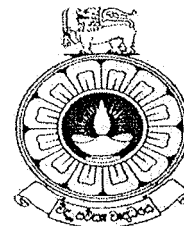


THE OPEN UNIVERSITY OF SRI LANKA
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES
 DEPARTMENT OF LEGAL STUDIES
 LLB DEGREE PROGRAMME- LEVEL 3
 FINAL EXAMINATION- 2023/2024
 LLU 3904 – LEGAL METHOD
 DURATION- 3 HOURS



DATE: 17th of May 2025

TIME: 01.30 p.m. – 04.30 p.m.

Total number of questions: 08

Candidates will be penalized for illegible handwriting.

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

PART I – ROMAN LAW

01. 'Roman Law, the foundation of many modern legal systems, recognizes that obligations primarily arise from contracts and delicts.'

Discuss the nature and significance of contractual obligations under Roman Law in light of the above statement, Explain the essential elements required for a valid contract, and differentiate contractual obligations from other forms such as quasi-contracts.

(20 Marks)

02. Titus, a Roman citizen and *paterfamilias*, died leaving behind two children, Lucius and Cornelia. His elder son, Gaius, had died before him, leaving a son named Marcus, who remained under the *patria potestas* of Titus at the time of his death. Titus drafts a will naming Lucius and Cornelia as heirs to his estate, but he excludes his grandson Marcus from the testament. Titus believes Marcus is irresponsible and likely to squander any inheritance he receives. However, Titus neither institutes Marcus as an heir nor expressly disinherits him in the will.

With reference to the Roman law principles on testate succession, discuss the legal validity of Titus's will and the remedies available to Marcus.

(20 Marks)

03. Aelius owns a house and a farmland adjacent to that of his neighbour, Brutus. Due to the natural slope of the land, Aelius has a servitude allowing water to flow from Brutus's spring through a channel into his fields. After retiring from military service, Aelius moves to Rome and grants *usufruct* of his property to his nephew, Severus, for the rest of his life.

Discuss the legal position in the following situations under Roman law:

- a) Brutus blocks the water channel, claiming that the servitude ended when Aelius vacated the property. He argues that Severus, as a mere usufructuary, cannot enforce it.

(06 Marks)

- b) Severus uses some fruit harvested from the orchard to produce jam and sell the products in the nearby town. The profits generated from these sales are allocated to restore a part of the roof.

(06 Marks)

- c) Severus rents out two rooms in the house to a newly married couple for an additional income, and plants olive trees along the path to enhance aesthetic appeal of the property.

(08 Marks)

04. Write notes on any two of the following.

- (a) *Dos*
- (b) *Manus* Marriage
- (c) *Contracts Verbis*
- (d) *Quasi- Delicts*

(10x2=20 Marks)

PART II – LEGAL METHOD

05. "To the law student, the library is not merely a storehouse of knowledge. It contains the tool of his trade. There is no substitute for knowledge, insight and experience acquired by direct access to relevant legal materials. The library is to a law student what a laboratory is to other students".

LLU3904 Legal Method Block I, The Open University of Sri Lanka, p.7

In light of the above statement discuss the importance of legal materials.

(20 Marks)

06. Section 38 of the Personal Data Protection Act, No. 9 of 2022 of Veloria describes the imposition of penalties for the contravention of the provisions of the Act or any regulations made thereunder.

Section 38 (1) of the Personal Data Protection Act, No. 9 of 2022 of Veloria states that:

"Where a controller or processor fails to comply with a directive issued under the provisions of section 35, the Authority shall after taking into consideration the impact on data subjects, the nature and extent of relevant noncompliance and the matters referred to in section 39 of this Act, by notice require such controller or processor to pay a penalty, which shall not exceed a sum of Velorian rupees ten million for each non-compliance."

Leon works as a data entry officer in the National Health Authority of Veloria. His colleague, Evans, approaches him with an urgent request to access the health records of his daughter who had been admitted to hospital unconscious following a car accident. As the hospital's internal systems were down and emergency consent for treatment could not be obtained from the relevant officials, Leon retrieved the relevant personal data of Evans's daughter and gave it to Evans so that she could be transferred to a private hospital for an emergency surgery.

Leon is now being charged under Section 38(1) of the Personal Data Protection Act for disclosing personal data without obtaining formal approval.

Discuss Leon's legal position with reference to the rules of statutory interpretation. Relevant case law should be cited to support your arguments.

(20 Marks)

07. In the remote village of Ranmuthuduwa, renowned for its traditional silver jewellery craftsmanship, it has long been customary for children to join their parents in the jewellery-making process from childhood. This custom is believed to safeguard generational skills and cultural heritage of silver jewellery making, with village elders asserting that learning the craft is as valuable as formal education.

Two children from the village, aged 10 and 12, namely Nimal and Kamal, have not been attending school. Their parents, both skilled craft people, strongly believe that children's active participation in silver jewellery making during their formative years is significant to ensure the continuity of the craft.

However, school authorities have raised concerns, citing compulsory education laws under the National Education Act and the children's right to education stated in the

Constitution. They argue that while traditional practices are important, they cannot override the legal obligation of children's formal education. The Ministry of Education has warned villagers of potential legal action if the children are not enrolled and attending school regularly.

The villagers insist that their custom of child participation in jewellery making is long-standing, socially endorsed, and therefore, deserves protection under customary law and cultural rights.

Advise the villagers whether they can successfully establish the existence of a legally valid custom that justifies their practice. Explain your answer with reference to the legal requirements that have to be fulfilled for the recognition of custom as a law, and the relevant case law.

(20 Marks)

08. Write notes on any two of the following.

- (a) *Stare decisis*
- (b) Overruling a judgement
- (c) *Ratio decedendi*
- (d) *Obiter dicta*

(10x2=20 Marks)

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