

**UNIVERSITY OF COLOMBO, SRI LANKA**

**FACULTY OF LAW**

**DEGREE OF MASTER OF LAWS (BY COURSEWORK) - 2024/25**

**2<sup>nd</sup> SEMESTER END EXAMINATION – 2025 (AUGUST)**

**TLLM 1235 Commercial Mediation**

**(Three Hours)**

**Total number of questions: 04**

**Answer any Three questions**

**(Candidates will be penalized for illegible handwriting)**

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01. The Singapore Convention was hailed as a 'game changer' for international mediation; however, concerns remain about its scope, reservations, and practical implementation. With reference to this statement, critically analyse the extent to which the Convention provides certainty and predictability in cross-border enforcement of mediated settlement agreements.

**(20 Marks)**

02. Sanum Vegas Hotel and Casino ('Sanum Vegas') is a company incorporated under the laws of Sri Lanka. Velco Resorts & Entertainment Ltd ('Velco Resorts') is incorporated in China with a branch office established in Sri Lanka. The two parties entered into a joint venture to initiate a series of business activities in Sri Lanka. As the first step, both companies made private investments in luxury tourism, gaming, and casinos in Colombo. Sanum Vegas Hotel and Casino Complex was developed as a result of the joint venture between the two parties. Sanum Vegas Hotel and Casino Complex commenced operation with a grand opening that attracted regional as well as global attention. While the complex was in operation, the two companies began having disputes. Following the breakdown of the relationship between Sanum Vegas and Velco Resorts, the parties agreed to attempt to resolve the dispute through mediation in Singapore. At the end of the mediation process, a Mediated Settlement Agreement (MSA) was reached ordering Velco Resorts to pay a sum of \$40,000 to Sanum Vegas. Even after many months, Velco Resorts did not honour the mediated settlement agreement. Velco Resorts conducts the majority of its operations in Sri Lanka, and the majority of its assets are located there as well. Sanum Vegas intends to enforce the mediated settlement agreement against Velco Resorts. Subsequently, Velco Resorts found that one of the mediators involved in the process had worked as an advisor to Sanum Vegas. No disclosure has been made by the said mediator

in this regard. Velco Resorts believes that the said mediator's involvement in the process has substantially influenced the final decision.

Discuss the legal issues that have arisen concerning the above scenario and advise the parties. Support your answer with relevant statutory provisions.

(20 Marks)

03. Answer both parts (a) and (b):

(a) Critically evaluate the differences between facilitative, evaluative, and transformative models of mediation. In your answer, discuss the role and influence of the mediator, the degree of party autonomy and participation, potential benefits, and limitations of each model in practice.

(10 Marks)

(b) The Medarb process involves challenges due to the same neutral acting as both arbitrator and mediator. Critically analyse the challenges in the Medarb process with reference to the attempts that have been made by the Mediation rules and guidelines of different institutions to address these issues.

(10 Marks)

(Total 20 Marks)

04. Answer both parts (a) and (b):

(a) The introduction of the Mediation (Civil and Commercial Disputes) Bill is long-awaited. From your perspective, do you think that this development addresses a lacuna in the existing framework, that is not addressed by the Recognition and Enforcement of International Settlement Agreements Resulting from Mediation Act, No. 5 of 2024, in order to create a comprehensive ecosystem for Commercial Mediation in Sri Lanka?

Substantiate your answer with examples from the existing legal framework for Mediation (not limited to commercial mediation) in Sri Lanka.

(10 Marks)

(b) 'A mediator's awareness of ethics and cultural aspects can significantly reshape his or her mediation style.'

In light of the above statement, critically analyse the impact of these factors on the role of a mediator, effectiveness, and outcomes of the mediation process.

(10 Marks)

(Total 20 Marks)

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