

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B FINAL EXAMINATIONS

L282 – FAMILY LAW

MAY 2017

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. Answer any FOUR (4) questions.
2. Refer to **Annexure 1**, which appears at the end of the question paper, for **question 2**.
3. Refer to statutory law and case law where applicable.
4. All questions carry equal marks.

Question 1

Thabo, a twenty three year old male of Nazareth and Nthabiseng, a twenty one year old female of Roma, Ha Mafefoane have been engaged for five months. Nthabiseng is employed as a nurse at St. Joseph's Hospital in Roma while Thabo is a senior manager at Standard Lesotho Bank in Maseru. Thabo purchased a diamond engagement ring for Nthabiseng worth M10, 000.00. He also paid M8, 000.00 tuition fee for Nthabiseng who had enrolled for a Diploma in Business Management at the Institute of Extra Murial Studies in Maseru.

Thabo unexpectedly paid Nthabiseng a visit one Wednesday evening after knocking off from work and found her embracing and kissing Paul passionately. Thabo and Paul were very close friends.

Thabo wants to terminate the engagement and has come to you for legal advice. Making reference to legal authorities, advise him accordingly.

[25 Marks]

Question 2

Annexure 1, which appears at the end of this question paper, shows parts of an application form for adoption. Sitting as a judge of the High Court of Lesotho, would you issue an adoption order to the applicant? Support your answer with relevant legal principles.

[25 Marks]

Question 3

(a) One of the most important personal consequences of marriage is *consortium omnis vitae*. With reference to legal authorities, describe the principle of *consortium*.

15 Marks

(b) The Deserted Wives and Children's Proclamation 60 of 1959 makes provision for payment of maintenance to wives and children in need of maintenance.

What were the policy considerations for the enactment of this law?

10 Marks

[25 MARKS]

Question 4

Libuseng, a twenty six year old female of Ha Thamae has been married to Thabiso, a thirty year old male of Ha Tsosane for a period of four years. Libuseng is a cleaner earning M800. 00, St. Joseph's Hospital in Roma. Thabiso is an immigration officer in the Ministry of Home Affairs earning M8000, 00 per month. The parties have two children, namely Sello, an eleven year old boy and Mats'eliso, an eight year old girl. Both children are enrolled at the Roma Primary School. The school fees for both children amount to M3000, 00 per year.

Owing to marital difficulties which often led to physical fights between the parties, an order of judicial separation was issued by the court at the instance of Libuseng. Custody of the children was awarded to Libuseng.

(a) In awarding custody to either of the parents, what principles would guide the Children's Court?

15 Marks

(b) What rights would a non- custodial parent be entitled to?

10 Marks

[25 MARKS]

Question 5

Lebelo, a chef at the Lesotho Sun Hotel who was married to Libuseng was released early from his night shift duties at the Lesotho Sun Hotel where he was employed owing to a recurring severe headache. Upon his arrival at home, he found Timothy, his closest friend and neighbor kissing his wife in his bedroom with his neck tie and jacket flung on the bedroom floor.

In disbelief, he approaches you as his lawyer to assist him to obtain a decree of judicial separation while pondering whether or not to divorce his wife.

Advise Lebelo.

[25 marks]

Question 6

Mr. and Mrs. Bean are married in community of property. Mrs. Bean found living with her husband intolerable as he had become a violent habitual drunkard. She subsequently left the matrimonial home and is living with her brother in rented property. Mr. Bean tried on several occasions to persuade her to return home but has never been successful. On most occasions he was not violent but always very drunk. Last month he approached her again and to her surprise he was not

intoxicated at all. Unfortunately he was not able to convince her to go home and out of frustration, he assaulted her and she was subsequently hospitalized. The hospital has sent a bill to him and he is refusing to pay saying that her brother is liable to pay the bill because she is under his care.

She has been advised that she is going to need a special bed at home. She therefore asked her husband to allow her to purchase the bed on hire-purchase terms, but he has not been cooperative at all and in most instances too drunk to even appreciate what she is saying. She is frustrated and does not know what to do because her brother, who is experiencing financial difficulties, does not have means to purchase the bed. Her brother has even asked her to help him pay rent following a notice of eviction that he received from his landlord.

Mrs. Bean has come to you for legal advice on the issues arising from the above facts. Making reference to legal authorities, advise her on issues pertaining to maintenance.

[25 marks]

ANNEXURE 1

KINGDOM OF LESOTHO MINISTRY OF HEALTH AND SOCIAL WELFARE ADOPTION APPLICATION FORM – ADPTN/APN/ /2017 (Please fill form in black ink and use capital letters)

1. DETAILS OF APPLICANT

Surname: BAINS
 First name: ELLA
 Date of Birth: 10/12/1990
 Passport Number: LAOS1262
 Marital Status: MARRIED
 Citizenship: AUSTRALIAN
 Physical Address: MELBOURNE CITY, VICTORIA 3000
 Contact Numbers: +1888-452-1505
 Occupation: NURSE
 Monthly income: A\$150,000.00 PER ANNUM (M1,474.926)
 Any criminal record? NO
 If yes, to the above question, give details of the crime: N/A

2. DETAILS OF CHILD TO BE ADOPTED

Surname: MOFOLO
 First name: THABILE
 Date of Birth: 02/04/2006
 Gender: FEMALE
 Passport Number: KA728728
 Citizenship: LESOTHO
 Consent obtained from the child? YES

Physical Address: KOENENG STREET, THEITSANE WEST, MASERU

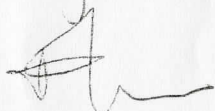
3. INFORMATION ABOUT THE PARENT/S OR GUARDIAN

Surname of parent/s or guardian: MOFOLO
 Natural father known? YES
 Whereabouts of the natural father? DEKESDAAL, SOUTH AFRICA
 Has the natural father been consulted about the adoption? YES

4. FOR INTER-COUNTRY ADOPTIONS

Will the child be granted residence or citizenship status? NOT SURE

Marriage Certificate not provided.



MASERU ADOPTION OFFICER

17HSW

09/05/2017