

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW
DEGREE OF MASTER OF LAWS (BY COURSEWORK) - 2024/25
2nd SEMESTER END EXAMINATION – 2025 (AUGUST)

(TLLM 12315 – Private International Law)
(Three Hours)

Total number of questions: 04

Answer any three (3) questions
(Candidates will be penalized for illegible handwriting)

Question 01

'The Moçambique rule builds up the supervisory monopoly that the government of the *situs* has over lands or immovable property.'

Answer **both (A) and (B)**, citing legal authorities.

(A) Answer the following questions in light of the above statement:

- (i) What are the grounds that rationalize the Moçambique rule?
- (ii) What exceptions have been developed by the judiciary to overrule the supervisory monopoly of the *lex situs*?

(5x2 = 10 marks)

(B) Explaining the rationale of your answer for (i) and (ii) above, analyze the relevance of the Moçambique rule in modern socio-legal issues that come under the purview of Private International Law.

(10 Marks)

(Total 20 Marks)

Question 02

Ravi and Nisha, both Sri Lankan nationals, were married and lived together in Colombo. They had two children. In 2018, Ravi, an Engineer, was assigned by his multinational employer to work in Ecuador. Nisha and their two children joined him in Ecuador the

following year. After a brief and difficult period abroad, in 2021, Nisha decided to return to Sri Lanka with the children due to family issues and the uncomfortable life in Ecuador. Before leaving, Ravi asked her to sign several documents written in Spanish, which she did not understand. Ravi explained that her signature was necessary to obtain exit permits for the children from the Ecuadorian authorities. Nisha signed the papers, trusting Ravi, unaware that they were in fact documents consenting to a divorce under Ecuadorian law.

In 2022, an Ecuadorian court granted a decree of divorce dissolving the marriage between Ravi and Nisha, based on Nisha's supposed consent. In 2024, Ravi married Meenu in Sri Lanka. Nisha, upon discovering the true nature of the documents she signed in 2021, seeks to challenge the validity and recognition of the Ecuadorian divorce decree in Sri Lanka. She claims that she never intended to consent to a divorce; the divorce was obtained through misrepresentation and without proper understanding or legal advice; and that the proceedings violated basic standards of fairness.

Advise Nisha on the legal remedies that may be available for her under Sri Lankan law. Your advice should incorporate an analysis of proper jurisdiction and the role of public policy in the recognition of foreign decrees of divorce obtained under such circumstances.

(20 Marks)

Question 03

Bimal and Kamal, both Sri Lankan nationals, were temporarily stationed in Cyprus as part of a UN peacekeeping operation. While off duty, Kamal offered to drive Bimal in a military vehicle to a nearby town. Due to Kamal's negligent driving, the vehicle skidded off the road, and Bimal sustained serious physical injuries. Under Cypriot law, Bimal is only entitled to recover special damages — such as medical expenses and proven lost income — but cannot claim general damages for pain, suffering, or emotional distress. Under Sri Lankan law, however, such non-pecuniary damages are fully recoverable in tort/delictual claims. Bimal files a lawsuit against Kamal in a Sri Lankan court, seeking both special and general damages. Kamal argues that Cypriot law should govern the issue, as the tort occurred there. Bimal contends that Sri Lankan law has the most significant relationship to the

dispute, given that both parties are Sri Lankan nationals, though temporarily staying abroad.

Discuss the application of choice of law in torts/delicts and advise the parties. Support your answer with relevant case law and other legal authorities.

(20 Marks)

Question 04

Answer either (A) or (B).

(A) 'Characterisation (or classification), which is one of the important elements in the decision-making process in a dispute with a foreign element, is guided by several theories. Each of these theories offers a different perspective on the ultimate decision.'

Critically examine the main theories of characterisation in light of the above statement, analyzing their impact on the decision-making process. Illustrate your answer with relevant examples and case law authorities.

(20 Marks)

Or

(B) 'Even though the Doctrine of Renvoi helps creating consistency and prevents forum shopping, it is not without its critics.'

Critically assess this statement. In your answer, evaluate the theoretical justifications, practical challenges, and judicial treatment of the Doctrine of Renvoi, with reference to case law and legal authorities.

(20 Marks)
