

**THE OPEN UNIVERSITY OF SRI LANKA  
LL.B. DEGREE PROGRAMME - LEVEL IV  
FINAL EXAMINATION - 2008 / 2009  
FAMILY LAW – LWU 2313  
DURATION - THREE HOURS**



---

**Date: 25<sup>th</sup> March 2009**

**Time: 9.30 a.m. – 12.30 p.m.**

---

Answer **FIVE** questions only.

**Candidate will be penalized for illegible handwriting.**

1. There is a discernible trend in the contemporary period to resort to the fundamental principles of Islamic law and exclude the General Law in its application to Muslims.

Explain the developments that have been made in the Muslim Law applicable in Sri Lanka, since the enactment of the Muslim Marriage and Divorce Act

2. Supun and Natasha were an unmarried couple living together in a room rented out by Supun. In 2001 Natasha informed Supun that she was pregnant and suggested that they should marry. Supun agreed but said that the marriage ceremony should take place in a Christian church as he was a Catholic. Supun's friend arranged a marriage ceremony in a Catholic Church in Colombo. On the day of the wedding ceremony the two parties together with a few friends went to the Church. As the only priest in the church had fallen ill and was not available, the couple said prayers and exchanged rings in the presence of friends. Thereafter the couple lived as husband and wife. The child born to Natasha in 2002 was named Chamila.

In 2008 Supun went to Trincomalee to assume duties in an executive post in a Bank. He used to travel to Colombo twice a month to see Natasha and Chamila. Subsequently the numbers of visits made by him to Natasha were reduced. When Natasha inquired about this, Supun got angry with her and went back to Trincomalee. He stopped sending money to Natasha. Since Natasha's salary is not sufficient to pay the house rent and support Chamila, she consults you as to what cause of action is available to her.

Advise Natasha.

3. Vishva and Kamalani were children of two families in Jaffna who had been living there since 1970. On a proposal made by Kamalani's father, a marriage between Vishva and Kamalani was registered in 2000. Kamalani's father transferred a land of 2 acres in Kankasanthurai to Kamalani two days after the wedding, as her dowry. Vishva inherited a 3 storied building in Jaffna town from his grand father who died in 2001 leaving a last will. Kamalani delivered twin daughters in 2003. From the income that Vishva received by renting out the building, he acquired a factory which manufactured bicycle tyres. In 2005 Vishva sold the building in Jaffna and bought 25 acres of land in Manipay, in Jaffna to cultivate chillies. In 2009 Vishva was gunned down by a militant group. Kamalani wishes to know the intestate succession rights of herself and her two daughters.

(a) Advise Kamalani

(b) Would your answer be different if all parties were Kandyan Sinhalese and the properties were situated in the Kandyan province?

4. The best interests of the child can be achieved only if paternity is attributed to the correct person without imposing it on a person who is not the real father of the child

Critically evaluate this statement with reference to the historical development of the presumption of legitimacy.

5. Jagath and Kalyani registered their marriage in 1998. Two children were born to them in 1999 and 2001. Jagath and Kalyani could not live peacefully and quarrelled with each other over minor matters. As Kalyani found it difficult to live with Jagath, she went to live with her parents taking the two children with her. In 2008 Jagath filed action in court claiming custody of the children. He was awarded custody and Kalyani was given right of access to them. Kalyani found employment in Colombo and started working in August 2008. She visited her children every month and never failed to maintain contact with them over the phone. Once day when she met the children, the eldest child informed her that Jagath had brought another woman called Sumana to his home and that she ill treats them. She also informed Kalyani that Jagath comes home after consuming liquor and quarrels with Sumana.

- Assuming that the issue of custody of children can be raised again in a revision application, write a legal opinion regarding the issue of custody of the two children.

6. Though the Women's Charter advocates equal rights for women in Sri Lanka, property rights of women still remain an area where the rights of women to equality is continuously violated

(a) Comment

(b) What concrete proposals would you put forward to eliminate discrimination in the area of property rights?

7. Premadasa and Dharsha registered their marriage in 1995 on a proposal made by Dharsha's uncle. After the marriage Premadasa found that his wife had taken many telephone calls to an overseas telephone number. On questioning Dharsha disclosed that she had a love affair with her cousin and that she had married Premadasa against her wishes. Premadasa requested her to forget the past and warned that he would send her back to her parents if she continued to give telephone calls to her former boyfriend. Thereafter Dharsha stopped talking to him. She refrained from taking dinner with her husband. On many occasions Premadasa found that the dinner had not been prepared and he had to buy food from hotels. Dharsha stopped sharing the same room with Premadasa and went to live in a room downstairs. One day Premadasa was informed by the servant that Dharsha talked with somebody for more than one hour. On questioning, Dharsha hit him with a flower vase and left the house with all her belongings. Premadasa does not want to admit to anyone that his wife is having an affair with another man. What cause of action is available to him?

Advise Premadasa.

8. Osmund was a Sri Lankan who migrated to the United States in 1985 and obtained citizenship there in 1995. He lost his Sri Lankan citizenship in the same year. However, he visited Sri Lanka twice a year and got married to Iresha, a girl from Nattandiya in 2005 and went back to the US. Both of them are now American citizens. As they do not have children, Osmund and Iresha decided to adopt a child from Sri Lanka. Osmund consults you regarding the procedure for adopting a child and the legal status of such a child.

(a) Advise him.

(b) Would your answer be different if Osmund and Iresha are Sri Lankan Muslims?