

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW
BACHELOR OF LAWS EXAMINATION, YEAR I - 2018
LEGAL METHOD

(Three Hours)

Total number of questions: 07

Answer any **FOUR** questions only.

(Candidates will be penalized for illegible handwriting.)

1. Even though the law is considered by many as the 'best civilizer of society', the question 'what is law?' defies a single definition. Therefore, from time to time, different schools of thought have dominated the understanding of law. And how they define 'law' unavoidably affect the thinking of lawyers and judges.

Discuss the above statement in light of any two schools of legal thought and support your answer with examples.

2. The adversarial system is designed to ascertain the truth through an open contest between two parties; namely, the prosecution and the defence. In stark contrast to the adversarial system, the inquisitorial system requires the court's active involvement in the proof of facts by extensive investigation and examination of all evidence. However, both systems have inherent defects in resolving disputes and achieving justice for individuals and society.

Comment on the validity of the above statement with reference to the key characteristics of these two systems.

3. Answer both (a) and (b).

(a) Tutipore is an island State in the Indian Ocean. Students of Tutipore attend tuition classes after their school hours, and the tuition culture affects their rest and health. As tuition centres conduct classes till late night, the government of Tutipore has enacted a legislation to control tuition hours in the country. The legislation provides "All tuition centres should be closed by 6.00 p.m." Lal, the owner of Alpha Tuition Centre closed his tuition centre by 6.00 p.m. and recommenced it at 6.15 p.m. and conducted the tuition classes till late night. He was prosecuted for the violation of the legislation. Lal argues that he had not committed any offence as he had closed the tuition centre at 6.00 p.m. according to the provision of the legislation.

Continued -2-

Assume that you appear for the prosecution. Explain how you would argue the case applying the relevant rules of interpretation.

(b) Ragpore is an island State in the Indian Ocean. The government of Ragpore has enacted a legislation to prohibit ragging in educational institutions. The legislation provides that ragging means “any act, within or outside an academic institution, which causes or is likely to cause physical or psychological injury or mental pain or fear to a student of an academic institution.” It is reported in the media that in the ABC University, senior students shave the head of first year students during the ragging period. Upon a tip-off Police have raided a saloon near the University, and have found seven first year students and three senior students were sitting in the saloon. The first year students had left their bags in their lecture-hall, and had come to the saloon during their lecture hours. The owner of the saloon stated that the senior students have given instructions to him to shave the head of the first year students. The three senior students were prosecuted for committing ragging under the legislation. The senior students argue that the heads of the first year students had not been shaved when the police came to the saloon, and therefore, they had not committed any offence under the legislation.

Assume that you appear for the prosecution. Explain how you would argue the case applying the relevant rules of interpretation.

4. A case based on facts A, B, and C, is being argued before a bench of three judges in the Supreme Court of Sri Lanka. Citing relevant authorities to substantiate your answer, discuss the applicability of the following judgments:
- (a) A Full Bench decision of the Supreme Court of Sri Lanka delivered in 1987 in a case based on facts A,B and C;
 - (b) A judgment of the Privy Council in appeal from Ceylon in a case based on facts A,B, C and D;
 - (c) A judgment of the Court of Appeal of New Zealand in a case based on facts A, B,and C and delivered in December 2004; and
 - (d) A judgment delivered in 2017 by a bench of three judges of the Court of Appeal of Sri Lanka in a case based on facts A, B and C.
5. “Zilu” is a native community in the State of Seeland which engages in fishing and agriculture. The *Zilu* community has a traditional practice that requires female genital mutilation (FGM) among young girls in the community. This traditional practice is strictly adhered to by the members of the *Zilu* community.

Continued -3-

In June 2018, Women@Lead, a women's rights organisation in the country, found a video on the Internet showing images of tearful frightened young girls queued up to go through female genital mutilation. The Women@Lead alleges that the elders of the community have committed an offence under the Penal Code of the country. It further argues that this practice contravenes and violates the right to dignity of women. However, the chief of the *Zilu* community maintains that this practice is a long standing tradition of the community that has been deeply embedded in the minds and culture of the people. The chief and the elders of the community deny the charge and argue that they have only performed a ritual to lessen a woman's sexual urge.

The Women@Lead seeks your advice as to the validity of the custom. Advise it, citing relevant cases. Assume that the relevant laws of Seeland are similar to that of Sri Lanka.

6. Centre for Sustainable Peace is a non-government organization. It has organized a seminar on the theme of "Mediation for Sustainable Peace" for junior lawyers working in the non-governmental organizations in the Central Province. The Centre has requested you to make a presentation in the seminar on the topic "Role of Mediation Boards in Promoting Sustainable Peace in the Society". The Centre has also requested you to include, among other things, legal and practical aspects of mediation in your presentation.

Explain what you would include in your presentation.

7. (a) Lawyers could volunteer in many ways to contribute for the upliftment of the society. Identify **any three** voluntary contributions that the lawyers could make for the upliftment of the society. Explain giving reasons how such involvement could uplift the communities.

(b) Give examples for lawyers' conduct that would, in your opinion, seriously devalue the confidence that the society has placed on the profession. Explain, giving reasons, how such conduct could adversely affect the profession.
