

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

DEGREE OF MASTER OF LAWS - 2022/24

REPEAT EXAMINATION

(Administrative Law – LLM 2204)

(Three Hours)

Total number of questions: 04

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

1. The debate over the doctrine of ultra vires and the common law theory of judicial review reflects broader questions about the balance of power between the legislature and the judiciary, the role of the courts in overseeing administrative actions, and the principles that should guide judicial review of administrative actions. In this context, while granting Parliament the status of principal lawmaker, the Constitution subjects the application of statutes to the requirements of freedom and justice as they apply in the circumstances of particular cases. The interpretative obligation imposed on the judiciary through the Constitution, is in favour of protecting the rule of law. However, there must be a proper balance between general rule and particular cases, excluding disproportionate outcomes.

Do you agree with the above statement? Support your answer with relevant constitutional provisions and case law.

(20 Marks)

2. Today, the concepts of *locus standi* and public interest litigation (PIL) have undergone significant evolution, transforming the landscape of access to justice and the enforcement of administrative accountability. Relying on constitutional rights, courts are expanding the review jurisdiction, borrowing principles from fundamental rights while relaxing the rules of standing to allow the public to intervene in matters that they would traditionally have been shut out of. This innovative strategy has become a powerful tool in the hands of public-spirited individuals and social action groups for combating exploitation and injustice and securing for the under privileged segments of society their social and economic entitlements.

Do you agree? Critically evaluate the above statement, discussing the recent trends in Administrative law in Sri Lanka with reference to decided cases.

(20 Marks)

3. There are different judicial fora to seek remedies against administrative injustice in Sri Lanka. However, the oldest and most effective judicial remedy against abuse or misuse of administrative powers continues to play a vital role in protecting the interests of the people thanks to sound judicial interpretations and critical scholarly opinions which have supported the removal of the constraints to which these remedies were subjected to earlier.

Does the above statement correctly represent the present state of the law relating to remedies in Administrative law? Illustrate the reasons for your answer through an evaluation of the scope of Sri Lanka's writ jurisdiction.

(20 Marks)

4. The National Council for Disaster Management (NCDM) is a statutory body established under the Disaster Management Act No 13 of 2005 in Serandib. According to Section 4, the Council is empowered to make regulations on preparedness, prevention, response, relief, reconstruction and rehabilitation relating to natural and human-made disasters. Further, section 4 (3) stipulates that "decisions of the Council are final and conclusive and cannot be questioned in any court of law." The Chairperson of the Council shall be appointed by the Minister of Disaster Management (the Minister) among the members of the Council under section 8 and s/he may take decisions with regard to urgent issues that need to be resolved. Devika was appointed as the Chairperson of the Council. Under section 6, an assessment report should be obtained from the Government Assessor prior to granting compensation for victims of disasters.

Bernard is a resident of the flood affected area in the city of Rathanpoor. During the severe floods in May, 2024, his fuel station was severely damaged. He submitted an application to obtain compensation to reconstruct his fuel station. The station covers a radius of 100 Kilometres. Therefore, Bernard expected a prompt response from the NCDM. The Chairperson Devika immediately called for an assessment report to calculate the damage. Meanwhile, Victor too submitted an application through the Minister for obtaining compensation for the partial destruction of boutique and the Minister ordered the Chairperson to immediately proceed with the application. Victor is a close relative of the Minister's wife. The Chairperson noted that the application will be processed after an assessment report is obtained from the government assessor. The Minister demanded that Victor's compensation cheque be issued within three days. The Chairperson assigned the task to one of the senior members of the Council and ordered him to release the cheque without obtaining the assessment report. One week later, when inquiring about his application for compensation, Bernard was informed that his application could not be processed due to the financial shortage at the Ministry. However, Bernard is aware of the compensation granted to Victor and he wishes to challenge the actions taken by Devika and the Minister.

Meanwhile, Devika approved a new irrigation project "Flood Free Rathanpoor" to construct a new drainage system for the city. The total estimated project cost is 1 billion rupees. The assessment was carried out by Fair Construction Ltd, a company run by the Minister's son. The Minister promised a 1% commission to Devika from the total project cost. To implement this project, the Council adopted a new resolution to acquire 5 feet of land from both sides of the Ratanpoor – Colompoor road within 1 month. The notice was issued and landowners were requested to submit their letters of consent within 5 days. The Ratanpoor Community Association convenes an urgent meeting to discuss this matter. Ivan, the President of the Association reminds the members that in the past decisions regarding land acquisition have been made only after consulting the residents and that public consultation is mandatory under the Disaster Prevention Project Regulations of 2010. Ivan wishes to challenge Devika's decision to implement the new irrigation project on behalf the residents who have been affected by the decision.

Bernard and Ivan seek your advice on the grounds on which they can challenge the decisions taken by the Chairperson Devika, the Minister and the NCDM. Assume that the law of Serandib is similar to that of Sri Lanka and advise them.

(20 Marks)
