

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

**BACHELOR OF LAWS EXAMINATION (Online), YEAR I (Repeat) –
2020**

LEGAL SYSTEM OF SRI LANKA

(Three Hours)

Total Number of Questions: 06

Number of pages in the paper: 03

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

(Candidates will be penalized for illegible handwriting.)

1. In *Samed v. Seguthamby* the Court said that fundamental principles of the Roman-Dutch law could not be altered except by a series of unbroken decisions.

Discuss the above judicial attitude in light of the scope and application of Roman-Dutch law in Sri Lanka. Support your answer citing case laws and relevant legal provisions if any.

2. *“The Law reports of Sri Lanka contain many instances where English principles other than those which had been incorporated by statute, were referred to and formed the basis of judicial decisions. By this technically improper use of the judicial technique, English law trespassed on the preserves of the Dutch law. But the amalgam of English Law and Roman-Dutch law produced by process undoubtedly enriched the legal system.”*

- L.J.M. Cooray, *An Introduction to the Legal System of Sri Lanka*, Second (revised) edition 1992, 37pg.

Do you agree? Discuss the above statement focusing on reception of English Law in to the legal system of Sri Lanka by Judicial Activism. Your answer must be supported by relevant case law authorities.

3. Answer **both** (A) and (B):

A). ‘Kandyan law was considered generally as a personal law applicable to a section of the Sinhalese community, who used to reside within the Kandyan provinces.’

In light of the above statement, discuss the application of relevant statutory law and case law which were established during the British period and post-colonial era.

(40 Marks)

B). Binari Ehelepola is the only living heir of the Ehelepola generation comes from Kandy. She is an undergraduate of the Law Faculty of University of Colombo. Binari falls in love with Buddhika Peiris, who is from Colombo. He is also studying with her in the same batch. Since the current pandemic situation, Binari had to restrict her traveling from Kandy to Colombo for her studies and she was supposed to study online at her home in Kandy. Binari and Buddhika decided to marry after their final examinations and both were planning to live in Colombo after their marriage. However, Binari’s parents opposed to their decisions since Buddhika is not a Kandyan.

Advise Binari and Buddhika as to whether they could enter into a valid marriage under the Kandyan Law.

Write your legal opinion. Support your answer with relevant legal authorities.

(60 Marks)

4. Answer **both** (A) and (B):

A) “The Muslim law applied in Sri Lanka contains usages and custom peculiar to local Muslims and which do not form a part of the Islamic system of Jurisprudence”.

Do you agree with the above proposition? Support your answer citing decided cases.

(50 Marks)

B) Remon is a leading businessman in Colombo and got married to Sonia from Kandy in 2010. Due to his business engagements, he stays in Colombo most of days and visits Sonia only during weekends. Meanwhile, he is willing to marry his personal secretary Sakura. Both Remon and Sakura wish to convert to Islam and to register their marriage under the Muslim law. Sonia challenges their marriage stating that Remon cannot contract another marriage without a divorce decree from a competent court.

Advise Remon whether he could contract a valid marriage under the provisions of Muslim Law.

(50 Marks)

5. Ravi was born in Point Pedro where his family lived for generations. After his higher education Ravi and his friend Kamal decided to start up their own business and together bought a land in Jaffna town to have their own building and became the co-owners of the land. Before they started to erect the building in the said land, Ravi got a job offer from a well reputed company in Colombo. Ravi who shifted to Colombo for his job, married to a Hindu girl in Colombo and settled with his in-laws there. Now Ravi has been offered with a high salaried job from a multinational company situated in Australia. He has decided to shift to Australia to accept the job with his wife. Before leaving from Sri Lanka, Ravi wishes to sell his shares in his co-owned land and has taken the necessary steps to sell it to another friend of Ravi although Kamal was ready to buy the shares on the market value.

(a) Before leaving from Sri Lanka Ravi wishes to know about the continued application of *Tesawalamai* to him. Advise him. (60 Marks)

(b) Kamal wishes to know his right to buy Ravi's share as a co-owner to that land. Advise him. (40 Marks)

Your answer should be supported by the relevant statutory provisions and decided case laws.

6. Identify the Court which has the jurisdiction for the matters mentioned below and explain the jurisdiction of appeal processes of the court:

(a) Nimal is having a land dispute with his neighbor, Rimal and both have decided to invoke a judicial intervention;

(b) Sharmi wishes to file a case against her husband for maintenance and another case for divorce on the ground of malicious desertion;

(c) Fathima is willing to file a case for child maintenance for her daughter from her husband Rahuman;

(d) Fernando states that the new circular issued on the pensioners' benefits for State Service Pension Scheme by the Ministry of Internal Affairs has excluded the pensioners of education service. He is willing to challenge that new circular on the ground of violation of fundamental rights;

(e) Menike alleges that one of her music albums has been pirated by Moulice Entertainment Ltd. She is willing to file a case for copyright violation.

(5 X 20 Marks)