

## **COURSE-V: FAMILY LAW -II: MOHAMMEDAN LAW AND INDIAN SUCCESSION ACT**

### **UNIT-I**

Development of Islamic Law: Advent of Islam & development of Muslim Law, Schools of Islamic Law, Whos is a Mohammeden; Conversion and its consequences on family: Marriage, Guardianship, Succession; Child and Family: the Shariat Act, 1937; Sources of Islamic Law; 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; Customary practices and State regulation: Polygamy; Child marriage; .Option of Puberty; Dower; Kinds of Dower: Dower when confirmed; Widow's Right of Retention

### **UNIT-II**

Parentage Legitimacy, and Acknowledgement of Paternity Custody, Maintenance and education, Guardianship and parental rights. Matrimonial Remedies under Islamic Law and Indian Divorce Act, 1869(Amended Act) - Modes of Talak - Effects of Talak - Iddat - 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-III**

Will-Meaning, Limitations on a Mohammeden in making a will; Difference between will and gift, Will made in death bed or during illness; Gifts(Hiba): Essentials of Valid Gift; Kinds of Hiba; Revocation of Gifts; Wakf; Essentials of valid Wakf: Mutawalli - Appointment - Powers and Duties of Mutawalli; Law relating Pre-emption; Nature of Right of Pre-emption; Who can Pre-empt; Formalities; When the Right of Pre-emption is lost.

### **Unit IV**

Muslim law of Inheritance- Shia and Sunni schools; Distribution of property under Indian Succession Act of 1925(Of Christians, Parsis)- Domicile- Kinds of Domicile - Modes of acquisition of Domicile; Parsis Intestate succession and Non Parsis Intestate succession, Succession certificate, Probate and letters of administration, Powers and Duties of Executor,

### **UNIT-V**

Wills - Privileged and unprivileged wills - Construction of Wills in brief - Void bequests, void wills, Kinds of Legacies; Specific and Demonstrative Legacy; Ademption of Legacies; Protection of property of the deceased; Appointment of Curator - Powers and Duties Family Courts Act, 1984- Constitution, powers, and its functions; Need for Uniform Civil Code- Article 44 of Indian Constitution.

### **Prescribed Books:**

1. Mulla, Principles of Mohammedan Law,(New Delhi: Lexis Nexis, 1906).
2. Paras Diwan, Law of Intestate and Testamentary Succession, 4th Edition, (New Delhi: Universal Law Publishing Co. Ltd, 2013)

### **Reference Books:**

1. B. B. Mitra, Indian Succession Act, 1925.15th Edition, (New Delhi: Jain Book Agency, 2013)
2. Press, A. A Fyzee, Outlines of Mohammedan Law, (Oxford University Press, 1974)

3. Basu, N.D., Law of Succession, 5th Edition, (Calcutta: Eastern Law House, 1974)
  4. Paras Diwan, Family Law: Law of Marriage and Divorce in India, (New Delhi: Universal Law Publishing Co. Ltd, 2011)
  5. A. M. Bhattachargee, Muslim Law and the Constitution (Calcutta: Eastern Law House, 1994)
  6. Tahir Mohamood, The Muslim Law of India, (Law Book Company, 1980)
- Indian Divorce Act, 1869 - Bare Act