

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

**BACHELOR OF LAWS EXAMINATION, YEAR - I (Repeat)**  
**(Online) - 2021**

**CONSTITUTIONAL LAW- I**

*(Three Hours)*

Total Number of Questions: 06

Answer **THREE (03)** questions **ONLY**.

*(Candidates will be penalized for illegible handwriting.)*

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1. Principles of Constitutionalism and Rule of Law are entwined in many aspects. Both the concepts primarily aim to limit power while enhancing the good governance of a state. People use these concepts as thresholds to measure the performances of their rulers.

Do you agree with this statement? Discuss the above statement in light of the constitutional issues that took place in the recent past in Sri Lanka. Your answer should be supported by relevant statutory provisions and case law.

(100 Marks)

2. A Bill titled ‘Twenty-Second Amendment to the Constitution was placed in the Order Paper of the Parliament of the Republic of Kaitie. Article 9 of the Constitution of Kaitie provides that it should be the duty of the State of Kaitie to protect and foster the ‘religious practices of Janisim’. Janisim is the religion followed by the majority of the people living in Kaitie. A special clause of the bill proposes an amendment to the constitution to make ‘Jainism’ the Official Religion of the Republic of Kaitie. Bravo, the leader of the opposition in the Parliament who represents one of the minority religious groups in the country, in a press conference, states that this provision of the bill would be a threat to their community and it would also violate the basic structure of the Constitution of Kaitie.

Meanwhile, Kolvin, a member of the ruling party who is also a proponent of the Twenty-Second Amendment to the Constitution, made some defamatory statements degrading Bravo's identity and his religious origin. These statements were made by him when he was participating in another debate in the Parliament. The defamatory statement was not relevant to the debate.

Assume that the system of constitutional governance of Kaitie is similar to that of Sri Lanka. Discuss the above situation in light of the constitutional provisions relating to rights, sovereignty of People and matters relating to the Parliament. Support your answer with relevant legal and case law authorities.

(100 Marks)

3. Compared to the Soulbury Constitution, the two Republican Constitutions of Sri Lanka allow the Parliament and the Executive to interfere with matters relating to the composition of the Judiciary and judicial actions in a manner that weakens the independence of judiciary.

Do you agree with this statement? Critically analyze the above statement drawing examples from relevant constitutional provisions, case law authorities and situational examples.

(100 Marks)

4. Mahal, the President of the State of Gaais, in consequence of winning the regional football championship by the country, grants a special presidential pardon to two prisoners sentenced to death by the Supreme Court of Gaais. One of the prisoners has been identified as a relation of a former Cabinet Minister who is also a member of the political party of which President Mahal is the leader. Therefore, there were many criticisms against this action alleging that the pardon is motivated by partisan interests. President Mahal, in response to this, makes a press release stating that he decided to pardon them considering the mere fact that they repented their crimes.

Mahal also states that before granting pardon, he followed the procedure recommended by the Constitution of Gaais. However, it was revealed that the Trial Judge of the case has made a report against granting such pardon. Nevertheless, the Minister of Justice says that he made a

recommendation to the President to grant a pardon considering both the Trial Judge's Report and the Attorney General's Advice.

Later, a civil society organization takes a legal action against the action of the President before the Supreme Court of Gaais.

Suppose that you have been consulted by the civil society organization on this matter. Write an analytical report on the Executive Powers and Functions of Gaais State with special reference to executive power to grant a pardon under the Constitution. Assume that the Constitution of Gaais is similar to that of the 1978 Constitution of Sri Lanka. Support your answer with relevant constitutional provisions, case law and other relevant situational examples.

(100 Marks)

5. Raja, a senior lecturer served in a state university of Ceylonica, has written a book titled "Ancient Agricultural Practices in Ceylonica" based on his four years experiential research. This book discusses pros and cons of utilizing organic fertilizers in agriculture which are based on his case studies. The book launch was scheduled to be held on 11th October 2021 in the university premises. Meanwhile the government of Ceylonica decides to ban the use of chemical fertilizers and import organic fertilizers from the State of Megaland aiming to promote organic cultivation in the country as a part of the government's development plan for 2030.

Few days later, Raja received a notice from the Ministry of Higher Education asking him to stop conducting the book launch in the University premises due to prevailing pandemic situation in the country. However, Raja managed to launch his book at another venue. After a week from the book launch, he learnt that the government has banned the distribution and selling of his book in Ceylonica stating that it spreads some mythical and unacceptable facts about the organic cultivation and thus undermines the government's effort to promote organic cultivation in the country. Meanwhile farmers of the country commence a protest against the government's decision to ban chemical fertilizers. Sunil, a farmer from a rural area of Ceylonica, has organized a protest in his village with his fellow farmers. However, on the day of the protest, police ordered them to stop holding the protest stating it violates the prevailing

covid-19 health guideline issued by the Ministry of Health. Kamal and Sitha were arrested by the police when they were on their way back home from the protest organized by Sunil. Police have not given any reason as to why they were taken to custody. Later they were forced to stay in a government quarantine center for 14 days without any PCR test.

Raja, Sunil, Kamal, and Seetha are of the view that their rights have been violated. They seek your advice. Advise them. Assume that the Legal system of Ceylonica is similar to that of Sri Lanka. Your answer should be supported by Statutory provisions and Case Law.

(100 Marks)

6. Answer any **two (02)** of the following:

a) Analyze impediments and drawbacks of the present Proportional Representation System in Sri Lanka in light of the constitutional principles and democratic values accepted by the modern constitutional law.

(50 Marks)

b) Assume that you have been appointed to a special committee to make recommendations on the importance of independent commissions introduced to Sri Lanka by some constitutional amendments. Select one commission of your choice and write an analytical report over its powers, functions and duties.

(50 Marks)

c) The role of Sri Lanka's Cabinet of Ministers is eclipsed by the extensive powers accorded to the President by the Twentieth Amendment to the 1978 Constitution. Do you agree? Explain.

(50 Marks)

d) Despite failing to deliver the expected outcomes in its historical context, the importance of the Executive Committee System introduced by the Donoughmore Constitution of 1931 has highly been recognized by the constitutional reformers of the country. Discuss.

(50 Marks)

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