

RELIGION & LAW

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I. RELIGION AS A SOURCE OF LAW*

Sri Lankan Legal System is a mosaic of multiple sub-systems of laws. The Colonial powers, specially Dutch and the British have left their enduring influence in Sri Lanka. Roman Dutch Law was introduced to Sri Lanka in 1696 A.D. as the law applicable to the maritime provinces of the country. Eventhough the Britishers took over Sri Lanka in 1796 A.D. English Law was to be introduced by express legislative procedures, according to the Proclamation of Governor Fredrick North in 1799. Over a period of 200 years, there emerged a hybrid of Roman Dutch law and English law. In 1815, the Kandyan Kingdom was ceded to the British Sovereign and thereafter, Kandyan law applied to those of Kandyan origin.¹ The influence of religious laws (Buddhist, Hindu, Muslim and Christian) in Sri Lanka is the ambit of the present article. This volume of the Journal will limit itself to the application of Hindu and Canon (Christian) Law in Sri Lanka, preceded by a few preliminary observations.

a) *Primitive Societies*

In all primitive communities law custom and religion are almost interchangeable. According to Maine² writing in the nineteenth century, the early forms of law which were embodied in customary rules could not be distinguished from the tenets of religion or morality. Maine writing about early society drew attention to the divine influ-

* L.J.M. Cooray, *Legal System of Ceylon*, (Colombo, 1992) Chapter 5.

¹ *William v. Robertson*, (1886) 8 *Supreme Court Circular* 36.

² Sir Henry Maine, *Ancient Law* (1907, John Murray, London) Ch.1.