

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For the following qualifications :-

LL.B.

LL.B. Part II: Family Law

COURSE CODE : LAWSIII10
DATE : 09-MAY-02
TIME : 10.00
TIME ALLOWED : 3 hours 15 minutes

02-N0180-3-50

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TURN OVER

FAMILY LAW

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

PART A

1. Describe and critically evaluate English law's approach to polygamy.
2. "Any obligations of parenthood should not be related to institutional formality but to the fact of parenthood." (Maclean and Eekelaar)

Discuss.

3. Is English family law sufficiently well-equipped to protect children from abusive parents?
4. "Without the power [to consummate] neither of the two principal ends of matrimony can be attained, namely a lawful indulgence of the passions to prevent licentiousness, and the procreation of children." *D-E v. A-G (1845)*

Explain and discuss the implications of this dictum for modern family law.

5. Evaluate the paramountcy principle.

PART B

6. Jill and Nick lived together for three years. They have a daughter, Susie, who is two years old. Throughout their relationship Nick was violent. He hit Jill on numerous occasions. Last month she left him and is now in a Women's Aid Refuge. Nick admits that he did hit Jill but says she is exaggerating the extent and frequency of her injuries. One of Jill's reasons for leaving when she did is that Nick had threatened to "take a belt" to Susie if she wet the bed again. Jill accepts that children should see their fathers but is unwilling to allow Nick contact with Susie because she (Jill) is afraid of him. If Nick has to see Susie she does not want him to be able to speak to her or come to her home.

Nick has applied for contact and for a parental responsibility order. He has told Jill that if she refuses him contact he will also apply for a residence order.

Advise Jill.

TURN OVER

7. You are the solicitor for the London Borough of Endsleigh. Your advice is sought in the following three cases.
- (a) The head of the local primary school has rung Endsleigh to express concern about a 7-year-old, Mandy, who is attending school irregularly and is often dirty and bruised. When a social worker called upon Mandy's mother yesterday, she was told to mind her own business.
 - (b) The Fosters, practising Christians, who have been looking after two accommodated children (Katy and Tom) for 9 months rang this morning to say that their father called late last night to take them home with him. The Fosters refused to let him take them but expect him to return again this afternoon. The children, who are aged 8 and 6, barely know their father who was released only recently from prison. The mother is in no position to care for the children but has insisted to Endsleigh that different foster parents be found for them (she is an atheist and disapproves of Christianity being instilled into her children).
 - (c) A baby of 9 months is in intensive care in Endsleigh hospital. The evidence is that she has suffered brain damage as a result of severe shaking. The father blames the mother, the mother says it was done by the 16 year old babysitter (who denies any responsibility). A previous child died (it was assumed to be a cot death) two years ago. The mother is now 6 months pregnant.

8. Answer **BOTH** (a) **AND** (b).

- (a) Anita and Peter met five years ago through their involvement in anti-capitalist activism. Although they disapproved in principle of the institution of marriage they married in order to allow Peter, an American here on a visitor's visa, to remain in the country. They were committed however to having an open relationship, and both continued to have other sexual partners. Last year, Anita experienced a religious conversion and has come to believe that extra-marital sex is unacceptable. She has ceased having affairs, but Peter has continued to do so. Peter is at present having an affair with Tony, a colleague from work.

Anita seeks your advice on the possibilities for ending her marriage.

- (b) Sam and Julia are orthodox Jews. Before their marriage, they signed a pre-nuptial contract in which Sam undertook to give her a religious divorce if she asked for one. This was filed with the London Beth Din (religious court). The parties separated seven years ago and Sam has begun divorce proceedings under the Matrimonial Causes Act 1973. He has not, however, given Julia a religious divorce, in spite of repeated requests from her and from the religious court. He refuses to do so unless and until Julia signs over any rights she might have in the matrimonial home to him. Julia has refused this demand and refuses to cooperate with the civil divorce until the religious divorce is granted.

Advise Sam on his prospects for securing the civil divorce.

CONTINUED

9. Fred and Wilma have been cohabiting for 15 years. During this time, they have had one child, Penny, now 8. The house in which they live in is in Fred's name. They have both worked outside the home during the marriage although Wilma worked part-time until Penny started school. They have always paid their wages in to a joint bank account out of which all household expenses including the mortgage have been paid.

In recent months, Fred has changed. While he always had a temper, he has now become violent towards Wilma. Wilma fears for her safety and is concerned about the impact witnessing the violence will have on Penny. She has left the house and is now staying with her friend Betty in a neighbouring town. She has kept Penny in her old school and drives her there every morning. Fred has now taken to waiting at the school gates and hurling abuse and threats at her.

Wilma seeks your advice regarding her rights to the family home and to protection from Fred.

10. Colin and Tina married when they were doing A levels. They both came from quite poor families but had high aspirations. They agreed that Tina would get a job and support Colin while he went through medical school and, once he was working, he would support her while she trained to be an actuary. Tina took work as a secretary and duly supported Colin for six years until he completed his training. At this point, however, a wonderful opportunity came up for him to get a job in France. Tina went with him but was unable to continue her education there because she didn't speak the language. They stayed there five years and had two children, now aged 1 and 3. Colin continued to develop his career while Tina looked after the home and children.

Last year, they returned to England and bought a home worth £400,000. Colin earns £100,000 a year as a consultant. Tina is not employed outside the home. In the course of his work, Colin has developed a new kind of stethoscope, which he has patented. He has sold the rights to this patent for £2 million pounds and a share of profits in the future.

Colin has become unhappy in the marriage and is considering ending it. He seeks your advice on what principles a court would rely upon in determining the distribution of property and arrangements for financial provision between him and his wife upon divorce.

Advise Colin.

END OF PAPER