

THE OPEN UNIVERSITY OF SRI LANKA
DEPARTMENT OF LEGAL STUDIES
LL.B DEGREE PROGRAMME 2021/2022
LEVEL 4
FINAL EXAMINATION
LLU4707 – FAMILY LAW



Date : 21.01.2023

Time : 09.30 am-12.30 pm

The 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.

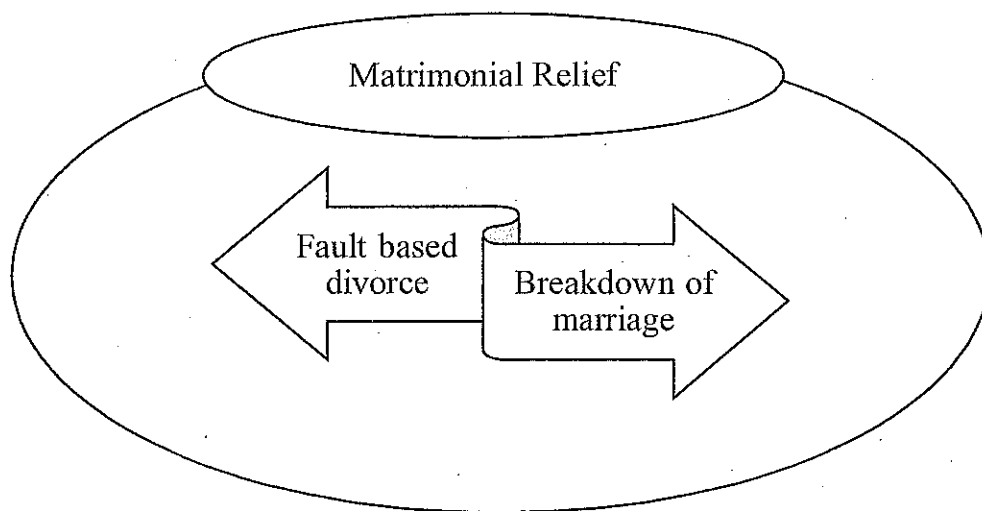
1. Discuss the legal position in the following situations

- i. Siyadoris is the father of two children, Nimal and Kamal. He died in 2022, bequeathing his properties to Supipi, who was a daughter of a relative who looked after him, during his last days. Being aggrieved by this, Nimal and Kamal state that the properties of his father should pass to them since they are the legitimate children of Siyadoris.
- ii. Rasaputhra and Saraswathi are husband and wife. Meena is their only daughter. After the marriage, they bought a tea estate of 30 acres in Nuwaraeliya. Having successfully maintained a tea cultivation, they were able to purchase another tea estate of 10 acres which was in the neighborhood. Rasaputhra died due to a sudden heart failure. Saraswathi is planning to sell a portion of the said tea land, for an urgent financial need. Saraswathi's ownership of the said tea land.

- iii. Biso Menika who is a Kandyan woman, got married to Bandara, another Kandyan, in 2008. Their marriage was registered as a deega marriage, under Kandyan law. After the marriage, Biso Manika went to Bandara's house and commenced their matrimonial life. Recently, Bandara has been asking his wife Biso Menika to go back to her parents' house claiming that she will be able to claim rights for her father's property, if she does so.
- iv. Majeed and Suffifa are a married Muslim couple. As they do not have children, they adopted a boy called Gaudeen. Majeed and Suffifa died from a train accident in 2016. Gaudeen claims right to the property of his adopted parents.

(5x4 = 20 Marks)

2. Explain the legal positions in relation to matrimonial relief in the Sri Lankan legal system with reference to the diagram below.



(20 Marks)

3. i. Section 112 of the Evidence Ordinance provides guidance to resolve problems in relation to a child's legitimacy.

ii. DNA evidence provides medical and scientific evidence to eliminate the doubts in relation to proving the fatherhood of a child and to decide who the actual father is.

Critically analyze the application of the above two methods in relation to deciding the legitimacy of a child in Sri Lanka.

(20 Marks)

4. Prakash who was a resident of Jaffna entered the Faculty of Management of the University of Colombo in 2010. He fell-in love with Parameshwari who studied as a medical student in the same University. Since Prakash and Parameshwari were not of the same caste, Parameshwari's parents objected to their relationship. When Prakash got an appointment as an Accountant in Batticaloa, Parameshwari also got an appointment to the hospital in Batticaloa. They decided to marry and held a Thali ceremony at Prakash's residence in Jaffna in 2017. After the marriage they lived as husband and wife in Batticaloa. A baby boy was born to them in 2019. Recently one of Prakash's friend stated Prakash to the marriage between Prakash and Parameshwari is not valid, because it was not registered.

Discuss the legality of followings referring to the above incident.

- i. Parameshwai wants to know the legality of their marriage. **(10 Marks)**
- ii. Would your answer be different if all parties were Kandyan. **(05 Marks)**
- iii. While that marriage was still in force, Prakash converted to Islam and got married to a Muslim lady called Mufeeja in 2020. **(05 Marks)**

5. Suraj and Vajira, who are governed by the general law married in 2005. Suraj is a businessman who devotes a great deal of time to develop his business. Vajira is a nurse who is also busy with her duties. They have two children, a daughter aged 08 and a son aged 06.

After the birth of the first child, the mother and the father of Suraj, who lived in Galle, came to Colombo and started looking after the two children. The children also grew up becoming very close to them. When the younger son reached 5 years of age, Suraj's mother and father went back to their house in Galle. Even thereafter, the children had a very close relationship with their grandparents, and they used to communicate with the grandparents very often. They spent every school vacation with their grandparents in Galle.

Suraj often comes home drunk. He does not like Vajira going out on night duty. Lately, Vajira and Suraj have started quarreling and Suraj has started beating her when he is drunk. One day, after an argument with Suraj, Vajira left home and went to live with her parents in Dehiwala. Suraj did not permit Vajira to take the children with her and refused to allow her to see them. Suraj brought 70-year-old female servant to look after the children. Vajira came to know that Suraj often comes home after consuming liquor.

- i. Vajira wishes to get the custody of two children. Advise Vajira. (10 Marks)
- ii. Suraj's parents' wishes to get custody of two children. Advise them (10 Marks)

6. 'The Adoption of the Convention on the Rights of the Child by the General Assembly of the United Nations in 1989 is a great achievement in the field of children's rights. Taken as a whole, the Convention on the Rights of the Child is concerned with participation rights, protection rights and the provision rights of children.'

Discuss the above statement with reference to the legal, judicial, and administrative developments that have taken place in local and foreign jurisdictions. You must cite relevant provisions of the Convention on the Rights of the Child.

(20 Marks)

7. 'A valid adoption order confers on the adopted child the status of a child born in lawful wedlock of the adopter and the rights, duties, obligations and liabilities of the parent or guardian in regard to future custody, maintenance and education are extinguished and transferred and vested in the adoptive parent'.

Discuss the legal position in relation to adoption of a child in Sri Lanka with reference to the following situations.

- Adopting a child within Sri Lanka
- adopting a Sri Lankan child by a foreign couple

(20 Marks)

8. Write notes on the following topics
- i. Putative marriage
 - ii. Children's liability to maintain parents
 - iii. Minimum age for marriage under the Muslim law
 - iv. Grounds for Nullity under Roman Dutch Law

(5x4 = 20 Marks)

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