 11, 13 and 14.
- DF Mulla, *Principles of Mahomedan Law* (I.A. Khan rev, 20th edn, Lexis Nexis 2014) Chapters 6, 7, 8, 9, 10, 11, 12, 13, 19, 20, 21.
- R.K. Sinha, *Muslim Law* (6th edn, CLA 2011) Chapters 10, 11, 12, 13, 15.
- Sarasu Esther Thomas, *Law for Christians in Contemporary India* (BTESSC 2014) Chapter 13.
- Sebastian Champappilly, *Christian law of Succession in India* (1st edn, Southern Law Publishers 1997).
- Mohammed Shabbir and S.C. Manchanda, *Parsi law in India* (5<sup>th</sup> edn, Law Book Co. (P) Ltd. 1991)
- Thomas John, “Succession Law in India and Obstacles in the Road to Gender Equality” (2006) 18(2) STUDENT BAR REVIEW 38.
- Sebastian Champappilly, “Christian Law of Succession and Mary Roy's Case” (1994) 4 SCC (Jour) 9
- Sebastian Champappilly, “Reforms in Christian Law of Succession in India” (1999) 4 SCC (Jour) 7
- V.K. Varadachari, *Hindu Religious and Charitable Endowments* (R. Prakash rev, Eastern Book Company, 2005).

## **Statutes**

- The Hindu Gains and Learning Act 1930
- The Hindu Women’s Rights to Property Act 1937
- The Hindu Succession Act 1956
- The Kerala Joint Hindu Family System (Abolition) Act 1975
- The Hindu Succession (Andhra Pradesh Amendment) Act 1986

- The Hindu Succession (Tamil Nadu Amendment) Act 1990
- The Hindu Succession (Maharashtra Amendment) Act 1994
- The Hindu Succession (Karnataka Amendment) Act 1994
- The Hindu Succession (Amendment) Act 2005
- The Indian Succession Act 1925
- The Transfer of Property Act 1882
- The Indian Succession Act 1925
- The Mussalman Wakf Validating Act 1913
- The Mussalman Wakf Act 1923
- The Mussalman Wakf Validating Act 1930
- The Bengal Wakf Act 1934
- The Mussalman Wakf (Bombay Amendment) Act 1935
- The Wakf Act 1954
- The Wakf (Amendment) Act 1959
- The Public Wakfs (Extension of Limitation) Act 1959
- The Uttar Pradesh Muslim Wakfs Act 1960
- The Wakf (Amendment) Act 1964
- The Public Wakfs (Extension of Limitation) Amendment Act 1967
- The Wakf (Amendment) Act 1969
- The Wakf (Amendment) Act 1984
- The Public Wakfs (Extension of Limitation) (Delhi Amendment) Act 1982
- The Wakf Act 1995
- The Wakf (Amendment) Act, 2013

## Cases

- *C N Arunachala Mudaliar v. C A Muruganatha Mudaliar*, AIR 1953 SC 495.
- *Commissioner of Wealth Tax v. R Sridharan* (1976) 4 SCC 489.
- *Raja Chelikani Venkayamma v. Venkatramanayamma*, (1902) 29 IA 156.
- *Md. Hussain Khan v. Babu Kishva Nandan Sahai*, (1937) 64 IA 250.
- *Katama Natchiar v. Mootoo Vijaya*, (1861-64) 9 MIA 325.
- *Krishna Prasad v. C.I.T., Bangalore*, AIR 1975 SC 498.
- *Kshetra Mohan v. Commissioner of Excess Profit Tax*, AIR 1953 SC 516.
- *Bhagwan Dayal v. Reoti Devi*, AIR 1962 SC 287.
- *Sunil Kumar v. Ram Parkash*, AIR 1988 SC 576
- *Suraj Bunsu Koer v. Sheo Proshad Singh*, (1879) 6 IA 88.
- *Hunooman Persaud Panday v. Mussamat Babbooe Munraj Koonweree*, 6 MIA 393.
- *Murarka Properties v. Beharilal Murarka*, AIR 1978 SC 300.
- *Brij Narain v. Mangala Prasad*, AIR 1924 PC 50.
- *Apoorva Shantilal v. CIT, Gujarat* AIR 1983 SC 409.
- *Puttrangama v. MS Ranganna* AIR 1968 SC 1018.
- *Kalyani v. Narayanan*, AIR 1980 SC 1173.
- *A Venkappa Bhatta v. Gangamma*, AIR 1988 Ker 133
- *Ratnam Chettiar v. Kuppuswami*, AIR 1976 SC 1

- *Ram Narain Chaudhury v. Pan Kuer*, 1934 IA 16.
- *Gurupad Khandappa Magdum v. Hirabai Khandappa Magdum*, AIR 1982 SC 1239
- *P.S. Sairam v. P.S. Rama Rao Pisey*, AIR 2004 SC 1619.
- *Pushpa Devi v. CIT*, AIR 1977 SC 2230.
- *Commissioner of Income Tax v. L. Balasubramaniam*, [1985] 153 ITR 696 (Mad)
- *CM Shah v. CIT*, (1992) 1 SCC 76.
- *Gurupad Khandappa Magdum v. Hirabai Khandappa Magdum*, AIR 1982 SC 1239
- *Kotturuswami v. Veeravva*, AIR 1959 SC 577
- *V. Tulsamma v. V. Sessa Reddi* (1977) 3 SCC 79
- *Kalawatibai v. Souryabai* AIR 1991 SC 1581
- *C. Masilamani Mudaliar v. Idol of Sri Swaminathaswami Thirukoil*, (1996) 8 SCC 525.
- *Naresh Kumari v. Shakshi Lal*, 1999 (2) SCC 656.
- *Wealth Tax Commissioner v. Chander Sen*, AIR 1986 SC 1753.
- *Ajit Kumar v. Ujayar Singh*, AIR 1961 SC 1334.
- *Shakuntala Sawhney v. Kaushalya Sawhney*, (1980) 1 SCC 63.
- *Seethalakshmi Ammal v. Muthuvenkatrama Iyengar*, (1998) 5 SCC 368.
- *Narasimha Murthy v. Susheela Bai*, AIR 1996 SC 1826.
- *Chanchal Ram v. Union of India*, AIR 1953 HP 79.
- *State of Punjab v. Balwant Singh*, AIR 1991 SC 684.
- *State of Gujarat v. Mahant Ranchhodas Guru Atmaramdasji*, AIR 1974 Guj 115
- *Badrinarayan Shankar Bhandari v. Omprakash Shankar Bhandari*, AIR 2014 Bom 151.
- *Pushpalatha v. V. Padma*, AIR 2010 Kar 124.
- *Uttam v. Saubhag Singh*, Civil Appeal No. 2360\_of 2016.
- *Solomon v. Muthiah*, (1974) 1 MLJ 53.
- *D Chelliah Nadar v. G Lalita Bai*, AIR 1978 Mad 66.
- *Mary Roy v. State of Kerala*, (1986) 2 SCC 209.
- *V M Mathew v. Eliswa*, AIR 1989 NOC 27 (Ker).
- *State v. Narasu Appa Mali*, AIR 1952 Bom 84.
- *Ahmedabad Women Action Group and ors. v. Union of India*, AIR 1997 SC 3614.
- *Madhu Kishwar and ors. v. State of Bihar and ors.*, AIR 1996 SC 1864.
- *P.E. Mathew v. Union of India*, AIR 1999 Ker 345.
- *Srinivasa Iyer v. Saraswathi Ammal*, (1953) Mad 78.
- *Gazula Dasaratha Rama Rao v. State of Andhra Pradesh*, AIR 1961 SC 564, 570.
- *Sant Ram v. Labh Singh*, AIR 1965 SC 314.
- *Bishan Singh v. Khazan Singh*, AIR 1958 SC 838.
- *Bhau Ram v. Brij Nath*, AIR 1962 SC 1476.
- *Ram Saran v. Domini Kuer*, AIR 1962 SC
- *Hassarat Bibi v. Golam Jaffar*, (1898) 3 CWN 57
- *Commissioner of Gift Tax v. Abdul Karim*, AIR 1991 SC 1847