

**THE OPEN UNIVERSITY OF SRI LANKA  
LL.B. DEGREE PROGRAMME - LEVEL 03  
FINAL EXAMINATION – 2006/2007  
LEGAL METHOD – LWU 1412  
DURATION - THREE HOURS**



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**Date: 13<sup>th</sup> March 2007**

**Time: 10.00 a.m. – 1.00 p.m.**

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Answer **FIVE** questions only selecting at least two questions each from part A and part B.

**Illegible handwriting will be penalised.**

**PART A – ROMAN LAW.**

01. Titius a sui juris Roman citizen appointed Brutus as tutor for his only son Cornelius by a last will. Titius died when Cornelius was 6 years old and Brutus took over the administration of the property. Brutus then bought several pieces of valuable property belonging to Cornelius for about a quarter of their actual value. When Cornelius was 18 years old Brutus requested him to sell another piece of valuable property to him for a similarly low price and Cornelius did so.

At the age of 19 Cornelius started living with Cleopatra, but 9 months later she left him. A few years later Cornelius met Aurelia (a Roman citizen) and they lived together for the next 15 years during which time they had two sons and a daughter.

- i. Can Cornelius claim any relief regarding the sale of lands below their actual value? Explain your answer.

(8 marks)
- ii. What is the nature of the legal relationship between the following parties? Explain the reasons for your answer
  - a. Cornelius and Cleopatra
  - b. Cornelius and Aurelia.

(5 marks)
- iii. What are the powers available to Cornelius and Aurelia over their children?

(7 marks)

02. Flavius, a famous painter decides to hold an exhibition of some of his most valuable and admired paintings. He hires a large hall in Rome and invites many important people including Senators and wealthy patricians for the opening of the exhibition.

While the opening ceremony is in progress Claudius and Cassius walk into the hall uninvited together with their slaves. They start shouting that the paintings are not the work of Flavius and that he is simply pretending to be the real artist. Claudius says, 'How can a wicked and hard hearted man paint beautiful scenery? His idea of beauty is easily understood when you look at his wife who is the most ugly woman in Rome. She has to cover her face when she goes to feed the pigs or they refuse to eat!'

Cassius then draws his sword and starts slashing and destroying the paintings. Servius who is a faithful servant of Flavius and who has recently been appointed as the sole heir to the property of Herodotus tries to prevent a painting being destroyed by standing in front of it. Cassius attacks him, with the sword and Servius is fatally injured and later dies. Darius another slave of Flavius is also injured and loses the sight of one eye.

Discuss the legal remedies available to Flavius due to the above incidents.

03. Discuss the accuracy of **any two** of the following statements.
- i. Roman Law recognized contracts, which were purely gratuitous and bound the recipient to restore the original item or its equivalent.
  - ii. A person managing the affairs of another during his absence had no remedy for expenses incurred in doing so.
  - iii. Justinian codified the whole body of Roman Law during his period as emperor.
  - iv. Roman Law gave total freedom for a testator to dispose of his property.

04. Answer both parts.

- i. 'The classification of servitudes, plays a significant role in identifying the rights attached to it'

Do you agree with the above statement? Explain your answer (6 marks)

- ii. 'Ownership of a *res* could be acquired in many ways under *jus gentium*. Some of these methods enabled ownership to pass irrespective of whether the original owner wished to transfer ownership or not; ownership could also be acquired over goods which had no owner at the time of acquisition'

Comment on the validity of the above statement, illustrating your answer with a discussion of relevant modes of acquisition and examples of their application.

(14 marks)

**PART B – LEGAL METHOD.**

05. 'Identifying what the law of a country is at a given point of time is not a simple task as the law consists of many sources. Some sources shape the law in accordance with social changes, others preserve special interests and still others temper the rigidity of strict law. Thus each source in this bundle fulfills a distinct function so that the collection of source satisfies all the expectations of the idea of law.'

Critically analyze the validity of the above statement, in the light of the sources of law applicable to Sri Lanka. **A detailed discussion of the content of the sources is not expected.**

06. Muwagama is a little village located on the edge of a mighty forest. The forest is the habitat of many animals especially various species of deer. In recent years the forest has assumed a new importance with local and foreign visitors including science students from schools and universities frequenting the forest to study the deer in their natural habitat.

Some of the villagers of Muwagama have been in the habit of hunting deer in the forest for along period of time. Venison (deer flesh) is a delicacy, which certain 'mudalalis' of the village are known to supply. During a recent study it was discovered that the deer in the forest had greatly reduced in number and some species had almost disappeared due to hunting conducted by these villagers.

'Save the Deer' an animal protection group wishes to get the government authorities to intervene and stop this practice but first wish to ascertain whether deer hunting is a valid custom in the village. Ran Banda a 50 year old deer hunter says his father also engaged in the trade before him. However Ukku Banda a 69 year old villager recalls a time about 10 years previously when government officials had forbidden the practice and kept forest rangers in the forest to prevent hunting. 91 year old Ran Ethena speaks to a time when deer roamed close to the village and non of the villagers would do them any harm. She says that even today it is very rare for a villager to eat venison and that killing of deer is something only a few villagers do in order to sell the meat to big towns nearby.

'Save the Deer' seeks your advice as to the validity of this custom. Advise them.

07. P v P is a case decided by the Supreme Court in 1965. In this case a man who was a Christian and had already married one woman got married a second time to a Buddhist lady. The first wife was still living at the time and the couple had not got divorced. The Court held that the husband was guilty of bigamy, which is the offence of having more than one legal spouse. (i.e. husband or wife) at the same time. The court also stated that the matter would have been different if the man was a Muslim since a Muslim man is entitled by law to have up to 4 wives at the same time.

**Can P v P be considered as binding precedent in the following situations? Give reasons for your answers.**

- i. A case presented to the Court of Appeal in 2000 where a Muslim man has married a second wife while the first wife is still living. Both women are also Muslims.
  - ii. A Supreme Court case of 2005 where a Christian man has married a second time while the first wife is still living and the marriage is still in existence.
  - iii. A Privy Council case of 1969 where a Christian man who had married a Buddhist woman marries a second wife (a Christian) after the death of his first wife.
  - iv. A Court of Appeal case of 1989 where a Christian woman has married a Buddhist man while her first husband is still living and they have not divorced.
08. The various presumptions, which are used in statutory interpretation all fulfill the common purpose of ensuring that statutes are not applied to situations and people they were not originally intended to cover.

Comment on the validity of the above statement using applicable case law to illustrate your answer.