

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR I – 2019

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)

01. “Roman Dutch Law is the residuary law of Sri Lanka... A statute is the primary source of law... Where there is no applicable statutory principle, the court would first look to see whether the parties are governed by one of the exceptional systems of law, and, if not, they would apply Roman Dutch Law.”

LJM Cooray, *Reception of Roman Dutch Law in Sri Lanka* (1974), at p. 296

Discuss the contemporary application of Roman-Dutch Law in Sri Lanka in the light of the above statement. Support your answer with relevant case law and legislation.

02. Although the area of commercial law in the legal system of Sri Lanka is heavily influenced by English law, its influence in private and public law areas is minimal.

Do you agree? Discuss the validity of this statement in the light of relevant statutory provisions and case law.

03. Answer **both** (A) and (B)

- (A) In Sri Lanka, there are sources of Muslim Law peculiar to the local Muslim community to which our courts have accorded precedence over the general established principles of Islamic law and Islamic law of other jurisdictions.

Discuss the above statement with reference to sources of Muslim Law in Sri Lanka.

(10 Marks)

- (B) Kumara who was married to Lekha under the General Law converted to Islam and changed his name as 'Abdul' in March 2019. He followed the accepted rituals at the conversion and declared the testimony of faith in Islam. In May 2019, Kumara contracted his second marriage with his secretary, under Muslim law.

Advise Lekha. Your answer must be supported by the relevant statutory provisions and case law.

(15 Marks)

04. Answer **both** (A) and (B)

- (A) Disha who is twenty five years old now, was born in Nallur. After the birth of her younger brother Shiva, her parents moved to Colombo where her mother's family lived and owned a lucrative spice business. When she was fifteen years old, her father decided to send Disha and her brother to university in Canada. Having completed her law degree in Canada, Disha joined the legal practice there. She often visits her parents in Colombo and attended her grandfather's funeral in Nallur in 2017. After the funeral, she developed a close tie with her grandmother and sends her money a few times a year for the maintenance of the house in Nallur. Disha is often nostalgic about her childhood days in Jaffna at her paternal grandparents' place. In 2018, Disha got married to David who is a Canadian and is now expecting a child. Disha wishes to trace back her ancestry to understand whether she could be governed by Tesawalamai.

Advise Disha with reference to relevant statutes and case law.

(15 Marks)

(B) Shiva is governed by Tesawalamai and owns an undivided share of a 10 acre land with his business partner Raj. The land is situated in Jaffna. Shiva intends to sell his portion of the estate and has found a suitable buyer from Colombo. Raj is unaware of the transaction.

Advise Shiva of the viability of the transaction of the said land. (10 Marks)

05. Assume that you are a member of the 'Kandyan Law Reform Committee' appointed by the Ministry of Justice. You are assigned the task of writing the first chapter of the report on the 'Applicability of Kandyan Law'. Describe the applicability of Kandyan Law in the light of the judicial interpretation of who a Kandyan is. Your findings must be supported by relevant legal authorities.

06. "... If Ceylon has a legal heritage derived from many systems it is worthwhile to draw on the vitalizing elements of either system* to fashion a jurisprudence suited to the needs of our own society."

(*Explanation: 'either system' - Roman Dutch Law and English Law)

S.W. Goonesekere, 'Damage by Animals' (1971) The Colombo Law Review, at p. 50

In the light of the above statement, discuss how the Sri Lankan judiciary has developed the common law of Sri Lanka. Your discussion must be supported by the relevant case law.

07. Answer **both** (A) and (B)

(A) Discuss the fundamental characteristics of the Administration of Justice in Ceylon under the Dutch rule.

(10 Marks)

(B) Which court/tribunal has the jurisdiction over the following matters? Your answer should be supported by applicable statutory law.

- (i) Seetha and Kamal married under the General law and they have two children. Later, Seetha found that Kamal is involved in an extra-marital relationship. Seetha wants to divorce her husband and make an application for the custody of children.
- (ii) Kasun was arrested suddenly and was unreasonably detained by the Police. When asked the reason for arrest, he was assaulted by the Police officers. Later, he was released on the basis that the arrest was due to an identification error. Kasun believes that the arbitrary arrest by the Police is a violation of his rights and intends to file action.
- (iii) Raju threatened to kidnap Rani's daughter for the purpose of inducing Rani to desist from filing a civil suit against him. Rani filed a complaint with the Police accusing Raju for criminal intimidation. Addressing Rani's complaint, Police now proceed to take action.

(5 Marks x 3 = 15 Marks)
