

Practical Applications of Family Law

**Elective
Past
Papers**

M. Adv.



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2020/2021

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ABOUT GhSL

Għaqda Studenti Tal-Ligi (The Malta Law Students' Society) is a faculty-based, non-profit organisation at the University of Malta that represents all law students within the Faculty of Laws.

The organisation plays a pivotal role in law students' academic and social life at the University of Malta. The organisation has also been responsible for publishing the prestigious *Id-Dritt*, and the *GhSL Online Law Journal*.

Moreover, GhSL boasts its own Thesis Library, located at the GhSL office in the Faculty of Laws. Additionally, GhSL is the only law organisation responsible for the distribution of authoritative law notes and past papers.

For further queries on this set of notes, as well as any other, please feel free to contact our **Resources Officer** at resources@ghsl.org.



Advice from an Alumna

By Dr Priscilla Mifsud Parker

The law course is a long journey, but one that, if well-travelled, will lead to beautiful destinations. In an industry which is today attracting many young individuals looking to develop their career in law, it is important to stay ON the beaten track and remain focused. It may go without saying that it is of great importance for all students to attain good academic grades, to be dedicated to their work, as well as to be determined in this highly-competitive industry in order to fulfil their dream of becoming lawyers one day. However what is crucial is that as students and later on as professionals we are innovative by being sensitive to the changes around us. These changes might be political, economic, environmental, socio-cultural or others; what is for sure is that they all have an impact on the profession of a lawyer. We are members of a dynamic profession which is very sensitive to its surroundings. The type and 'genre' of advice which is required from us is all affected by what is being experienced by the receivers of this advice.

Work experience is considered as a vital part of the staple diet of any prospective lawyer in order to put into practice and refine the knowledge gained from the theoretical reality of the lecture halls and lawbooks into the skills required for a successful career in law. An internship will not only show future recruiters that you have a genuine interest in pursuing a career in this sector, but that you have the practical knowledge and skills to succeed in your role.

Here are some personal suggestions that I feel helped me during my journey:

1. *Being Ambitious*

A powerful trait in any competitive industry, ambition will help you in your law course, in your career as a lawyer, as well as in your life. Whilst the law course can be quite intimidating and challenging, an ambitious individual who is dedicated to learning new things has the potential to understand and realize long-term goals. Do not view the journey as one whole insurmountable mountain but focus on the next small goal and once achieved move on to the next and goal by goal you will reach your final target point.

In this respect, gaining valuable work experience through an internship is an important step taken by an ambitious young lawyer who wants to attain certain skillsets, and remain a step ahead of his/her peers. By being inquisitive, analytical and humble enough to accept guidance and mentoring one is guaranteed a fruitful experience in a law firm. It is also not only a means to start focusing on the direction of your career and to build upon your chosen path, but will undoubtedly expose you to the international world. This is crucial, as most of the traditional legal sectors have been intertwined with new areas of legislation and all these together now present much more opportunity for intra-jurisdictional work.

2. *Networking*

By engaging with counterparty students abroad and in international fora one gains an insight into another reality and is exposed to different cultures, ways of communicating and is able to bridge



the differences between parties to a mundane discussion which will eventually become a transaction or a major project in professional life.

3. Organisational Skills

Organisation is key in any industry. Good organisation skills always stand out to a recruiter when considering potential applicants. Such skills can be obtained by gaining experience either through organising one's own work, study plan, student events or cultural/philanthropic events.

Going hand-in-hand with this, is having a study plan. By planning your studies ahead, one will have a sufficient amount of time to meet all the demands, while also being able to participate in productive outside activities. Reviewing notes or case briefs before class can also help you follow and participate in class discussions better, whilst following case-law allows you to apply them for specific situations. In view of the amount of material involved summarising and carving out the most crucial points is essential to then build your argument in papers.

4. Taking your own class notes

It is always important to take down your own notes as laws are always evolving and passed-down notes would provide the context but are not ideally used for the detail. Researching the particular topic and comparing Malta's law with that of other jurisdiction gives one a completely different outlook and commenting on these variances in an exam paper, dissertation or assignment would distinguish one student from another. Not to be overlooked are also the consultation papers, commentaries and other official public documents that are issued by local authorities from time to time on different areas of law and industry. Being abreast of what is happening in industry will help putting the particular law or regulation in context.

5. Participation

Participation is a main element of the learning process. Being actively involved during seminars and lectures and participating in legal debate sessions, mock trial competitions and moot courts are essential in order to improve your persuasive and presentation skills. If you find this very difficult (all of us have different characters and traits), then try to focus on participation in other events which will expose you to public speaking starting off in smaller groups in a more familiar environment and trying out new experiences and larger audiences as you go along.

6. Practice is the key to success

This leads us to our next point – practice. Attaining good grades is undoubtedly an important part of the law course, however, in themselves, they are not enough to show that you have substantial material to succeed. Working within a law firm introduces you to the world of work, and allows you to gain specific industry-related skills which one will only ever be able to learn in a workplace setting.

Work experience can provide you with valuable insight which will help you decide what your career aspirations are and in which areas you would like to further delve into.



FOURTH & FIFTH YEAR LAW
ELECTIVE UNITS PAST PAPERS

PRACTICAL APPLICATIONS OF FAMILY LAW



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in the publication, feel free to e-mail academic@ghsl.org.

Faculty of Laws
LL.D. Year II

Practical Applications in Family Law
CVL5018

Thursday 31 May 2007
8.00a.m. – 10.00a.m.

Answer ONE question

Imagine that you are in your office and a client in ONE of the following cases comes to you for advice. You may answer in English or Maltese but ensure that the response is only in ONE language.

Make reference to updated legislation and/or case law in offering your opinion, giving your client all the options available before making your conclusions.

For this purpose you may use local case law and legislation available online, your own diskettes, cds, pen drives, notes or books. You may write your answer on an exam booklet provided or print your response. Kindly ensure that your name and ID number are clearly entered on the top of each page, if you opt to print your answer.

Total mark: 80% [20% were allocated to attendance and participation]

Case 1

Martina has had a serious drug problem for the past seven years. She has two children from two different partners and is currently pregnant with another child from her new husband, Gerald. Martina met Gerald during a rehabilitation programme which ended four months ago and claims they are both clean. Their major worry is a number of pending criminal charges which may carry periods of imprisonment.

Eighteen months ago Martina voluntarily placed both children now aged 6 years and 4 years in residential care. She has always opposed any attempts to have the children placed in foster care even during the long months she was in the rehabilitation programme and the time she spent in Mount Carmel Hospital following a suicide attempt by overdose. She is very optimistic that now she is clean, married and has a home and a new baby on the way things will change for the better.

Yesterday Martina went to pick up the children from the child care home but was not allowed to do so. Appogg have threatened to issue a care order on the children should she remove them and have told her they are also concerned over the unborn child.

Martina comes to you for advice.

OR

Case 2

Jessica has been married to Max for twelve years. They have one daughter Emily aged nine. Five years ago Jessica was involved in a car crash which left her paralysed from the waist down.

At first Max was very supportive but in the last year he has changed his attitude and recently told her that he has started an affair with another woman. In public Max is always polite towards Jessica but in private he constantly belittles her as a wife and mother. Over this last year he has succeeded in isolating her from family and friends giving them the pretext that she is depressed.

Jessica feels that Max is behaving this way because he is angry at her and ashamed to be regarded as abandoning her, since his reaction to her suggestion of separation was angrily and emphatically negative.

In the circumstances Jessica wishes to initiate separation proceedings herself but is afraid that she will not be allocated custody of Emily. She is also concerned that Emily will be drawn into the court case and made to take sides if questioned by lawyers in court.

Jessica asks for your advice.

Faculty of Laws
LL.D. Year II

Examination in
Practical Applications in Family Law
CVL5018

Wednesday 27 May 2009
9.15a.m. – 11.15a.m.

Answer ONE question

Imagine that you are in your office and a client in ONE of the following cases comes to you for advice.

Make reference to updated legislation and/or case law in offering your opinion, giving your client all the options available before making your conclusions. For this purpose you may use local case law and legislation available online, your own pen drives, notes or books. You may write your answer on an exam booklet provided or print your response. Kindly ensure that your name and ID number are clearly entered on the top of each page, if you opt to print your answer.

Total mark: 80% [20% were allocated to attendance and participation]

Case 1

James and Margaret have been married for 28 years and have three children. Their youngest son Andrew has a drug problem and has been in and out of rehab several times. He is in a non-marital relationship with Claire and they have a daughter Krista who is five years old. Claire also has a drug problem and the social work authorities have already visited the child on several occasions to check on her welfare. During their last visit they intimated that they would be issuing an interim care order in the coming weeks.

James and Margaret are concerned at their son's state of health and at the impact this has on Krista. They wish to look after the child themselves and have offered to do so many times. However they have a very bad relationship with Claire who refuses to let them see the child. Their only contact with Krista has been on those occasions when Andrew has taken her to visit her grandparents.

Their other children both still live at home and want nothing to do with their brother Andrew who has lied to them and stolen from them and caused great distress to their parents.

Advise James and Margaret as to their options

OR

Case 2

Pauline and Mario have been married since 2003. Pauline previously had a couple of long engagements but never married and Mario was previously married for two years but the marriage was annulled. They have a son Daniel aged three years.

Mario has a physical disability which precludes strenuous physical labour but he has a job and has always done his best to provide for his family. Pauline is unhappy about Mario's contribution to maintenance and constantly complains that his wages are insufficient for a decent living for them and particularly for Daniel as he is growing up. She is always going on at Mario to get an additional part time job and is prone to violent rages when he refuses because of his disability.

A few months ago in the course of an argument, Mario raised the possibility of leaving Pauline but her reaction was so violent that he has never brought up the subject again. She had punched him and hit him and threatened to stab him in his sleep if he ever mentioned this again. Mario is ashamed to tell anyone about this but is afraid that Pauline's moods are getting worse. She is now slapping Daniel when he misbehaves and belittles Mario when he protests at this.

He would like to leave Pauline and assume care and custody of Daniel but he is afraid of Pauline's reaction. He is also concerned that the courts will not consider him a suitable custodial parent on the grounds of his sex and disability.

Advise Mario

Faculty of Laws
LL.D. Year II

Practical Applications in Family Law
CVL5018

Friday 4th June 2010
9.15 am – 11.15 am

Answer ONE question

Make reference to updated legislation and/or case law in offering your opinion, giving your client all the options available before making your conclusions.

You may refer to case law and legislation available online on preselected sites [local case law *<http://www.mjha.gov.mt> <<http://www.mjha.gov.mt/>> *and ECHR case law* <http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC>] as well as your own pen drive, notes or books. Access to other sites and the sending or receiving of information other than that specified will be barred. Your pen drives will be “read only” and no material may be copied onto them during the exam.

You may write your answer on an exam booklet provided or print your response.

Total mark: 80% [20% were allocated to participation and course work]

Case 1

Carol has three children aged eleven, fifteen and nineteen. The nineteen year old, Justin, has a mental disability and although he has a part-time job he is still very dependant on Carol. Carol is separated from Justin’s father and does not receive any maintenance from him to help her support Justin. She currently lives with the father of her two younger children Dennis, who has a long history of schizophrenia and occasionally requires hospitalisation when he refuses to take his medication. Her family disapproves of her lifestyle and she has no contact with them. A few days ago Carol was diagnosed with a terminal illness and is very concerned what will become of her children and Dennis. She seeks your advice about any legal issues which might affect the situation.

OR

Case 2

Sharona and Paul met in the US while Paul was on an exchange visit and they got married in Sharona’s home town in Colorado three years ago. The couple came to Malta to live and now have a two year old boy, George and a new born baby, Lucy. Paul tries his best to be a good

husband and father but Sharona constantly criticises him and complains that his day job does not bring in enough money, that his part-time evening job is demeaning and that he should do better to support the family. Since the birth of the baby, Sharona has started throwing things at Paul when she gets angry and yesterday she just missed hitting him with a frying pan full of hot oil. He is concerned for the safety of the children as he is rarely at home and knows that Sharona is losing her temper more frequently. However when he tries to broach the subject Sharona becomes hysterical. Paul has considered reporting Sharona to the police but is afraid he will be ridiculed. He is also worried that Sharona will leave him and take the children back to the US. Advise Paul

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD III (2011/12)
JUNE 2012 EXAMINATIONS

EXAMINATION: CYL 5035 – PRACTICAL APPLICATIONS IN FAMILY LAW
DATE: WEDNESDAY 6TH JUNE 2012
TIME: 9:15AM – 12.15PM

Make reference to updated legislation and/or case law in offering your opinion, giving your client all the options available before making your conclusions. You may refer to case law and legislation available online on the following preselected sites:

<http://www.echr.coe.int/echr/en/hudoc>
<http://www.justiceservices.gov.mt>

Also you may refer to your own pen drive, notes or books. Access to other sites and the sending or receiving of information other than that specified will be barred. Your pen drives will be “read only” and no material may be copied onto them during the exam.

You may write your answer on an exam booklet provided or print your response.

Total mark: 80% [20% were allocated to participation and course work]

Answer ONE question

1. Mary has just given birth to a child a week ago but she's not sure who the father is. During the time of conception she had relations with John and with Jason. Both are aware of the situation although neither has kept on seeing her. However Jason is particularly worried because everyone is telling him that the child is his spitting image. He comes to you for advice since he got to know that Mary might be contemplating telling the authorities that the child has an unknown father. You should also know that Mary has a long-standing mental health problem which has necessitated stays at Mount Carmel Hospital in the past although her present medication is keeping her condition stable. Neither John nor Jason are aware of this condition.

- i. What would you advise Jason to do to determine whether or not he's the father of the child? Prepare Jason for the "worst case scenario", but do not limit your answer to just that.
- ii. What procedures would they need to take if Jason was determined to be the father but was in disagreement with Mary as to maintenance and access? Could the child be placed under a Care Order, for instance?
- iii. Jason was told that Mary might give the child up for adoption. Would this be possible at this stage? Advise him accordingly, taking into consideration the best interests of the child.

OR

2. Alex and Romina have been married since 1997 and their marriage is not working out since Alex is being physically abusive towards Romina. They have two children, Karl aged fourteen and Malcolm aged six. Karl has a severe physical disability which requires therapy and considerable financial outlay. Alex has not been giving her money for her or the children's subsistence for over two months. Romina has no relatives that can help her out and comes to you for advice.
 - i. She would like to know what she needs to do to start the separation process, whether she can do anything immediate to be given maintenance for herself and the children and have her husband evicted and whether her children could be heard so as to give their version of events.
 - ii. She would like to know whether, in the mean time, she can leave the house without losing out on any of her rights. But at the same time she does not know where to go with the children and needs your advice.
 - iii. She was told by some friends that she has grounds for an annulment. She wants to know whether she should opt for a civil or church annulment. Explain the difference between the two, what procedures are to be followed in both and what would happen if one spouse applies to initiate an annulment case in the Civil Court and the other spouse applies to the Ecclesiastical Tribunal.

Faculty of Laws
LL.D. Year II&III

Practical Applications in Family Law

CVL5 035

Monday 3rd June 2013
9.15 am - 12.15 pm

Answer ONE question

Make reference to updated legislation and/or case law in offering your opinion, giving your client all the options available before making your conclusions. You may refer to case law and legislation available online on preselected sites [local jurisprudence <http://www.justiceservices.gov.mt/courtservices/> and ECHR case law* <http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC/>] as well as your own pen drive, notes or books. Access to other sites and the sending or receiving of information other than that specified will be barred. Your pen drives will be "read only" and no material may be copied onto them during the exam.

You may write your answer on an exam booklet provided or print your response. Total mark: 80% [20% were allocated to participation and course work]

CASE ONE

John and Mariella have been married for fifteen years and have three children, Patrick aged fifteen, Karl aged nine and Rachel aged eight. John lost his job last year and as a consequence is suffering from depression and has taken to drinking excessively.

Mariella has had to find a job to support the family and is concerned that while she is out her husband is showing undue interest in their daughter. She notes that Rachel is becoming very withdrawn but is worried about asking Rachel whether there is any foundation to her fears as she does not wish to scandalise her or sour her relationship with her father. She is also afraid of raising the issue with her husband as if she is wrong this might worsen his depression.

Last week John became violent and broke down the kitchen door and hit her in the face and on her arms and tried to rape her. Her sons witnessed this incident and were terrified. Patrick tried to stop his father and got hurt in the process. Rachel was out at the time. Mariella was distraught and mentioned the incident to a friend at work who

advised her that she has no alternative but to file a report with the police and leave the home in order to protect her children.

Mariella comes to you for advice to address the needs of her family.

OR

CASE TWO

Janice has a problem with drug abuse but this time she has been arrested for trafficking as well as possession. She has three children from different partners, including her husband from whom she is *de facto* separated. Paula is the daughter of her marriage and is now aged twelve and lives with Janice's parents. Anthony aged eight is the son of one of Janice's boyfriend but is registered under her husband's name and George aged five is the son of another of Janice's boyfriends but is also registered under her husband's name.

Both boys are under a care order. George was placed in foster care at birth and meets his siblings and mother once a week in a supervised access visit. Anthony is in residential care and has no contact with anyone other than his siblings as he refuses to meet his mother. Paula meets both her parents and her siblings sporadically. She is recently demonstrating behavioural problems and her grandparents have indicated that they are no longer able to care for her.

Janice is worried that she may be sentenced to a substantial prison term this time and that she may not be able to see her children while in prison. She is also concerned that her parents are refusing to continue to care for Paula which may mean that Paula will end up in care or, from her own experience, even at Mount Carmel Hospital if no suitable placement is found for her. Janice hopes that Paula's father will assume responsibility but as he is in another relationship this is unlikely.

You are the lawyer advising Appogg. Give your considered opinion regarding the possible legal solutions in the best interests of each child.

UNIVERSITY OF MALTA

FACULTY OF LAWS

LLD II AND LLD III

MAY/JUNE 2014 EXAMINATION SESSION

EXAMINATION: CVL5035 – PRACTICAL APPLICATIONS IN FAMILY LAW

DATE: MONDAY 23RD JUNE 2014

TIME: 12.30PM – 3.30PM

ANSWER ONE QUESTION FROM THE FOLLOWING.

Make reference to updated legislation and/or case law in offering your opinion, giving your client all the options available before making your conclusions. You may refer to case law and legislation available online on preselected sites (local jurisprudence <http://www.justiceservices.gov.mt/courtservices/> and ECHR case law* http://www.echr.cog.int/ECHR/EN/Header/Case-Law/HUDOC*) as well as your own pen drive, notes or books. Access to other sites and the sending or receiving of information other than that specified will be barred. Your pen drive will be "read only" and no material may be copied onto them during the exam.

You may write your answer on an exam booklet provided or print your response.

Total mark: 80% (20% were allocated to participation and course work)

QUESTION 1

Yvonne has had a difficult life. Her mother's partner was a violent man and he treated Yvonne's mother, Yvonne and her three siblings badly, abusing them physically, sexually and psychologically. At the age of seven Yvonne was placed under a Care Order and until the age of sixteen she lived in residential care. At sixteen she left school and her mother encouraged her to make "easy" money through prostitution. Yvonne is now eighteen and her pimp is not much different from her mother's partner. She has already been to hospital several times when she failed to make enough money to fund their drug habit. Now Yvonne has discovered that she is pregnant. She is sure her pimp is the father of her child. She is terrified of telling him and very fearful that once she gives birth her baby will be taken away from her and placed into care just as she was. She feels that the only person who can truly love this baby is

her and she wants to find a way to do so. She knows that if she stops working there will be consequences and these may also affect her unborn child. Yvonne comes to you for advice about her options at law.

OR

QUESTION 2

Ryan was married for three years but his bipolar disorder made married life difficult and his wife Carla initiated separation proceedings even though she was pregnant with their first child, Tommy. At the time of the proceedings Ryan was quite ill and "agreed" to all the terms suggested in the consensual separation. He was too embarrassed to raise the issue of his mental health and both the mediator and the Judge did not pick up on it. Since Tommy was born, Ryan has not been allowed to see him and Carla's family have made it clear that they will not allow him anywhere near the child. Also Carla's new partner has been quite aggressively protective of Carla and Tommy. Ryan is receiving treatment for his condition although he still experiences difficult episodes. He now has a part time job and is supporting himself with the help of a community nurse and NGO. He would like to start a relationship with his son and is convinced this would be beneficial to both Tommy and himself. He was listening to the radio and has heard that a child advocate may be appointed to represent the child where the parents do not agree. Ryan comes to you for advice regarding his legal position.

END OF EXAM PAPER

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.D. II & III YEAR
JUNE 2015 EXAMINATIONS

EXAMINATION: CVL 5035 – PRACTICAL APPLICATIONS IN FAMILY LAW

DATE: FRIDAY 19TH JUNE 2015

READING TIME: 10:00AM – 10:05AM

DURATION OF EXAM: 10:05AM – 1:05PM

ANSWER ONE QUESTION FROM THE FOLLOWING.

Make reference to updated legislation and/or case law in offering your opinion, giving your client all the options available before making your conclusions. You may refer to case law and legislation available online on preselected sites (local jurisprudence <http://www.justiceservices.gov.mt/courtservices/> and ECHR case law* http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC*) as well as your own pen drive, notes or books. Access to others sites and the sending or receiving of information other than that specified will be barred. Your pen drive will be "read only" and no material may be copied onto them during the exam.

You may write your answer on an exam booklet provided or print your response

Total mark: 80% (20% were allocated to participation and course work)

QUESTION 1

Jonathan and Francesca, both in their late twenties, have been cohabiting for the last seven (7) years.

They have a son Matteo, 5 years old, whom Jonathan has acknowledged.

Things at the moment are not plain sailing. Jonathan started drinking heavily following the termination of his employment for the assault of a fellow employee. Francesca is growing despondent and is habitually taking it out on Matteo, even physically.

This situation is having quite a deleterious effect on the child who often throws tantrums, and is occasionally missing school.

This notwithstanding both Jonathan and Francesca claim to be still in love and have called on you for advice following information that the school head has alerted the authorities fearing for the welfare of Matteo.

They are especially apprehensive about their being deprived of Matteo's custody and claim to be willing to do whatever is needed to improve their behaviour even though they are not sure how to go about it. Advise Jonathan and Francesca discussing the various relevant issues.

OR

QUESTION 2

Amanda and Keith have been married for three years following a whirlwind courtship. Just as Amanda discovers that she is pregnant with twins, Keith reveals that gender has always been an issue and now that the Gender Identity Act has come into force the time has come to be acknowledged as female and change names to Karen. Amanda is stunned at this news and even more by Karen's wish to remain in the relationship. Amanda seeks consolation by referring to her former partner Marc who is still interested in her and occasionally has long intimate chats with her on Facebook. Marc suggests that Amanda should leave immediately and seek an annulment and then marry him. His only concern is that his two children from his divorced marriage might be upset at Amanda moving in with him as his former wife is still angry at him for causing the divorce through his addiction problem. Marc is confident that he is totally over the addiction and ready to move on and offers to introduce Amanda to his therapist and to sign a document binding him to keep clean.

Amanda is very confused and upset. Her parents have advised her to spend some time with them to think things through. They recommend that she seek advice from you as their family lawyer. Advise Amanda.

END OF EXAMINATION PAPER

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.D. II AND LL.D. III

MAY/JUNE 2016 EXAMINATION SESSION

EXAMINATION: CVL5035 – PRACTICAL APPLICATIONS IN FAMILY LAW

DATE: MONDAY 20TH JUNE 2016

READING TIME: 10:00AM – 10:05AM

DURATION OF EXAMINATION: 10:05AM – 1:05PM

ANSWER ONE QUESTION FROM THE FOLLOWING.

Make reference to updated legislation and/or case law in offering your opinion; giving your client all the options available before making your conclusions. You may refer to case-law and legislation available on preselected online sites (local jurisprudence on: <http://www.justiceservices.gov.mt/courtservices/> ECHR case law on: <http://www.echr.coe.int>, and local legislation on: <http://www.homeaffairs.gov.mt> [automatic redirection from <http://www.mjha.gov.mt>] and the recently added <https://www.hcch.net>); as well as your own pen drive, notes or books. Access to other sites and the sending or receiving of information other than that specified will be barred. Your pen drive will be “read only” and no material may be copied onto them during the exam.

You may write your answer on an exam booklet provided or print your response.

Total mark: 80% (20% were allocated to participation and course work).

QUESTION 1

Sarah and Luca are in a relationship outside marriage and have three children; a new-born baby, Kylie, a daughter, Natasha, aged two and a little boy, Paul aged six years respectively. Both parents have a history of drug abuse and Sarah’s mother had reported her to *Appogg* following the birth of Natasha because she was afraid for her grandchildren’s wellbeing. Sarah was financing their drug addiction through illicit activities and had been sentenced to a prison term of two years. Luca had reacted to this

by taking more drugs and did not support the children. On her release Sarah had immediately gone back to Luca and got pregnant with their third child. She is currently awaiting further cases to be prosecuted against her.

After Kylie's birth, all three children have now been removed under a care order; with the older child placed in one residential facility and the younger two placed in another residential facility. Although Sarah's mother wished to foster her grandchildren, this was not possible owing to her poor mental health. The children visit their grandmother once a week but have no contact with their parents, which causes huge tantrums on a weekly basis as they miss their parents very much. Sarah and Luca went to *Appogg* and are offering to go to rehab so they can reconstitute their family. Luca has even found a steady job although this is very poorly paid. They do not have a home to live in and depend on their relatives to give them space in their home. For this reason they are also asking *Appogg* for housing so they may settle down and bring up their children together. So far they have followed all recommendations of *Appogg*, but matters are going very slowly. Advise them, making reference to local and European jurisprudence.

OR

QUESTION 2

Martin and Sabrina have been married for the past eight years and have two children aged six and four. Sabrina has long felt confusion regarding her gender identity and has told Martin that the time has come to acknowledge himself as Samuel and to take procedures to change identity and to undergo a sex change. Martin is very supportive and intends to remain in this new relationship notwithstanding the change in gender of his partner. His only regret is that they will be unable to fulfil their intention to have another two children. Samuel suggests that they apply to adopt and mentions links that he has with a friend who lives in Russia who could place two siblings currently in residential care with them straight away. Martin is concerned that this may not be possible given Russia's attitude to same sex couples caring for their children.

Meanwhile Martin's parents get to know about this proposal and share their concerns publicly on *Xarabank*. *Appogg* are present on the programme and also indicate that they cannot support such an adoption; while a number of NGOs are planning a protest in support of the couple. Someone in the audience suggests foster care as an alternative. During the programme the absent Commissioner for Children is called upon to give her advice regarding the best interests of both the couple's children and the proposed adoptees.

The couple are very upset at this invasion of their privacy and the impact on their two children, particularly on the elder who is at school. Advise the couple on the way forward, drawing on judgements of the European Court of Human Rights and local legislation and jurisprudence.

UNIVERSITY OF MALTA
FACULTY OF LAWS
MA IN ADVOCACY
LL.D. II AND LL.D. III
JANUARY 2017 EXAMINATIONS

EXAMINATION: CVL5029 – PRACTICAL APPLICATIONS IN FAMILY LAW

DATE: MONDAY 30TH JANUARY 2017

READING AND NOTING TIME: 10.00AM TO 10.05AM

DURATION OF EXAM: 10.05AM TO 11.05AM

WRITING IS PERMITTED DURING THE READING AND NOTING TIME

ANSWER ONE QUESTION FROM THE FOLLOWING.

Make reference to updated legislation and/or case law in offering your opinion; giving your client all the options available before making your conclusions. You may refer to case-law and legislation available on preselected online sites-

- Local jurisprudence on: <http://www.justiceservices.gov.mt/courtservices/>
- ECHR case law on: <http://www.echr.coe.int>;
- Local legislation on: <http://www.homeaffairs.gov.mt> [automatic redirection from <http://www.mjha.gov.mt>];
- <http://www.gov.mt>;
- The recently added <http://www.hoch.net>);
- as well as your own pen drive, notes or books. Access to other sites and the sending or receiving of information other than that specified will be barred. Your pen drive will be “read only” and no material may be copied onto them during the exam.

You may write your answer on an exam booklet provided or print your response.

Total mark: 80% (20% were allocated to participation and course work)

ANSWER ONE QUESTION FROM THE FOLLOWING:

QUESTION 1

John and Jaylee had been married for five (5) years and have two (2) children, Denzel now aged ten (10), and Jadon aged eight (8). John was violent towards Jaylee and she left him four (4) years ago to live with another man, Franco, and is pregnant with his child. Franco has led Jaylee to a life of drugs and prostitution and last month Jaylee was charged in the criminal court and faces a prison term. Franco is now in prison.

Denzel and Jadon have been living in residential care for the past year following evidence regarding neglect and violence by their father John who is more interested in his new girlfriend and her three children.

Jaylee has started treatment for her addiction in view of her pregnancy and sees her children under supervision twice a week at the home. She is eager to see more of the boys and to settle them with a foster family until she can get over her addiction and set up a home of her own.

John is against this move and wants the children to remain in residential care where they will be safe until they reach majority. He has threatened Jaylee and says he will go to court to ensure that she never sees the children again and that her baby will be taken away from her as she is an unfit mother.

Jaylee is very worried at John's threats and is concerned that she may be unable to keep her baby in prison. She is eager to make any necessary arrangements to rid herself of her addiction and reunite her family. Jaylee comes to you for advice.

OR

QUESTION 2

Janice has a mental health problem and has been committed to Mount Carmel Hospital on two occasions for treatment. She has two children: one from her husband from whom she is legally separated, and another from a former boyfriend. Her parents are well off and have provided accommodation and a monthly allowance to help her. She has assets of her own but is unable to manage them and has no sense of the value of money.

Janice has an older sister, Diane, who is unmarried. Diane is gainfully employed and settled in life, and she has been taking care of Janice ever since her first problems arose.

Janice's daughter from her marriage, Paula, is now aged twelve. She has a physical disability from birth and is tied to a wheelchair for all her life. She has manifested mental problems and is far backwards when compared with children of her age. She lives with Janice's parents who are beginning to feel the burden of their commitment and have indicated that they are no longer able to care for her.

Anthony, aged eight, is the son of Janice's boyfriend but he is registered under her husband's name. He too lives with Janice and is manifesting behavioural problems due to the instability of his mother. The natural father has abandoned them both and fails to pay maintenance.

Janice is worried because her doctor has told her she may be coming up to another spell at Mount Carmel hospital shortly and that she may not be able to see her children while in hospital. She is concerned that her parents are refusing to continue to care for Paula, and that no one will care for Anthony. She hopes that her husband, Paula's father, will assume responsibility for Paula but as

he is now in another relationship this is unlikely. She is also worried that Anthony will worsen because he is not being given the attention and care he needs.

Diane brings her sister Janice to you for advice and tells you that she wants to take on the responsibility for managing her sister's affairs and helping her get back on her feet. Give your considered opinion regarding the possible legal solutions in the best interests of Janice and of each of her children.

University of Malta
Faculty of Laws
January 2018 Examinations

CVL5029 – Practical Applications in Family Law

Tuesday, 30th January 2018 **Duration of Examination: 10.00am to 11.05am**

ANSWER ONE QUESTION FROM THE FOLLOWING:

Make reference to updated legislation and/or case law in offering your opinion; giving your client all the options available before making your conclusions. You may refer to case-law and legislation available on preselected online sites:

Local jurisprudence on: <http://www.justiceservices.gov.mt/courtservices>

ECHR case law on: <http://www.echr.coe.int> and

Local legislation on: <http://www.homeaffairs.gov.mt> (automatic redirection from <http://www.mjha.gov.mt>) and the recently added <https://www.hcch.net>);

As well as your own pen drive, notes or books. Access to other sites and the sending or receiving of information other than that specified will be barred. Your pen drive will read only and no material may be copied onto them during the exam.

** Do not use your personal UM IT account. Log in the computer using the Username and Password provided. Log off when the examination is over.*

** Save your work in the Z:\Exam folder. Unsaved work cannot be assigned any marks.*

** Any data files are located in Z:\Exam Resources folder.*

** Remember to save your work frequently to safeguard your progress.*

QUESTION 1

Michael and Samantha have been married for four years and have a son Marlon aged 2 years. Samantha had a very unstable home background and after the marriage she began to show signs of inability to take on the responsibilities of marriage and was unable to build an steady relationship of mutual support with her husband. It turned out also that she was unable to take care of the house and was unable to budget and would squander all the money her husband gave her on unnecessary items and would not have enough money to buy the daily needs. Michael loved her and was ready to take on the house duties and the shopping. However when Michael found out, to his horror, that Samantha was neglecting the child and was leaving him for long hours without changing him; was not feeding him properly and would not see to his needs when he was crying, he decided to take over the care of the child after returning from work. Marlon started showing the physical effects of his mother's neglect and even signs of retarded development. The relationship deteriorated even further when Samantha went out to work. She started dating other men, and finally, last week, she abandoned the matrimonial home leaving the child with Michael. Michael kept the child and asked his sister and her husband to help him in raising his son. He has now come to you for advice on what steps he can take in the interest of the child and also about his own situation in the failed marriage. Advise Michael and indicate what steps should be taken in these circumstances.

OR

QUESTION 2

Silvana started taking drugs at the age of eighteen (18) with her boyfriend Mark (who is 40 years old) with whom she co-habited. Mark used to procure the drugs for himself and for Silvana and, to finance this habit, he forced Silvana into prostitution. Silvana has now fallen pregnant; the father is not Mark. She wishes to change her way of life in order to be able to provide a healthy environment for the child after it is born. However she is afraid of Mark who is violent, controlling and abusive. She is also afraid that he will not let her give up prostitution since it is his sole means of income. Advise Silvana and say what steps you would take to enable her to find safety.