

**Ollscoil na hÉireann, Gallimh**  
**National University of Ireland, Galway**

**Semester II Examinations, 2002/2003**

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| <b>Exam Code(s)</b>                     | 2BL1, 2BL2, 2CW1, 3BA6, 3BL1, 3BL2, 3CW1, 4BA8, 4BL2, 1EM1, 10A1.   |
| <b>Exams(s)</b>                         | 2 <sup>nd</sup> 3 <sup>rd</sup> & 4 <sup>th</sup> LL.B<br>2 <sup>nd</sup> & 3 <sup>rd</sup> Bachelor of Civil Law<br>3 <sup>rd</sup> & 4 <sup>th</sup> Bachelor of Arts (Public & Social Policy)<br>ERASMUS + OCCASIONAL. |
| <b>Module Codes(s)</b>                  | LW312   |
| <b>Module(s)</b>                        | Family Law  |
| <b>Paper No.</b>                        | 1   |
| <b>Repeat Paper __ Special Paper __</b> |   |
| <b>External Examiner(s)</b>             | Mr. Ciaran White  |
| <b>Internal Examiner(s)</b>             | Ms. Marie McGonagle   |
| <b><u>Instructions</u></b>              | Please answer <b>THREE</b> questions only. (Students whose first language is not English may use a dictionary and may answer <b>TWO</b> questions only)<br>All questions carry equal marks                                |
| <b>Duration</b>                         | <b>THREE</b> Hours  |
| <b>No. of AnswerBooks</b>               |   |
| <b><u>Requirements:</u></b>             |   |
| <b>Handout</b>                          |   |
| <b>MCQ</b>                              |   |
| <b>Statistical Tables</b>               |   |
| <b>Graph Paper</b>                      |   |
| <b>Log Graph Paper</b>                  |   |
| <b>Other Material</b>                   |   |
| <b>No. of Pages</b>                     | 3   |
| <b>Department(s)</b>                    | Law   |

1. Answer EITHER a) OR b):

a) "The simple fact of being a woman does not, by itself, indicate a capacity or willingness to render a quality of care different from that which a father can provide." Discuss the developments and trends in the attitude of the courts in recent decades in deciding custody disputes.

OR

b) "Developments in family law in recent decades have been such that the law relating to marriage is on the verge of extinction." Discuss, with particular reference to the Constitution and its effect on developments in family law in Ireland.

2. John, who earns Euro 60,000 per annum, is paying Euro 150 per week in maintenance for his two children from a previous marriage. The children are now 17 and 15 and live with their mother in the family home, which was purchased with a mortgage, now paid off. Following a foreign divorce, John remarried and has three children, aged 6, 4 and 1, from the second marriage to Nuala, which has now also broken down. John and Nuala have a Euro 100,000 mortgage on the family home. Nuala, who only works part-time as a nurse, in order to spend time with the children and cut down on child-minding bills, is worried that John will not be willing or be in a position to continue to pay the mortgage and provide for the children. His only other assets are a boat and a site in a remote rural area. Nuala could afford to pay the mortgage if she went back to work full-time, but she has no other assets or income and would find it difficult to pay for child-care and provide for the children. John has moved out of the family home and has started seeing another woman, who has a child but who also has considerable assets. He does not want to go to court and is keen to enter into a separation agreement with Nuala.

Nuala's only concern at present is to ensure provision of maintenance for her children. She seeks your advice on the relevant law and, in particular, on each of the following matters:

- How do the courts assess the amount of maintenance payable?
- Will John's behaviour or the fact of his other children affect the entitlements of her children?
- If John is living with the other woman, will her financial position have any bearing on the maintenance payable by John?
- If Nuala agrees to a separation agreement, how can she ensure that John pays the amount of maintenance agreed and what can she do if he reneges on the payments?

3. Colm and Nora are both natives of Donegal and have always lived there. Nora is a teacher there, while Colm works as a social worker across the border in Derry. They have four children aged 12 to 4. The marriage is in difficulties and Colm has moved out of the family home on a previous occasion and lived in Derry for a few months but returned home for the sake of the children. Recently he has moved out again and Nora is worried that the marriage is over. She does not want a divorce for religious and social reasons. She seeks your advice on the following matters:

- Would her best option be to try to enter into a separation agreement with Colm or to seek a judicial separation in the courts?
- Could Colm get a divorce despite her wishes?

Explain to her, briefly and precisely, her legal position on both matters.

4. Seán and Barbara, both in their first year at college, had been seeing each other on and off for six months when Barbara became pregnant. Seán broke off the relationship when he heard of the pregnancy. Barbara told the social workers that she didn't know who the father was and placed the child for adoption without telling Seán. Seán then regretted his decision and told Barbara he would help her to rear the baby. He believed the child was with her parents, who were going to look after it until Barbara finished at college and got a job. Seán found out a few weeks later about the adoption and wanted to take the baby. Barbara objected and said she would take the baby back and rear him herself but Seán does not believe her and thinks she is proceeding with the adoption. Advise Seán briefly and succinctly as to the relevant law and its application in respect of each of the following:

- (i) What is his legal position in relation to the proposed adoption of his child?
- (ii) Will Barbara be entitled to have the baby back if she wishes to?
- (iii) If Barbara gets the baby back and subsequently marries someone else, will that affect Seán's rights in respect of the child?

5. Liz, who is English, but whose grandparents live in Ireland, went to France as an Erasmus student. There she met Ali, who is French but of Algerian parents. When Liz finished her degree she went back to work in France, lived with Ali and had two children, now aged 5 and 3. Liz suffered from post-natal depression for a considerable time after the birth of the younger child and she and Ali split up. Ali got custody of the children, which Liz agreed to as a temporary measure until she was well enough to cope. Liz had access, and on one occasion, fearing that Ali was going to take the children to Algeria and she would never see them again, she took them to England. From there she took them to her grandparents' home in Galway, where she felt Ali would not find them and where, in any event, she reckoned the Irish courts would be more sympathetic to her if he did. She started her 5 year-old in the local national school and the 3 year-old in the crèche. Her grandparents are not sure about the situation and after a month, when Liz appears intent on staying indefinitely, they seek your advice as to the legal position. Advise them.

6. Critically assess ONE of the following:

- (i) The current state of the law on nullity, indicating what you consider to be the priorities for reform.
- (ii) The legal response to domestic violence in non-marital family situations, indicating what you consider to be the priorities for reform.
- (iii) The current regime for the care of children in dysfunctional families and situations of risk, indicating what you consider to be the priorities for reform.
- (iv) The current state of the law in relation to family property and assets, indicating what you consider to be the priorities for law reform.

**END**