

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

DEGREE OF MASTER OF LAWS (BY COURSEWORK) - 2024/25

1ST SEMESTER END EXAMINATION – 2025 (FEBRUARY)

TLLM 11310 – Human and Fundamental Rights Law

(Three Hours)

Total number of questions: 04

Answer any Three questions

(Candidates will be penalized for illegible handwriting)

Question 01

‘Philosophical approaches to human rights clarify the different ways in which respect for human rights may be justified. Some other philosophical approaches critique the very concept of human rights.’

In light of the above statement, compare and contrast at least three different philosophical approaches to human rights in explaining your answer.

(20 Marks)

Question 02

‘The treaty-based mechanisms of the United Nations have provided a dynamic forum for different stakeholders to seek protection for human rights and to advocate for new interpretations of human rights.’

Do you agree? Draw from at least three examples from the treaty-based mechanisms to illustrate your answer.

(20 Marks)

Question 03

‘In recent times Sri Lanka’s Supreme Court has made significant progress in ensuring respect for fundamental rights through the exercise of pre-enactment judicial review. However, the Special Determinations of the Supreme Court have limited impact in ensuring the constitutionality of

legislative enactments. Judicial Review of legislation is essential to ensure respect for the domestic protection of human rights.'

Assess the above statement, drawing from at least three Special Determinations of the Supreme Court. Your answer should focus on the interpretation of relevant fundamental rights and arguments for and against pre-enactment judicial review and judicial review of legislation.

(20 Marks)

Question 04

Raga is a multi-ethnic state. Recently the government introduced a policy to digitize national identity cards. The digital data that was gathered in that process has been provided to the Department of Police, for their use in developing a crime prevention policy. The same data has also been provided to the Inland Revenue Department (IRD) to update and monitor the registration and filing of income tax returns.

After the systems were updated, a large number of taxpayers received letters from the IRD notifying them that they have underpaid their income tax and requiring them to pay specified amounts to the IRD within two weeks. Seetha, an Engineer, writes to the IRD asking for an explanation as to how the calculations were made. The IRD issued a letter stating that these amounts were arrived at by using a new programme involving artificial intelligence.

Meanwhile, Raj, a journalist, plans a domestic leisure trip and attempts to purchase, online, a domestic flight in a national carrier. He fails, despite numerous attempts. When he visits the local office of the national carrier, he is informed that he has been blacklisted on the recommendation of the Department of Police. He is further notified that this is due to an ongoing investigation into a complaint made by a Minister about a news report he published alleging corruption in procurement in that ministry.

Chathuri has applied to the nearest state-run school to admit her son. The school rejects the application stating that Chathuri has been charged with drunk driving and that therefore the family background makes her child unsuitable for admission. Chathuri has cirrhosis of the liver and has been receiving treatment at a public hospital. On her next clinic date, she is told that alcoholics and persons charged with drunk driving will no longer be treated free of charge.

Concerned by these developments Raj mobilises journalists to protest against the new digitization policy of the state. When news of the protest spread, a large number of people spontaneously join it and the people march towards the office of the Prime Minister. The police use water cannons and tear gas to disperse the protestors. Some police officers beat several protestors who attempted to enter the premises of the Prime Minister's office to seek a meeting. The police break a loudspeaker used by the protestors. A retreating protestor, Jagath, is hit with a baton and suffers serious head injuries. He is arrested by the police and detained in a police lorry. By the time the police take him to the police station, he loses consciousness. The police refuse to take him to hospital.

Assume that the Raga's legal system is similar to that of Sri Lanka. Identify and analyse the above in light of Raga's international obligations to respect human rights and its obligations to respect fundamental rights.

(20 Marks)