

THE OPEN UNIVERSITY OF SRI LANKA

LL.B. DEGREE PROGRAMME – LEVEL 3

FINAL EXAMINATION – 2006



INTRODUCTION TO LAWS OF SRI LANKA – LWU 1411

DURATION – 03 HOURS

Date : 21st March 2006

Time: 1.00 p.m. – 4.30 p.m.

Answer FIVE questions only.

Illegible handwriting will be penalized.

1. “The policy adopted by the British as regards laws that existed in Ceylon before their arrival paved the way to entrench Roman Dutch Law in Sri Lanka.”

Critically evaluate this statement in the light of the British Colonial principles and the judicial attitude towards Dutch laws in Ceylon.

2. Dileepa is a B.Sc graduate of the Open University residing in Kandy. His father was a Kandyan and had married his mother who was a low country Sinhalese under the General Law in 1975 and lived in his ancestral property in Kandy. Dileepa wishes to marry his girl friend Devika who is a Kandyan by descent. Although Devika’s father gave his consent to the marriage, he insists that the marriage should be registered under the Kandyan Law. Dileepa wants to know which law applies to him and whether he could register his marriage with Devika under the Kandyan Law.

(a) Advise Dileepa.

(b) Would your answer be different if Dileepa’s parents married under the Kandyan Law in 1950?

3. Raghawan was the son of two Tamil parents who had migrated to Canada due to the ethnic strife that broke in Sri Lanka in 1983 . When a ceasefire agreement was signed between the militants and the Sri Lankan government in 1990 Raghawan’s parents came back to Sri Lanka with Raghawan and settled down in Jaffna. Raghawan who was 12 years at that time was admitted to a school in Jaffna. Raghawan’s father erected a house from his savings in Canada in Jaffna and transferred the property to Raghawan when he attained 18 years in 1996. Raghawan passed out from the Medical Faculty of the Jaffna University and was posted to Batticaloa hospital in 2000. Raghawan married Sashikala, a Tamil girl from Batticaloa and took her to his home in Jaffna. He went to Jaffna to see his wife and the child whenever he got an opportunity. Raghawan earned a large amount of money from private practice and bought a piece of land in the

Batticaloa town to put up a private hospital there. However Raghawan was killed in a shootout between rival factions in Batticaloa in December 2005. Sashikala wishes to know which law applies to Raghawan.

Advise Sashikala.

4. "Where the (Mohammedan) Code is silent and there is no special custom on any point.....Roman Dutch Law should be resorted to, as the law generally applicable in the absence of any special law".- Schneider A.J. in *Abdul Rahiman v. Ussan Umma* (1916) 19 N.L.R. 175 at 184).

Critically discuss whether this dictum reflects the situation that existed until the abolition of the Mohommadan Code in 1931.

5. "We are, I think' entitled to develop the legal principles handed down to us in connection with new situations which arise in our own civilization we should administer it (the principle) equitably rather than upon strictly rigorous lines' – Bertram C.J. in *The Government Agent Central Province v. Letchiman Chetty* (1922) 24 N.L.R. 36 at p.41.

Discuss this statement in the light of the judicial policy to find solution for problems of the litigants applying Roman Dutch Law principles

6. Discuss the situations where the problems of pluralism surface in the Sri Lankan Legal System and recommend reforms to minimise conflict of law situation in our legal system
7. Describe the judicial officials and the institutions and the jurisdiction exercised by them in the Kandyan Kingdom before it was acquired by the British.
8. Write notes on any two of the following
 - (a) The evolution of the attitude of courts towards the concept of bigamous marriage
 - (b) The origin and the content of the Mohommadan Code (1806)
 - (c) Judicial attitude towards Statutes of Batavia
 - (d) Pre-emption under Tesawalamai