



Q.1. Define Hindu Law? Explain the origin and nature of Hindu Law?

Ans :- The concept of Hindu Law is deeply rooted in Hindu philosophy and Hindu religion. The ancient Hindu social structure and its continuance in modern times is, to a great extent, the outcome of Hindu philosophy and religion. Whatever difficulties there may be in defining precisely Hindu religion and philosophy it may be difficult to spell out their basic postulates, which have prevailed during the thousands of years of the existence of Hindu society.

Definition of Hindu Law :- According to Mayne, "Hindu Law is the law of Smritis as expounded in Sanskrit commentaries and Digests which are modified and supplemented by customs and administered by the courts."

According to Mulla, "Law as understood by the Hindu is a branch of Dharma ... Dharma is an expression of wide import and means the aggregate of duties and obligations-religious, moral, social and legal."

In the earlier texts Hindu Law has been defined as "the law of the Smritis as expounded in the Sanskrit Commentaries and Digests which as modified and supplemented by custom, is administered by the courts." Today such a definition of Hindu Law cannot hold good. A large portion of Hindu Law has now been codified and in other words, old Hindu Law continues.

Origin of Hindu Law :- There are two views as to the origin of Hindu law. Orthodox view of Hindu law is based on the sacred texts i.e. the Vedas. It is of divine origin. The European view of Hindu law is that it is derived from the immemorial custom.

Q.5. Discuss the various schools of Hindu Law and also explain how did they arise?

Or, Which are the two main schools of Hindu Law? What are fundamental difference between the two? What is their relevance in the codified Hindu Law?

Ans :- The codified Hindu Law lays down uniform law for all Hindus. In the codified areas of Hindu law, there is no scope for existence of schools. The schools of Hindu law have relevance only in respect of the uncodified areas of Hindu law.

Schools of Hindu law emerged with the emergence of the era of commentaries and Digests. The commentators put his own gloss on the ancient texts and his authority having been received in one and rejected in another part of India, schools with conflicting doctrines arose.

There are two main schools of Hindu Law :-

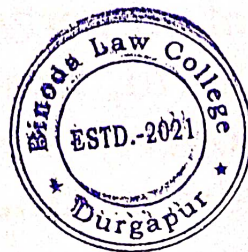
(1) The Mitakshara School, and

(2) The Dayabhaga school or Bengal school.

The Mitakshara school has the following sub-schools:-

(i) Benaras School (ii) Mithila School (ii) Maharashtra or Bombay school and (iv) Dravida or Madras School.

Mitakshara and Dayabhaga Schools :- The Mitakshara school owes its name to Vijnaneshwara's commentary on the Yajnavalkya Smriti by the name of "Mitakshara."



Q.8. *What conditions have been prescribed for a valid marriage under Hindu Marriage Act, 1955?*

Ans :- The Hindu Marriage Act 1955 has not only codified the existing law of marriage but has amended it in many important matters. Principal changes effected are :-

(i) Identity of caste or sub-caste for a Hindu Marriage is not necessary.

(ii) Intercaste marriage between persons belonging to Hindu, Buddhist, Jain or Sikh religion are valid.

(iii) Marriage between parties of same gotra or pravara is valid, even if the marriage was solemnised before the Act.

(iv) Prohibited degrees in Bengal and Mitakshara school abolished and a new rule introduced curtailing the degrees.

(v) Rule of monogamy is adopted.

(vi) No particular form of ceremony is necessary.

(vii) Restitution of conjugal right is enacted.

(viii) Provision for judicial separation is enacted.

(ix) Divorce is introduced.

(x) Provision of alimony is made.

(xi) Minimum age of parties is prescribed.



~~Q~~ Q.16. How does the law provide for the maintenance of children and aged parents among the Hindu?

Ans :- Maintenance for children :- Section 20 of the Hindu Adoption and Maintenance Act provide that the obligation to maintain one's children is personal obligation and arises out of the personal relationship of parent and child. In most of the early systems of law, the obligation to maintain children was imposed on the father alone and only in respect of legitimate children.

Under the old Hindu law, the father was required to maintain both his legitimate and illegitimate children. The modern Hindu law imposed the obligation on both the parents and in respect of both legitimate and illegitimate children. Ordinarily, the obligation extends during the minority of children.

Maintenance for Aged or infirm parents :- The obligation to maintain aged or infirm parents is a personal obligation arising out of the parent-child relationship. However, under the old Hindu law this obligation was imposed on the son alone. Daughters has no such obligation. The modern Hindu law makes it an obligation of sons and daughters.

Under the old Hindu law "parent" did not include a step-parent. Explanation to section 20 of Hindu Adoptions and Maintenance Act now includes a childless step mother in the