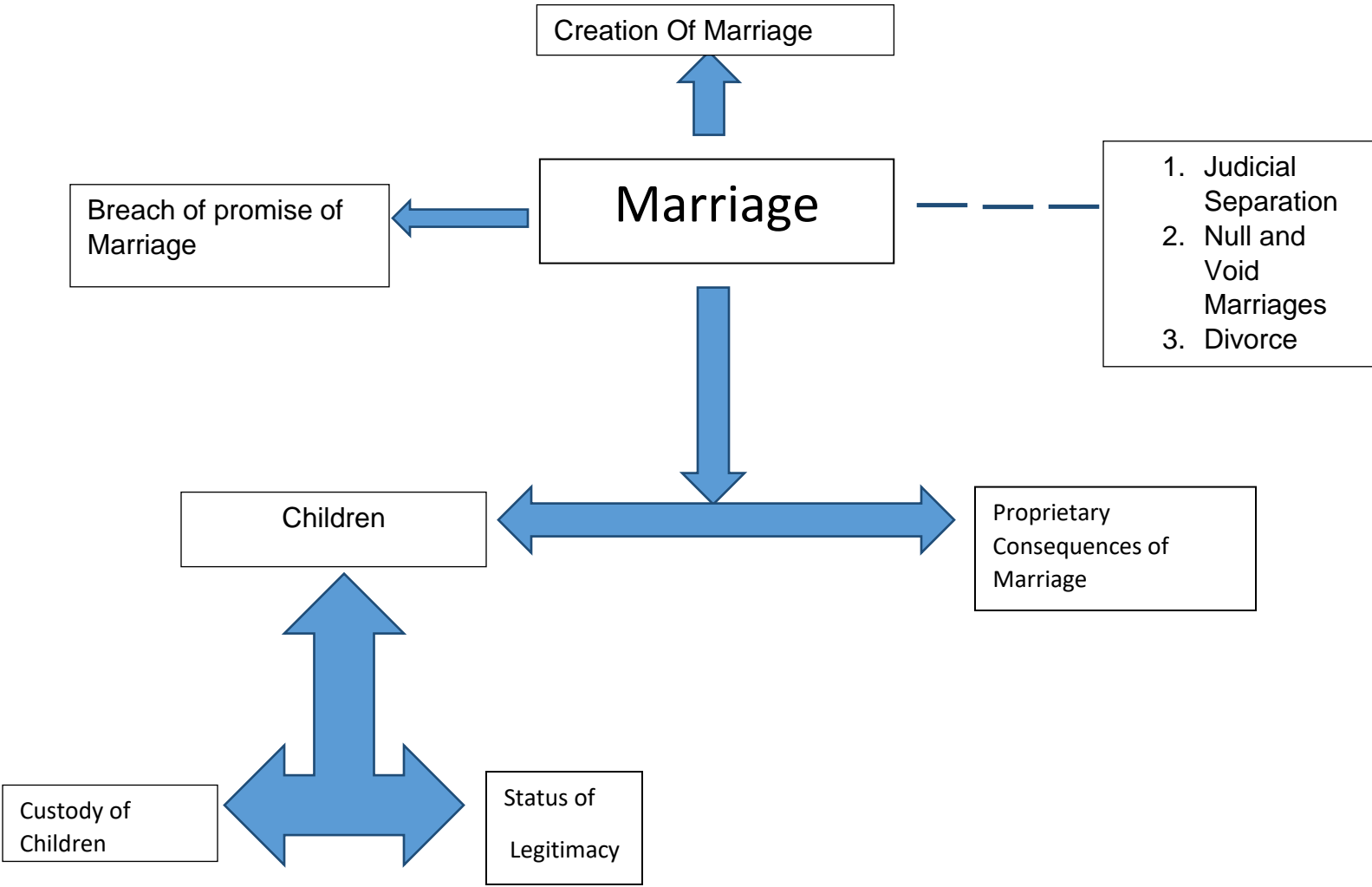


LAW OF PERSONS– PRELIMINARY YEAR

Areas under General Law



❖ Maintenance

❖ Adoption

Creation Of Marriage

- Formalities
- Registration
- Customary marriages
- Marriage by Cohabitation and Repute

Statutes

- Marriage Registration Ordinance No 19 of 1907(MRO)
- Kandyan Marriage and Divorce Act No 44 of 1952(KMDA)
- Muslim marriage and Divorce act No 13 of 1951 (MMDA)

Formalities

1. Minimum Age of Marriage
2. Subsisting Prior Marriage
3. Prohibiting degrees of Marriage
4. Consent

Minimum Age of Marriage

- Section 15 of the MRO as amended by Act No 18 of 1995
- Kandyan Law - Section 4 and 66 of KMDA was amended by Act No 19 of 1995
- Muslim Law - Islamic law does not recognize a concept of minimum age for marriage. But Section 23 of the MMDA- Marriage of a girl who has not attained the age of twelve not to be registered without Quazi's permission.

Read Section 363(e) of the Penal Code as amended by Act No 22 of 1995.

Prohibited Degrees of Marriage

- Section 16 of the MRO (a) (b) (c)
- Section 17- Marriage of persons within the prohibited degree of relationship an offence.
- Kandyan Law- Section 5 of the KMDA
- Muslim Law- Section 80 of the MMDA

These above sections did not prohibit marriages between ADOPTIVE children and Adoptive parents and children who are related to each other through adoption.

However, Section 364A(1)(a) of the Penal Code - Deals with Incest between adoptive relations and adopted child. This section applies to all communities.

Subsisting Prior Marriage

Married persons cannot contract a second marriage while the first marriage is subsisting.

- Section 362A of the Penal Code - The offence of Bigamy
- Section 18 of the MRO - No marriage shall be valid where either of the parties thereto shall have contracted a prior marriage which shall not have been legally dissolved or declared void.

Kandyan Law - Section 6 of KMDA

Muslim Law

It is permitted to contract 4 valid marriages, provided that he has the financial means and capability to fulfill his matrimonial obligations of all 4 wives.

- Section 24 MMDA- requires the Quazi to be notified of the second or subsequent marriages

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Consent

- Section 34(4) and 35 of the MRO

Parties to the marriage should express their consent to the marriage by being present and signing the Register

- KMDA - Section 22 and 23
- Muslim Law - It is not the bride, but her Wali or her make marriage guardian who signs the Register on her behalf
 - Section 17(2) of the MMDA -Requires the presence of the bridegroom, the Wali and the person who conducted the Nikah Ceremony at the time of the Registration