

THE OPEN UNIVERSITY OF SRI LANKA  
FACULTY OF HUMANITIES AND SOCIAL SCIENCES  
DEPARTMENT OF LEGAL STUDIES  
LL. B DEGREE PROGRAMME – LEVEL 3  
FINAL EXAMINATION – 2017/2018  
LLU3901/LWU1201- CONSTITUTIONAL LAW I  
DURATION – THREE (03) HOURS



DATE: 20<sup>th</sup> February 2020

TIME: 9.30 a.m. -12.30 p.m.

Answer five (05) questions only.

Candidates will be penalized for illegible handwriting.

01. "The framers of the Constitution, while providing for a Republic, wanted an "autochthonous" or "home-grown" Constitution. Their object was to effect a legal revolution or a break in legal continuity with the previous order".

J.A.L. Cooray, *CONSTITUTIONAL AND ADMINISTRATIVE LAW OF SRI LANKA (CEYLON)*, (1973) P.72.

Does the above position correctly reflect the making of the 1972 Constitution of Sri Lanka?

Discuss with reference to relevant constitutional concepts and decided cases.

(20 Marks)

02. The people of the Haski State elected a President by majority vote at a recently held election. The President, after the first Cabinet meeting, approved and signed a decree that a 15-acre plot of land taken over by the previous President for a public purpose should be sold to a private company. The Leader of the Opposition of the Parliament of the country has decided to take the following legal actions against the new President:

- a). to sue the President before the Supreme Court of the country;
- b). to bring an impeachment motion against the President;

Discuss the validity of the above actions in light of Constitutional provisions.

The Constitution of Haski State must be presumed to be the same as the present constitution of Sri Lanka.

(20 Marks)

03. "It does not inevitably follow that the one branch of government should not be in a position to dominate the others. Matters may be so designed that each branch operates as a check on the others."

De Smith, *CONSTITUTIONAL LAW AND ADMINITRATIVE LAW* (1977), p.32

Discuss the applicability of the concept of "Separation of Powers" in light of the above statement. Support your answer with examples drawn from Sri Lanka, The United Kingdom and The United States of America. **(20 Marks)**

04. "It is not possible to formulate a simple and clear-cut statement of the rule of law as a broad political doctrine. As society develops, and as the tasks of government change, lawyers, politicians and administrators must be prepared to adapt the received values of law to meet changing needs."

A.W. Bradley & K.D. Ewing, *Constitutional and Administrative Law* (1997) 12<sup>th</sup> Edn. p.111

Evaluate the validity of the above statement in relation to the doctrine of Rule of Law in the context of constitutional governance in Sri Lanka with special reference to Denis Lloyd's interpretation of the Rule of Law.

Support your answer with appropriate constitutional provisions and case law.

**(20 Marks)**

05. "...unlike in the 1972 Constitution, the concept of legislative supremacy of Parliament has ceased to be a predominant characteristic under the 1978 Constitution."

R.K.W Goonesekere and Jayantha de Almeida Guneratne, *Constitutional Law Block I* (1984) The Open University of Sri Lanka, p.111

Critically examine the above statement providing examples from First and Second Republican Constitutions of Sri Lanka. **(20 Marks)**

06. Evaluate the extent to which the rights relating to minorities have been safeguarded under the three post-independence constitutions of Sri Lanka and the strategies to do so.

Support your answer with relevant constitutional provisions and case law.

**(20 Marks)**

07. Discuss any **Two (02)** of the following:

a). The efficacy of the powers and functions of the office of the Ombudsman

b). Recognition and scope of the right to information in Sri Lanka

c). Public Interest Litigation in Sri Lanka

**(2X10=20 Marks)**

08. Justice Palitha Samarasinghe, a renowned Supreme Court judge in Disney Island, has been removed from the post by the President of the country. This was due to publicity in the media following the improper release of a telephone conversation the Judge had, with one of his school mates Sandaruwan Jayawardane. At the same time, it has been decided to appoint Justice Nadeesha Ratnayeke, one of the Appeal Court judges in Disney Island to the vacant post.

Answer the following questions based on the above scenario:

a). Can the President of Disney Island remove Justice Palitha Samarasinghe, the Supreme Court judge at her own discretion?

b). Can the President appoint a Court of Appeal judge of her own choice for the vacant post by the removal of Justice Palitha Samarasinghe?

Assuming that the Constitution of Disney Island is identical to the current Constitution of Sri Lanka write a comment on the constitutional implications of this situation focusing on the independence of the judiciary. **(20 Marks)**

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