

**UNIVERSITY OF COLOMBO, SRI LANKA**  
**FACULTY OF LAW**  
**DEGREE OF MASTER OF LAWS IN PUBLIC AND INTERNATIONAL LAW-**  
**2024/25**  
**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. The legitimacy of the judicial review is debated in terms of democratic decision making and judicial activism. This debate leads to broader questions about the balance of power between the legislature and the judiciary. Courts play a pivotal role in reviewing the actions of executive and administrative authorities, as well as of legislative enactments, by evaluating their conformity with constitutional principles. In this context, while granting Parliament the status of principal lawmaker, the interpretative obligation imposed on the judiciary through the Constitution is in favour of protecting the rule of law. However, there must be an appropriate balance between this general rule and particular cases, excluding disproportionate outcomes.

In light of the above, critically assess the role adopted by Sri Lanka's apex courts in judicial review by analysing their approach through various theories and approaches of judicial review. Substantiate your assessment with recent case law.

(20 marks)

2. In Sri Lanka, the Constitution provides for pre-enactment judicial review of legislation under Article 80 (3). However, the absence of a structured mechanism for post-legislative scrutiny (PLS) raises concerns regarding the legitimacy, quality, and constitutionality of enacted laws. Dialogical accountability in judicial review of legislation is essential to address the limitations of the present legislation review process in Sri Lanka.

Analyse the implications and challenges arising from the prohibition of post-enactment judicial review under the 1978 Constitution, drawing on relevant case law and examples. Propose reforms to address these deficiencies.

(20 marks)

3. The evolution of *locus standi* and public interest litigation (PIL) has expanded access to justice and administrative accountability. Courts now adopt a 'context-sensitive' approach to standing, drawing from constitutional rights and fundamental principles to broaden judicial review jurisdiction. This shift allows public-spirited individuals and social action groups to intervene in matters previously inaccessible to them. As a result, PIL has become a powerful tool for addressing exploitation, injustice, and securing social and economic rights for marginalized communities.

Do you agree? Critically evaluate the above statement, discussing the recent trends in Locus Standi and PIL in Sri Lanka with reference to decided cases.

(20 marks)

4. The Paddy Marketing Board (PMB) of Srilanka is established under the Paddy Marketing Board Act No. 14 of 1971. Under section 2, the PMB is responsible for purchasing, distribution, processing, price assurance, market regulation, and quality control of paddy and rice. The Chairperson, appointed by the Minister of Food and Agriculture, has decision-making authority on critical issues such as storage, maintaining buffer stocks, minimising market manipulation, and preventing market failures. The Chairperson, Mr. Sarath, identified an impending rice shortage and issued a regulation to limit rice distribution. It led to few powerful owners of private rice mills raising prices to 300 rupees per kilo. Even though, the controlled price was set at 260 rupees, the market shortage enabled them to continue selling at this price. Following the instructions of the Minister, the Chairperson issued a circular requiring all paddy and rice producers to obtain a license from the PMB, with the Chairperson having absolute discretion over approvals under section 8. However, the proviso of section 8 mandates a procedure on obtaining a Self -Capability Report (SCR) before issuing a licence. Section 9 requires the Chairperson to mandatorily consider all complaints regarding the licensing process.

Diamond Rice Mills, a company that has produced rice for 25 years, applied for a licence, but the Chairperson rejected the application without calling an SCR. Golden Rice Mills, owned by a relative of the Minister's wife, applied through the Minister, who influenced the Chairperson to approve it immediately. Diamond Rice Mills appealed, claiming that it has a greater capacity to supply rice over other suppliers, but the Chairperson, under the influence of the Minister, refused to consider the appeal. Two complaints were made to the Board by Vimal and Nimal regarding the licensing process, but the Chairperson did not consider them.

The PMB, following the Minister's advice, launched a programme called "Public Private Collaboration for Sustainable Paddy Consumption" to address the rice scarcity. As part of this initiative, an order was issued to permit licence holders to import rice unconditionally. However, the Govi Mithuro Association criticized this decision as unjustifiable because experts had recommended that rice importation should be at a controlled and minimum would suffice to meet the country's needs and

had warned that granting permission for unconditional rice imports could adversely affect local paddy production and the farmers.

Govi Mithuro, Diamond Rice Mills, Vimal, and Nimal seek your advice as to whether the decisions of the Chairperson and the PMB may be challenged and on available remedies for each party, if any. Assume that the law of Sylonica is similar that of Sri Lanka. Advise them.

(20 marks)

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