

**UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW**

BACHELOR OF LAWS EXAMINATION, YEAR I – 2019 (REPEAT)

**CONSTITUTIONAL LAW- I
(Three Hours)**

Total Number of Questions: **07**

Answer any **FOUR (04)** questions **ONLY**.
(Candidates will be penalized for illegible handwriting.)

1. Legitimacy of modern constitutions is to be tested against their degree of adherence to the principle of constitutionalism in substance and procedure.

Do you agree? Give reasons for your answer supporting with examples drawn from two jurisdictions of your choice. (25 marks)

2. The general understanding of Rule of Law is that the government is subject to law and the ruler is not above the rule. However, what is meant by the 'rule' is open to construction invoking non-legal tenets as well.

Discuss how the concept of rule of law has evolved over time in the light of the contributions made by jurists as well as the judiciary. You may select the judiciary of any two jurisdictions of your choice. (25 marks)

3. In a democratic State, sustenance of governmental authority is dependent on people's will. It is through the adoption of the doctrine of separation of powers, the sovereignty of the people is preserved in a constitution. The Second Republican Constitution of Sri Lanka contains various provisions that contradict the doctrine and thereby undermine the sovereignty of the people.

Comment on the validity of the above statement drawing examples from constitutional provisions and case law authorities. (25 marks)

4. Colonial traditions influenced Sri Lanka to retain the concept of Parliamentary Supremacy in the post-independence Constitutions. However, when compared to the 'Soulbury' Constitution and the First Republican Constitution, the Constitution of 1978 appears to have partly incorporated the essence of constitutional supremacy.

Do you agree? Substantiate your answer with reference to relevant authorities.

(25 marks)

5. Sarath is an engineer attached to a State Corporation in Ceylonica. Last year, he was elected as the President of the trade union formed by the employees of the Corporation. Two weeks ago, Sarath decided to discuss 'employees' wellbeing amidst CoVID-19 pandemic' with the Directors of the Corporation in order to enhance the health and safety practices in the Corporation. Last week, he sent out an official request for an appointment with the Directors in his capacity as the President of the union. The Board of Directors rejected his request stating that it does not recognize the trade union or Sarath's presidency of the so-called union. Sarath found out that this was due to the political influence exercised by one of the Directors. The office bearers of the union decided to organize a silent demonstration in the premises of the corporation while adhering to Covid-19 guidelines issued by the government health authorities. On the day of the demonstration, the Board of Directors informed the police of Ceylonica about the demonstration. Police requested the demonstrators to disperse peacefully. On the following day, Sarath and his colleagues who took part in the demonstration received letters terminating their services. Their participation in the demonstration and thereby creating an unsafe work environment to the other employees of the Corporation were cited as reasons for the termination of their services.

Sarath believes that the actions taken by the Corporation are in violation of his statutory rights. He seeks your advice as to the remedies available to him and his colleagues. Advise him.

(25 marks)

6. Regina Martin, the President of the Republic of Noreen, issued a proclamation on the 14th of October 2019 stating that the Parliament of Noreen will be dissolved on 15th of October 2019. The first session of this Parliament was held on 30th of March 2017. Megan, the Prime Minister of the coalition government contends that the dissolution of the Parliament is unlawful and that it is in violation of the express prohibition contained in the Constitution

of Noreen. Megan further alleges that she was not consulted in making the Ministerial appointments and that the executive has been making arbitrary decisions.

Regina is however of the opinion that she had adequate reasons to dissolve the Parliament as no party in the Parliament commands an absolute majority. She further claims that Megan has lost support in the Parliament. Regina seeks to defend her actions by calling her decision to dissolve the Parliament a 'political decision' and argues that she is immune from suit. Megan wishes to challenge the legality of the decision of the President to dissolve the Parliament and initiate proceedings for impeachment of Regina.

Assume that the legal system of the Republic of Noreen is similar to that of Sri Lanka. Advise Megan. Support your answer with relevant constitutional provisions, case law authorities, and constitutional principles, where necessary. (25 marks)

7. Ms. Kim, who was the Chief Justice (CJ) of Sela was invited to deliver a speech on constitutionalism in Sela's City University in 2015. At the event, she critiqued the system of governance in Sela for prevalent corruption and lack of accountability. The following day, the national newspaper reported that Mr. Ren, the President of Sela, has expressed his displeasure at the CJ's criticism. In early 2016, the Parliament of Sela presented a Bill for preventing terrorism which sought to arrest suspects without warrants and incarcerate them for months without producing them for trial. When a civil society organisation challenged the Bill for its constitutionality, Ms. Kim authored a majority judgment stating that the Bill violates constitutional provisions. The dissent was authored by Mr. Avi who had been previously critiqued by the people of Sela as he was directly appointed by Mr. Ren without any consultation with the Constitutional Council. In 2017, the government alleged that Ms. Kim works on an anti-government agenda and reduced her salary and initiated an impeachment procedure against her. A Parliamentary Select Committee (PSC) was appointed to inquire into the activities of Ms. Kim. Without allowing Ms. Kim to appear on her behalf, the PSC impeached her in 2018 and appointed Mr. Avi as the Chief Justice of Sela.

Assume that you are a researcher attached to a University which has asked you to draft an analytical write-up on independence of the judiciary and judicial review of legislation in Sela. Write the essay assuming that all laws and incidents of Sela are similar to that of Sri Lanka. (25 marks)
