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Enrolment No:			
<b>UNIVERSITY OF PETROLEUM AND ENERGY STUDIES</b> <b>End Semester Examination, December 2023</b>			
Course: Family Law I		Semester: III	
Program: BA LL.B./BBA LL.B./B.COM LL.B.		Time: 03 hrs.	
Course Code: CLCC 2010		Max. Marks: 100	
<b>Instructions:</b>			
<b>SECTION A</b> <b>(5Qx2M=10Marks)</b>			
S. No.		Marks	CO
Q 1	What is the definition of a Hindu as per the Hindu Adoption and Maintenance Act, of 1956?	2	CO1
Q 2	Define custom as a source of Hindu law.	2	CO1
Q 3	What are the ancient and modern sources of Muslim Law? List them.	2	CO1
Q 4	What is the rule of puberty in a Muslim marriage?	2	CO1
Q 5	Choose the correct option:  Column A:  1. Section 25 of the Hindu Marriage Act, 1955 2. Section 21 of the Hindu Adoption and Maintenance Act, 1956 3. Section 7 of the Hindu Minority and Guardianship Act, 1956 4. Section 28 of the Hindu Marriage Act, 1955  Column B:  a. Permanent Alimony and Maintenance b. Dependents	2	CO1

	<p>c. Natural guardianship of adopted son d. Appeals from decree and orders.</p> <p>Options:</p> <p>I. 1a 2b 3c 4d II. 1a 2c 3b 4d III. 1b 2b 3d 4c IV. 1c 2a 3d 4b</p>		
<p><b>SECTION B</b> (4Qx5M= 20 Marks)</p>			
Q 6	Write a short note on guardians under the Hindu Minority and Guardianship Act, 1956.	5	CO2
Q 7	Write a short on the <i>Sahih, Fasil and Batil</i> marriages.	5	CO2
Q 8	Discuss the concept of Mahr in Muslim marriage and its significance.	5	CO2
Q 9	What are the different types of Muslim marriages recognized by Islamic law?	5	CO2
<p><b>SECTION-C</b> (2Qx10M=20 Marks)</p>			
Q 10	<b>Evaluate the adequacy</b> of maintenance provisions for divorced women under the Hindu Marriage Act in <b>comparison to the rights</b> available under the Hindu Adoption and Maintenance Act and the gender-neutral approach of Section 125 of the CrPC.	10	CO3
Q 11	In what ways might the age gap requirement of twenty-one years between a male adopter and a female child, as per Section 11(iii) of the Hindu Adoption and Maintenance Act, reflect social and cultural norms, and to what extent should these considerations be adapted to contemporary adoption practices? <b>Analyze the existing provisions of law and write your arguments.</b>	10	CO3

**SECTION-D**  
**(2Qx25M=50 Marks)**

Q 12	<p>In the vibrant heart of Delhi, Shanaya, a young and ambitious graphic designer, found herself entwined in the delicate bonds of love with a fellow artist, Ranveer. Their relationship, intense yet short-lived, left its mark in the form of a secret that Shanaya held close to her heart, an abortion borne from a moment of passion.</p> <p>As time unfurled, the romance with Ranveer became a remnant of the past, and Shanaya's path crossed with Tikamal, a kind-hearted businessman with whom she shared a pleasant acquaintance. Propelled by the alignment of their families' wishes and a sense of compatibility, Shanaya and Tikamal decided to weave their lives together in the sacred union of marriage.</p> <p>The wedding was a grand affair, celebrated with the traditional fervour that Delhi is known for, with marigold garlands and the echoes of shehnais. However, beneath the surface of festivity, Shanaya harboured the undisclosed truth of her past.</p> <p>Months passed, and the newlyweds settled into their lives, the rhythms of domesticity replacing the wedding fanfare. It was during a serene dusk, six months after their vows had been exchanged, that Shanaya, moved by the intimacy and trust built between them, chose to unveil her past with Ranveer to Tikamal, not realizing the gravity this confession would hold.</p> <p>Tikamal, feeling a maelstrom of betrayal, grappled with the revelation. Believing that the foundation of their marriage, his consent, had been tarnished by fraud, he sought counsel. He was introduced to Section 12(1)(c) of the Hindu Marriage Act, which allows for the annulment of marriage if consent was obtained by fraud or misrepresentation of facts.</p>	<b>25</b>	<b>CO4</b>

With a heavy heart, Tikamal filed a petition for the annulment of marriage, claiming that Shanaya's concealment of her past relationship and abortion constituted a fraud that had led to his misled consent.

In the court of law, the case was argued with fervour, Tikamal's side highlighting the nondisclosure as a grave misrepresentation. Shanaya's representation pleaded the nuances of personal history that she deemed non-essential to the marriage and her subsequent honesty as a testament to her commitment to their relationship.

The matter before the court was not just the nullity of marriage but also the timing of the petition. Tikamal had filed within the stipulated one year since discovering the 'fraud,' an exception to the norm that petitions for annulment should be filed within one year of marriage, emphasizing the moment the truth had surfaced rather than the wedding date.

After thoughtful consideration, the court reached its verdict. While they acknowledged Tikamal's emotional turmoil, the judge pointed out that the concealment of a past relationship and an abortion, though significant, did not directly affect the ability to enter or sustain the marriage contract. The judge ruled that personal history, which does not impede marital duties or the welfare of the spouse, may not constitute valid grounds for annulment as per the spirit of the act.

Thus, the petition for annulment was dismissed, albeit without prejudice, meaning that Tikamal's right to file a divorce on other grounds, should he wish to dissolve the marriage, remained intact. The dismissal without prejudice left a gateway for the couple to either reconcile and build upon the remnants of trust or to part ways legally through different means, in a manner that the law and the heart could both, perhaps, find justifiable.

After the dismissal of Tikamal's annulment petition, he found himself at a crossroads, navigating his emotional turmoil and the legal complexities of marriage. The court, sensing the need for the couple to explore every possibility of reconciliation, ordered them to seek mediation and counselling. Despite the court's best intentions, the sessions bore no fruit,

and Tikamal and Shanaya were unable to mend the fragmented trust between them.

Within the year following their marriage, Tikamal, still wounded by the revelation and the unsuccessful attempt at annulment, decided to file for divorce. He claimed that the marriage had broken down irretrievably, and living together was beyond endurance. However, the court, considering the principles of matrimonial laws which strive to preserve the institution of marriage, dismissed the divorce petition as well. The court highlighted the lack of substantial evidence to prove legal cruelty or any other valid ground as per the Hindu Marriage Act.

Following the court's decision, the atmosphere between Tikamal and Shanaya grew even more strained. Feeling alienated in his own home, Tikamal sought a different route and after 6 months passed from the dismissal of the annulment petition, filed for judicial separation under Section 10 of the Hindu Marriage Act. He hoped that the period of living apart would provide a clearer perspective on their marital issues.

Shanaya, on her part, was still invested in the marriage and sought to save it. In a counter move, she filed a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act. She argued that despite their problems, they were still married, and she wished to discharge her marital obligations and expected the same from Tikamal.

The court, faced with these conflicting petitions, had to deliberate not just the legalities but also the intricate human emotions and societal implications of their decisions. The court considered the theories of divorce fault, breakdown, and consent while also weighing the importance of the institution of marriage.

After months of deliberation, the court granted judicial separation, acknowledging that the couple needed time apart. This separation period was seen as a last-ditch effort for potential reconciliation. However, if the judicial separation fails to bring about a resolution, it could eventually

	<p>lead to divorce after a specified period, should the parties still find themselves incompatible.</p> <p>During the separation, Shanaya’s petition for restitution of conjugal rights remained in abeyance, the court having granted Tikamal the space he sought. The order suggested that if Tikamal was willing to cohabit with Shanaya after the period of separation and give their marriage another chance, Shanaya’s petition could be revisited.</p> <p><b>(Substantiate all the questions with legal and logical reasoning, case laws and relevant provisions of law, read the question very carefully and provide relevant answers to the questions)</b></p> <p><b>A. How does the court's interpretation of “mental cruelty” in Tikamal's divorce petition reflect the evolving legal standards for what constitutes cruelty in the context of matrimonial disputes? (9 marks)</b></p> <p><b>B. Suggest the legal remedies available to Tikamal after the dismissal of his divorce petition and the court's grant of judicial separation, should he still wish to pursue the dissolution of the marriage? (8 marks)</b></p> <p><b>C. How does the timing of Shanaya's disclosure impact the legal analysis of fraud, and what precedent does this set for future cases where personal histories are disclosed after marriage? (8 marks)</b></p>		
Q 13	<p>Once in the bustling town of Hyderabad, there lived a young man named Omar. Known for his intellect and modest family wealth, Omar reached the age where his parents wished to see him married. In the same town lived Aysha, a woman of grace and education, who caught Omar’s eye. Their families agreed and soon, the sounds of celebration filled the air as they were joined in marriage with the traditional Nikah ceremony. The initial days of their marriage were blissful. Aysha brought joy into Omar’s life with her wit and kindness, and Omar provided for her with a</p>		CO4

gentle hand, fulfilling the promise of Mahr he had given. But as the months passed, the winds of change began to blow.

Omar's business faced hardship. The stress took its toll on him, and his demeanour towards Aysha began to alter. He became irritable and, unfortunately, his frustration spilled over into their home. The harmony that once existed between Omar and Aysha began to fade, replaced by a tense silence that hung heavy in the air. One evening, after a particularly difficult day, Omar's frustration peaked, and he uttered the word 'Talaq' in anger. However, he immediately regretted this and the couple, knowing the gravity of such a declaration, sought counsel from a wise elder in their community. They learned that since Omar had not repeated the declaration thrice, the Talaq was not finalized, and they could reconcile after a period of reflection known as 'iddah'.

Determined to mend their relationship, Omar and Aysha embarked on a journey of reconciliation, guided by the wisdom of their faith and the elders. Omar worked to control his anger and Aysha forgave him, understanding the pressures he faced. But the tranquillity was short-lived. Omar's business failed entirely, and his sense of self-worth crumbled. Blinded by his perceived inadequacies, he once again directed his frustrations towards Aysha. This time, the cruelty took a more severe form; emotional abuse crept into their daily lives.

Omar's harsh words turned into a chilling silence that denied Aysha even the basic courtesies of conversation. The lively home they had built together became a quiet shell of its former self. Aysha, once full of life and ambition, found herself walking on eggshells, her spirit withering under the cold shadow of Omar's cruelty.

One harrowing night, Omar's rage reached its peak. In a fit of fury, he pronounced Talaq thrice. The finality of it echoed through the house, sealing their fate. Under the Muslim Personal Law, this meant an

irrevocable end to their marriage. Aysha, stripped of her marriage with just a few words, stood in the silence of their home, her heart shattered. Aysha was left to ponder her future alone, reflecting on the vows they once took under the gaze of their loved ones and God. The community whispered, some in sympathy, others in judgment. The story of Omar and Aysha became a cautionary tale of what can happen when the sanctity of marriage is overshadowed by the cruelty of a partner and the precarious power that one holds in the union.

- 1. Given the circumstances of Omar's pronouncement of 'talaq' in a moment of anger, suggest the legal remedies available to Aysha post the 2019 judgment and the enactment of the Muslim Women (Protection of Rights on Marriage) Act, which criminalizes instant triple talaq? (10 marks)**
- 2. Considering the story of Omar and Aysha, how might Indian courts interpret and apply the concept of 'iddah' in the case of a revocable talaq, and what are the legal implications for both parties during this period? (7 Marks)**
- 3. How does the instant triple talaq pronounced by Omar and the subsequent reconciliation period reflect upon the legal requirements for 'talaq-e-Ahsan' and 'talaq-e-Hasan', and what implications do these traditional Islamic procedures have in the context of contemporary Indian law? (8 Marks)**