

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:-

LL.B.

LL.B. Part II: Family Law

COURSE CODE : LAWSII10

DATE : 05-MAY-05

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. 'The policy of the law in relation to marriage should be one of neutrality. There are no grounds for treating marriage differently from cohabitation during and after the breakdown of the relationship.'

Discuss.

2. 'If [Civil Partnership] is not marriage, then surely it is a status that should be available to others similarly situated to lesbian and gay couples, namely all those who care for each other in an inter-independent, committed relationship.'

Discuss.

3. **EITHER**

Discuss the advantages and disadvantages of the establishment of a specialist family court

OR

Discuss the advantages and disadvantages of the use of mediation for family disputes.

4. Critically assess current English law and practice in relation to contact orders.

5. 'English Law, in taking a tough position on child abuse whilst at the same time allowing parents to hit their children, sends out a mixed and confusing message.'

Explain why you agree with or reject this statement. Should it be made unlawful to hit children?

TURN OVER

PART B

6. In 2002, Winona married Hubert, a female to male post-operative transsexual, in a ceremony in her local register office. She was, however, there against her wishes. It seems Hubert had dug up some old pictures of Winona partaking of mind-altering substances at a rock concert two years previously. Hubert had threatened to make the photos public if Winona did not marry him. Winona, fearing for her budding new political career, and also afraid of the criticism she was sure to receive from her family, married Hubert just to keep him quiet.

Winona found the marriage most disagreeable but she persisted with it. After approximately six months, Hubert flew to New York on a business trip. Winona was notified the next day that the plane went down over the Atlantic. There were said to be no survivors.

Winona remained on her own for one year before she agreed to marry her friend Brendon. Unbeknownst to Winona, however, Brendon wanted to get away from his parents' home and was only 16 years old. She, along with all their other friends, accepted Brendon's story that he was 19. While she and Brendon had never slept together, and indeed had no intention of ever having a sexual relationship because Brendon was gay, they agreed to cement their friendship with a legal bond. They contacted a mutual friend, Aaron, a minister of the 'Church of Elvis', who married them in his chapel.

Brendon and Winona proved better friends than marriage partners. After a couple of months they began to bicker constantly and eventually agreed that it would be best if Brendon moved out of the home. He did so last week. They still have not slept together on the understanding that they would each have other partners.

Winona now comes to you seeking advice about the validity of both her marriages, since she has heard rumours that someone who looks suspiciously like Hubert has been making headlines in Greenland with a remarkable story called 'Living with Amnesia'. Ideally, she tells you, she would like to be free of both her marriages, since she has now discovered she is pregnant with Charles' child.

Advise Winona.

CONTINUED

7. Hamish and Wanda were married in 1985 when each was 19 years old. In the first few years of their relationship Hamish and Wanda were happy, but in 1992 when Hamish was away on a twelve-week training scheme, Wanda became restless. To get out of the house during the day she would take her daughter Beulah, born in 1990, to the library. Due to her regularity of attendance and interest in children's literature, she struck up a friendship with Nigel, the librarian. Their friendship grew and soon they were involved in a passionate affair.

Wanda gave birth to Edward in 1993. Nigel was pleased to hear from Wanda that she believed Edward was his child. He visited with Edward for about one year, but Wanda has not seen or heard from him since 1994. She has since heard that he has moved to Scotland.

Wanda also told Hamish about her suspicions about Edward's paternity. After he had recovered from his initial shock, Hamish said that it did not matter. He agreed to treat Edward no differently from Beulah, and indeed became a loving father to them both. After Nigel left, Hamish and Wanda agreed never to mention Nigel again.

From 1994 to 2004 Hamish progressed in his career as an airline pilot and Wanda became a popular author of children's literature. But in 2004, Wanda noticed that Hamish began to distance himself from Edward and, for the first time, to comment upon Edward's parentage. After some tearful incidents, and Hamish's admission that he had been seeing another woman whom he now wished to marry, Wanda and Hamish decided to separate in December 2004. Hamish's current annual salary is £60,000 and he has been a member of his employer's pension scheme since 1985. Wanda usually earns about £20,000 - £30,000 per year from her royalties, but will be publishing her new book this year, which may increase this year's earnings significantly. She has no pension scheme for herself.

Wanda now comes to see you with a document that she says she has received from Hamish by post. It appears to be formal separation agreement, and Wanda is worried in particular about three of its terms. They are:

- (i) The parties agree that neither shall pay support to the other and each releases the other from any liability to contribute to the support of the other.
- (ii) The parties agree that ownership of all property shall remain with the person in whose name legal title rests.
- (iii) The husband shall contribute for the support of the child Beulah the amount of £300 per month, payable on the 15th of each month and continuing until she reaches the age of 18 years. The parties further agree that the husband is not the biological father of the child Edward, and therefore is under no financial obligation now or ever to said child.

TURN OVER

Wanda also tells you that their home (valued at £450,000 with no mortgage) is held on a joint tenancy, that their holiday home in Devon (valued at £160,000) is held in Hamish's name, and that last year she inherited a painting (valued at £20,000) from her great uncle. It is currently in the bank vault.

Advise Wanda as to the effect of her signing the agreement.

8. The marriage of Sarah and James has recently broken down. James has been having an affair with Laura, a colleague from work. Sarah, having formed a lesbian relationship with Charlotte, is not particularly concerned about this, but wishes to bring the marriage to an end. There are two children of the marriage, Tim, who is 9, and Lynn, who is 4. James left Sarah three months ago, and since such time he has had regular contact with the children. Each of the parties wants to bring up the children.

Tim is adamant that he does not want to live with his mother now that Charlotte has moved in with her. Sarah (and Charlotte) are considering relocating, either to Manchester (which is 200 miles from the former matrimonial home) or possibly to Canada, where Sarah has been offered a good job. Sarah believes that children, particularly small girls, ought to be brought up by their mothers. Lynn is deaf and is being taught to sign by Sarah. James and Sarah have never agreed upon whether this is an appropriate way of bringing up a deaf child and says he will transfer Lynn from the Special Unit at school to mainstream education if she lives with him.

Advise both Sarah and James on the issues raised.

CONTINUED

9. **EITHER**

- (i) Helen and Jim lived together for a couple of years. They split up shortly after Helen gave birth to Sharon. This was six months ago and since then Jim has not seen Sharon. He was prepared to support the child but Helen has told him that he is not the father. He believes he is. Sharon is a sick child and is likely to need a number of operations. Jim thinks he should have a say in decisions which will need to be made about Sharon's health. Helen is refusing to have anything further to do with Jim because he hit her when she was pregnant.

Advise Jim.

OR

- (ii) Fatima (a Muslim) and Jayesh (a Hindu) married despite parental disapproval when they were both 19. They are now 25 and have a son, Sunil, who is now 2. They gave him a Hindu name at Jayesh's insistence. Sunil has not been circumcised. Fatima and Jayesh cannot agree:

- (a) on whether Sunil should be circumcised. Fatima's parents have threatened to have him circumcised next time they look after him for a weekend;
- (b) on schooling for Sunil. Fatima would prefer him to go to a Muslim school (this is 6 miles away) and Jayesh wants him to attend the local state school; and
- (c) on his name. Fatima calls him by a nickname, Suni, to convince the family and Muslim friends that he really has a Muslim name, but she would like to rename him with a distinctive Muslim name.

Advise Fatima.

TURN OVER

10. You are the London Borough of Endsleigh's solicitors. It seeks your advice on the following matters:
- (i) Endsleigh has been accommodating Tim (now 7) for two years. He is autistic and his parents cannot cope with him. He has lived with Mr. and Mrs Foster in Endsleigh throughout his time in accommodation. Endsleigh has decided to place him in a special boarding school 20 miles away. The parents wish to contest this decision.
 - (ii) It has been brought to the notice of Social Services that Becky (aged 12) and Mandy (aged 14), the daughters of Ms Thomas, are truanting from school. Both of them are using illegal drugs and Mandy is believed to be selling sexual services at a local massage parlour. Mandy is apparently pregnant and has refused the advice of her mother to have a termination. What can Endsleigh do?
 - (iii) The local children's hospital has brought to the notice of the Social Services department the case of a child of 18 months brought to Accident and Emergency with a broken arm. This is the third time that this child has been brought to hospital: on previous occasions he had facial injuries. Both parents deny causing the injuries and say they were caused by 'rough and tumble' with his brothers (aged 4 and 6). The hospital is refusing to discharge the child if he is to go back to his parents.

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