

NIRMA UNIVERSITY
INSTITUTE OF LAW
B.A., LL.B. (Hons.) and B.COM., LL.B. (Hons.) Programmes
Academic Year 2020-21
Semester VI
Family Law II

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Course Code	2BL642
Course Title	Family Law II

Course Learning Outcomes (CLO)

At the end of the course, students will be able to:

1. Demonstrate the understanding of the law relating to Hindu undivided family, coparcenary, succession under different personal laws, gifts and wills
2. Apply and compare the principles of intestate succession under different personal laws.
3. Explain the principles of testamentary and intestate succession under the Indian Succession Act, 1925
4. Analyse the emerging issues and upcoming challenges to issues of joint and individual property
5. Explain and evaluate the development of property rights of women.
6. Examine if there is a need for introduction of Uniform Civil Code in the country.

Syllabus

Teaching Hours: 60
15 Hours

Unit. I Hindu Joint Family

- Introduction to joint family system in India: Mitakshara and Dayabhaga
- Mitakshara joint family system:
- Coparcenary- formation and incidents
- Separate and coparcenary property
- Dayabhaga joint family system:
- Coparcenary- formation and incidents
- Property under Dayabhaga law
- Sole surviving coparcener
- Daughter as a coparcener: Position after Hindu Succession Amendment) Act, 2005
- Minor as coparcener
- Karta of the joint family
- Position, powers, and obligations
- Women as karta

- Alienation of property - separate and coparcenary
- Alienation of property by karta
- Alienation of property by sole surviving coparcener
- Coparcener's right to challenge alienation
- Debts-doctrines of pious obligation and antecedent debt
- Partition and re-union
- Partible and impartible estates
- Per stripes and per capita partition
- Joint Hindu Family as a social security institution and impact of Hindu Gains of Learning Act and various tax laws

Unit. II Inheritance under Hindu Law 10 Hours

- Historical prospective of traditional Hindu Law as to the study of Hindu Succession Act 1956
- Rule of survivorship
- Hindu Women's Right to Property Act, 1937
- Succession to property of a Hindu male dying intestate under the provisions of HSA, 1956
- Devolution of interest in *Mitakshara* coparcenary with reference to the provisions of the HSA, 1956.
- Succession to property of a Hindu female dying intestate under the provisions of HSA, 1956
- Disqualifications relating to succession
- General rules of succession
- *Marumakkattayam* and *Aliyasantana* laws governing people living in Travancore-Cochin and districts of *Malabar* and *South Kanara*

Unit. III Inheritance under Islamic Law 10 Hours

- Hiba- Meaning and essentials; gift made during *marz-ul-maut*
- Law relating to wills
- General rules of succession and exclusion from succession
- Classification of heirs under Hanafi and Ithna Ashria schools and their shares and distribution of property

Unit. IV Inheritance under other personal laws 10 Hours

- Christian Law of Inheritance
- Parsi law of Inheritance
- Heirs and their shares and distribution of property under

Unit. V The Indian Succession Act of 1925 10 Hours

- Application of Indian Succession Act – Domicile, Marriage, Consanguinity
- Succession – Intestate and Testamentary Succession
- Will and Codicils
- Legacies and Bequests
- Probate and letters of administration.
- Succession Certificates- Courts having jurisdiction to grant certificate, Application, Procedure and content.

Unit. VI Uniform Civil Code

5 Hours

- Religious pluralism and its implications
- Article 44 of Constitution of India and impediments to formulation of UCC
- Optional UCC

Suggested Readings[^]

- Diwan Paras (2007), *Modern Hindu Law*, Allahabad: Allahabad Law Agency.
- Fyzee, A. A. (2005). *Outlines of Mohammadan Law*. New Delhi: Oxford University Press.
- Kusum. (2010). *Cases and Materials on Family Law*. Delhi: Universal Law.
- Mulla, D. F., & Desai, S. A. (2010). *Mulla Principles of Hindu Law*. Nagpur: Lexis Nexis Butterworths Wadhwa.
- Parashar A. (ed.) & Dhanda A. (2008). *Redefining Family Law in India*. Routledge.
- Pradhan Poonam (2019), *Family Law II*, New Delhi: LexisNexis

L=Lecture, T=Tutorial, P=Practical, C=Credit

[^] This is not an exhaustive list