

THE OPEN UNIVERSITY OF SRI LANKA

LLB DEGREE PROGRAMME - LEVEL III

FINAL EXAMINATION – 2008 / 2009

INTRODUCTION TO THE LAWS OF SRI LANKA – LWU 1411

DURATION – 3 HOURS



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Date: 2009. 03. 24

Time: 9.30 a.m. -12.30 p.m.

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Answer **FIVE** questions only

**Candidate will be penalized for illegible handwriting**

1. "The Roman Dutch Law became the common law of the land when Courts utilized this law to fill gaps in the personal laws"

Discuss this statement with reference to court decisions which facilitated the adoption of Roman Dutch law principles for this purpose.

2. Kapila was an accountant in Siripura Constructions Ltd, in Kandy. His parents were permanent residents of Peradeniya. Kapila's father was a Kandyan and had contracted a diga marriage in 1949 with Kapila's mother who was a resident of Ambalangoda. While Kapila was working there, he started an affair with Priyani who worked as a technical officer in the same company. Priyani's father was a resident of Galle and had married Priyani's mother, who was a Kandyan. They had registered their marriage under the General Law in 1962 and lived in Kandy. Kapila and Priyani wish to register their marriage under the Kandyan Law.

- (a). Can Priyani and Kapila register their marriage under Kandyan Law?
- (b). Would your answer be different if Priyani's father had registered his marriage with her mother as a binna marriage under the Kandyan Law in 1951?

Your answer should be supported with relevant statutory provisions and case law.

3. "The decision in *William v. Robertson* formed a starting point of a misconception as to the nature of Kandyan law and its applicability to others."

H.W. Tambiah, *Principles of Ceylon Law*, p.154.

Discuss whether this statement reflects the legal position that prevailed during the period from 1830 to 1917.

4. Welu was born in Ampara to Tamil parents in 1976. When he was 7 years old, his parents moved to Jaffna, and he had his school education there. He left school at 18 and worked and resided in his uncle's tea state in Kandy. In 1998, Welu married Malathi a Tamil girl who lived on the same estate. After marriage, they lived in a house in Kandy that was gifted to them by Malathi's parents. Welu regularly sent money to his parents and visited his parents in Jaffna once in two months. He invested a part of the income he received from his job in a finance company in Jaffna. In 2000, Welu bought a new house in Jaffna and asked his parents to live in it until he settled down in Jaffna in the near future.

As the couple constantly quarreled with each other, in 2001 Welu left his wife and came to live with his parents in Jaffna. Malathi took up residence in their matrimonial house in Kandy. In 2002, Welu acquired a building and started a new grocery in Jaffna. Welu suddenly died in 2008.

His parents wish to know which law applies to Welu. Advise them.

5. "Conflict of law situations and anomalies in the application of law can be minimized only through legislative and judicial intervention."

Do you agree with this statement? Give reasons for your answer.

6. Discuss the legal solutions in following situations, with reference to case law and statutory provisions.

- (a). Sonara is a Muslim lady who married a Muslim doctor called Cader in 1990. In 1992 Sonara delivered a boy who was called Jeffri. In 1997 Jeffri was admitted to a leading boy's school in Kandy. Cader left Sonara and Jeffri and contracted another marriage. In 2008 Sonara filed an action against her

husband claiming maintenance for her son. Cader says that he is not liable to pay maintenance for Jeffri.

- (b). Bandara is a married man and Ganga is an unmarried women. They both converted to Islam and registered their marriage under the Muslim Law in 2007.
  - (c). Seneef is a Muslim married to Fathima. He contracts a second marriage under the General Law with Gayani a Sinhalese woman.
7. Write a comprehensive note on the major changes in the Courts system and the Administration of Justice during the post independence period.
8. (a). Discuss the powers given to the judicial organs and officers in the administration of justice under the Kandyan kingdom during the pre-colonial era.
- (b). Describe the hierarchy of the court system that existed during the Dutch period paying special attention to the jurisdiction exercised by each court.

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