

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LL.B DEGREE PROGRAMME – LEVEL 4
FINAL EXAMINATION - 2017/18
LLU4707/LWU2313 – FAMILY LAW
DURATION – THREE (03) HOURS



DATE: 01st March 2020

TIME: 9.30 a.m. – 12.30 p.m.

Candidates will be penalized for illegible handwriting.

Total Number of Questions 08.

Answer five (05) questions only.

Please note that it is mandatory to discuss the answers for the questions chosen by you with reference to decided cases and statutory provisions

01. Krishni and Sanka got married under the General law in 2016. Three months after the marriage, they migrated to England. Krishni visited Sri Lanka in January 2018 to look into their business matters. In February 2018 while in Sri Lanka, Krishni fell ill and it was found that she was three months pregnant.

When Sanka was informed of this he sounded very happy and promised to visit Sri Lanka as soon as he obtained leave from his work place, probably in May 2018. He advised her to stay with her parents in Sri Lanka until the baby is born. However, he did not come in May, saying it was difficult for him to obtain leave. In August 2018, Krishni gave birth to a boy. Krishni as well as her parents expressed their disappointment to Sanka, who was not in Sri Lanka when Krishni gave birth to their first child. He kept on postponing his visit giving various excuses.

Krishni got to know through one of her friends that Sanka was having an affair with a woman called Anoma who also lives in England. Later in May 2019 Sanka visited Sri Lanka and he denied paternity of the child. Sanka stayed at his parents' house during his stay in Sri Lanka.

Discuss the legal measures that Krishni can take in order establish the legitimacy of the child.
(20 Marks)

02. "...In a multi-racial country like Sri Lanka a court will face numerous difficulties in determining whether the valid customary ritual have been observed in the case of a customary marriage. The reason being that different communities observe different rituals in the marriage ceremonies and there may be different customary practices even among the same ethnic population. Therefore there is a difficulty of determining the essential characteristics of a valid customary marriage..."

Family Law, Block I, The Open University of Sri Lanka, Page 18

Discuss the essential characteristic of a valid customary marriage under the General Law, Kandyan Law and Muslim Law. **(20 Marks)**

03. Raveendra and Jayani got married under the general law in 1985. They have two children, namely Kushan and Tharindi. Tharindi had an affair with Manoharan, who is a Tamil. Raveendra objected to their relationship but Tharindi married Manoharan in 2017.

In 2018, Raveendra drafted his last will in front of five of his friends and signed it. Raveendra died in May 2019. In terms of the last will, Raveendra had bequeathed his property as follows.

- The 20 acre tea estate in Nuwaraeliya- to his son Kushan
- The house in Colombo- to his wife Jayani
- The 2 acre land in Maharagama- to his friend Lilan

Discuss the following issues, in relation to succession.

- (i) Tharindi challenges the validity of the last will prepared by her father **(07 Marks)**
- (ii) How would Raveendra's property devolve if he died intestate? **(07 Marks)**
- (iii) How different would your answer be if the parties were governed by Tesawalamai; the tea estate was bought in 1995 and Raveendra died intestate? **(06 Marks)**

04. Breakdown of the marriage is a more rational basis for divorce than 'matrimonial fault'.

In the light of the above statement, discuss the Sri Lankan response in reforming divorce law. **(20 Marks)**

05. Discuss the legal status of the following situations.

- (i) Chandran and Medhavi got married in 2011. Neela is their only daughter. Medhavi got to know subsequently that Chandran was already married and he had two daughters from his first marriage. **(07 Marks)**
- (ii) Although Supipi and Gayan have been married for 15 years, they do not have children. Supipi wants to adopt a child, but she is also aware that Gayan does not like to do so. The parents of Neelaka, a 11 years old boy living in a nearby village, are willing to give their child in adoption to Supipi and Gayan. Supipi agrees to adopt the child, and Neelaka's parents are also agreeable to the same. However Neelaka is refusing to leave his parents. **(07 Marks)**
- (iii) Parakrama is 18 year old and is living in Kandy. He married 16 year old Dharani, who is living in Peradeniya, under Kandyan law. Dharani gave birth to a child one year after the marriage. **(06 Marks)**

06. (i) Eranda and Chalani, are banking professionals and have been married under the general law. After their marriage, they lived in a rented house in Matara. One year after the marriage, Chalani gave birth to twins Akila and Vipula. Chalani resigned from her job to look after their children, and Eranda was promoted as an Assistant Manager. Eranda's care towards Chalani and the children gradually decreased, and when Chalani questioned him about it, Eranda cited the increased workload at the Bank. In the meantime, Eranda started going to Colombo every weekend stating that he was reading for a post-graduate degree programme. As Eranda did not provide adequate funds for the household, Chalani and the children had to manage with much difficulty.

During this period, one of the relatives of Chalani, informed her that Eranda was having a close relationship with a lady in Colombo. Chalani informed her parents about this, and when they questioned Eranda about it, he became furious and demanded that Chalani and the children should immediately leave the house. One week after this incident, Eranda got transferred to Colombo, and stopped maintaining Chalani and the children.

Chalani seeks your advice as to the possibility of getting maintenance from Eranda, for herself and the children. Advise her. **(15 Marks)**

(ii) Would your advice be different if the parties were governed by Muslim Law? Explain. **(05 Marks)**

07. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

- *Article 3(1), Convention on the Rights of the Child*

Considering the above statement, discuss legislative and judicial attempts to ensure the best interests of the children in Sri Lanka. **(20 Marks)**

08. Write notes on of the following cases, explaining their legal importance.

- i. *Ambalavanar Vs. Navaratnam* (1955) 56 N.L.R.422
- ii. *Jeyarajan Vs. Jeyarajan* (1999) 1 Sri L.R. 113
- iii. *Abeyundere Vs. Abeyundere* (1998) 1 Sri L.R. 185
- iv. *Jayasinghe Vs. Kiribindu* (1997) 2 Sri L.R. 1
- v. *Ghouse Vs. Ghouse* (1988) 1 Sri L.R. 25

(Marks 04 x 5= 20)

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