

**EXAMINATION FOR INTERNAL STUDENTS**

*For The Following Qualification:-*

*B.A.*

**Laws C48: Family Law**

**COURSE CODE : LAWSC048**

**UNIT VALUE : 1.00**

**DATE : 22-MAY-03**

**TIME : 10.00**

**TIME ALLOWED : 3 Hours 15 Minutes**

## FAMILY LAW

Answer **FOUR** questions, including at least one question from **PART A** and at least one question from **PART B**.

### **PART A**

1. Critically evaluate the new law of adoption in the Adoption and Children Act 2002.
2. Contact is said to be the 'right of the child', and not a parent's right. Is this the appropriate characterisation? To what extent is this analysis reflected in legislation, case law and contemporary practice?
3. Consider the view that children are inadequately protected from abuse by their parents, and the ways in which the system of child protection might be strengthened.
4. Critically evaluate the assertion that the institution of marriage is essentially heterosexual.
5. **EITHER**

Should English law enforce pre-nuptial and cohabitation contracts?

**OR**

Is mandatory mediation of family disputes a good idea?

### **PART B**

6. You are a solicitor for Loamshire County Council. Its social services department has sought your advice in the following cases. What advice would you give?
  - (a) It has come to Loamshire's notice that the Browns are regularly hitting their children. The Browns have been interviewed and insist that, as Christians, they are merely carrying out their religious obligations to instill discipline in their children.

**TURN OVER**

- (b) A baby of six months was admitted to the local hospital a couple of days ago. It would appear she is brain-damaged and it is thought she has been severely shaken on a number of occasions. Both parents deny they have harmed their baby and blame the grandmother, who has been looking after the baby in the afternoons. The grandmother denies responsibility. The mother is pregnant.
- (c) It has just found a new, and it believes a better, placement for a 7-year-old special needs child whom it has been accommodating for five years. The parents are objecting to the move, which they do not believe is in the best interests of the child.

7. Mrs Davis is going through a divorce. She and her husband split up six months ago and the children have remained with her. Her principal concern is the children and in giving advice you should concentrate exclusively on this issue.

She wants the children to live with her, and would like this arrangement to be secured by a court order. The children are John, aged 12, Kath, aged 10 and Lindy, aged 5. John has expressed the view that he wishes to live with his father. Mrs Davis does not believe the children should be split up. She is concerned that the court may be swayed in her husband's favour because he has a new partner, Miranda, and against her because she has been having a lesbian relationship and intends to live with Norah, her partner. She is also concerned that her husband who is a 'born again Christian', will indoctrinate the children with religious values which will lead them to disapprove of her new lifestyle. The children hitherto have had no religious education, and have not been taken to church. Mr Davis has indicated that he intends to send them to a school run on strict Christian lines.

Advise Mrs Davis fully.

8. When Tariq arrived home from completing his A-levels at college his parents informed him that they had arranged for his marriage to Sarah, a distant cousin from their home village in Bangladesh. Tariq was reluctant at first because he had met Sarah only briefly on a vacation the summer before and because he had secretly been dating Karen, a girl on his course, for several months. When he expressed his reluctance to his parents, they insisted that they could not call off the wedding because the invitations had already been sent out. Sarah, who had entered the country on a visitor's visa, pleaded with him to go ahead with the ceremony because she would be humiliated in the eyes of her family and friends back home if she returned unmarried. Tariq had noticed, however, how much she enjoyed life in London and suspected that she was more motivated by a desire to remain in Britain than to marry him. When he persisted in his reluctance, his parents told him that they would refuse to pay his university fees if he did not go through with the wedding. They also told him his grandfather, who had a heart condition, would not survive hearing the news. Tariq and Sarah were married in August 2000 in London. They live in a freehold flat owned by Tariq. They have one child, Mona, now aged 1.

**CONTINUED**

By the end of 2002, Tariq had completed his law degree and begun work in a city firm. Karen appeared in his office one day as a client, seeking his advice on the negotiation of publishing rights for her book, 'I Carry a Torch'. They spent a great deal of time together and became the subject of office gossip. This gossip came to the attention of Sarah who confronted Tariq about it 3 months ago. She gave him an ultimatum: stop seeing that woman or the marriage is over. Tariq became very angry at this accusation and threw a vase he was holding at Sarah. It struck her only a glancing blow but terrified Mona who was sitting on Sarah's lap at the time. He denied that he was having an affair with Karen, but packed his things and left the matrimonial home. Sarah believes he has moved in with Karen but cannot prove this. He has asked to move back in and start again, but Sarah has refused. She has prevented him from seeing Mona since his departure because she fears he will attack her again.

Sarah seeks your advice on how to protect herself. She is not yet sure whether she wants a divorce but would also like advice on whether either she or Tariq have grounds to end the marriage.

9. Martin and Pamela Beige were married in 1961. They own a rose farm which they purchased in joint names in 1964 using a gift from Pamela's parents as a down payment and paying off the mortgage from the profits. At that time, they both worked in the business. Martin did the cultivation and continues to do so today and Pamela ran the office. When their first child was born in 1966, Pamela withdrew from involvement in the day to day affairs of the business and they hired Martin's sister, Ellen, to replace her. The farm is now worth £800,000 if sold as a going concern.

In 1976, when their youngest child started school, Pamela was ready to work outside the home again, but the couple decided that they could not displace Ellen who was the sole breadwinner for her family. Pamela bought the franchise to distribute plastic mixing bowls in her area from an American firm. Business was disappointing until she had the idea to produce fitted lids for these bowls. She called them Beigeware and distributed them through a novel marketing concept which became known as Beigeware parties. The business is wholly owned by Pamela and is worth £12 million.

The couple had three children, now all grown up. Felicia, their youngest child, has a physical disability which requires her to use a wheelchair. While she completed a degree in accountancy, her disability makes it difficult for her to work more than part time, so she relies on a monthly allowance from her parents to make ends meet.

**TURN OVER**

Martin and Pamela separated in 2002, when Martin, aged 68, confessed that he was in love with his squash partner, Kevin. He moved in with Kevin 6 months ago. He plans to retire in the near future. Martin has been spending lavishly since he left, purchasing a Ferrari and investing heavily in Kevin's internet company. Pamela, aged 63, has remained in the matrimonial home and intends to keep working as president of Beigeware indefinitely.

The Beiges intend to divorce, but want to negotiate the property and financial provision issues without going to court if possible. Pamela seeks your advice on how the courts would be likely respond to their situation.

10. Elaine has lived with, but not married, two men, Fred and George. She had a son when she was living with Fred, who is now 6. She is adamant that the baby was not Fred's and that the father is a waiter in a hotel in Spain. She had a daughter when she was living with George: the girl is now 3. Both relationships have broken up: that with Fred when the boy was 2 and the one with George when Elaine was pregnant the second time.

Fred and George wish to acquire parental responsibility. Elaine is opposing this on the following grounds:

- (i) In Fred's case because she says he is not the father and because, she claims, he is only seeking parental responsibility to interfere with her decisions about her son's education. She admits, however, that her son remembers Fred.
- (ii) In George's case because he was violent to her when she was pregnant, has steadfastly refused to support his daughter, and because she has discovered he has a criminal conviction for indecent assault on a teenage girl.

Advise Elaine.

**END OF PAPER**