

**THE OPEN UNIVERSITY OF SRI LANKA
LL.B. DEGREE PROGRAMME - LEVEL III
FINAL EXAMINATION – 2006 / 2007
INTRODUCTION TO THE LAWS OF SRI LANKA – LWU 1411
DURATION - THREE HOURS**



Date: 9th March 2007

Time: 10.00 a.m. – 1.00 p.m.

Answer FIVE questions only.

Illegible handwriting will be penalised.

01. “The British ruled their colonies according to their established rules of administration, one such rule was that laws and institutions that existed in the colony before it was captured by the British should be continued. Accordingly the courts discharged their obligation by giving effect to all Dutch statutes that were presume to have been applied in Ceylon”.

Critically examine this statement with special reference statues and case law.

02. Jayantha was a doctor at the General Hospital in Kandy. His parents are permanent residents of Matale. His father was a descendant from a low country Sinhalese family and had contracted a binna marriage in 1951 with Jayantha’s mother who was a Kandyan. Jayantha fell in love with Sanduni, a doctor in the same hospital. Her father was a descendant from a family in the southern province and had married Sanduni’s mother, who was a Kandyan. Her father and mother registered their marriage under the General law in 1960 and lived in the newly built house, that Sanduni’s father erected in Kandy from his own money.

Jayantha and Sanduni wish to register their marriage under the Kandyan Law.

- a) Can Sanduni and Jayantha register their marriage under the Kandyan law?
- b) Would your answer be different if Sanduni’s father registered his marriage with her mother as a binna marriage under the Kandyan law in 1950?

Discuss your answer with reference to statutes and judicial decisions.

03. Selvam was born in Australia to Tamil parents in 1976. His parents were Tamils of Jaffna. When he was 7 years old, his parents came back to Sri Lanka and moved to Jaffna. He had his school education at a school in Jaffna. In 1996 he entered the University of Sri Jayawardanapura. Having completed his university education, he joined the academic staff in the same university as a temporary lecturer. In 2001 Selvam married Mandira who was a lecturer in the university of Colombo. She was a native of Jaffna and her parents were also Tamils. After marriage they lived in a house in Dehiwala that was gifted to them by Mandira's parents. By the marriage they had only one child, who was named as Jayakumari. In 2003 after Jayakumari was born, Selvam decided to take his family to Jaffna. Mandira resigned her job and lived with Selvam's parents in Jaffna, after the family moved to Jaffna. Jayakumari was admitted to a leading girls school in Jaffna. Selvam used to go and see them. In 2004 Selvam built a new house in Jaffna and asked his parents to live with Mandira in the new house. He expected to join the University of Jaffna, but failed. Selvam acquired a new building in Dehiwala and started a private tuition class for A/L students. Selvam made profits from his tuition class and he invested a part of the income in a finance company in Colombo. He regularly sent money to his wife. In 2006 Selvam suddenly died in a motor accident in Anuradhapura while traveling to Jaffna.

Mandira consults you as to whether Selvam is governed by Tesawalamei or General Law?

Advise her.

Would your answer be different if Selvam's native town is Trincomalee and his family lived there?

04. "Clearly the Mohommadan law in Ceylon is based on usage and where the code is silent and no ancient custom has been proved the general law of the island is the law applicable". (Enis. J. Abdul Rhuman v. Ussan Umma (1916) 19 NLR 175 page 178)

Critically evaluate this dictum with reference to statutory provision and case law.

05. "The Roman Dutch Law pure and simple did not exist in this country in its entirety. It has been modified in many directions by our statute law and also by judicial decisions."

(Korrossa Rubber Company v. Silva 1917 (20 NLR 65) Wood Renton C.J. Page 74)

Critically discuss this dictum with reference to reception of English Law in Sri Lanka through judicial decisions?

06. "Although a married woman, under the general law of the land, the Kandyan and Muslim law is a feme sole, (single women) the married women governed by Thesawalamai is still under the marital power of her husband." – per Tambiah J in Vijayaratnam v. Rajadurai (1966) 69 NLR 146 at p. 148.

Discuss this dictum with reference to judicial opinion with regard to the marital power of the husband over the separate property of his wife under Thesawalamai.

07. Write comprehensive note the court system established under the Administration of Justice Law No. 44 of 1973.

08. a) Discuss the powers given to the following judicial organs and officers an administration of justice under the Kandyan Kingdom during the pre-colonial era.
- i. King
 - ii. Adigars
 - iii. Disavas
 - iv. Ratasabhava
 - v. Gamsabava
- b) Describe the hierarchy of the court system that existed during the Dutch paying special attention to the jurisdiction exercised by each court.