

[Student Name]

PROGRAMME: Level 5 in Law

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Level 5 in Law Assignment

[Dated]

## Declaration of Academic Honesty

Student's Full Name:

Date:

Assignment Title:

Declaration. (YES):

1. I confirm that this assignment is my own work:
2. I confirm that where ever I have used someone else's words, concepts, graphics or data in my work, I have clearly indicated exactly where I have done so, using the Harvard referencing system. (Yes):
3. I confirm that I have indicated by referencing, where I have used someone else's words, concepts, graphics or data, irrespective of whether I have quoted verbatim or I have paraphrased in my own words.
4. I have clearly indicated in my assignment any work that has been contributed by another student.
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## Introduction

It can be difficult to navigate the legal nuances of domestic situations, particularly when it comes to family law as well as property division. In Sri Lanka, the fundamental rules pertaining to marriage, property rights, as well as the dissolution of partnerships are derived from the blending the Roman Dutch law with local customs such as Kandyan as well as Thesawalamai laws, as well as certain legislative measures<sup>1</sup>. This assignment explores the intricate field of family law, looking at issues such as the ability to marry, the differences between void as well as voidable marriages, maintenance requirements, and property division in domestic situations. This aims to elucidate the intricacies and consequences of these statutes by means of an in-depth investigation of legal frameworks as well as previous precedents, offering discernments into the legal dynamics that oversee family life in Sri Lanka.

## Task 1: Discuss the capacity to marriage in Sri Lanka including the solemnization of marriages.

In Sri Lanka, there are many legal requirements for becoming married, and there are laws that regulate the formalization of weddings.

### **Capacity to Marry in Sri Lanka**

1. Age Requirements: In Sri Lanka, eighteen is the legal age of marriage. Nonetheless, there exist rules allowing people between the ages of 16 as well as 18 to be married with their parents' approval or a judge's authorization<sup>2</sup>.
2. Consent: The marriage requires the voluntary consent of both individuals. Consent from parents or guardians is required for individuals under the age of 21<sup>3</sup>.
3. Forbidden Relationships: Sri Lanka prohibits marriages between people who are close relatives by blood, which includes grandparents, parental figures, siblings, and so on<sup>4</sup>.

### **Solemnization of Marriages**

1. Recognition: In accordance with the Marriage Registration Ordinance, marriages must be recorded. A registrar or other authorized officiant should officiate a marriage<sup>[5] [6]</sup>.
2. Wedding: A civil or religious ceremony may be used for marriage. It can be carried out in accordance with the parties' customs and traditions, but it must adhere to the law<sup>7</sup>.
3. Processes in Law: Usually, the registrar must receive advance notification of the nuptials. As long as there are no complaints after a certain waiting period, the union can go on<sup>8</sup>.
4. Documents: Birth documents, proof of identity, and any relevant affidavits must be provided by both individuals<sup>9</sup>.

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<sup>1</sup> Cook, R. J. (Ed.). (2012). *Human rights of women: National and international perspectives*. University of Pennsylvania Press.

<sup>2</sup> Goonesekere, S., & Amarasuriya, H. (2013). Emerging concerns and case studies on child marriage in Sri Lanka. *Sri Lanka: UNICEF*.

<sup>3</sup> Ibid 2

<sup>4</sup> Ibid 2

<sup>5</sup> Marriage Registration Ordinance

<sup>6</sup> Abeyasekera, A. L. (2021). *Making the right choice: narratives of marriage in Sri Lanka*. Rutgers University Press.

<sup>7</sup> Ibid 6

<sup>8</sup> Ibid 6

<sup>9</sup> Ibid 6

## ***Special Provisions***

Sri Lanka accepts a wide range of traditions and customs. For example, the Kandyan Marriage Ordinance adheres to its own ceremonial norms and is applicable to the Kandyan Sinhalese population. Muslim weddings are also controlled by Islamic law as well as customs<sup>10</sup>. To be eligible to marry in Sri Lanka, a person must be of legal age, get consent, and abide by laws pertaining to legality, enrollment, and the ceremony. The nation recognizes a variety of cultural customs, but it also has legal systems in place to make sure that weddings are lawful, legally recognized, and compliant with rules.

## **Task 2: Discuss on Void & Voidable Marriages**

"Void" and "voidable" marriages, as used in marriage law, describe unions that are either deemed void from the start or that may be dissolved under specific circumstances.

### ***Void Marriages***

A void marriage represents a relationship that is seen as void from the start, which implies that it functions as if the union never happened in the first place<sup>11</sup>. Different jurisdictions may have different reasons for deeming a marriage invalid, but some frequent ones are as follows:

1. **Prohibited Relationships:** Generally speaking, marriages between parents and their kids or siblings who are close relatives are deemed null and invalid.
2. **Bigamy or polygamy:** A subsequent marriage is null and void if one or both of the parties were previously married to another person at the point of the marriage.
3. **Inadequate Mental Capacity:** This refers to situations in which one or both individuals were incapable of giving informed consent to a marriage or are younger than the legal marriageable age.
4. **Marriage by Fraud through Duress:** A marriage may be deemed null and void if it was arranged via deception, fraud, or force.

A void marriage does not qualify as a legal partnership, and the couple may not be entitled to any legal advantages associated with a legitimate marriage. As an instance, they could not be entitled to spousal support or property division following separation.

### ***Voidable Marriages***

In contrast, a voidable marriage remains legally binding until it is dissolved by a judge. A voidable marriage, as contrast to a void marriage, is regarded as legally legitimate up until and unless a formal annulment is granted by an order of the court<sup>12</sup>. A marriage may be deemed voidable for the following reasons:

1. **Lack of Consent:** If a party's agreement to get married was coerced, fraudulently acquired, or incapable of understanding the terms of the contract of marriage.
2. **Non-Consummation:** If both parties consent and the marriage has not yet been consummated (sexual intercourse has not occurred), it may be voidable in some jurisdiction.
3. **Underage Marriage:** If either party decides to have their marriage dissolved after they attain legal age, it may be possible to do so in situations where one or both of them were underage when they got married.

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<sup>10</sup> Kandyan Marriage Ordinance

<sup>11</sup> Balasooriya, B. M. G. D. (2018). Marriage Cannot Be Slavery; an Analysis on Forced Marriages and Grounds for Nullity in Sri Lankan Context.

<sup>12</sup> Ibid 6

Legal validity is maintained for a marriage even if it is deemed voidable until the court delivers an annulment judgment. Up until then, the parties' rights and obligations—such as their property rights and their support obligations—may still be regarded as legally binding. The marriage is regarded as having never existed legally upon annulment. It is essential to comprehend the difference between void as well as voidable marriages since it affects the parties' rights and obligations as well as the statutory status of the union.

### **Task 3: Discuss the laws on maintenance through Roman Dutch law & statutory law**

Roman Dutch law as well as statute law are the main sources of principles found in Sri Lankan maintenance laws. These legal provisions are intended to provide monetary assistance for partners, offspring, and occasionally other dependents, particularly in situations involving separation or divorce.

#### ***Roman Dutch Law***

According to Roman Dutch law, and this serves as the foundation for legal doctrine in Sri Lanka:

1. **Duty of Support:** It is legally required for spouses to support one another. Even after a divorce or separation, this duty remains.
2. **Maintenance of Children:** It is the responsibility of parents to raise their children. This covers the cost of their upbringing, schooling, medical treatment, and overall wellbeing.
3. **The Maintenance Quantum:** The level of living and behavior during the course of the marriage, the demands of the person requesting maintenance, and the parties' financial situation all play a role in determining how much maintenance should be provided.
4. **Duration of Upkeep:** The time frame of maintenance may differ depending on a number of circumstances, including the receiving party's requirements and the amount of time of the marriage.

#### ***Statutory Law***

Apart from the fundamental rules based on Roman Dutch law, Sri Lanka contains legislative statutes that provide further clarification and guidance on maintenance duties:

1. The Maintenance Ordinance outlines the procedures as well as legal protections for requesting maintenance. It permits parents, kids, and occasionally other dependents to use the legal system to get financial assistance<sup>13</sup>.
2. The Protection of Women and Children (Maintenance) Act emphasizes protecting and providing for women and children, particularly when they are abandoned or require financial assistance<sup>14</sup>.
3. The Muslim Marriage and Divorce Act recognizes the rights and duties of Muslims in the Muslim community with regard to maintenance, and it likewise administers the laws pertaining to it<sup>15</sup>.

Statutory law in Sri Lanka and Roman Dutch law both have important functions in controlling and guaranteeing support for dependents such as spouses and children. A legal framework and precise rules for requesting and supplying maintenance are provided by statutory laws, whereas the fundamentals of maintenance responsibilities are inherited from Roman Dutch

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<sup>13</sup> Maintenance Ordinance

<sup>14</sup> Protection of Women and Children (Maintenance) Act

<sup>15</sup> Muslim Marriage and Divorce Act

law. These rules are intended to protect the financial rights of those who are eligible for maintenance, guaranteeing their sustenance along with happiness.

## **Task 4: Consider about the distribution of property in a domestic scenario through the law existing in Sri Lanka**

In a domestic setting under Sri Lanka, the allocation of assets is regulated by a number of laws that take into account the rights and privileges of spouses, particularly in situations involving a separation or divorce. The following laws are important in determining how property is divided:

### ***Kandyan Law, Thesawalamai Law, and Roman Dutch Law***

1. Kandyan legislation: The Kandyan Sinhalese population is subject to this legislation. Property obtained after marriage is usually regarded as joint property under Kandyan law, with equal rights granted to each spouse.
2. Thesawalamai Law: The northernmost as well as eastern provinces under Sri Lanka are subject to the application of this law<sup>16</sup>. Property gained during a marriage is frequently regarded as joint property, much like in Kandyan law.
3. Principles of property allocation for spouses who are not subject to particular area laws are influenced by Roman Dutch law. It acknowledges ideas like community property, which states that debts and assets earned during a marriage are owned jointly.

### ***Matrimonial Property Ordinance***

The Matrimonial Property Ordinance, which was first established in 1981, has an influence on how property is divided during a divorce or separation<sup>17</sup>. Vital elements consist of:

1. Equal distribution: When it comes to property acquired during a marriage, the law usually supports an equal distribution.
2. Property Division: Should the parties want to enter into a division agreement, the court will honor the terms of the property division.
3. Gifts as well as Inheritance: Unless individuals have been combined with joint resources, both spouse's gifts or inheritances that they have kept separate are normally not susceptible to split.
4. Judicial discretion: When determining how to divide marital property, courts may take into account a number of variables, including each spouse's financial contribution, childcare duties, and level of life throughout the marriage.

Several legislative frameworks and legislation in Sri Lanka have an impact on how property is divided in a domestic setting. Important guidelines include equal ownership, sharing responsibilities, and taking into account each partner's needs and contributions throughout the marriage. In circumstances of split-up or divorce in Sri Lanka, it might be essential to comprehend the relevant legislation and obtain legal counsel in order to ensure a fair and equitable property division.

## **Conclusion**

In conclusion, the legal landscape of Sri Lanka pertaining to parental rights as well as property division is a blend of customary practices, Roman Dutch law, as well as specific legislative provisions. The ability to marry, the intricacies of null and invalid marriages, maintenance duties, and the complicated processes governing property division are all factors that add to the complexities of family legal situations. Although the basis is based on the principles

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<sup>16</sup> Thesawalamai Law

<sup>17</sup> Matrimonial Property Ordinance

of justice, equitable distribution, and respect for contributions made throughout the marriage, the legal environment necessitates a careful analysis and a case-by-case approach. A thorough comprehension of both the historical underpinnings and current legislation is necessary to navigate these legal subtleties and ensure that each family member's rights and entitlements are fairly preserved in compliance with the changing legal frameworks.



## References

### ***Acts and Ordinances***

Kandyan Marriage Ordinance

Maintenance Ordinance

Marriage Registration Ordinance

Matrimonial Property Ordinance

Muslim Marriage and Divorce Act

Protection of Women and Children (Maintenance) Act

Thesawalamai Law

### ***Other Sources***

Abeyasekera, A. L. (2021). *Making the right choice: narratives of marriage in Sri Lanka*. Rutgers University Press.

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