

**UNIVERSITY OF COLOMBO, SRI LANKA**  
**FACULTY OF LAW**  
**DEGREE OF MASTER OF LAWS IN PUBLIC AND INTERNATIONAL LAW-**  
**2023/24**

**SEMESTER I END EXAMINATION**

**(Judicial Review – TLLM 11315)**

**(Three Hours)**

**Total number of questions: 04**

**Answer THREE (03) questions and **no more**.  
(Candidates will be penalized for illegible handwriting)**

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1. Judicial Review is an effective tool in the hands of judges; it gives power to the courts to review statutes and governmental actions to determine whether they conform to rules and principles laid down in constitutions. Although judicial review is an effective tool in the hands of judges, it should be used by judges, conscious of the constitutional context in which they function.

Evaluating the above statement from the standpoint of the theoretical approaches to judicial review, discuss critically the role adopted by Sri Lankan apex courts. Substantiate your answer with recent case law examples.

(20 Marks)

2. Our Courts have construed judicial power as part of sovereignty of the People in Sri Lanka and therefore the source of jurisdiction upon which they can intervene to prevent one organ of government usurping the powers of another organ or transgressing its own power in a manner that would violate the provisions of the Constitution 1978 as well as the fundamentals upon which it is based, such as the Rule of Law and Separation of Powers. However, Art 80(3) of the Constitution appears to undermine the potential and the competence of the Sri Lankan Courts to perform its duty of keeping the legislative organ of the State within the limits of the law as well as its power. Moreover, it limits the ability of the Courts in making the Rule of Law and Separation of Powers meaningful and effective.

Do you agree? Discuss critically the above statement with reference to decided cases and legislative provisions. Compare the position of the Courts under the present Constitution with previous post-independence constitutions. Propose three recommendations to address the existing drawbacks in this area.

(20 Marks)

3. The writ jurisdiction and the jurisdiction on fundamental rights are the two major jurisdictions for the review of the exercise of public power and discretion in Sri Lanka.

These jurisdictions, therefore, have had important implications for the growth of public law in Sri Lanka. The fusion of constitutional and administrative law concepts, together with the expansion of the rules of standing, emergence of new grounds and modified judicial interpretation of several other well-established grounds of judicial review have generated a strong legal framework that can better protect constitutional rights and democratic freedoms.

In light of the above statement, discuss critically, with reference to relevant decided cases and legislative provisions, how the courts have contributed to this fusion through the interpretation of grounds of judicial review of executive and administrative actions in Sri Lanka. Compare your answer with developments in the United Kingdom.

(20 Marks)

4. The National Medicines Regulatory Authority (NMRA), established under the National Medicines Regulatory Authority Act No 05 of 2015 of Wonderland, has the authority to regulate the import, production, and supply of pharmaceuticals in the country. Section 3 of the Act provides that the NMRA shall ensure the availability of efficacious, safe and quality medicine, medical devices and medicinal food supplements as its objectives. The Director General (DG) of the NMRA is vested with power to conduct inquiries on complaints relating to the importation of unsafe medical equipment and low-quality drugs and medicinal food supplements as well as with power to issue, renew, or cancel licences of pharmaceutical importers in Sri Lanka. Recently, the Authority was subjected to severe criticism for its failure to ensure the availability of safe and quality medicines and as a result several deaths occurred in the country. The NMRA received a number of complaints about deaths due to unsafe medical equipment and low-quality drugs. Many complaints were made against the Lanka Medicine Importers and Distributors (LMID) which was duly established under the Companies Act 2007. The NMRA has appointed them as the main pharmaceutical importer and distributor of the country.

The Government Medical Officers' Association (GMOA) of Wonderland officially requested the Director General to conduct an inquiry against LMID and to cancel their licence, but he refused the request. The GMOA alleges that the DG is violating the requirements stipulated in Section 3 of the NMRA Act. Further, the GMOA revealed that DG recently suspended the license of the State Pharmaceuticals Corporation which won the National Quality Award several times. The suspension was due to their delay in importing drugs. The GMOA further alleges that the Authority exceeded its powers and abused the public tender process with the help of LMID for importing low quality medicines at high prices to secure a large amount of commissions. Moreover, the Health Ministry received many complaints from patients at government hospitals that priority has been given to relatives of the hospital staff and politicians and that they were compelled to buy medicines from private pharmacies. The same allegations were made by the GMOA at a recent press conference.

The GMOA consults you as to whether they could obtain any remedy against the actions of the DG of NMRA and LMID. Further, they want to know the remedies

available to the State Pharmaceuticals Corporation and patients in government hospitals. Advise the GMOA and support your answer with relevant authorities.

(20 Marks)

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