



THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LL.B DEGREE PROGRAMME 2017/2018
FINAL EXAMINATION- LEVEL 3
INTRODUCTION TO THE LAWS OF SRI LANKA- LLU 3703/ LWU 1411
DURATION – THREE (03) HOURS

DATE: 28th February 2020

TIME: 09.30a.m-12.30p.m

TOTAL NUMBERS OF QUESTIONS: 08

ANSWER FIVE (5) QUESTIONS ONLY

ILLIGIBLE HANDWRITING WILL BE PEANALISED.

1. Sivaneshan was born to Jaffna Tamil parents in Malaya. After his school education in Jaffna he came to Colombo for higher studies and entered the Faculty of Law, University of Colombo. After taking oaths in 2001 he started to work as an Attorney-at-Law. Sivaneshan got married to a Tamil lady named Radha in 2003, a teacher who studied at the same university and live in Jaffna. Their wedding ceremony was held in Jaffna and they reside in Colombo for the purpose of practicing their professions. They had two children who are studying at Hindu Primary College, Wellawatta. Both Sivaneshan and Radha's parents live in Jaffna. Sivaneshan's family used to visit Jaffna every other month. Sivaneshan had acquired lands and other properties in Jaffna and expected to build a new house next to his parent's ancestral house. Sivaneshan met with an accident and died in 2019.

Sivaneshan co-owned a land in Chavakachcheri with his brother Kamaleshan. Kamaleshan had sold his share in 2018 without informing Sivaneshan.

Radha wants to know the law governing her and Sivaneshan and the legal issues regarding the land in Chavakachcheri.

Advise Radha.

Support your answer with relevant case law and statutory provisions.

(20 Marks)

2. Explain the importance of the following cases with reference to the applicable special laws governing the parties to the cases:

a) *William Vs Robertson* (1886) 8.S.C.C.36 (06 Marks)

b) *Sivagnanalingam Vs Suntheralingam* (1988)1 Sri L.R. 86 (07 Marks)

c) *Natalie Manel Abeysundara Vs Christopher Abeysundara* (1998) 1Sri L.R.185 (07 Marks)

3. Devinda is a Director, of Education attached to the Zonal Education office in Matale. His father, Kiri Banda is a farmer living in Gampola with Chandrani, Devinda's mother who is from Ambalangoda. They got married in 1948. Devinda met Udari who is a teacher working in Science College, Matale. Udari's parents live in Nugegoda. After a love affair of two years, Devinda and Udari decided to get married. Devinda's parents want to register their marriage under Kandyan law. But, Udari's parents want to register their marriage under general law. Devinda and Udari wish to clarify the possibility of the registration of their marriage both under Kandyan law and general law.

(a) Discuss the above situation and identify the laws that can be applied to each party, Kiri Banda, Chandrani, Devinda, Udari and Udari's parents.

(10 marks)

(b) Clarify the possibility of registration of their marriage under Kandyan law.

(05Marks)

(c) If Devinda's father was a low -country Sinhalese and his mother a Kandyan lady and they had entered in to a Binna marriage in 1950, would your answer provided in part (b) be different?

(05 Marks)

4. “Whenever in a judicial proceeding a question of evidence arises not provided for by this Ordinance or by any other law in force in Sri Lanka, such question shall be determined in accordance with the English Law of Evidence for the time being.”

Section 100 of the Evidence Ordinance No: 14 of 1895.

This provision provides evidence that the English Law was introduced into Sri Lanka through legislation by using different methods. Discuss the methods used to introduce English law in to Sri Lanka through legislation. Support your answer with relevant statutes and case law.

(20 Marks)

5. (i) ‘The Mohommedan Code was not an exhaustive collection of Muslim Laws. It had many gaps and did not cover all areas of law. The judiciary attempted to resolve this matter by applying both Roman Dutch Law and Islamic Law’.

Do you agree with this statement? Explain your answer with the support of decided cases and relevant statutes.

(10 Marks)

- (ii) (a) Risan married Azra, both of whom follow the Islamic faith at the time of their marriage. They had no children and decided to adopt a child named, Saniya. Risan wanted to gift a land with a house to Saniya at the time of her marriage.

(b) Azees married Fathima both of whom follow the Islamic faith at the time of their marriage. Azees met Anjalee, a Roman Catholic woman and decided to marry her. He became a Roman Catholic and married Anjalee while his previous marriage was subsisting.

Discuss the legal implications arising from the above situations. Support your answer with decided cases and statutes.

(5x2=10 Marks)

06. 'Conflicts of law can take place when contrary legal principles and concepts which applied within the same jurisdiction. It can occur between personal laws themselves or between the personal laws and the dominant general law. Similarly a conflict of law can take place within the dominant general law itself i.e. between the Roman Dutch Law and the English Law'.

In the light of the above statement, discuss the problems of pluralism in the Sri Lankan legal system. Support your answer with decided cases and relevant statutes.

(20 Marks)

07. "Although the Roman --Dutch law as applied in Ceylon under the Government of the United Provinces is the starting point of the "common law" of Ceylon, it is not the finishing point. Like the common law of England the 'common law of Ceylon has not remained static since 1799. In course of time it has been the subject of progressive development by a *cursus curiae* (*Sameed Vs Seguthamby*) as the courts of Ceylon have applied its basic principle to the solution of legal problems posed by the changing conditions of society in Ceylon"

Kodeeswaran Vs Attorney General (1969) 72 N.L.R. 337 at p.342

Critically evaluate the above statement with reference to the evolution of Roman Dutch Law as the common law of Sri Lanka. **(20 marks)**

08. Write notes on any **two** of the following:

- (a) The system of administration of Justice in Sri Lanka in the Pre-Colonial period.
- (b) The system of administration of Justice in Sri Lanka under the Colonial Rulers, between 1505-1832
- (c) The court system and the administration of justice during the post-independence period.

(10x2=20 Marks)

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