

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

**BACHELOR OF LAWS EXAMINATION, YEAR - I (Online)**  
**2021/2022**

**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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01. 'Despite any imperfections, the doctrine of Rule of Law provides a rational philosophical basis for the regulation of State power and the promotion of individual liberty. Nevertheless, the 'concept of Constitutionalism' is more extensive in ensuring these objectives'.

Do you agree with the above statement? Examine the above statement with reference to scholarly debates and case law authorities.

(100 marks)

02. State of Solonika, in the recent past, faced a massive economic crisis due to the lack of foreign reserves, inflation and shortage of food production and supply. To remedy this situation, the Cabinet decided to amend certain existing laws of the country empowering the President to involve with taking speedy decisions in the relevant areas. In response to this, the Parliament of Solonika wanted to make certain amendments to several enactments relating to trade, consumer affairs and food supply. The draft amendment provisions presented to the Parliament were challenged before the Supreme Court of Solonika. The Supreme Court asked the Parliament to remove certain provisions from the Bill and further recommendations were made to the proposed provisions and, if not complied with, recommended to pass the Bills with a two third majority in the Parliament as it found that some of the provisions of the Bills were inconsistent with the Constitution of Solonika.

However, it was the opinion of the majority members of the Parliament that they have been mandated by the People of Solonika to take immediate actions on behalf of them when required

and the two-third majority as recommended by the Supreme Court is not mandatory. Therefore, the draft amendments could be passed by a simple majority in the Parliament by making the required changes at committee stage of the Parliament. The Speaker of the Parliament of Solonika also made a declaration in the Parliament that Parliament's inherent power cannot be undermined by any external body whatsoever.

In the backdrop of the above situation, discuss the applicable constitutional principle/principles and its/their relevancy. Assume that the constitutional backgrounds and norms of the State of Solonika are similar to that of Sri Lanka.

(100 marks)

03. Kamal, the Minister of Lands of the Republic of Lagos, decided to acquire the land called 'Kahatawatta' on the ground of urgency for the public purpose of building a public library. In spite of supposed urgency, no actions were taken for nearly three years subsequent to the vesting of the land with the Urban Development Authority(UDA). Later, UDA recommended the said land to an offshore company, Fivestar Ltd. In response, in addition to the acquired purpose, Fivestar Ltd. proposed constructing a football pitch ostensibly to satisfy the original purpose of the acquired land in some minimal way.

Through a cabinet memorandum, Sena, the President of the Republic of Lagos, submitted a strong recommendation for the proposed project of Fivestar Ltd. Sena further suggested in favour of Fivestar's request for special concessions accompanying the transfer of the land. In between, Mahen, the Minister of Urban Development, expressed his disinclination in approving the memorandum submitted by Sena in a press meet. The next day, without the consultation of the Prime Minister, Sena removed Mahen and appointed Thara, Sena's son in law, as the Minister of Urban Development. Later, the cabinet approved the memorandum without any query and clarification.

Assume the system of constitutional governance of the Republic of Lagos is similar to that of Sri Lanka. Discuss the legality of the actions in the light of executive powers. Where necessary, your answer should draw on relevant constitutional provisions, case law authorities, and constitutional doctrines.

(100 marks)

04. The newly elected government of the State of Celonica decided to introduce a new constitution to the country. The Constitutional Drafting Committee appointed by the President to draft fundamentals of the new constitution introduces a new Chapter titled 'Judicature' in which the composition, powers, functions and the relationship of the judiciary with the other two organs of the government are explained. This Chapter includes a provision that appointment of the judges to the apex courts of the country shall be made by the President who enjoys the sole executive powers of the government. This Chapter also suggests to remove the judges of the apex courts through an impeachment brought by the Parliament and followed by an inquiry conducted by a Committee appointed by the Parliament comprising only members of the Parliament. The Committee also proposes to remove the age limit of the judges for retirement.

Further, the Concept Paper presented by the Committee regarding the appointments, promotions, disciplinary control and the removal of the lower Courts judges suggests that the existing Judicial Service Commission, the body entrusted with such powers, must be reformulated and regularized to make it more accountable to the Parliament.

Assume that you have been asked to comment on the above proposals and their consequences by an independent group appointed to look into these new constitutional proposals. Also assume that the constitutional structure and the constitutional norms of the State of Celonica are similar to that of Sri Lanka. Prepare a Report on the above proposals.

(100 marks)

05. "Sunday Morning", a newspaper published in the country, reports that on the previous day, a few school teachers' unions of the country held a protest march and a rally in Colombo. According to the news item, before the rally, and while the march was going on, the police has informed the organizers of the protest that the march and the rally could not be allowed according to the health guidelines and regulations of the country as public gatherings were not allowed. The organizers opposed to the position of the police contending that they would conduct the protest complying with the health guidelines prevailing in the country and there was no court order against conducting the protest.

While the rally was going on, the police forcibly stopped it and a few of the organizers of the protest were taken into custody. They were retained in the police stations whole night and the next

day they were produced to the court and bailed out by the court. The news article also carries the news that the police had assaulted a few participants of the protest who were later admitted to the hospital by themselves. However, the police rejects the allegation of assault.

‘Free-Cry’, a volunteer organization in the country, after reading the news article and seeing several posts shared via Social Media, decides to file a fundamental right violation case on this incident. They seek your opinion on how they can involve with the litigation. Meanwhile the police want to initiate a court action against the newspaper for publishing false information and discrediting the police.

Write a Report examining the above situation given and explaining the relevant laws and case law applicable to it.

(100rks)

06. Answer **any two (02)** of the following.

(a). Discuss to what extent the last two amendments to the Constitution of Sri Lanka address the need for a substantial reduction of the President's executive power and ensuring the independent Council and Commissions to democratise and depoliticise governance.

(50 Marks)

(b). Explain how the different electoral systems practised in different levels of governance promote democracy in Sri Lanka.

(50 Marks)

(c). ‘The Soulbury Constitution prohibited Parliament from enacting laws infringing the free exercise of religion and laws that privilege or disadvantage one community or religious group over another. The Supreme Court and the Privy Council were also not hesitant in invalidating legislation that violates the Constitution in their decisions’.

Discuss the above statement.

(50 Marks)

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