

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LLB DEGREE PROGRAMME – LEVEL IV
FINAL EXAMINATION - 2023/2024
LLU4609- FAMILY LAW
DURATION – 03 HOURS



DATE: 26th May 2025

TIME: 01.30 P.M.- 04.30 P.M.

Students will be penalised for illegible handwriting.

Total number of questions 08.

Answer **FIVE (05)** questions in total, including **Question No. 1.**

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

Part A- Answer the following compulsory question

01. Abhiman, a wealthy businessman, owns several companies in England and Canada. He has been married to Ranuli for 27 years, and they have three children: Ann, who is 16 years old and currently attending school; Anton, who is 22 years old and pursuing university education; and their eldest child, Nita, who is 26 years old and is severely disabled. Abhiman has been working in Colombo for the past few years and used to send money regularly to Ranuli for household expenses. However, during the past year, he has stopped providing any financial support. Ranuli, a housewife, is now struggling to manage the daily expenses of the children and herself. She has been compelled to buy essential food items on credit from a nearby boutique. When she requested Abhiman to resume financial support, he refused, suggesting instead that she move to her parents' home, and go to work leaving the children in their care. Ranuli has firmly refused to leave the matrimonial home in Nuwara Eliya which belongs to Abhiman.

Meanwhile, Abhiman's mother, Soma, who is 75 years old and feeble, lives alone in the family home in Kandy. She survives on a small pension and occasional assistance from neighbours. Although she has repeatedly requested financial help from Abhiman, he has failed to respond to his mother's requests.

In light of the above facts analyse what relief Ranuli, her children and Soma can claim from Abhiman under the existing legal framework in Sri Lanka. (20 Marks)

Part B - Answer any four (4) questions from this part

02. Briefly discuss the legal position in each of the situations below, taking into consideration the given illustration. Each part is a separate scenario and there is no connection between each of the parts.

<p>Land name: Pol Watta</p> <p>Extent: 4 acres</p>
--

A = Husband

B = Wife

X = Daughter

Y = Son

- i. "A" who is the owner of Pol Watta and is governed by general law died intestate in 2024. Discuss the rights of "B", "X" and "Y" to Pol Watta.
- ii. "A" who is the owner of Pol Watta and is governed by general law, executed a last will bequeathing Pol Watta to a charitable institution excluding "B", "X" and "Y". Discuss the validity of the will.
- iii. "X" who married in *diga* under the Kandyan law in 2015, returned to her *muldegara* in Pol Watta in 2017. "A" and "B" died in a car crash in 2024. Discuss who inherits Pol Watta.
- iv. "Y" is an adopted child of "A" and "B". In 2020, "A" and "B" died intestate in a motor car accident. Discuss the rights of "X" and "Y" to Pol Watta assuming that all parties are governed by Muslim law.
- v. "A" and "B" who are governed by Tesawalamai, jointly purchased Pol Watta on their 5th wedding anniversary in 2018. After the death of "A" in 2024, "B" gifted the land to her sister. Discuss the validity of the gift.

(04 x 5 = 20 Marks)

03. Critically evaluate how Sri Lankan law addresses the issue of paternity through the application of the presumption of legitimacy to a child born within a valid marriage. In your answer, examine the relevant statutory provisions, case law, and the current judicial approach to rebutting the presumption. Also, discuss the relevance of this presumption in light of modern scientific developments.

(20 Marks)

04. Compare the legal framework governing divorce under the general law, Kandyan law, and Muslim law. Your answer should focus on the concepts of fault and irremediable breakdown of marriage.

(20 Marks)

05. Arun, a native of Jaffna, enrolled in the Faculty of Management at the University of Colombo in 2010. During his time at the university, he developed a close relationship with Meena, a Tamil student pursuing her studies at the Faculty of Medicine. Despite their growing bond, Meena's family disapproved of the relationship due to caste and cultural differences.

In 2017, after securing employment in Batticaloa as a finance officer, Arun moved there permanently. Coincidentally, Meena was also appointed as a medical officer at the General Hospital in Batticaloa. Arun and Meena decided to solemnize their union by conducting a traditional thali ceremony at Arun's family home in Jaffna, without the knowledge or consent of Meena's parents. Although no formal registration of the marriage was carried out under the Marriage Registration Ordinance, the couple lived together as husband and wife thereafter. In 2019, Meena gave birth to a son.

Consider the above scenario and answer the questions below, giving reasons for your answers.

- i. Is there a valid marriage between Arun and Meena? **(10 Marks)**
 - ii. Would your answer differ if all parties were governed by Kandyan law, and the couple had solemnized their union through a traditional Poruwa ceremony? **(05 Marks)**
 - iii. Assume the above marriage took place in 1987 and that Arun converted to Islam and married Safana, a Muslim woman, in 1990 while that marriage was still subsisting. Would the second marriage be valid? **(05 Marks)**
06. Prakash and Nikini are a married couple who lived in an apartment in Colombo with their baby daughter Minuri. In 2022, Prakash started returning home intoxicated in the middle of the night. Nikini repeatedly pleaded with him to stop doing so, but Prakash continued this behaviour. As a result, in 2023, Nikini left the matrimonial home and relocated to her parental residence in Galle with Minuri where Nikini's sister, Kumari also lived.

While in Galle, Minuri was admitted to a pre-school, and Nikini secured employment at a garment factory. Due to the demands of her job, particularly the night shifts, Kumari, who is also a teacher at Minuri's pre-school, helped Nikini to care for Minuri.

On Minuri's fourth birthday in 2024, Prakash contacted Nikini and requested custody of the child. Nikini firmly refused. Subsequently, Prakash initiated legal proceedings seeking a custody order. However, during the course of the legal proceedings, Nikini died suddenly, and Kumari took over the complete care of Minuri.

Now, Kumari wishes to legally obtain custody of Minuri claiming that it would be detrimental to Minuri's well-being to move her back to Prakash's care in Colombo. Prakash insists that, as the surviving parent, he has a superior right to custody of Minuri.

Critically discuss the above problem, focusing on how Sri Lankan Courts resolve custody disputes arising between parents, and, between parents and third parties. **(20 Marks)**

07. i. Tanisha and Oshan, both Sri Lankan citizens living in Colombo, registered their marriage under the Marriage Registration Ordinance in 2009. After several unsuccessful attempts at fertility treatment, they decided to adopt a child. Tanisha's cousin, who works as a nurse in a rural hospital in Monaragala, informed her about a newborn baby girl named Malki, whose biological mother, a teenage single parent, was willing to give the child up for adoption due to her inability to care for the child financially or emotionally.

Tanisha and Oshan met the biological mother, who agreed to give her baby to them for adoption. They brought the child to Colombo and began caring for her. They did not follow any formal adoption proceedings but have enrolled the child in a preschool under their family name and refer to her as their daughter.

Discuss the legal validity of the current arrangement between Tanisha, Oshan, and the child, focusing on whether this is a valid adoption, and if not, what legal procedure they must follow to lawfully adopt Malki under Sri Lankan law. **(10 Marks)**

- ii. Baby Dilan was abandoned shortly after birth and is currently under the care and custody of the Department of Probation and Child Care Services in Sri Lanka. The child has no known relatives willing or able to care for him.

Elizabeth and Peter, an Australian married couple who are unable to have children of their own wish to adopt Dilan.

Advise them on the requirements they must fulfil under the Adoption of Children's Ordinance to adopt Dilan. **(10 Marks)**

08. Select any **two (2)** of the following topics and write notes on them.

- i. Nullity of Marriage
- ii. Modern forms of marital arrangements
- iii. The wife's rights over dowry
- v. The right to administer the property of a minor

(10 x 2 = 20 Marks)

**** *All rights reserved* ****