BLOGS

Sectional Test on Family Law for CLAT PG

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This sectional test on Family Law is designed for CLAT PG aspirants looking to strengthen their grasp on core legal principles, case laws, and statutory provisions.

The questions are based on key areas such as marriage, divorce, guardianship, maintenance, and adoption, and are aligned with the latest CLAT PG pattern.

Passage 1: Restitution of Conjugal Rights and Privacy

> *The remedy of restitution of conjugal rights under personal laws allows one spouse to seek a court order directing the other spouse to resume cohabitation. While supporters argue that the provision serves to protect marital ties and discourage desertion, critics argue that it violates the fundamental right to privacy and bodily autonomy. The provision exists under the Hindu Marriage Act, 1955 (Section 9), as well as other personal laws, and has been upheld in cases like Saroj Rani v. Sudarshan Kumar Chadha (1984). However, recent constitutional developments, particularly the Supreme Court's recognition of privacy as a fundamental right in Justice K.S. Puttaswamy v. Union of India (2017), have led to renewed debates about the legitimacy of this remedy.*

Q1. Which of the following best explains the constitutional critique of restitution of conjugal rights?

A. It infringes upon the right to practice religion.

B. It mandates divorce even when spouses seek reconciliation.

C. It compels cohabitation, undermining privacy and bodily autonomy.

D. It discriminates based on caste and class.

Q2. What was the ruling of the Supreme Court in *Saroj Rani v. Sudarshan Kumar Chadha* (1984)?

A. Section 9 of the Hindu Marriage Act is unconstitutional.

B. Restitution of conjugal rights violates the right to life.

C. Section 9 is valid and not violative of constitutional rights.

D. Only women can seek restitution under Section 9.

Passage 2: Talaq under Muslim Law

> *Talaq, or divorce by the husband under Muslim personal law, has been a subject of legal and constitutional scrutiny. In Shayara Bano v. Union of India (2017), the Supreme Court declared the practice of instant triple talaq (talaq-e-biddat) unconstitutional. However, talaq remains valid if pronounced in a legally recognized manner, including talaq-e-ahsan and talaq-e-hasan. The case also highlighted the tension between personal laws and fundamental rights, raising questions about the extent to which courts can intervene in religious practices.*

Q3. What did the Supreme Court hold in *Shayara Bano v. Union of India* (2017)?

A. All forms of talaq are unconstitutional.

B. Only judicial divorce is allowed for Muslims in India.

C. Instant triple talaq is unconstitutional.

D. Personal laws are beyond judicial scrutiny.

Q4. Which of the following forms of talaq is considered valid and effective under Muslim law?

A. Talaq-e-biddat

B. Talaq-e-ahsan

C. Talaq-e-shura

D. None of the above

Passage 3: Guardianship under Hindu Law

> *Under the Hindu Minority and Guardianship Act, 1956, the natural guardian of a minor boy or unmarried girl is the father, and after him, the mother. However, courts have increasingly emphasized the welfare of the child as the paramount consideration. In Githa Hariharan v. RBI (1999), the Supreme Court interpreted the words "after him" to mean "in his absence," enabling mothers to be recognized as natural guardians even when the father is alive but unavailable or unwilling to act.*

Q5. In *Githa Hariharan v. RBI*, how did the Supreme Court interpret the phrase "after him"?

A. After the death of the father

B. After the father remarries

C. In the absence of the father's care or interest

D. Upon attaining majority

Q6. What is the guiding principle in determining guardianship under Hindu law?

A. Patriarchal inheritance

B. Physical custody

C. Marital status of the guardian

D. Welfare of the child

Passage 4: Adoption under Hindu Law

> *Adoption under the Hindu Adoptions and Maintenance Act, 1956 allows only Hindus to legally adopt. Section 6 lays down prerequisites for a valid adoption, including the capacity of the person adopting and the person giving the child in adoption. Section 7 and 8 deal with the rights of male and female Hindus, respectively, to adopt. Notably, a married Hindu male must obtain the consent of his wife for a valid adoption unless she is of unsound mind, renounced the world, or has converted. The law has tried to accommodate gender equality while also respecting traditional structures.*

Q7. Under HAMA, when can a Hindu male adopt without the consent of his wife?

A. When the wife is younger than 18 years

B. When the wife consents orally

C. When the wife is of unsound mind, has renounced the world, or is no longer a Hindu

D. When the male already has biological children

Q8. Which section of HAMA specifies the capacity of a male Hindu to adopt?

A. Section 5

B. Section 6

C. Section 7

D. Section 8

Passage 5: Maintenance Rights of Divorced Women

> *Maintenance is a key area in family law, involving financial support to spouses, children, and parents. Under Section 125 CrPC, even divorced Muslim women were entitled to maintenance, as held in Mohd. Ahmed Khan v. Shah Bano Begum (1985). The judgment stirred political and religious debates, ultimately leading to the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986. The Act limited maintenance obligations post-iddat period, but courts interpreted it in line with constitutional guarantees to ensure fair compensation.*

Q9. What did the Supreme Court hold in *Shah Bano* case?

A. Muslim women are not entitled to any post-divorce maintenance.

B. Maintenance is only payable during the iddat period.

C. Muslim women can claim maintenance under Section 125 CrPC.

D. Maintenance must be paid only by parents, not ex-husbands.

Q10. What was the impact of the Muslim Women (Protection of Rights on Divorce) Act, 1986?

A. It eliminated maintenance rights of divorced Muslim women.

B. It overruled *Shah Bano* judgment and mandated maintenance only during iddat.

C. It reaffirmed equality under Article 14.

D. It was struck down as unconstitutional by the Supreme Court.

Answer Key with Detailed Explanations

Q. No.	Answer	Explanation
1	C	Compelling cohabitation can violate privacy and bodily autonomy, especially after the Puttaswamy judgment (2017) that elevated privacy as a fundamental right.
2	C	In Saroj Rani, the SC upheld Section 9 as constitutionally valid and not violative of Article 14 or 21.
3	C	Shayara Bano struck down the practice of instant triple talaq (talaq-e-biddat) as unconstitutional.
4	B	Talaq-e-ahsan (revocable, spaced over time) and talaq-e-hasan are valid; talaq-e-biddat is not.

5	C	The Court interpreted “after him” to mean “in his absence” — including physical absence or unwillingness — expanding the mother’s rights as a guardian.
6	D	Welfare of the child is the paramount consideration in guardianship, as per Section 13 of the Act and judicial interpretation.
7	C	Consent is not required if the wife has renounced the world, is of unsound mind, or has ceased to be a Hindu (Sec. 7 proviso).
8	C	Section 7 of HAMA lays down the conditions for a male Hindu to adopt, including consent of the wife.
9	C	The Shah Bano judgment affirmed that even divorced Muslim women could claim maintenance under Section 125 CrPC.
10	B	The 1986 Act was enacted in response to Shah Bano, limiting the husband’s liability to the iddat period, though later judicial interpretations expanded its scope.