

ශ්‍රී ලංකා විවෘත විශ්වවිද්‍යාලය

මානව ශාස්ත්‍ර සහ සමාජ විද්‍යා පීඨය

නීති අධ්‍යයන දෙපාර්තමේන්තුව

නීතිවේදී උපාධි පාඨමාලාව - 03 වන මට්ටම

අවසාන පරීක්ෂණය - 2022/2023

නීති ක්‍රම - LLU 3904

කාලය - පැය තුන (03) යි.



දිනය :- 2024 අප්‍රේල් 02

වේලාව :- ප.ව. 1.30 - ප.ව. 04.30

මුළු ප්‍රශ්න ගණන - 08

I කොටසින් හා II කොටසින් අවම වශයෙන් ප්‍රශ්න දෙක (02) බැගින් තෝරාගෙන ප්‍රශ්න පහකට (05) පමණක් පිළිතුරු සපයන්න.

විභාග අපේක්ෂකයන්ගේ අපැහැදිලි අත්අකුරු සඳහා ලකුණු අඩුකරනු ලැබේ.

I කොටස - රෝම නීතිය

1. "රෝමවරුන් සම්බන්ධ දෙමාපිය බලය සෑම විටම නීත්‍යානුකූල වෛවාහක සම්බන්ධතා තුළින් පැන නැගී."
- ඉහත ප්‍රකාශය අනුසාරයෙන්, පීතෘ බලය සම්බන්ධ රෝම නීති මූලධර්මයන්හි විකාශය පැහැදිලි කරන්න.

(ලකුණු 20)

2. ජුපිටර්, අනුපිළිවෙලින් ඩේරියස් සහ කැසියස් යන පුතුන් දෙදෙනාගේ ද ඔගස්ටා නම් දියණියගේ ද පියා වේ. ඔහු සිය බාල පුත්‍රයා වන කැසියස් සිය අන්තිම කැමති පත්‍රයෙන් බැහැර කර, ඩේරියස් සහ ඔගස්ටා ඔහුගේ බුදුලයේ උරුමකරුවන් ලෙස පත් කරමින් අන්තිම කැමති පත්‍රයක් ලිවීමට අදහස් කරයි. කැසියස්ගේ නාස්තිකාර ස්වභාවය නිසා ඔහුට ලැබෙන ඕනෑම දෙයක් ඔහු විනාශ කරනු ඇතැයි ජුපිටර් සිතයි. කෙසේ නමුත්, ජුපිටර් අන්තිම කැමති පත්‍රය තුළින් කැසියස්ව උරුමකාරීත්වයෙන් ප්‍රකාශිතව බැහැර නොකරයි.

ඉහත සිද්ධිමය තත්ත්වය සලකා බලමින් අන්තිම කැමති පත්‍ර සහිත දේපළ අනුප්‍රාප්තිය පිළිබඳ රෝම නීති මූලධර්ම විස්තර කර, කැසියස්ට කිසියම් ප්‍රතිකර්මයක් පවතින්නේදැයි පරීක්ෂා කරන්න.

(ලකුණු 20)

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LLB DEGREE PROGRAMME – LEVEL 03
FINAL EXAMINATION 2022/23
LEGAL METHOD – LLU3904
DURATION: 03 (THREE) HOURS



Date: 02nd April 2024

Time: 01.30 p.m. – 04.30 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 handwriting.

PART I – Roman Law

1. 'For the Romans, parental authority always arose from legitimate marital relations.'

In light of the above statement, explain the evolution of Roman law principles pertaining to *patria potestas*.

(20 marks)

2. Jupiter is the father of two sons and a daughter called Darius, Cassius, and Augusta respectively. He intends to write a will nominating Darius and Augusta as the heirs of his estate while excluding his younger son Cassius from the will. Jupiter thinks that Cassius will ruin whatever he gets due to his prodigal nature. However, Jupiter does not expressly disinherit Cassius in the will.

Considering the above factual situation, describe the Roman law principles on testate succession and examine whether there is any remedy available for Cassius.

(20 marks)

3. (i). රෝම නීතිය යටතේ වලංගු ගිවිසුමක් ස්ථාපනය කිරීම සඳහා සම්පූර්ණ විය යුතු අවශ්‍යතා විස්තර කරන්න.

(ලකුණු 05)

(ii). පහත දැක්වෙන අවස්ථාවන්හි නීතිමය අනුෂංගයන් හඳුනාගන්න.

(අ). ජලිනියස්, ඔහුගේ අශ්වයන් දෙදෙනෙකු කැස්කාගේ ගොවිපොළේ සිට නිර්භූ ප්‍රවාහනය කිරීම සඳහා කැස්කා වෙත ලබා දුන්. එකඟ වූ කාර්යය අවසන් වීමෙන් පසු, ජලිනියස්ට දැනුම්දීමකින් තොරව කැස්කා සිය සහෝදරයා වූ මරියෝ හට ඔහුගේ නිර්භූ ඇඹරුම් යන්ත්‍රයේ වැඩ සඳහා අශ්වයන් යොදා ගැනීමට ඉඩ ලබා දුන්. ඇඹරුම් යන්ත්‍රවල වැඩ සඳහා නුපුරුදු බැවින් අශ්වයන් දෙදෙනාම තුවාල ලැබීය.

(ලකුණු 05)

(ආ). පවුලස් සිය දියණියගේ විවාහ මංගල උත්සවයේදී සංග්‍රහ කිරීම පිණිස ඒලියස්ගෙන් වසින් තොගයක් ණයට ගන්නා ලදී. මංගල උත්සවයෙන් සතියකට පසු, පවුලස් ඔහු පොරොන්දු වූ පරිදිම සමාන වසින් ප්‍රමාණයක් ඒලියස් වෙත ආපසු භාර දෙන ලදී. කෙසේ නමුත් ඒලියස් සොයා ගනු ලැබුවේ, එම වසින් දුර්ගන්ධයෙන් යුක්ත සහ විනාකිරී රසයෙන් යුක්ත බවය.

(ලකුණු 05)

(ඇ). ප්‍රිස්කාගේ නිවස ගංවතුරට හසු වූ නිසා ප්‍රිස්කා ඇගේ ඥාති සොහොයුරා වන ජුලියානෝට රන්කාසි පනහක් බාර දෙන ලදී. මේ අතර, ජුලියානෝගේ නිවස කොල්ලකෑම හේතුවෙන් රන් කාසි ඇතුළු සියලු වටිනා ද්‍රව්‍ය නැති විය. ප්‍රිස්කාගේ රන් කාසි ආරක්ෂා කර ගැනීමට ජුලියානෝ කොල්ලකරුවන් සමඟ සටන් කළ අවස්ථාවේ ඔහු බරපතළ ලෙස තුවාල ලැබීය.

(ලකුණු 05)

(5 x 4 = ලකුණු 20)

4. (i). රෝම නීතිය යටතේ ද්‍රව්‍ය (*res*) පිළිබඳ වර්ගීකරණය පැහැදිලි කර දක්වන්න.

(ලකුණු 10)

(ii). *ius civile* යටතේ දේපළ අත්කර ගැනීමේ ක්‍රම විස්තර කරන්න.

(ලකුණු 10)

(10 x 2 = ලකුණු 20)

3. (i) Describe the requirements that must be fulfilled to create a valid contract under Roman law.

(05 marks)

- (ii) Identify the legal consequences of the following situations:

- (a) Plinius gave Casca two of his horses to transport wheat from Casca's farm. After completing the agreed task, Casca let his brother Mario to use the horses in his rotary mill for grinding wheat without informing Plinius. Both the horses were injured since they were not used to work in mills.

(05 marks)

- (b) Paulus borrowed a quantity of wine from Aelius to serve at the marriage ceremony of his daughter. One week after the ceremony, Paulus returned a similar quantity of wine to Aelius as he promised. However, Aelius found that the wine had a bad odour and tasted like vinegar.

(05 marks)

- (c) Prisca handed over fifty gold coins to her cousin Juliano since Prisca's house was hit by floods. Meanwhile, Juliano's house was robbed and all the valuables including the gold coins were lost. Juliano was severely injured when he fought with the robbers to save Prisca's gold coins.

(05 marks)

(5 x 4 = 20 marks)

4. (i) Illustrate the classification of *res* under Roman law.

(10 marks)

- (ii) Describe the methods of acquisition of property under *ius civile*.

(10 marks)

(10 x 2 = 20 marks)

II කොටස - නීති ක්‍රම

5. රොෂාන් සහ ජයති "තුරු වියන" ව්‍යාපාරයේ පිහිටි දර්ශනීය දිය ඇල්ලක් අසල ඔවුන්ගේ පූර්ව විවාහ රැගෙන කිරීම් සිදු කිරීමට තීරණය කළහ. මෙම ස්ථානය දුර බැහැර පිහිටි ස්ථානයක් වූ අතර බාදනය වූ මාර්ග හේතුවෙන් මිනිසුන්ට පහසුවෙන් එතැනට ලඟා විය නොහැකි වුණි. කෙසේ වෙතත්, වියළි කාලවලදී දේශීය සහ විදේශීය සංචාරකයෝ එය නැරඹීමට එහි පැමිණෙති. රොෂාන් සහ ජයති ඔවුන්ගේ කැමරා කණ්ඩායම සමඟ එම ස්ථානයට පැමිණි දිනයේ විඩියෝවක් සඳහා යුවළක් නිරුවතින් පෙනී සිටිනු දැකීමෙන් ඔවුහු භීතියට පත් වූහ. රොෂාන් සහ ජයති ඔවුන්ගේ පූර්ව මංගල රැගෙන කිරීම් නොකරම ආපසු පැමිණි අතර සිද්ධිය සම්බන්ධයෙන් පොලීසියට පැමිණිලි කළහ.

විඩියෝවේ නිෂ්පාදකවරයාට සහ ඒ සඳහා නිරුවතින් පෙනී සිටි යුවළට අයාලේ යන්නවුන් පිළිබඳ ආඥා පනතේ 4 (අ) වගන්තිය යටතේ වරදක් කිරීම සම්බන්ධයෙන් දැන් චෝදනා නැඟී ඇත.

" හිතාමතාම තම ශරීරය අශෝභන ලෙස අනාවරණය කරන සෑම පුද්ගලයෙක්ම....ඕනෑම විදියක, මාර්ගයක, මහාමාර්ගයක හෝ පොදු ස්ථානයකදී හෝ වෙනත් ස්ථානයකදී අන්‍යයන්ට කරදරයක් සහ පිළිකුළක් ඇති වන අන්දමින් හැසිරෙන තැනැත්තෙකු තක්කඩියෙකු සහ අයාලේ යන්නෙකු ලෙස සලකනු ලැබේ..."

විඩියෝවේ නිෂ්පාදකවරයා තමන්ට එරෙහිව එල්ල වී ඇති චෝදනා ප්‍රතික්ෂේප කරමින් ප්‍රකාශ කරන්නේ, ඔවුන් විඩියෝව පටිගත කළ ස්ථානය 4 (අ) වගන්තියේ සඳහන් කිසිදු වර්ගයකට අයත් නොවන බවත් සහ එබැවින් වරදක් සංස්ථාපනය නොවන බවත්ය.

ඉහත සිද්ධිය සාකච්ඡා කරමින් ව්‍යවස්ථා අර්ථනිරූපණ රීති ආශ්‍රයෙන් නිෂ්පාදකවරයාට උපදෙස් දෙන්න. ඔබේ පිළිතුර උචිත නඩු තීරණ නිදර්ශන මගින් තහවුරු කරන්න.

(ලකුණු 20)

6. "අධිකරණය විසින් රටේ නීති සකස් කරන්නේ සහ සංවර්ධනය කරන්නේ කුමන ආකාරයෙන්ද යන්න කෙරෙහි අධිකරණ පූර්ව නිදර්ශන න්‍යාය මගින් ප්‍රබල බලපෑමක් ඇති කර ඇත...."

Cooray LJM, *An introduction to the Legal System of Sri Lanka* (1992)

ඉහත සඳහන් ප්‍රකාශය ඇසුරින් ශ්‍රී ලංකාවේ අධිකරණ පූර්වනිදර්ශන න්‍යායෙහි අවශ්‍යතා, ස්වභාවය සහ ක්‍රියාකාරීත්වය පැහැදිලි කරන්න.

(ලකුණු 20)

PART II – Legal Method

5. Roshan and Jayani decided to have their wedding pre-shoot near a spectacular waterfall situated in the 'Thuru Viyana' forest. This location was a remote place where people cannot reach easily due to the eroded pathways. However, both local and foreign tourists visit there during the dry season. On the day when Roshan and Jayani reached the location with the camera crew, they were horrified by seeing a couple pausing nude for a video. Roshan and Jayani returned without having their wedding pre-shoot and lodged a complaint with the police about the incident.

The producer of the video and the couple posed nude for it are now charged with committing an offence under s 4 (c) of the Vagrants Ordinance which states;

'Every person wilfully exposing his person in an indecent manner.....in any street, road, highway, or public place or elsewhere to the annoyance and disgust of others shall be deemed a rogue and vagabond.....'

The producer of the video denies the charges against him stating that the location where they recorded the video does not belong to any of the categories mentioned in s 4 (c) and therefore, no offence is committed.

Discuss the above scenario and advise the producer with reference to the rules of statutory interpretation. Support your answer with appropriate case law examples.

(20 marks)

6. "The doctrine of *stare decisis* has exerted a profound effect on the manner in which the laws of the land were fashioned and developed by the judiciary.....'

Cooray LJM, *An Introduction to the Legal System of Sri Lanka* (1992)

- With reference to the above-mentioned statement, explain the requirements, nature, and operationalisation of the doctrine of *stare decisis* in Sri Lanka.

(20 marks)

7. (i). " නීතිය තුළ යුක්තිය සහ සාධාරණත්වය සුරක්ෂිත කරන නිදහස් මූලධර්ම සමූහයක් ලෙස සාධාරණත්වය වර්ධනය වී ඇත..."

නීති මූලාශ්‍රයක් ලෙස සාධාරණත්වයේ වැදගත්කම ඉහත ප්‍රකාශය ආශ්‍රයෙන් පරීක්ෂා කරන්න. ඔබේ පිළිතුර ප්‍රායෝගික නිදර්ශන සහ නඩු තීරණ මගින් තහවුරු කළ යුතුය. (ලකුණු 10)

(ii). නීතිවේදීන්ගේ මත නීති මූලාශ්‍රයක් ලෙස සැලකීම පිටුපස ඇති තාර්කික පදනම පරීක්ෂා කර, විවිධ නීතිවේදීන් විසින් රෝම ලන්දේසි නීතියට සහ උඩරට නීතියට සිදු කළ දායකත්වය විස්තර කරන්න. (ලකුණු 10)

(10 x 2 = ලකුණු 20)

8. ජෝධා, කුරුළු දූව ගම්මානයේ වාසය කරන දේශීය ජන කොට්ඨාශයකට අයත් 15 හැවිරිදි පිරිමි ළමයෙකි. ඔහුගේ දෙමව්පියෝ ජෝධා ට එම ජන කොට්ඨාශයටම අයත් වූ 12 හැවිරිදි දැරියක වූ මීනා සමඟ විවාහයක් සැලසුම් කළහ. කුරුළු දූව ගම්මානයට පර්යේෂණයක් සඳහා පැමිණි මානව විද්‍යා පර්යේෂකයෙකු වන ලක්ෂාන්ට මෙම විවාහය පිළිබඳව දැන ගැනීමට ලැබුණු අතර ළමා විවාහ එම ජන කොට්ඨාශයේ පොදු ව්‍යවහාරයක් බව ඔහු වැඩිදුරටත් සොයා ගත්තේය.

ලක්ෂාන්, 'සැමට අයිතිවාසිකම්' නම් වූ සුබසාධන සංවිධානයක් සමඟ එක්ව ළමා විවාහ සිදු කිරීමේ ව්‍යවහාරයට අභියෝග කරමින් ජෝධාගේ දෙමව්පියන්ට එරෙහිව නීතිමය පියවර ගැනීමට අදහස් කරයි. කෙසේ වෙතත් දේශීය ජන කොට්ඨාශයේ නායකයා තර්ක කරන්නේ, ළමා විවාහ ඔවුන්ගේ මුතුන් මිත්තන්ගේ කාලයේ සිට ඔවුන්ගේ ජන කොට්ඨාශය තුළ අඛණ්ඩව පැවත ආ පැරණි චාරිත්‍රයක් බවත් එය මින් පෙර කිසි දිනෙක අභියෝගයට ලක් නොවූ බවත්ය. ඔහු වැඩිදුරටත් පවසන්නේ, වයස අවුරුදු 101 දී පසුගියදා මිය ගිය තම මිත්තණිය විවාහ වී ඇත්තේද වයස අවුරුදු 11 දී බවයි.

නීතිමය පිළිගැනීම ලබා ගැනීම සඳහා සපුරාලිය යුතු අවශ්‍යතා සලකා බලමින් මෙම දේශීය චාරිත්‍රය වලංගු චාරිත්‍රයක් ලෙස සැලකිය හැකිද යන්න පරීක්ෂා කරන්න.

(ලකුණු 20)

නිමිකම් ඇවිරිණි

7. (i) Equity has been developed as a body of liberal principles that ensures fairness and justice in the law...'

Examine the significance of equity as a source of law with reference to the above statement. Your answer should be supported by practical examples and case laws.

(10 marks)

- (ii) Examine the rationale behind considering the opinions of jurists as a source of law and describe the contribution of various jurists to Roman Dutch law and Kandyan law.

(10 marks)

(10 x 2 = 20 marks)

8. Jodha is a 15-year-old boy belonging to a native community living in Kurulu Duwa village. His parents arranged a marriage for Jodha with a 12-year-old girl Meena from the same community. Lakshan, an anthropology researcher who happened to visit Kurulu Duwa village for research, came to know about this marriage and he further found out that child marriages are a common practice in the community.

Lakshan, together with a welfare organization called 'Rights for All' intends to take legal action against Jodha's parents challenging the practice of child marriages. However, the leader of the native community argues that the practice of child marriages is a continuous ancient custom in their community since their ancestors' times and it has never been challenged before. He further states that his grandmother, who died recently at the age of 101 years, has got married at the age of 11.

Examine whether this local custom can be regarded as a valid custom considering the requirements that has to be fulfilled to obtain legal recognition.

(20 marks)

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இலங்கை திறந்த பல்கலைக்கழகம்
 மானுடவியல் மற்றும் சமூக விஞ்ஞானங்கள் பீடம்
 சட்டக் கற்கைகள் திணைக்களம்
 சட்டமாணிப் பட்டப் படிப்புத் திட்டம் - மட்டம் 03

இறுதிப் பரீட்சை -2022/2023

சட்ட முறைமை - LLU3904

காலம்: 03 (மூன்று) மணித்தியாலங்கள்

நாள்: 02 ஏப்ரல் 2024

நேரம்: பி.ப 01.30 – பி.ப 04.30

வினாக்களின் மொத்த எண்ணிக்கை: 08

பகுதி I மற்றும் பகுதி II ஒவ்வொன்றிலிருந்தும் குறைந்தது இரண்டு (02) வினாக்களை தேர்ந்தெடுத்து
 ஐந்து (05) வினாக்களுக்கு மட்டும் விடை தருக.

தெளிவற்ற கையெழுத்துக்குப் புள்ளிகள் குறைக்கப்படும்

பகுதி I - உரோமன் சட்டம்

1. “உரோமானியர்களுக்கு, பெற்றோரின் அதிகாரமானது எப்போதும் முறையான திருமண
 உறவுகளிலிருந்து எழுந்தது.”

மேற்போந்த கூற்றின் பின்னணியில், தாதை அதிகாரம் (*patria potestas*) தொடர்பான
 உரோமானிய சட்டக் கோட்பாடுகளின் பரிணாமத்தை விளக்குக.

(20 புள்ளிகள்)

2. ஜூபிடர் முறையே டேரியஸ், காசியஸ் மற்றும் அகஸ்டா எனப்படும் இரண்டு மகன்கள் மற்றும்
 ஒரு மகளின் தந்தையாவார். அவர் தனது இளைய மகன் காசியஸைத் தவிர்த்து, டேரியஸ்
 மற்றும் அகஸ்டா ஆகியோரை தனது சொத்தின் வாரிசுகளாக பரிந்துரைக்கும் இறுதி
 விருப்பாவணமொன்றை எழுத விரும்புகிறார். காசியஸ் அவனது ஊதாரித்தனத்தால் எதைப்
 பெற்றாலும் அழித்துவிடுவான் என ஜூபிடர் கருதுகிறார். இருப்பினும், ஜூபிடர் இறுதி
 விருப்பாவணத்தில் காசியஸை வெளிப்படையாகப் வாரிசரிமை நீக்கம் செய்யவில்லை.

மேற்போந்த நிகழ்வுகளைக் கருத்திற்கொண்டு, மரணசாசன வழியுரிமை தொடர்பான
 உரோமானிய சட்டக் கொள்கைகளை விவரித்து, காசியஸுக்கு கிடைக்கத்தக்க
 நிவாரணமெதுவும் உள்ளதா என்பதை மதிப்பிடுக.

(20 புள்ளிகள்)

3. (i) உரோமானிய சட்டத்தின் கீழ் ஒரு வலிதான ஒப்பந்தமொன்றை உருவாக்க பூர்த்தி செய்ய
 வேண்டிய தேவைப்பாடுகளை விளக்குக.

(05 புள்ளிகள்)

(ii) பின்வரும் சந்தர்ப்பங்களின் சட்டரீதியான விளைவுகளை அடையாளம் காண்க:

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LLB DEGREE PROGRAMME – LEVEL 03
FINAL EXAMINATION 2022/23
LEGAL METHOD – LLU3904
DURATION: 03 (THREE) HOURS



Date: 02nd April 2024

Time: 01.30 p.m. – 04.30 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 handwriting.

PART I – Roman Law

1. 'For the Romans, parental authority always arose from legitimate marital relations.'

In light of the above statement, explain the evolution of Roman law principles pertaining to *patria potestas*.

(20 marks)

2. Jupiter is the father of two sons and a daughter called Darius, Cassius, and Augusta respectively. He intends to write a will nominating Darius and Augusta as the heirs of his estate while excluding his younger son Cassius from the will. Jupiter thinks that Cassius will ruin whatever he gets due to his prodigal nature. However, Jupiter does not expressly disinherit Cassius in the will.

Considering the above factual situation, describe the Roman law principles on testate succession and examine whether there is any remedy available for Cassius.

(20 marks)

அ) காஸ்காவின் பண்ணையில் இருந்து கோதுமையைக் கொண்டு செல்வதற்காக பிலினியஸ் காஸ்காவிடம் இரண்டு குதிரைகளைக் கொடுத்தான். ஒப்புக்கொள்ளப்பட்ட பணியை முடித்த பிறகு, காஸ்கா பிலினியஸுக்கு தெரிவிக்காமல் தனது சகோதரன் மரியோவினது ரோட்டரி மில்லில் கோதுமை அரைக்க அக்குதிரைகளை பயன்படுத்த அனுமதித்தான். இரண்டு குதிரைகளும் ஆலைகளில் வேலை செய்ய பழக்கப்படாமையால் காயம் அடைந்தன.

(05 புள்ளிகள்)

ஆ) பவுலஸ் தனது மகளின் திருமண விழாவில் பகிர்ந்தளிக்க ஏலியஸிடம் இருந்து முந்திரி பழச்சாற்றை(Wine) வாங்கினான். விழா முடிந்து ஒரு வாரத்திற்குப் பிறகு, பவுலஸ் அவர் உறுதியளித்தபடி ஏலியஸுக்கு அதே அளவு முந்திரி பழச்சாற்றைத் திருப்பிக் கொடுத்தான். இருப்பினும், முந்திரி பழச்சாற்றில் துர்நாற்றம் வீசுவதுடன் வினிகர் போன்ற சுவையுடன் இருப்பதை ஏலியஸ் கண்டான்.

(05 புள்ளிகள்)

இ) பிரிஸ்காவின் வீடு வெள்ளத்தில் சிக்கியதால் ஐம்பது தங்க நாணயங்களை அவள் தனது உறவினர் ஜூலியானோவிடம் ஒப்படைத்தாள். இதற்கிடையில், ஜூலியானோவின் வீடு கொள்ளையடிக்கப்பட்டமையால் தங்க நாணயங்கள் உட்பட அனைத்து மதிப்புமிக்க பொருட்களும் காணாமல் போயுள்ளன. பிரிஸ்காவின் தங்கக் காசுகளைக் காப்பாற்றுவதற்காக கொள்ளையர்களுடன் சண்டையிட்டபோது ஜூலியானோ பலத்த காயமடைந்தான்.

(05 புள்ளிகள்)

(5x 4 = 20 புள்ளிகள்)

4.

(i) உரோமானிய சட்டத்தின் கீழ் *res* இன் வகைப்பாட்டை விளக்குக.

(10 புள்ளிகள்)

(ii) *ius civile* இன் கீழ் சொத்துக்களை கையகப்படுத்தும் முறைகளை விவரிக்குக.

(10 புள்ளிகள்)

(10x 2 = 20 புள்ளிகள்)

பகுதி II - சட்ட முறைமை

5. ரொஷானும் ஜயனியும் “துரு வியன” காட்டில் அமைந்துள்ள கண்கவர் நீர்வீழ்ச்சிக்கு அருகில் தங்கள் திருமணத்திற்கு முந்தைய படப்பிடிப்பை நடத்த முடிவு செய்தனர். இந்த இடம் அரிப்பிற்குட்பட்ட பாதைகளின் காரணமாக மக்கள் எளிதில் செல்ல முடியாத தொலைதூர இடமாக இருந்தது. இருப்பினும், வறண்ட காலங்களில் உள்ளூர் மற்றும் வெளிநாட்டு சுற்றுலாப் பயணிகள் இங்கு வருவார்கள். ரொஷானும் ஜயனியும் படக்குழுவினருடன் அந்த இடத்தை அடைந்த நாளில், ஒரு ஜோடி நிர்வாணமாக காணொளிப்படம் எடுப்பதைக் கண்டு அவர்கள் திகிலடைந்தனர். ரொஷானும் ஜயனியும் திருமணத்திற்கு முந்தைய படப்பிடிப்பை நடத்தாமலே திரும்பினர் மற்றும் இச்சம்பவம் குறித்து போலீஸில் புகாரளித்தனர்.

காணொளிப்படத்தின் தயாரிப்பாளரும் அதற்கு நிர்வாணமாக காட்சி கொடுத்த ஜோடியும் இப்போது அலைந்து திரிதல் கட்டளைச் சட்டத்தின் பிரிவு 4 (இ) இன் கீழ் குற்றம் புரிந்ததாக குற்றம் சாட்டப்பட்டுள்ளனர். அப்பிரிவானது பின்வருமாறு குறித்துரைக்கிறது.

3. (i) Describe the requirements that must be fulfilled to create a valid contract under Roman law.

(05 marks)

- (ii) Identify the legal consequences of the following situations:

- (a) Plinius gave Casca two of his horses to transport wheat from Casca's farm. After completing the agreed task, Casca let his brother Mario to use the horses in his rotary mill for grinding wheat without informing Plinius. Both the horses were injured since they were not used to work in mills.

(05 marks)

- (b) Paulus borrowed a quantity of wine from Aelius to serve at the marriage ceremony of his daughter. One week after the ceremony, Paulus returned a similar quantity of wine to Aelius as he promised. However, Aelius found that the wine had a bad odour and tasted like vinegar.

(05 marks)

- (c) Prisca handed over fifty gold coins to her cousin Juliano since Prisca's house was hit by floods. Meanwhile, Juliano's house was robbed and all the valuables including the gold coins were lost. Juliano was severely injured when he fought with the robbers to save Prisca's gold coins.

(05 marks)

(5 x 4 = 20 marks)

4. (i) Illustrate the classification of *res* under Roman law.

(10 marks)

- (ii) Describe the methods of acquisition of property under *ius civile*.

(10 marks)

(10 x 2 = 20 marks)

‘எந்தவொரு தெருவில், சாலையில், நெடுஞ்சாலையில், அல்லது பொது இடத்தில் அல்லது வேறெங்கிலும்.... பிறருக்கு எரிச்சலையும் வெறுப்பையும் ஏற்படுத்தும் வகையில், வேண்டுமென்றே தன்னை அநாகரீகமான முறையில் அம்பலப்படுத்துகின்ற ஒவ்வொரு நபரும் அயோக்கியராகவும் அலைந்து திரிபவராகவும் கருதப்படுவார்.’

காணொளிப்பட தயாரிப்பாளர் அவர்கள் வீடியோவைப் பதிவுசெய்த இடம் பிரிவு 4 (இ) இல் குறிப்பிடப்பட்டுள்ள எந்த வகையிலும் சேர்ந்தது அல்ல எனவும், ஆகையால் எந்த குற்றமும் புரியப்படவில்லை எனவும் குறிப்பிட்டு அவர் மீதான குற்றச்சாட்டுகளை மறுத்தார்.

மேற்போந்த சூழ்நிலையை ஆராய்வதுடன், நியதிச்சட்ட பொருள்கோடலின் விதிகள் தொடர்பில் தயாரிப்பாளருக்கு ஆலோசனை வழங்குக. உமது விடையானது பொருத்தமான தீர்ப்புச்சட்டங்களால் ஆதாரப்படுத்தப்பட வேண்டும்.

(20 புள்ளிகள்)

6. “நீதித்துறையால் சட்டங்கள் வடிவமைக்கப்பட்ட மற்றும் உருவாக்கப்பட்ட விதத்தில் *stare decisis* கோட்பாடு ஆழமான தாக்கத்தை ஏற்படுத்தியுள்ளது.....”

Cooray LJM, *An Introduction to the Legal System of Sri Lanka* (1992)

மேற்போந்த கூற்றின் பின்னணியில், இலங்கையில் *stare decisis* கோட்பாட்டின் தேவைப்பாடுகள், இயல்பு மற்றும் செயற்பாட்டினை விளக்குக.

(20 புள்ளிகள்)

7. (i) ஒப்புரவானது தாராளவாதக் கொள்கைகளின் அங்கமொன்றாக உருவாக்கப்பட்டுள்ளது மற்றும் இது சட்டத்தில் நியாயம் மற்றும் நீதியை உறுதி செய்கிறது... “

மேற்போந்த கூற்றின் பின்னணியில் சட்டத்தின் தோற்றுவாயொன்றாக ஒப்புரவின் முக்கியத்துவத்தை ஆராய்க. உமது விடையானது நடைமுறை எடுத்துக்காட்டுகள் மற்றும் வழக்குச் சட்டங்களால் ஆதாரப்படுத்தப்பட வேண்டும்.

(10 புள்ளிகள்)

- (ii) சட்டத்தின் தோற்றுவாயாக சட்ட வல்லுநர்களின் கருத்துக்களைக் கருத்திற் கொள்வதன் பின்னணியில் உள்ள காரணத்தை மதிப்பிட்டு, உரோம டச்சு சட்டம் மற்றும் கண்டிய சட்டத்திற்கு பல்வேறு சட்ட வல்லுநர்களால் புரியப்பட்ட பங்களிப்பை விளக்குக.

(10 புள்ளிகள்)

(10x 2 = 20 புள்ளிகள்)

8. குருலு துவா கிராமத்தில் வசிக்கும் பூர்வீக சமூகத்தைச் சேர்ந்த 15 வயது சிறுவன் ஜோதா ஆவான். அவனது பெற்றோர் ஜோதாவுக்கும் அதே சமூகத்தைச் சேர்ந்து 12 வயது சிறுமியான மீனா என்பவளுக்கும் திருமணம் செய்து வைக்க ஏற்பாடு செய்தனர். குருலு துவா கிராமத்திற்கு ஆராய்ச்சிக்காக வருகை தந்த மானுடவியல் ஆய்வாளரான லக்ஷன் இந்த திருமணம் பற்றி அறிந்தார், மேலும் குழந்தை திருமணங்கள் இச்சமூகத்தில் பொதுவான நடைமுறை என்பதை அவர் மேலும் கண்டறிந்தார்.

லக்ஷன், “அனைவருக்கும் உரிமைகள்” என்ற பொதுநல அமைப்புடன் இணைந்து, ஜோதாவின் பெற்றோருக்கு எதிராக குழந்தைத் திருமண நடைமுறைக்கு எதிராக சட்ட நடவடிக்கை எடுக்க

PART II – Legal Method

5. Roshan and Jayani decided to have their wedding pre-shoot near a spectacular waterfall situated in the 'Thuru Viyana' forest. This location was a remote place where people cannot reach easily due to the eroded pathways. However, both local and foreign tourists visit there during the dry season. On the day when Roshan and Jayani reached the location with the camera crew, they were horrified by seeing a couple pausing nude for a video. Roshan and Jayani returned without having their wedding pre-shoot and lodged a complaint with the police about the incident.

The producer of the video and the couple posed nude for it are now charged with committing an offence under s 4 (c) of the Vagrants Ordinance which states;

'Every person wilfully exposing his person in an indecent manner.....in any street, road, highway, or public place or elsewhere to the annoyance and disgust of others shall be deemed a rogue and vagabond.....'

- The producer of the video denies the charges against him stating that the location where they recorded the video does not belong to any of the categories mentioned in s 4 (c) and therefore, no offence is committed.

Discuss the above scenario and advise the producer with reference to the rules of statutory interpretation. Support your answer with appropriate case law examples.

(20 marks)

6. "The doctrine of *stare decisis* has exerted a profound effect on the manner in which the laws of the land were fashioned and developed by the judiciary....."

Cooray LJM, *An Introduction to the Legal System of Sri Lanka* (1992)

- With reference to the above-mentioned statement, explain the requirements, nature, and operationalisation of the doctrine of *stare decisis* in Sri Lanka.

(20 marks)

உத்தேசித்துள்ளார். இருப்பினும், பூர்வீக சமூகத்தின் தலைவரானவர், குழந்தைத் திருமணங்கள் நடைமுறையில் தங்கள் முன்னோர்கள் காலத்திலிருந்தே தங்கள் சமூகத்தில் ஒரு தொடர்ச்சியான பழங்கால வழக்கமாகும் எனவும், இதற்கு முன் இவ்விடயம் ஒருபோதும் கேள்விக்குட்படுத்தப்படவில்லை எனவும் வாதிடுகிறார். அவர் மேலும், சமீபத்தில் 101 வயதில் இறந்த தனது பாட்டி, 11 வயதில் திருமணம் செய்து கொண்டார் எனவும் குறிப்பிட்டார்.

சட்டப்பூர்வ அங்கீகாரத்தைப் பெறுவதற்கு பூர்த்தி செய்யப்பட வேண்டிய தேவைப்பாடுகளை கருத்திற் கொண்டு, இந்த உள்ளூர் வழக்காற்றை வலிதான வழக்காறாக கருத முடியுமா என்பதை மதிப்பீடு செய்க.

(20 புள்ளிகள்)

பதிப்புரிமையுடையது

7. (i) Equity has been developed as a body of liberal principles that ensures fairness and justice in the law...'

Examine the significance of equity as a source of law with reference to the above statement. Your answer should be supported by practical examples and case laws.

(10 marks)

- (ii) Examine the rationale behind considering the opinions of jurists as a source of law and describe the contribution of various jurists to Roman Dutch law and Kandyan law.

(10 marks)

(10 x 2 = 20 marks)

8. Jodha is a 15-year-old boy belonging to a native community living in Kurulu Duwa village. His parents arranged a marriage for Jodha with a 12-year-old girl Meena from the same community. Lakshan, an anthropology researcher who happened to visit Kurulu Duwa village for research, came to know about this marriage and he further found out that child marriages are a common practice in the community.

Lakshan, together with a welfare organization called 'Rights for All' intends to take legal action against Jodha's parents challenging the practice of child marriages. However, the leader of the native community argues that the practice of child marriages is a continuous ancient custom in their community since their ancestors' times and it has never been challenged before. He further states that his grandmother, who died recently at the age of 101 years, has got married at the age of 11.

Examine whether this local custom can be regarded as a valid custom considering the requirements that has to be fulfilled to obtain legal recognition.

(20 marks)

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