

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW
MASTER OF LAWS DEGREE PROGRAMME 2022/24
REPEAT EXAMINATION– TRIMESTER I, II, III & IV

Constitutional Law – LLM 1094

(Three Hours)

Total number of questions: 04

Answer any **Three** questions
(Candidates will be penalized for illegible handwriting)

Question 01

Constitutions provide, among other things, for a system of government and respect for fundamental rights. Constitutionalism provides the approach through which a constitution ought to be interpreted and implemented. Respect for constitutionalism is essential for the rule of law in any society.

Do you agree? Illustrate your answer with at least four recent constitutional developments.

(100 Marks)

Question 02

'In terms of Article 3, sovereignty is in the people and according to Article 4, the organs of government exercise the executive, legislative and judicial power of the people. No useful purpose is served by giving constitutional recognition to judicial power if there is no independent judiciary to protect itself from executive and legislative intrusions. Similarly, no useful purpose is served by giving constitutional recognition to fundamental rights if there is no independent judiciary to protect them from executive and administrative excesses. Correspondingly, no useful purpose can be achieved if the people are given the power of franchise without the right to an independent judicial to give practical effect to such right. An independent judicial is the last bulwark to protect civil liberties against arbitrary action by the executive or legislature in appropriate proceedings.'

In Re the Industrial Disputes (Special Provisions) Bill, Supreme Court Special Determination 30/2022 at p 9

Assess the above excerpt in light of the constitutional provisions for the independence of the judiciary in Sri Lanka. Comment on the strengths or weaknesses in the Constitution in relation to the independence of the judiciary.

(100 Marks)

Question 03

Ensuring respect for fundamental rights and providing effective remedies for any violations of fundamental rights is widely considered to be a core function of a constitution. To what extent is the Sri Lankan Constitution effective in this regard?

Discuss.

(Marks 100)

Question 04

Raja is governed under a semi-presidential system. The Cabinet has approved a bill titled 'Welfare of Children.' The preamble of this bill states that the bill aims to provide for the welfare of children, protect them from harm that may be caused to them due to advancements in technology, to promote a culture of respect for rights of the child and to provide for a Children's Commission. The Commission is a five-member body appointed by the President of Raja at his discretion. The Commission is vested with the responsibility of hearing complaints regarding rights of children and making recommendations on the same.

The bill further provides as follows:

- Primary and secondary education is mandatory for children and must include religious instructions. Children are required to receive religious instructions as per the choice of the father of such child;
- Children may not access social media, create social media accounts or engage in communication via social media;
- Parents have the duty to ensure the timely vaccination of their children as per the mandatory vaccination programme of the government;
- A child's sex cannot be changed by the child or the parents; and
- A child is defined as a person under 16 years of age.

Rani is an advocate for the rights of the child and seeks your views on the constitutionality of the Welfare of Children bill. Assume that the Constitution of Raja is similar to that of Sri Lanka and assess the constitutionality of the bill.

(100 Marks)

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