

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION (Online), YEAR I – 2021

LEGAL SYSTEM OF SRI LANKA

(Three Hours)

Total Number of Questions: 06

Number of pages in the paper: 04

Answer any **THREE (03)** questions and **no more**.

(Candidates will be penalized for illegible handwriting.)

01. Sources of Roman Dutch Law applicable in Sri Lanka have evolved through time and exemplify the richness of the plural legal system of the country. However, the restrictive interpretation of the Proclamation of 1799 has stulted the development of Roman Dutch Law and the contribution it can make towards the Sri Lankan legal system.

Discuss the above statement citing relevant legal authorities.

(100 Marks)

02. Sarath wrote a letter to Nimal informing him that he wishes to sell his stock of corn for Rs. 200,000 and that if Nimal wants to buy it, he should bring the money within four days. In response, Nimal sent Sarath Rs. 50,000 as an advance and stated that he will pay the full amount within 10 days. However, Nimal failed to pay the full amount within 10 days. Meanwhile, Sarath got a very good price from Sunil and sold his stock of corn to Sunil. Nimal argues that there was a valid contract between him and Sarath as the concept of valuable consideration in English law applies to contracts. Sarath argues that he had a good reason (*justa causa*) not to consider Nimal's action as a valid contract as Nimal had failed to act on time.

Advise the above parties with special attention to the application of valuable consideration of English law in Sri Lanka. Substantiate your answer with relevant legal authorities. You may support your answer using the overall application of English law in the Sri Lankan Legal System.

(100 Marks)

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

(a) 'Kandyan law applies to those who identify themselves as Kandyans. They are the descendants of those who were permanent residents in Kandy and the surrounding areas at the time British conquered them in 1815.'

Do you agree? Discuss the above statement in light of the applicability of Kandyan Law as a special law. Support your answer with relevant statutory provisions and case law authorities.

(b) Ran Menika is the youngest daughter of Randeniya family from Theldeniya. She married David who is a German national residing in Galle having dual citizenship in Sri Lanka and Germany. Two years after their marriage, Ran Menika came to live in her ancestral home in Theldeniya with her son, George, as David travelled to Germany for his business purposes. Since 2018, Ran Menika was residing in Theldeniya by sharing the ancestral home with her unmarried elder sister, Biso Menika. In 2019, David died in an aircraft accident while he was travelling to St. Petersburg. Due to the unexpected circumstances and the financial hardship of her sister, Biso Menika allowed Ran Menika to possess the ancestral home with her son. Now, Ran Menika is requesting her share of property in Theldeniya stating that she has to spend a lot of money to enroll George into an International School in Kandy. Further, Ran Menika claims that her *Diga* marriage has been converted into a *Binna* marriage when she started to live in her ancestral home since 2018.

Explain the legal consequences applicable to Ran Menika as per the Kandyan law. Support your answer with relevant statutory provisions and case law authorities.

(50X2=100 Marks)

4. Nikhila's family has been living in Jaffna ever since her maternal grandparents moved to Sri Lanka from Kerala. Nikhila was born in a small village in South India, while her parents had briefly fled the country during the civil war. But her family returned to Jaffna when she was one year old and recovered their ancestral home belonging to her mother and the lands owned by her father. Nikhila studied in Jaffna until she moved to Kandy for her tertiary education. There she fell in love with Thissa, her batchmate from Galle. They married in Kandy as soon as they graduated from the university and settled in Kandy to work at the Kandy General Hospital. Nikhila visited her parents every month during the first year of marriage, but could not visit Jaffna thereafter because she and Thissa went to Singapore for their post-graduate studies. Six years later Nikhila divorced Thissa and returned to her ancestral home in Jaffna. She lived there and worked at the Jaffna Hospital for a year before her mother fell ill due to cancer. Six months later, her mother passed away and Nikhila performed the funeral rites at their village kovil.

Afterward, Nikhila finds that her mother has left the ancestral home to her. Her brother, Randip, states that their mother had no legal capacity to leave the ancestral property so. Randip also states that Nikhila is no longer governed by Tesawalamai because she married an outsider and abandoned her home.

Nikhila wants to know whether her brother's assertions are legally valid.

Discuss the above issues highlighting relevant statutory provisions and case law

(100 Marks)

5. Nizar and Fathima married in the year 1993. As they did not have a child of their own, 6 years after their marriage they adopted Zahra. Later, Nizar and Fathima were blessed with a son and named him Mohammed. Recently Nizar and Fathima met with a car accident and died while receiving treatments in the hospital. After their demise, Mohammed quarreled with Zahra and asked her to leave the house immediately. He states that, as the biological son, only he will be considered as a legal heir of Nizar and Fathima and she will not even be considered as their daughter

under Muslim law. However, Zahra argues that she will be entitled to equal rights as Mohammed and claims for her rights of succession over the properties of Nizar and Fathima. Responding to her claim, Mohammed states that, except the House located in Ratmalana which was gifted to her by Nizar by a deed of gift she will not hold any rights over the intestate properties of Nizar and Fathima under Muslim law.

Zahra seeks your advice on this. Advise her by citing relevant statutory provisions and case laws.

(100 Marks)

5. Assume that you are called to conduct a guest lecture on 'Sri Lanka's current system for administration of justice and its effectiveness' for the first year undergraduates reading for their law degree.

Discuss the key points you will focus on during your lecture. You are expected to focus on the hierarchy of the existing court system and the jurisdictions. You are also expected to comment on the effectiveness of the current system and discuss whether there is a compelling need to reform the existing system.

(100 Marks)