BLOGS

CLAT PG Mock based on New Pattern

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Read the passage given below and answer the questions according to the general knowledge of current affairs and law.

PASSAGE

(*Excerpted from the judgment Shayara Bano vs Union Of India*)

The fact, that about 90% of the Sunnis in India, belong to the Hanafi school, and that, they have been adopting 'talaq-e-biddat' as a valid form of divorce, is also not a matter of dispute. The very fact, that the issue is being forcefully canvassed, before the highest Court of the land, and at that – before a Constitution Bench, is proof enough. The fact that the judgment of the Privy Council in the Rashid Ahmad case 1 as far back as in 1932, upheld the severance of the matrimonial tie, based on the fact that 'talaq' had been uttered thrice by the husband, demonstrates not only its reality, but its enforcement, for the determination of the civil rights of the parties. It is therefore clear, that amongst Sunni Muslims belonging to the Hanafi school, the practice of 'talaq-e-biddat', has been very much prevalent, since time immemorial. It has been widespread amongst Muslims in countries with Muslim popularity. Even though it is considered as irreligious within the religious denomination in which the practice is prevalent, yet the denomination considers it valid in law. Those following this practice have concededly allowed their civil rights to be settled thereon. 'Talaq-e-biddat' is practiced in India by 90% of the Muslims (who belong to the Hanafi school). The Muslim population in India is over 13% (-about sixteen crores) out of which 4-5 crores are Shias, and the remaining are Sunnis (besides, about 10 lakhs Ahmadias) – mostly belonging to the Hanafi school. And therefore, it would not be incorrect to conclude, that an overwhelming majority of Muslims in India, have had recourse to the severance of their matrimonial ties, by way of 'talaq-e-biddat' – as a matter of their religious belief – as a matter of their faith. The contention now being dealt with, was raised with the object of demonstrating, that after the enactment of the Muslim Personal Law (Shariat) Application Act, 1937, the questions and subjects covered by the Shariat Act, ceased to be 'personal law', and got transformed into 'statutory law'. It is in this context, that it was submitted, by Ms. Indira Jaising, learned senior

counsel and some others, that the tag of ‘personal law’ got removed from the Muslim ‘personal law’ – ‘Shariat’, after the enactment of the Shariat Act, at least for the questions/subjects with reference to which the legislation was enacted. Insofar as the present controversy is concerned, suffice it to notice, that the enactment included “… dissolution of marriage, including talaq …” amongst the questions/subjects covered by the Shariat Act. And obviously, when the parties are Muslims, ‘talaq’ includes ‘talaq-e-biddat’. The pointed contention must be understood to mean, that after the enactment of the Shariat Act, dissolution of marriage amongst Muslims including ‘talaq’ (and, ‘talaq-e-biddat’) had to be considered as regulated through a State legislation.



QUESTIONS

A. In which of the following cases secularism has been held as the part of basic structure of the Constitution?

a. In State of Karnataka v. Appa Balu Ingale

b. R. Bommai v. Union of India

c. Indra Sawhney v.Union of India

d. Sarla Mudgal v. Union of India

Ans. b

B. Re marriage of Hindu widows were legalised by which of the following Act?

a. Special Marriage Act

b. Anand Marriage Act

c. Arya Marriage Validation Act

d. None of the above

Ans. d

C. Historically, the rules of divorce were governed by_____, as interpreted by traditional Islamic jurisprudence.

a. Quran

b. Ijma

c. Sharia

d. Qiyas

Ans. c

D. Which of the following is the form of delegated talaq?

a. Talaq-e-biddat

b. Talaq-e-tafweez

c. Talaq-e-sunnat

d. Talaq-e-hasan

Ans. b

E. In Masroor Ahmed Vs. State (Nct of Delhi) and anr. The high Court of Delhi observed that “Ila and Zihar as modes of divorce are virtually non-existent in India. However _____ is sometimes resorted to. If a man accuses his wife of adultery (zina), but is unable to prove the allegation, the wife has the right to approach the qazi for dissolution of marriage.

a. Lian

b. Faskh

c. Khula

d. Mubarrat

Ans. a

F. Under Dissolution of Muslim Marriage Act, 1939 the legislature has made provisions for the divorce on the application of wife. There are several grounds in which judicial divorce can be pronounced. On which of the following grounds female cannot claim divorce under this act:

a. husband has neglected or has failed to provide for her maintenance for a period of two years

b. the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease

c. having been given in marriage by her father or other guardian before she attained the age of eighteen years, repudiated the marriage before attaining the age of eighteen years.

d. that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years

Ans. c

G. Four major sub-sects are broadly recognized schools of Sunni law. They are the Hanafi school, Maliki school, Shafi'i school and Hanbali school. The overwhelming majority of Sunnis in India follow the Hanafi school of law. Hanafi school of law is also known as:

a. Mubarak School

b. Kufa School

c. Kazi School

d. Ottoman School

Ans. b

H. Which of the following is known as the most proper form of talaq in muslim law?

a. Ahsan

b. Hasan

c. Both a and b

d. None of the above

Ans. a

I. The Supreme Court laid down this judgment on August 22, 2017 in 3:2 majority holding the practice of Triple Talaaq unconstitutional. The majority upon lengthy discussion came to the conclusion that Triple Talaq is not an essential religious practice but minority bench found this practice to be an essential religious practice. The majority bench relied on which of the following its earlier decision wherein it was held that this practice of Triple Talaq is against both theology and law and just because it is followed by a large number of people it cannot be validated.

a. Shamim Ara v. State of U.P.

b. Durgah Committee, Ajmer v. Syed Hussain Ali

c. Fuzlunbi v. K. Khader Vali

d. Mackinnon Mackenzie and Co. Ltd. v. Audrey

Ans. a

J. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations General Assembly. When did India ratify for CEDAW?

a. 1985

b. 1983

c. 1987

d. 1993

Ans. d

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