

THE OPEN UNIVERSITY OF SRI LANKA
LL.B. DEGREE PROGRAMME - LEVEL 4
FINAL EXAMINATION - 2006/2007
FAMILY LAW – LWU 2313
DURATION : THREE (03) HOURS



DATE : 12th March 2007

TIME : 10.00 a.m. – 1.00 p.m.

ANSWER FIVE QUESTION ONLY.

Illegible handwriting will be penalized.

01. Article 2 of the UN Convention on the Rights of the Child requires State Parties to ensure rights to each child without discrimination of any kind irrespective of the race, colour, sex language and religion of the child. However the Sri Lankan Law on children's rights has failed to attain this standard despite its efforts to improve the situation of children in Sri Lanka.

Critically discuss this statement paying special attention to areas that discriminate against children based on ethnicity, birth and religion.

02. Gunasiri was a soldier in the army. While serving in Amparai he fell in love with Soma, a widow who had a two year old child named Jagath. In 2003 Gunasiri took Soma and Jagath to the house of his aunt who lived in Medawachchiya. He arranged a party to celebrate his union with Soma and served the invitees with liquor and dinner. Thereafter Gunasiri and Soma lived as husband and wife in a small hut constructed on the land adjoining to that of his aunt. He regularly visited his family and also sent money whenever he could not come to see them. In 2005 Soma gave birth to a child who was named Sumana. Gunasiri deserted his post in the army in September 2006 and refrained from coming to see Soma and children for fear of being arrested by the authorities. Later he stopped sending money for their living. Soma discovered that Gunasiri was now living with another woman in Puttalam.

Soma seeks your advice regarding the liability of Gunasiri to maintain her and her two children.

- a) Advise Soma.
- b) Would your answer be different if Gunasiri registered his marriage with Soma in January 2006?

03. Kamala and Yogarajah are husband and wife governed by Tesawalamai. After their marriage they lived in a house rented by Yogarajah. Kamala's parents gave a large dowry on the event of her marriage to Yogarajah. The dowry included a two acre coconut land in Chilaw, and one million rupees in cash. After some time the couple started quarreling with each other. One day Yogarajah left the matrimonial home and went to live with his parents. He informed the landlord that he had vacated the house rented by him. Kamala does not intend to separate or get a divorce from Yogarajah.

Advise Kamala with reference to case law as regards

- a) the rights available to her as a deserted wife under Roman Dutch Law.
- b) Alienation of her immovable property under Tesawalamai.

04. Sunimal and Mala are married under the General Law. When Sunimal's only sister Kumari died in a motor accident her husband Lal decided to go abroad after leaving their 10 year old son with Sunimal and Mala. However Sunimal and Mala want to lawfully adopt the son. Sunimal seeks your advice as regards

- a) requirements that need to be fulfilled by relevant parties.
- b) the legal procedure to be followed.
- c) legal consequences of adoption of the child.

Advise him.

05. Discuss whether the Sri Lankan law on marriage reflects uniformity as regards the following situations.
- a) rights of spouses in the event of intestate succession and
 - b) the legal requirements to be followed for the formation of a lawful marriage.

06. Jeyam married Sita after a brief acquaintance. They registered their marriage under the General Law and lived in a luxury house owned by Jeyam in Colombo. After the marriage Jeyam insisted that Sita resign her job as an Executive in a Bank as he had sufficient income to maintain her. However Sita did not want to give up her job. Later Jeyam charged that Sita was having an extra marital affair with another executive in the same Bank and quarreled with her over this issue. On several occasions he came home after consuming liquor and assaulted Sita. One day he said that he wanted to live in a separate room and refused to even have meals with her. Thereafter he stopped talking to her. One day he ordered Sita to leave the matrimonial home. Sita went to live with her parents. She now seeks your advice regarding matrimonial relief available to her.

- a) Advise Sita citing relevant case law.
- b) Would your answer be different if both parties were Kandyans and had registered their marriage under the Kandyan Law?

07. Discuss with reference to case law how the best interests standard has been used in custody disputes relating to minors in the Sri Lanka Law.

08. "Though children born outside lawful marriage suffer certain disabilities, there are remedies which help them to overcome their unfortunate situation".

Critically discuss this statement paying attention to the situation of children born out of marriage under different laws of Sri Lanka and the legal procedures available to remedy their situation.