

University of Colombo, Sri Lanka
Faculty of Law
Bachelors of Law Examination, Year I -2019

Constitutional Law-I

(Three Hours)

Total Number of Questions: 07

Answer any **Four (04)** questions **only**.

(Candidates will be penalized for illegible handwriting.)

1. Constitutionalism is not restricted to the principle of rule of law. Rule of law is primarily targeted at the restriction or the possible elimination of arbitrary exercise of power. On the other hand, constitutionalism is broader in scope in its application.

Do you agree? Give reasons for your answer drawing from relevant case law authorities of Sri Lanka and relevant constitutional provisions of the 1978 Constitution of the Democratic Socialist Republic of Sri Lanka.

2. Understanding of constitutional governance in present Sri Lanka is influenced by the attempt to compare the current Constitution with the two prior Constitutions. Although the three constitutions have dealt with separation of powers, independence of the judiciary, and individual autonomy, they starkly differ in their substance and application.

Critically evaluate the above statement drawing relevant provisions from the three constitutions. Your answer should also be supported with case law authorities.

3. The doctrine of separation of powers is intended to prevent abuse of powers. However, it does not propose the functioning of the three organs of State in isolation or complete compartmentalisation. Functioning in such a manner remains impracticable within a constitutional democracy.

Critically analyse the above statement citing relevant case law authorities and relevant constitutional provisions. Support your answer with examples drawn from Sri Lanka and one other jurisdiction of your choice.

4. Laka is a Commonwealth country. Laka's Chief Justice, Honourable Vijaya was appointed by the Executive President of Laka – Mr. Loki, in 2016. It was widely published that this appointment was made overlooking Her Ladyship Justice Tia who was more senior and was next in line to be appointed as the Chief Justice. It was further reported that Justice Vijaya was compelled to sign an undated letter of resignation before assuming duties. It was alleged that Mr. Loki wanted to initiate proceedings for impeachment of Chief Justice Vijaya. Mr. Loki is known to exert executive power over the judiciary.

A recent article published in 'Lak Morning Star' newspaper states that the judges of the Supreme Court have been threatened with the reduction of salaries and with threats to mandatorily send selected judges on compulsory retirement prior to them reaching their age of retirement as per the Constitution. It was reported that these threats were made while a Bill was being debated in Parliament for the extension of the term of presidency.

Assume that the system of constitutional governance of Laka is similar to that of Sri Lanka. Consider the above situation in the light of independence of the judiciary. Where necessary, your answer should draw on relevant constitutional provisions, case law authorities, and other relevant situational examples.

5. 19th Amendment introduced positive reforms towards constitutional democracy that have been long overdue in Sri Lanka. Despite the 19th Amendment, the main powers exercisable by the President of Sri Lanka under the 1978 Constitution remain unchanged.

Critically evaluate the above statement in the light of constitutional provisions. Your answer should be supported with recent examples.

6. Saman is an administrative officer of the State and is an active member of Lesbian, Gay, Bisexual, and Transgender (LGBT) Association. He was a strong activist promoting the rights of the LGBT community. When Saman applied for the post of Administrative Director of the Ministry of Health, Mr. Raj, the Secretary of the Ministry, refused to grant him the post even though Saman possessed all necessary qualifications. The post was given to Perera, who was known for his anti-LGBT views, although he did not perform well at the interview. A week before the interview, at a party organized by the Ministry of Health, Raj insulted Saman making derogatory comments on his sexual orientation.

Saman consults you as to whether he has any remedy against the decision of the Secretary. Advise Saman.

7. Answer ONLY A or B

A. Sri Lanka is one of the oldest democracies in South Asia which adopts representational democracy. However, qualifications required to contest for the Executive as well as for the Legislature as prescribed in the Constitution remain grossly inadequate in electing suitable representatives to the Executive and the Legislature. This lacuna also undermines people's sovereignty.

Critically evaluate the above statement in the light of relevant constitutional provisions.

-OR-

B. Referendum is one of the methods which allows people to exercise their legislative powers. People's power of voting at a referendum under the 1978 Constitution of Sri Lanka remains restricted to selected purposes.

Comment on the above statement in the light of relevant constitutional provisions.
