

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR I – 2018 (REPEAT)

LEGAL SYSTEM OF SRI LANKA

(Three Hours)

Total Number of Questions: 07

Answer any **FOUR (04)** questions and **no more**.

(Candidates will be penalized for illegible handwriting)

1. "Kandyan law is no longer a territorial law, consequently difficulties have arisen in relation to whom it applies to."

Do you agree with the above statement in relation to the application of Kandyan Law? Support your answer with relevant case law and statutory authorities.

2. Assume that you are a member of the law reform committee which was appointed by the Minister of Justice for the purpose of proposing legal reforms to the contemporary court system.

Write a report demonstrating the gaps and shortcomings in the contemporary court system with appropriate recommendations. Your report must be supported with references to statutes and other sources.

3. Arjuna and Maya married in 2000 under the General Marriage Ordinance after a long-term relationship. Later, Arjuna decided to convert to Islam and Maya did not object to the decision. Both of them followed the necessary rituals, declaring their testimony of faith and converted in 2005. They have changed their names as Zifan and Zuhana.

Soon after the conversion, Zifan informed Zuhana that he wishes to contract a second marriage under the Muslim Marriage and Divorce Act. Zuhana finds that Zifan wants to get married to his private secretary; Fathima. Zuhana suspects that Zifan and Fathima have had an extra-marital relationship for many years and she intends to challenge the conversion and the intended second marriage.

Advice Zuhana about the possibility of filing a successful lawsuit against Zifan. You are expected to explain what legal arguments favour Zuhana and what legal arguments can be adduced against her citing relevant legal authorities.

4. The 'Amazon Water' Company purchased a land in Kalutara to extract water for the production of bottled water. Later, 'Sinco Rubber Products (Pvt) Ltd'; one of the largest rubber mattresses manufacturers of the country built their new factory in the same area and it is located approximately 3 km from the land owned by the 'Amazon Water'.

After six months, when 'Amazon Water' Company carried out a periodic test to find out whether the quality of the water was safe for the human consumption, it was scientifically established that the water was contaminated with chemicals which are normally used in rubber manufacturing. 'Amazon Water' Company sued 'Sinco Rubber Products (Pvt) Ltd' for damages using the rule in Ryland's v. Fletcher as the basis of the action.

Assume that you are the legal officer of the 'Sinco Rubber Products (Pvt) Ltd' and prepare a brief note on whether the plaintiff could rely on the rule in *Rylands v. Fletcher*.

You are expected to focus on the reception of the English law principles into the legal system of Sri Lanka, when preparing your note. Relevant legal authorities should be included in your note.

5. "Law, like race, is not a pure-blooded creature. English Law has been tacitly adopted in Ceylon in many branches of the Law such as the Law of Persons, Property and Obligations, where, according to the traditional view, the Roman-Dutch Law should apply."

Tambiah J. at *Kamalawathie v. De Silva* at (1961) 64 NLR 252 at p. 259

Discuss the validity of this judicial approach in relation to the co-existence of English law and Roman Dutch Law in the legal system of Sri Lanka by citing relevant illustrations from case law and statutory authorities.

6. Kamalesh, a Tamil Hindu, was born in Mannar where his family had lived for generations. He lived with his parents till he finished schooling and moved to Colombo for higher studies. Upon finishing his studies, Kamalesh and his friend, Silva, jointly bought a land in Negombo to build an ice cream manufacturing business. In 2001, Kamalesh married Suseela, a Tamil Hindu girl from Trincomalee. Subsequent to the marriage the couple bought a house in Mannar and set up their matrimonial home. Later the couple migrated to Canada in 2008. Since then, the couple have visited Mannar only four times for

temple festivals. The couple decide to sell their matrimonial home and business share in the ice cream manufacturing business to Silva. Vasanthan, an adjoining neighbour of the couple's matrimonial home, objects to this.

(a) Advise Kamalesh as to whether he and Suseela are governed by the Thesawalamai? (20 Marks)

(b) Advise whether Vasanthan has any legal basis for objections to the intended sale? (5 Marks)

7. Discuss the problems that have arisen as a consequence of the existence of legal pluralism in Sri Lanka. You are expected to draw illustrations from decided cases and statutory authorities to support your arguments.
