

University of Colombo, Sri Lanka

Faculty of Law

Bachelor of Laws Degree Honors, Year I Examination

2nd Semester – End Examination – 2023

LAW 12303 – Family Law I

(2 hours and 15 minutes)

Total Number of Questions: 04

Answer any **two (02)** questions and no more

(Candidates will be penalised for illegible handwriting.)

01. The law governing the ‘family’ in Sri Lanka results from historical events and developments. Therefore, the sources of Family Law are rich in substance and diversity. These sources are useful in informing the discourse on drafting a Family Policy in Sri Lanka.

Do you agree with the above statement? Discuss the sources of Family Law and their implications for drafting a family policy in Sri Lanka. Consider international and domestic factors, which may influence policymakers that reflect modern developments in the family in Sri Lanka.

(30 marks)

02. Maneesha and Rusiru met in 2018 at the Faculty of Law, University of Colombo and was married under the General Law in 2021. Whilst they looked happy on the outside, Maneesha was always aware that Rusiru had a bad temper. However, she assumed that he was violent only when he was in a bad mood and didn’t pay attention to it. Three months after their wedding, one evening, Maneesha was late to prepare dinner. As a result, Rusiru completely lost his temper. He called her an “idiot” and a “useless human being”. However, he apologised the day after and Maneesha thought Rusiru might have been in a bad mood. However, a month after this incident the beating started. Rusiru barely needed an excuse anymore. The only reason Maneesha decided to stay with him was because she was pregnant with a child. After Rusiru found out about the pregnancy, he stopped the beating. However, he continued to resort to calling her names such as “moron” and often mentioned that “he made a mistake marrying

someone as stupid as her.” After the birth of Kanidu, their son, the beating resumed. Now Kanidu is two years old and she worries that soon he might be the victim of Rusiru’s beatings. The situation has reached a point where Maneesha cannot bear it any longer. She wants to leave Rusiru but worries that if she divorces him, she will be shunned and judged by society. She is also worried if she leaves the house that she was living in with Rusiru she would be considered the guilty party. Furthermore, she worries that she might find it difficult to meet the high threshold of a divorce action. But before anything further happens, she wants protection from the beating, if not for herself, for the sake of her son.

Assume that you are Maneesha’s attorney-at-law. Advise Maneesha regarding her options for immediate relief from Rusiru. She also seeks your advice on how she may permanently sever ties with Rusiru. Your answer should be supported by relevant statutory provisions and case law.

(30 Marks)

03. Answer **both (a) and (b)**

(a) Menike who is 17 years old met Bhanuka, a distant relative at a family wedding. Soon they became close to each other. Since they were both Kandyans, their parents did not object to their relationship or their wish to get married. Bhanuka was offered a scholarship to study in Australia and therefore, they informed their parents that they wished to be married soon. Within a week, their parents planned an extravagant wedding and followed all the customary rituals. Menike and Bhanuka were married in witness of all their family and friends. Soon after, Bhanuka left for Australia. Menike was to follow him to Australia after six months. However, Bhanuka met an Australian girl at the University in Australia and now wishes to sever all ties with Menike. Bhanuka seeks advice from a lawyer in Australia and informs Menike that his marriage to Menike is not legal under the Kandyan law. Meanwhile, Menike finds out that she is pregnant with Banuka’s child.

Advise Menike, whether the requirements of a legal marriage under Kandyan Law have been fulfilled by the parties. Support your answer with relevant statutory authorities and case law.

(15 Marks)

- (b) The Muslim law on marriage in Sri Lanka is currently a contentious and contested topic. Whilst human rights and child rights activists within and outside the Muslim community advocate for reform in line with domestic constitutional provisions and international standards, the conservatives are concerned that reform would deepen ethnic tensions.

Assume that you have been appointed as a legal researcher by a non-profit Muslim Women's and Child Rights organisation. You have been commissioned to provide a report on three key aspects of Muslim family law and the procedure in Muslim Law in Sri Lanka that contradict constitutional and international standards and provide recommendations for reform.

(15 Marks)

04. Ruwan and Aruni, governed by the Kandyan Law, entered into their marriage contract under the General Law. Their marriage was solemnised before the Registrar of Mount- Lavinia and duly registered in 2015. They both worked for the same Multinational Corporation in Colombo and established their matrimonial home in Dehiwela. In the year 2017, Aruni gave birth to twins. After her maternity, she continued to work from home. During this period, Ruwan started a relationship with Nirmani, a co-worker and a close friend of Aruni in the company. A few intimate pictures taken together by them were shared with Aruni by one of their co-workers. When she asked Ruwan about this, he also confessed about their relationship. Aruni, who couldn't bear this betrayal left the matrimonial home and moved to Kandy. She is also strongly affected by the humiliation faced by her at the workplace due to Ruwan and Nirmani's illicit conduct.

- (a) Aruni seeks to file a divorce action against Ruwan. Advise Aruni. You are required to give special attention to the quantum of proof required to be established by her in this action and the legal stand on claiming damages from Nirmani. Your answer should be supported by relevant legal authorities.

(15 Marks)

- (b) Advise Aruni, assuming their marriage is contracted under Kandyan Law. You are required to give special attention towards establishing the ground for divorce and the procedure to dissolve a

marriage contract under Kandyan Law. Your answer should be supported by relevant legal authorities.

(08 Marks)

(c) Assume that the parties left Sri Lanka and settled in London soon after their marriage in 2015. After some time, they realised their incompatibility. Now they live separately and wish to file for a divorce in London. However, the parties wish to know the legal status of recognising a divorce decree pronounced by a foreign court in Sri Lanka. Advise the parties. Your answer should be supported by relevant case law.

(07 Marks)
