

**THE OPEN UNIVERSITY OF SRI LANKA**  
**LL.B. DEGREE PROGRAMME - LEVEL 4**  
**FINAL EXAMINATION 2006**  
**FAMILY LAW – LWU 2313**  
**DURATION : THREE (03) HOURS**



**DATE : 03<sup>rd</sup> April 2006**

**TIME : 1.30 p.m. – 4.30 p.m.**

**ANSWER FIVE QUESTIONS ONLY.**

**Illegible handwriting will be penalized.**

01. The Sri Lanka government intends to prepare a report on the measures taken to uplift the situation of children in Sri Lanka during the past 10 years and the areas that needs improvement, to be submitted to a UN agency. You have been requested by the Government to prepare the report.

Prepare a draft of your report.

02. Herath and Kalpana were two graduates and were employed in the government sector. Since both of them were Kandyans they registered their marriage under the Kandyan Law. The son born to them in 1996 was named as Sajith. Herath had inherited a land of 5 acres from his father and also constructed a house in Teldeniya from the earnings he received from his business. In the meantime Herath developed an extra marital affair with Vinitha who bore a child named Kamal. Herath had been paying maintenance to Kamal on court order in an action for maintenance filed by Vinitha against him.

Herath died in an accident in 2005. Kalpana consults you as to who are entitled to succeed to the intestate property of Herath.

- a) Advise Kalpana  
b) What would your answer be if all parties were governed by the General Law?

03. “The original concept of *thediathettam* in Tesawalami was considerably changed by the Jaffna Matrimonial Rights and Inheritance Ordinance of 1911”

Discuss this statement with reference to legislative modifications introduced during the period from 1911 to 1947 and case law.

04. Mahendran and Devi are governed by Tesawalamai. On a proposal made by Mahendran's parents, the marriage between Mahendran aged 20 years and Devi aged 16 years was arranged. Their marriage was registered in 1998 by a Registrar of Marriages on the information provided by the parties.

After the marriage they lived as husband and wife in a house rented by Mahendran. A child named Raju was born to them in 2001. Mahendran deserted his wife and Raju in 2003 and refused to send money for their living. Devi consults you as to whether she could obtain some financial assistance for their maintenance from Mahendran.

- a) Advice Devi
  - b) What would be the legal position if the parties were
    - i. Kandyans
    - ii. Muslims
05. Ramana and Hussain were Muslims married under the Muslim Law. They have a daughter aged 16 years and a son aged 6 years. Hussain who was a businessman usually left home around 6.00 a.m. and returned around 11.00 p.m. in the night in all 7 days of the week. Hussain did not like Ramana going out for any purpose and provided everything for her. Ramana wanted to remove her son from the nearby small school and admit him to a reputed Muslim school in Colombo but Hussain said he did not have time to go after government officials for the purpose. Ramana constantly complained regarding Hussain's lack of interest in the family. One day when they had a quarrel Hussain ordered Ramana to leave his home leaving the children with him. She left home and went to live with her parents. Hussain hired a Muslim boy aged 18 as a servant to prepare meals and look after the home and also ordered him not to open the gate even for Ramana during the day.

Ramana who loved her children very much wished to get the custody of her children.

- a) Advise her
  - b) What would be your answer if the parties were Sinhalese and were governed by the General Law?
06. Saman and Ruwanmalee registered their marriage under the General Law in 2000 on a proposal made by a marriage broker. Ruwanmalee was a sprinter and had represented Sri Lanka at international sports event on several occasions. On the day of the marriage Saman found that Ruwanmalee was not a virgin. Thereafter he always quarrelled with Ruwanmalee over this issue. He ridiculed Ruwanmalee on the same issue in the presence of his friend who visited them. His mother who lived with them ill-treated her. He justified his mother's actions on the ground that Ruwanmalee deserved such treatment due to her bad character. In 2003 Saman went to live in a separate room in their two-storied home and refused to share his room with Ruwanmalee. He ordered his mother not to prepare meals for Ruwanmalee and inform Ruwanmalee to prepare her own meals. Being unable to bear the ill-treatment, Ruwanmalee went to live with her parents. She consults you as to what matrimonial relief is available to her.

Advise Ruwanmalee.

07. Trace the important developments in the judicial interpretation of the phrase 'no access' in section 112 of the Evidence Ordinance no. 14 of 1895 up to present day.
08. Write notes on any two of the following.
- a) Developments in the judicial interpretation of the concept of marriage by habit and repute.
  - b) The concept of the best interests of the child.
  - c) Grounds for nullity of marriage under General Law.
  - d) Rights of a deserted wife under Roman Dutch Law.

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