

The Open University of Sri Lanka
Faculty of Humanities and Social Sciences
Department of Legal Studies
Bachelor of Laws (Honours) Degree Programme - Level 3
Final Examination- 2022/2023
LLU3601 - Legal System and Legal History of Sri Lanka



Date: 22.02.2024

Time: 09.30 am - 12.30 pm

Number of Questions 08.

Answer FIVE (05) questions only.

Candidates will be penalized for illegible handwriting.

01. "The introduction of the Roman-Dutch Law, in and of itself, was of fundamental importance. The codification of the various systems of customary law set the pattern for future generations, and in so doing established the basic predominance of the Roman-Dutch Law in the Ceylon Legal System. It but remained for the British to add the final ingredient to this legal potpourri."

George C. Cameron, *'Sri Lanka's Legal System: Museum of Antiquities or Melting-Pot of Ideas?'* 1987

In light of the above statement, discuss the introduction and recognition of Roman-Dutch Law and its establishment in Sri Lanka under British rule.

(20 Marks)

02. "By the selective use of statutory enactments, and through the almost imperceptible evolution in the process of litigation, the British remoulded and reshaped the law of Ceylon, purging it of its obsolete elements and adapting it to meet new problems."

U. Egalahewa, *Commercial Law of Sri Lanka: Applicability of Laws in England*, 2020

Do you agree with the above statement? Examine, how the English law was introduced into Sri Lanka through legislation.

(20 Marks)

03. Somasundaram was born in 1980 and his parents were Jaffna Tamils. He had his primary school education at National Hindu College Jaffna and then entered Thurstan College, Colombo for secondary education. After his school education, he entered the University of Kelaniya and completed his higher education. Then he joined the government civil service as an Assistant Secretary, at the Divisional Secretariat in Kaduwela. In 2005, Somasundaram married Ambhiga who was a staff member in the same Divisional Secretariat. She was a native of Jaffna and her parents were also Jaffna Tamils. After marriage, they lived in a rented house in Malabe. They had a child named Sharma. In 2015, Ambhiga resigned from the post and returned to Jaffna with Sharma and lived with Somasundaram's parents. Somasundaram continued to work in the Divisional Secretariat in Kaduwela and lived in Malabe. Every month, he visited Jaffna to stay with Ambhiga, Sharma and his parents for a couple of days. In 2020, Somasundaram built a new house at Kilinochchi and planned to get a transfer to the Jaffna Divisional Secretariat. Moreover, he bought another piece of land in Kilinochchi intending to build a shopping complex. In 2022, Somasundaram suddenly died in a motor accident in Kurunegala while he was travelling to Jaffna.

Ambhiga seeks your advice on whether Somasundaram is governed by Tesawalamai law or General law.

Advise Ambhiga.

(20 Marks)

04. Ranbanda and Bisomenike are traditional Kandyans who got married in Kandy in 1930. They had two children named Kamal and Malani. Malani entered into a *binna* marriage with Sunil, who was a low-country Sinhalese, in Kandy in 1950 and had one child named Amali. Kamal got married to Sajini, a resident of Panadura in 1954 and they had a child named Samantha.

Based on the above facts, analyse the law applicable to each party. Support your answer by citing relevant case law and statutory provisions.

(20 Marks)

05. Evaluate the different aspects of Muslim law decided in the following cases.

- (i) *Queen Vs Obeysekera* (1889) 9. S.C.C.11
- (ii) *Attorney General Vs Reid* (1964) 65 NLR 97
- (iii) *Abeysondere Vs Abeysondere* (1998) 1 Sri LR 185
- (iv) *Faiz Mohamed Vs Elsie Fathumma* (1942) 44 NLR 574

(5 x 4 = 20 Marks)

06. Sri Lanka is a country that has a multi-ethnic, multi-religious and multi-cultural society.

This has created a plural legal system which is often associated with conflicting norms in different personal laws. There is a strong line of argument that aims to pursue legal reforms to reduce the conflicts between different personal laws in Sri Lanka.

Identify three such areas of conflicting norms in the personal laws in Sri Lanka and suggest possible law reforms for reducing such conflicts.

(20 Marks)

07. Assume that you have been appointed as a member of a committee to prepare a report on the judicial tribunals and the judicial officials that existed in the pre-colonial period in Sri Lanka.

Prepare your report including the relevant examples where necessary.

(20 Marks)

08. (i) Identify the hierarchy of the court system under the 1978 Constitution of Sri Lanka and briefly evaluate the powers of each court.

(10 Marks)

(ii) What are the contemporary challenges faced by the judiciary in Sri Lanka? How can the administration of the justice system in Sri Lanka be improved? Discuss.

(10 Marks)