

The Open University of Sri Lanka
Faculty of Humanities and Social Sciences
Department of Legal studies
LL. B Degree Programme - Level 03
Final Examination 2021/2022
Legal Method - LLU3904/LWU1412
Duration: 03 (Three) hours



Date: 27th January 2023

Time: 9.30 a.m. – 12.30 p.m.

Total number of questions: 08

Answer FIVE (05) questions only, selecting at least TWO (02) questions each from Part I and Part II.

Candidates will be penalized for illegible hand writing.

PART I – ROMAN LAW

1. A 45 year old Roman citizen Julius became the *pater familia* of his family after his father's death. Julius and his wife Claudia had two daughters and a son. Although Julius inherited some property from his father, he lost most of the wealth due to many bad investments and mismanagement of property. As he was unable to support his family, Julius sold his elder daughter Sylvia to a gem merchant. Then, Julius arranged a marriage for his younger daughter Camellia against her will to a wealthy widower who was 25 years older than her. Julius took the money earned by his son Nero who worked as a stable boy at a senator's stables and lost the money due to gambling. A 65-year-old Roman citizen named Urbano, finally adrogated Julius by an imperial order.
 - a). Discuss the validity of Julius' actions regarding Sylvia, Camellia and Nero. (14 marks)
 - b). Discuss the consequences of adrogation by Urbano on Julius' family. (06 marks)

2. Critically comment on any ONE (01) of the following statements.
 - a) 'The Roman law of succession ensured that family members were adequately provided for.'

 - b) 'Modes of acquiring ownership of *res* were derived from both the *Ius Naturale* and *Ius Gentium*.'

(20 marks)

3. Paulinus and Casca live in houses built on adjoining lands in a village outside Rome. Paulinus has been granted a right to lead water over Casca's land, since Paulinus does not have any source of water on his land. Upon the demise of his wife, Paulinus moves away to live with his parents and gives his friend Antonio a *usufruct* over his house and land.

Explain the legal position in the following situations;

- a) Casca refuses to let Antonio lead water over his land unless Antonio pays one silver coin per turn.

(06 Marks)

- b) Antonio cuts some oak trees on the land and makes furniture for his sister who is preparing for her wedding.

(06 Marks)

- c) Antonio lets a part of the house to a fruit vendor for a monthly rental of 25 silver coins and demolishes the parapet wall to expand the land for cultivation.

(08 Marks)

4. Write notes on the following:

- a). *Contracts re;* and
b). The four Delicts identified by Justinian.

(10x2 = 20 Marks)

PART II – LEGAL METHOD

5. "...The term 'source of law' can be used in many senses.....More often the term 'source' is used to refer to those institutions in a country which determine the actual content of the law..."

(Legal Method Block I, The Open University of Sri Lanka, Page 19.)

Discuss the above statement with reference to the sources of law in Sri Lanka.

(20 Marks)

6. Section 5 of the Control of Firearms and other Offensive Weapons Act of Selinia states that it will be an offence for any person to sell firearms, ammunition, or any type of explosives for profit, without a license issued by the Ministry of State Defence of Selinia. According to the

said Act, the punishment for such an offence is imprisonment for a minimum period of twenty years.

Richard, a soldier in the Selinian Army, sold the gun that had been issued to him to obtain money for his father's heart surgery. Richard had been charged under Section 5 of this Act.

Discuss Richard's position with reference to the rules of interpretation of statutes. Support your answer with relevant case law.

(20 Marks)

7. "..... (It) can be said that Sri Lanka has been influenced both by the common law doctrine of judicial precedent (to a greater degree) as well as the civil law doctrine of textual precedent..."

(Cooray, L.J.M, *An Introduction to the Legal System of Sri Lanka*, Page 156)

Is the position reflected in the above statement correct with regard to the application of judicial precedent in Sri Lanka?

Critically discuss citing relevant case law examples.

(20 Marks)

8. Joseph is a street vendor who earns his living by selling varieties of snacks and sweets outside a shop over a drain by the roadside of Weligoda town. He is the successor to his father's business, who engaged in the same business for more than fifty years at the same place. The business was not operative only for ten days when his father went on a pilgrimage to Basilica in Velankanni, India, fifteen years ago. The Municipal Council of Weligoda recently ordered Joseph to remove his merchandise from the place, stating that he is violating the provisions of the Municipal Councils Ordinance by displaying and selling food items over a drain.

Joseph appealed against this order stating that the practice of displaying and selling food items on the roadside was in existence long before the Municipal Councils Ordinance. He further stated that this practice continued for more than fifty years without inconvenience to anyone and therefore, should be recognized as a right to display and sell goods.

Will Joseph be able to prove the existence of a valid custom?

Advise him with reference to the tests that the courts have adopted to enforce a local custom.

(20 Marks)

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