

ශ්‍රී ලංකා විවෘත විශ්වවිද්‍යාලය
මානව ශාස්ත්‍ර සහ සමාජ විද්‍යා අධ්‍යයන පීඨය
නීති අධ්‍යයන දෙපාර්තමේන්තුව
නීතිවේදී උපාධි පාඨමාලාව - 3 වන මට්ටම
අවසාන පරීක්ෂණය - 2022/2023



LLU3901/LWU1201 – ආණ්ඩුක්‍රම ව්‍යවස්ථා නීතිය I

කාලය - පැය 3 යි.

දිනය : 2024.03.22

වේලාව: ප.ව. 01.30 – ප.ව. 04.30

ඕනෑම ප්‍රශ්න පහකට (05) පමණක් පිළිතුරු සපයන්න.

අපේක්ෂකයන්ගේ අපැහැදිලි අත්අකුරු සඳහා ලකුණු අඩු කරනු ලැබේ.

1. “ආණ්ඩුක්‍රම ව්‍යවස්ථාවක් යනු ලිඛිත ලියවිල්ලක් නම්, පැහැදිලිවම මහා බ්‍රිතාන්‍යයට ආණ්ඩුක්‍රම ව්‍යවස්ථාවක් නොමැත. එවැනි ලේඛනයක් පවතින රටවල, එම වචනයට එකී අර්ථය පවතී. නමුත් එකී ලේඛනය තුළම හුදෙක් රාජ්‍ය ආයතන නිර්මාණය කිරීම සහ ක්‍රියාත්මක කිරීම නිර්ණය කරන රීති දක්වන අතර, පැහැදිලිවම මහා බ්‍රිතාන්‍යයට එවැනි ආයතන සහ එවැනි රීති ඇත. එම රීති විස්තර කිරීමට ‘බ්‍රිතාන්‍ය ආණ්ඩුක්‍රම ව්‍යවස්ථාව’ යන යෙදුම භාවිත වේ.”

- Sir Ivor Jennings, *The Law and the Constitution* (5th edn, University of London Press 1959) 36.

ඇමරිකා එක්සත් ජනපදය, එක්සත් රාජධානිය සහ ශ්‍රී ලංකාව ආශ්‍රිත ප්‍රායෝගික උදාහරණ දක්වමින් උක්ත ප්‍රකාශයට අනුගතව ආණ්ඩුක්‍රම ව්‍යවස්ථා වර්ගීකරණය පැහැදිලි කරන්න.

(ලකුණු 20)

2. රීටා සහ නීටා ගැමිබියාවේ නිව් හෙවන් නීති විද්‍යාලයේ නීති ශිෂ්‍යයෝ වෙති. රීටා සහ නීටා දිනයට නියමිත දේශන අවසාන වීමෙන් පසු පුස්තකාලය වෙත ගොස් අධ්‍යයන කටයුතු සාකච්ඡා කරති. අද දින ඔවුන්ගේ සාකච්ඡාව 'නීතියේ ආධිපත්‍ය' සංකල්පය මත පදනම් විය. නීතියේ ආධිපත්‍ය පිළිබඳ ඩයිසිගේ සංකල්පය වර්තමානයට ද එකසේ වලංගු වන විවේචනය කළ නොහැකි මතවාදයක් බව රීටා අදහස් කරයි. අනෙක් අතට, නීටා ප්‍රකාශ කරන්නේ ඩයිසිගේ මතයෙන් බැහැරව ගොස් නූතන ලේඛකයන් විසින් නීතියේ ආධිපත්‍ය සංකල්පය නවමු මාවතකට රැගෙන ගොස් ඇති බවයි. ආණ්ඩුක්‍රම ව්‍යවස්ථා නීති උපදේශක හැරී මහතා මෙම සංවාදයට සවන් දෙන අතර විවාදය පිළිබඳ ඔහුගේ මතවාදය ඉදිරිපත් කිරීමට සිතයි.

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LLB DEGREE PROGRAMME - LEVEL 3
FINAL EXAMINATION – 2022/2023
LLU3901/LWU1201 – CONSTITUTIONAL LAW I
DURATION – 3 HOURS



DATE: 22.03.2024

TIME: 1.30 p.m. – 4.30 p.m.

Answer any FIVE (05) questions only.

Candidates will be penalized for illegible handwriting.

1. “If a constitution means a written document, then obviously Great Britain has no constitution. In countries where such a document exists, the word has that meaning. But the document itself merely sets out rules determining the creation and operation of governmental institutions, and obviously Great Britain has such institutions and such rules. The phrase ‘British constitution’ is used to describe those rules.”

- Sir Ivor Jennings, *The Law and the Constitution* (5th edn, University of London Press 1959) 36.

In light of the above statement, explain the classification of constitutions taking practical examples from the USA, the UK and Sri Lanka.

(20 marks)

2. Rita and Nita are law students in the New Heaven Law School in Gambia. Rita and Neeta go to the library after the scheduled lectures for the day and discuss academic matters. Today, their discussion is based on the concept of rule of law. Rita opines that Dicey's concept of the rule of law is an uncontestable doctrine, which holds the same relevance even today. Conversely, Neeta claims that modern writers have reinterpreted the concept of the rule of law, deviating from Dicey's original opinion. The constitutional law instructor, Mr Harry overhears this conversation and thinks of offering his insights on the debate.

Assuming that you are Mr Harry, provide your insights on the debate citing the relevant constitutional law provisions and case law. Further, consider that Gambia's constitution is similar to the Second Republican Constitution of Sri Lanka.

(20 marks)

ඔබ හැරී මහතා බව උපකල්පනය කරමින්, අදාළ ආණ්ඩුක්‍රම ව්‍යවස්ථාමය විධිවිධාන සහ නඩු නීතිය උපුටා දක්වමින් විවාදය පිළිබඳ ඔබේ මතවාදය ඉදිරිපත් කරන්න. තවද, ගැමිබියාවේ ආණ්ඩුක්‍රම ව්‍යවස්ථාව ශ්‍රී ලංකාවේ දෙවන ජනරජ ව්‍යවස්ථාවට සමාන බව සලකන්න.

(ලකුණු 20)

3. “යටත් විජිත පාලනය වත්මන් දේශපාලනික, ආර්ථික සහ සමාජයීය පසුබිම කෙරෙහි දායක වූ බව යමෙකුට බැහැර කළ නොහැක. ශ්‍රී ලංකාවේ ආණ්ඩුක්‍රම ව්‍යවස්ථා සම්ප්‍රදාය, මූලික වශයෙන්ම බ්‍රිතාන්‍ය පාලන සමය තුළ හඳුන්වාදුන් ආණ්ඩුක්‍රම ව්‍යවස්ථා ප්‍රතිසංස්කරණ වල බලපෑමට ලක්විය.”

ඉහත ප්‍රකාශය සමඟ ඔබ එකඟ වන්නේ ද? අදාළ උදාහරණ සමඟ ඔබේ පිළිතුරට හේතු දක්වන්න.

(ලකුණු 20)

4. පහත සිද්ධීන් කියවා ඒවායේ නෛතික ප්‍රතිඵල විභාග කරන්න. ශ්‍රී ලංකාවේ දෙවන ජනරජ ව්‍යවස්ථාව සොලෝනිකා රාජ්‍යයේ ආණ්ඩුක්‍රම ව්‍යවස්ථාවට සමාන යැයි උපකල්පනය කරන්න.

- I. සොලෝනිකා රාජ්‍යයේ ජනාධිපතිවරයා වන ඇල්ෆ්‍රඩ් මහතා විදෙස් සබඳතා ශක්තිමත් කර ගැනීමේ අරමුණින් ඩොමිනිකා රාජ්‍යයේ නිල සංචාරයක යෙදීමට අදහස් කරයි. ඩොමිනිකා රාජ්‍යයේ නිල සංචාරය අතරතුර දී තම ධුරයේ වැඩ බැලීම සඳහා ස්වදේශ කටයුතු අමාත්‍යවරයා පත් කිරීමට එතුමා අදහස් කරයි.

(ලකුණු 05)

- II. අවුරුදු 18ට වැඩි කාන්තාවන් මත්පැන් ව්‍යාපාරයේ යෙදීම සහ මත්පැන් අලෙවිය, ඇසුරුම, සහ ප්‍රවාහනය තහනම් කරමින් විෂයභාර අමාත්‍යවරයා විසින් විශේෂ ගැසට් පත්‍රයක් මගින් සුරාබදු නිවේදනයක් නිකුත් කරන ලදී. මෙය කාන්තාවන්ගේ මූලික අයිතිවාසිකම් උල්ලංඝනය කිරීමක් බව 'පෙරමුණට' කාන්තා සංවිධානය තර්ක කරයි. එහි ප්‍රතිඵලයක් ලෙස, ජනාධිපති ඇල්ෆ්‍රඩ් මහතා ද වගඋත්තරකරුවෙකු ලෙස නම් කරමින් සොලෝනිකා ශ්‍රේෂ්ඨාධිකරණයේ මූලික අයිතිවාසිකම් නඩුවක් ගොනු කිරීමට ඔවුන් අදහස් කරයි.

(ලකුණු 10)

- III. 2024 වර්ෂයේ අග භාගයේ දී පැවැත්වීමට නියමිතව ඇති සොලෝනිකා රාජ්‍යයේ මිලහ ජනාධිපතිවරණය සඳහා අපේක්ෂකයෙකු ලෙස ඉදිරිපත් වීමට පීටර් මහතා අපේක්ෂා කරයි. තමා සිසිලියන් රාජ්‍යයේ ද පුරවැසිභාවය හිමි අයෙකු වන බැවින් තමා ජනාධිපති වීමට වඩාත් සුදුසුයෙකු බව එතුමා දක්වයි.

(ලකුණු 05)

3. "One cannot rule out the fact that the colonial rule contributed to the current political, economic, and social landscape. Sri Lanka's constitutional tradition was primarily influenced by the constitutional reforms introduced during the British rule."

Do you agree with the above statement? Give reasons for your answer with relevant examples. **(20 marks)**

4. Read the following incidents and examine their legal consequences. Assume that the second Republican Constitution of Sri Lanka is similar to the Constitution of the State of Solonika.

- I. Mr. Alfred, the president of the State of Solonika, intends to make an official visit to the State of Dominica with the aim of strengthening foreign relations. He intends to appoint the Minister of Home Affairs, to oversee the work of his office during his visit to the State of Dominica.

(05 marks)

- II. An excise notice was issued by the minister in charge through a special gazette, prohibiting women over 18 years of age from engaging in the alcohol industry, including the sale, packaging, and transportation of liquor. The women's organization 'Peramunata' contends that this constitutes an infringement of women's fundamental rights. Consequently, they intend to file a fundamental rights case in the Supreme Court of Solonika, naming President Alfred as a respondent.

(10 marks)

- III. Mr. Peter expects to campaign as a candidate for the forthcoming presidential election in the State of Solonika, which is scheduled to be held in late 2024. He states that he is more suitable to be the president as he is a citizen of the State of Sicilian.

(05 marks)

5. "In all tyrannical governments the Supreme Magistracy, or the right both of making and of enforcing the laws, is vested in one and the same man, or one and the same body of men; and wherever those two powers are united together there can be no public liberty."

- Commentaries of the Laws of England, Vol. 1 (1765), p. 146 cited by Hood Phillips, Constitutional and Administrative Law (4 ed. Sweet & Maxwell), p. 17.

Critically analyze the above statement with reference to the concept of the separation of powers taking examples from the United States of America and the United Kingdom.

(20 marks)

5. “සෑම ප්‍රජා පීඩන ආණ්ඩුවකම උත්තරීතර විනිශ්චය හෝ නීති සෑදීම හා ක්‍රියාත්මක කිරීම යන දෙයංශයෙන්ම බලය එකම පුද්ගලයා වෙත හෝ එකම මණ්ඩලය වෙත පැවරී ඇති අතර එම දෙයාකාරයේ ම බලය එකට එක්වී ඇති කිසිම තැනක මහජන නිදහසක් තිබිය නොහැක.”

- Commentaries of the Laws of England, Vol. 1 (1765), p. 146 cited by Hood Phillips, Constitutional and Administrative Law (4 ed. Sweet & Maxwell), p. 17.

ඇමරිකා එක්සත් ජනපදයෙන් සහ එක්සත් රාජධානියෙන් උදාහරණ දක්වමින් බලතල බෙදීමේ සංකල්පයට අදාළව ඉහත ප්‍රකාශය විවේචනාත්මකව විශ්ලේෂණය කරන්න.

(ලකුණු 20)

6. “අධිකරණ මගින් යුක්තිය එක ලෙසම පසිඳලීම පැහැදිලිවම වැදගත් වන අතර අධිකරණයෙහි ඒකාග්‍රතාව සහ පක්ෂපාතීත්වය පිළිබඳ පැහැදිලිවම පොදු මහජනතාව තුළ ඇතිවන විශ්වාසය ද වැදගත් ය.”

- S.A. de Smith, *Constitutional and administrative Law* (3rd edn, Penguin Books 1977)

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ඔබ ඉහත ප්‍රකාශය සමඟ එකඟ වන්නේ ද? 1978 ආණ්ඩුක්‍රම ව්‍යවස්ථාව සහ ප්‍රායෝගික උදාහරණ ආශ්‍රිතව අධිකරණයේ ස්වාධීනත්වය පිළිබඳ සංකල්පය විශ්ලේෂණය කරන්න.

(ලකුණු 20)

7. මිරානියා රාජ්‍යයේ අග්‍රාමාත්‍ය විල්සන් මහතා වරක් මාධ්‍ය හමුවකට සහභාගී වෙමින් ප්‍රකාශ කරන ලද්දේ මිරානියා රාජ්‍යයේ පාර්ලිමේන්තුව පූර්ණ පාර්ලිමේන්තු ස්වාධිපත්‍යයකින් යුක්ත බවයි. මෙරට පාර්ලිමේන්තුවට ඕනෑම නීතියක් සම්පාදනය කිරීමේ හැකියාව පවතින බවත්, පාර්ලිමේන්තුව කිසිම ප්‍රතිවාදී ව්‍යවස්ථාදායක අධිකාරියක් පිළි නොගන්නා බවත් එතුමා ප්‍රකාශ කරන ලදී. තවද, පාර්ලිමේන්තුව විසින් සම්මත කරන ලද නීති සමාලෝචනය කිරීමේ පරම බලතල එරට අධිකරණ පද්ධතිය සතු බව ඔහු අවධාරණය කරන ලදී.

ව්‍යවස්ථාදායක ආධිපත්‍යය සංකල්පය ඇසුරින් මිරානියා අග්‍රාමාත්‍යවරයා විසින් කරන ලද ප්‍රකාශයේ නිරවද්‍යතාවය සාකච්ඡා කරන්න. ශ්‍රී ලංකාවේ දෙවන ජනරජ ව්‍යවස්ථාව මිරානියා රාජ්‍යයේ ආණ්ඩුක්‍රම ව්‍යවස්ථාවට සමාන යැයි උපකල්පනය කරන්න.

ඔබේ පිළිතුර අදාළ ව්‍යවස්ථාමය ප්‍රතිපාදන සහ නෛතික අධිකාරීන් මගින් තහවුරු කරන්න.

(ලකුණු 20)

6. "It is clearly of great importance that justice be dispensed even-handedly in the courts and that the general public feel confidence in the integrity and impartiality of the judiciary."

- S.A. de Smith, *Constitutional and administrative Law* (3rd edn, Penguin Books 1977) 353

Do you agree with the above statement? Analyze the concept of the independence of the judiciary with reference to the 1978 Constitution and practical examples.

(20 marks)

7. Mr. Wilson, the Prime Minister of the State of Miraniya, once participated in a media briefing and declared that the Parliament of the State of Miraniya has full legislative supremacy. He stated that the Parliament has the power to make any law whatsoever and that the Parliament does not accept any rival legislative authority. Furthermore, he emphasized that the nation's judicial system holds the absolute powers to review the laws passed by the Parliament.

Discuss the accuracy of the statement made by the Prime Minister of Miraniya in light of legislative supremacy. Assume that the second Republican Constitution of Sri Lanka is similar to that of the Constitution of the State of Miraniya.

Your answer should be supported by relevant constitutional provisions and legal authorities.

(20 marks)

8. Write notes on any **TWO (2)** of the following topics.

- I. Social action litigation
- II. The Ombudsman
- III. The referendum
- IV. Restrictions on fundamental rights

(10x2 = 20 marks)

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8. පහත මාතෘකා වලින් ඕනෑම දෙකක් (2) පිළිබඳව සටහන් ලියන්න.

- I. මහජන සුභසාධන නඩුකර
- II. ඔම්බුඩ්ස්මන්වරයා
- III. ජනමත විචාරණය
- IV. මූලික අයිතිවාසිකම් මත පවතින සීමා

(10x2 = ඔබේ 20)

හිමිකම් ඇවිරිණි.

இலங்கை திறந்த பல்கலைக்கழகம்

மானுடவியல் மற்றும் சமூகவிஞ்ஞானங்கள் பீடம்

சட்டக்கற்கைகள் திணைக்களம்

சட்டமாணி பட்டப்படிப்பு நிகழ்ச்சித் திட்டம் -2022/2023

மட்டம் - 03 LLU3901/LWU1201 - அரசியலமைப்புச் சட்டம்

இறுதிப் பரீட்சை 2022 / 2023

காலம் : மூன்று (03) மணித்தியாலங்கள்

திகதி : 22 மார்ச் 2024

நேரம்: பி.ப.01.30 - பி.ப.04.30



மொத்த வினாக்களின் எண்ணிக்கை எட்டு (08)

ஏதேனும் ஐந்து (05) வினாக்களுக்கு மாத்திரம் விடையளிக்குக.

தெளிவற்ற கையெழுத்திற்கு புள்ளிகள் குறைக்கப்படும்.

01. “அரசியலமைப்பு ஒன்று என்பதன் பொருள் ஒரு எழுதப்பட்ட ஆவணம் எனின், இங்கிலாந்திற்கு அரசியலமைப்பு என்பது இல்லை. அத்தகு ஆவணம் ஒன்று நிலவும் நாடுகளில் அவ்வாற்றைக்கு அத்தகு அர்த்தம் உள்ளது. ஆயின் ஆவணமானது வெறுமனே அரசாங்க திணைக்களங்களது ஆக்கத்தினையும் இயக்கத்தினையும் வரையறுக்கின்ற விதிகளை உருவாக்கிறது எனின், பிரித்தானியாவிலும் அத்தகு திணைக்களங்களும் அத்தகு விதிகளும் காணப்படுகின்றன. ‘பிரித்தானிய அரசியலமைப்பு’ எனும் பதம் அத்தகு விதிகளை விபரிப்பதற்கு பயன்படுத்தப்படுவதாகும்.”

- Sir Ivor Jennings, *The Law and the Constitution* (5th edn, University of London Press 1959) 36.

மேற்குறிப்பிட்ட கூற்றின் அடிப்படையில் அரசியலமைப்புக்களின் வகைப்பாட்டை ஐக்கிய அமெரிக்கா, ஐக்கிய இராச்சியம் மற்றும் இலங்கை முதலான நாடுகளில் இருந்து நடைமுறை உதாரணங்களை கொண்டு விளக்குக.

(20 புள்ளிகள்)

02. நீடா மற்றும் நீதா ஆகியோர் கம்பியாவின் நியூ ஹெவன் சட்ட பள்ளியின் சட்டமாணவர்கள் ஆவர். நீதா மற்றும் நீடா ஆகிய இருவரும் விரிவுரைகள் முடிவுற்ற பின்னர் பாட விடயங்களை ஆலோசிக்க நூலகத்திற்கு செல்வர். இன்று அவர்களது கலந்துரையாடல் சட்டவாட்சி கோட்பாட்டை அடிப்படையாக கொண்டதாகும். நீடா டைசியின் சட்டவாட்சி கோட்பாடானது இன்றும் அதே முக்கியத்துவத்தை கொண்டுள்ள, சவாலுக்கு உட்படுத்தப்பட முடியாத ஒரு கோட்பாடாகும் என கருதுகிறாள். மாறாக நீதா நவீன எழுத்தாளர்கள் டைசியின் ஆரம்ப கருத்திலிருந்து வேறுபட்டு சட்டவாட்சிக் கோட்பாட்டை மீண்டும் பொருட்கோடல் செய்துள்ளதாக கூறுகிறாள். அரசியலமைப்புச் சட்டத்திற்கான

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LLB DEGREE PROGRAMME - LEVEL 3
FINAL EXAMINATION – 2022/2023
LLU3901/LWU1201 – CONSTITUTIONAL LAW I
DURATION – 3 HOURS



DATE: 22.03.2024

TIME: 1.30 p.m. – 4.30 p.m.

Answer any FIVE (05) questions only.

Candidates will be penalized for illegible handwriting.

1. “If a constitution means a written document, then obviously Great Britain has no constitution. In countries where such a document exists, the word has that meaning. But the document itself merely sets out rules determining the creation and operation of governmental institutions, and obviously Great Britain has such institutions and such rules. The phrase ‘British constitution’ is used to describe those rules.”

- Sir Ivor Jennings, *The Law and the Constitution* (5th edn, University of London Press 1959) 36.

In light of the above statement, explain the classification of constitutions taking practical examples from the USA, the UK and Sri Lanka.

(20 marks)

2. Rita and Nita are law students in the New Heaven Law School in Gambia. Rita and Neeta go to the library after the scheduled lectures for the day and discuss academic matters. Today, their discussion is based on the concept of rule of law. Rita opines that Dicey's concept of the rule of law is an uncontestable doctrine, which holds the same relevance even today. Conversely, Neeta claims that modern writers have reinterpreted the concept of the rule of law, deviating from Dicey's original opinion. The constitutional law instructor, Mr Harry overhears this conversation and thinks of offering his insights on the debate.

Assuming that you are Mr Harry, provide your insights on the debate citing the relevant constitutional law provisions and case law. Further, consider that Gambia's constitution is similar to the Second Republican Constitution of Sri Lanka.

(20 marks)

விரிவுரையாளர் திரு. ஹரி இக்கலந்துரையாடலை செவிமடுக்கிறார். அவர் இவ்விவாதம் தொடர்பில் தனது கருத்தை தெரிவிக்க விரும்புகிறார்.

உம்மை திரு.ஹரி எனக் கருதி விவாதத்திற்கான கருத்துக்களை பொருத்தமான அரசியலமைப்புச் சட்ட உறுப்புகள் மற்றும் தீர்ப்புச்சட்டங்கள் என்பனவற்றை எடுத்துக்காட்டி வழங்குக. கம்பியாவின் அரசியலமைப்புச்சட்டமானது இலங்கையின் இரண்டாவது குடியரசு அரசியலமைப்பை ஒத்தது எனக் கருதுக.

(20 புள்ளிகள்)

03. “சமகாலத்தின் அரசியல், பொருளாதார மற்றும் சமூகப்பரப்பிற்கு காலனித்துவ ஆட்சியானது பங்களித்தது என்பதை எவரும் மறுக்க இயலாது. இலங்கையின் அரசியல் பாரம்பரியம் மீது பிரித்தானியர் காலத்தில் அறிமுகப்படுத்தப்பட்ட அரசியல் பரிந்துரைகள் பிரதானமாக செல்வாக்கு செலுத்தியது.”

மேலுள்ள கூற்றுடன் நீர் இணங்குகிறீர்? உமது விடைக்கான காரணங்களை பொருத்தமான உதாரணங்களுடன் வழங்குக.

(20 புள்ளிகள்)

04. பின்வரும் நிகழ்வுகளை வாசித்து அவற்றின் சட்டவிளைவுகளை பரிசீலிக்குக. சொலோனிக்கா நாட்டின் அரசியலமைப்பு ஆனது இலங்கையின் இரண்டாவது குடியரசு அரசியலமைப்பை ஒத்தது எனக் கருதுக.

I. சொலோனிக்கா நாட்டின் சனாதிபதியான திரு. அல்பிரட் என்பவர் டொமேனிக்கா நாட்டிற்கு வெளி விவகாரங்களை மேம்படுத்தும் நோக்கத்தில் அரசரீதியாக பயணிக்க எண்ணுகிறார். இவர் தான் டொமேனிக்கா அரசிற்கு பயணிக்கும் போது பணிகளை மேற்பார்வை செய்வதற்கு உள்நாட்டு அலுவல்கள் அமைச்சரை நியமிக்க எண்ணுகிறார்.

(05 புள்ளிகள்)

II. 18 வயதிற்கு மேற்பட்ட பெண்கள் மதுபானத்தை விற்பனை செய்தல், பொதி செய்தல், பரிமாற்றம் செய்தல் உள்ளிட்ட மதுபான துறையில் ஈடுபடுவதை தடைசெய்யும் ஒரு தீர்வை அறிவிப்பை சிறப்பு வர்த்தமானி மூலம் பொறுப்பிலுள்ள அமைச்சர் வெளியிட்டார். “பெரமுனட்ட” எனும் பெண்களுக்கான தாபனம் ஆனது இது பெண்களது அடிப்படை உரிமைகளை மீறுவதாக கண்டனம் தெரிவிக்கிறது. இதன் விளைவாக இவர்கள் உயர்நீதிமன்றத்தில் அடிப்படை உரிமைகளுக்கான வழக்கு ஒன்றை சனாதிபதி அல்பிரட்டை பிரதிவாதியாக குறித்துரைத்து முன்வைக்க எண்ணுகின்றனர்.

(10 புள்ளிகள்)

III. திரு. பீட்டர் என்பவர் 2024 இன் இறுதிப்பகுதியில் நடைபெறவுள்ள சொலோனிக்கா நாட்டின் எதிர்வரும் சனாதிபதி தேர்தலில் வேட்பாளர் ஒருவராக போட்டியிட எதிர்பார்க்கிறார். அவர் தான் சிசிலியன் எனும் நாட்டின் பிரஜை என்பதால் சனாதிபதி ஆகுவதற்கு மிகவும் பொருத்தமானவர் எனக் கூறுகிறார்.

(05 புள்ளிகள்)

05. “சகல கொடுங்கோண்மை அரசாங்கங்களிலும் மீயுயர் அதிகாரம் அல்லது சட்டங்களை ஆக்குவதற்கும் நடைமுறைப்படுத்துவதற்குமான உரிமை என்பது ஒரேயொரு நபரில் அல்லது ஒரேயொரு நபர்களின் குழுவில் தங்கியுள்ளதுடன், இவ்விரு அதிகாரங்களும் இணைந்துள்ள இடங்களில் எல்லாம் பொது சுதந்திரம் என்பது காணப்படாது.”

3. "One cannot rule out the fact that the colonial rule contributed to the current political, economic, and social landscape. Sri Lanka's constitutional tradition was primarily influenced by the constitutional reforms introduced during the British rule."

Do you agree with the above statement? Give reasons for your answer with relevant examples. **(20 marks)**

4. Read the following incidents and examine their legal consequences. Assume that the second Republican Constitution of Sri Lanka is similar to the Constitution of the State of Solonika.

- I. Mr. Alfred, the president of the State of Solonika, intends to make an official visit to the State of Dominica with the aim of strengthening foreign relations. He intends to appoint the Minister of Home Affairs to oversee the work of his office during his visit to the State of Dominica.

(05 marks)

- II. An excise notice was issued by the minister in charge through a special gazette, prohibiting women over 18 years of age from engaging in the alcohol industry, including the sale, packaging, and transportation of liquor. The women's organization 'Peramunata' contends that this constitutes an infringement of women's fundamental rights. Consequently, they intend to file a fundamental rights case in the Supreme Court of Solonika, naming President Alfred as a respondent.

(10 marks)

- III. Mr. Peter expects to campaign as a candidate for the forthcoming presidential election in the State of Solonika, which is scheduled to be held in late 2024. He states that he is more suitable to be the president as he is a citizen of the State of Sicilian.

(05 marks)

5. "In all tyrannical governments the Supreme Magistracy, or the right both of making and of enforcing the laws, is vested in one and the same man, or one and the same body of men; and wherever those two powers are united together there can be no public liberty."

- Commentaries of the Laws of England, Vol. 1 (1765), p. 146 cited by Hood Phillips, Constitutional and Administrative Law (4 ed. Sweet & Maxwell), p. 17.

Critically analyze the above statement with reference to the concept of the separation of powers taking examples from the United States of America and the United Kingdom.

(20 marks)

- *Commentaries of the Laws of England, Vol. 1 (1765), p.146 cited by Hood Phillips O, Constitutional and Administrative Law (4 ed. Sweet & Maxwell),p.17.*

மேற்குறிப்பிட்ட கூற்றினை வலுவேறாக்க கோட்பாட்டின் மீது சிறப்புறத் தொடர்புறுத்தி, ஐக்கிய அமெரிக்கா மற்றும் ஐக்கிய இராச்சியம் ஆகிய நாடுகளில் இருந்து உதாரணங்களை எடுத்துக்காட்டி விளக்குக.

(20 புள்ளிகள்)

06. “நீதியானது நீதிமன்றங்களில் சரியான முறையில் வழங்கப்படவேண்டும் என்பதும், நீதித்துறையின் பாரபட்சமற்ற தன்மை மற்றும் நாணயம் என்பவற்றின் மீது பொதுமக்கள் நம்பிக்கை கொள்ள வேண்டும் என்பதும் தெளிவாக அதிக முக்கியத்துவம் கொண்டதாகும்.”

- *S.A. de Smith, Constitutional and administrative Law (3rd edn, Penguin Books 197) 353*

மேற்குறிப்பிட்ட கூற்றுடன் நீர் இணங்குகிறீரா? 1978 இன் அரசியலமைப்பின் கீழ் நீதித்துறை கதந்திரம் எனும் கோட்பாட்டை நடைமுறை உதாரணங்களுடன் ஆராய்க.

(20 புள்ளிகள்)

07. மீராணியா எனும் நாட்டின் பிரதமர் திரு. வில்சன் அவர்கள் ஊடக சந்திப்பு ஒன்றில் ஒருமுறை பங்கெடுத்துக் கொண்டு, மீராணியா அரசின் பாராளுமன்றத்திற்கு முழு சட்டவாக்க மீயுயர்தன்மை உள்ளதாக பிரகடனம் செய்தார். அவர் பாராளுமன்றத்திற்கு ஏதேனும் ஒன்றின் மீது ஏதேனும் சட்டத்தை ஆக்குவதற்கு அதிகாரம் உள்ளதுடன் பாராளுமன்றம் அதற்கு எதிரான சட்டவாக்க அதிகார சபையை ஏற்காது எனவும் தெரிவித்தார். மேலும் பாராளுமன்றத்தால் ஆக்கப்பட்ட சட்டங்களை மீளாய்வு செய்வதற்கான முழுமையான அதிகாரங்களை நாட்டின் நீதியியல் முறைமை கொண்டுள்ளதாகவும் வலியுறுத்தினார்.

சட்டவாக்க மீயுயர்தன்மை என்பதன் அடிப்படையில் மீராணியாவின் பிரதமரால் ஆக்கப்பட்ட கூற்றின் வலிதான தன்மையை ஆராய்க. இலங்கையின் இரண்டாவது குடியரசு அரசியலமைப்பானது மீராணியாவின் அரசியலமைப்பை ஒத்தது எனக் கருதுக.

உமது விடை பொருத்தமான அரசியலமைப்பு உறுப்புகள் மற்றும் சட்ட எடுத்துக்காட்டுகள் என்பனவற்றால் ஆதாரப்படுத்தப்பட வேண்டும்.

(20 புள்ளிகள்)

08. பின்வரும் தலைப்புகளில் ஏதேனும் இரண்டின் (02) மீது குறிப்புகள் எழுதுக.

I. சமூக செயற்பாட்டு வழக்கு. (Social Action Litigation)

II. ஒம்புட்சமன். (The Ombudsman)

III. பொதுசன வாக்கெடுப்பு. (The referendum)

IV. அடிப்படை உரிமைகள் மீதான மட்டுப்பாடுகள். (Restrictions of Fundamental Rights)

(10x02= 20 புள்ளிகள்)

- பதிப்புரிமை பெற்றது -

6. "It is clearly of great importance that justice be dispensed even-handedly in the courts and that the general public feel confidence in the integrity and impartiality of the judiciary."

- S.A. de Smith, *Constitutional and administrative Law* (3rd edn, Penguin Books 1977) 353

Do you agree with the above statement? Analyze the concept of the independence of the judiciary with reference to the 1978 Constitution and practical examples.

(20 marks)

7. Mr. Wilson, the Prime Minister of the State of Miraniya, once participated in a media briefing and declared that the Parliament of the State of Miraniya has full legislative supremacy. He stated that the Parliament has the power to make any law whatsoever and that the Parliament does not accept any rival legislative authority. Furthermore, he emphasized that the nation's judicial system holds the absolute powers to review the laws passed by the Parliament.

Discuss the accuracy of the statement made by the Prime Minister of Miraniya in light of legislative supremacy. Assume that the second Republican Constitution of Sri Lanka is similar to that of the Constitution of the State of Miraniya.

Your answer should be supported by relevant constitutional provisions and legal authorities.

(20 marks)

8. Write notes on any **TWO (2)** of the following topics.

- I. Social action litigation
- II. The Ombudsman
- III. The referendum
- IV. Restrictions on fundamental rights

(10x2 = 20 marks)

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