



ශ්‍රී ලංකා විවෘත විශ්වවිද්‍යාලය

මානව ශාස්ත්‍ර හා සමාජ විද්‍යා පීඨය

නීති අධ්‍යයන දෙපාර්තමේන්තුව

නීතිවේදී උපාධි පාඨමාලාව - 6 වන මට්ටම

අවසාන පරීක්ෂණය - 2022/2023

නීති විද්‍යාව - LLU6813/LWU4321

කාලය - පැය තුනයි. (03)

දිනය - 2024.03.25.

වේලාව - පෙ.ව. 9.30 ප.ව. 12.30

මුලු ප්‍රශ්න ගණන අටයි. (08)

ප්‍රශ්න හතරකට (04) පමණක් පිළිතුරු සපයන්න.

අපැහැදිලි අත්අකුරු සඳහා ලකුණු අඩු කරනු ලැබේ.

01. රම්සාහි උසස් අධ්‍යාපන (සංශෝධිත) පනත මගින් එහි ජාතික විශ්ව විද්‍යාල විසින් පිරිනමනු ලබන උපාධි සඳහා වරණාත්මක වූ ඇතුළත් වීමේ නිර්ණායකයන් හඳුන්වා දෙන ලදී. ජාතික විශ්ව විද්‍යාල වලට ඇතුළත් කර ගැනීම සඳහා වන සෑම අයදුම්පතක්ම අධ්‍යයන, විෂය බාහිර, පුද්ගලික සහ සමස්ත යන කාණ්ඩ හතරක් යටතේ අදාළ විශ්ව විද්‍යාලය විසින් පත්කරන ලද තේරීම් කමිටුවක් මගින් මූලිකව පරීක්ෂා කළයුතු බව පනත මගින් දක්වයි. 'සමස්ත' කාණ්ඩය සඳහා තේරීම් කමිටුවට අයදුම්කරුගේ ජාතිය, වර්ණය සහ ජාතික සම්භවය සලකා බැලිය හැකිය. සියළුම කාණ්ඩ යටතේ ලකුණු 60කට වඩා ලබාගන්නා අයදුම් කරුවෙකු ජාතික විශ්ව විද්‍යාල වලට ඇතුළත් කර ගැනීම සඳහා පිළිගනු ලැබේ. පනත අතීතයට බලපාන පරිදි ක්‍රියාත්මක කර ඇති අතර, මෙම කරුණ සම්බන්ධයෙන් අධිකරණ සමාලෝචනය බැහැර කර ඇත.

සියල්ලන් බලගැන්වීම (EFA) යනු ලාබ නොලබන සංවිධානයක් වන අතර, එහි අරමුණ වන්නේ නීතිය යටතේ සමාන ආරක්ෂාවක් සඳහා පුද්ගලයන්ට ඇති අයිතියද ඇතුළත් නීතියෙන් සුරක්ෂිත කර ඇති මානව සහ සිවිල් අයිතිවාසිකම් ආරක්ෂා කිරීමයි. EFA තර්ක කරනු ලබන්නේ පනත මගින් හඳුන්වා දෙන ලද වර්ණය සහ ජාතිය පදනම් කරගත් ඇතුළත් වීමේ නිර්ණායක පුරවැසියන්ගේ අයිතිවාසිකම් සහ රම්සා හි ආණ්ඩුක්‍රම ව්‍යවස්ථාව මගින් සහතික කරන ලද වර්ණය මත පදනම් නොවූ මූලධර්මය උල්ලංගනය කරන බවයි.

- (අ) ඉහත සිදුවීම ඇසුරෙන් නීති සම්පාදන ක්‍රියාවලියේදී ස්වභාවික නීති විද්‍යා ගුරුකුලයේ මූලධර්ම වල මූලික වටිනාකම් රඳවා තබා ගැනීමේ වැදගත්කම විවේචනාත්මක විග්‍රහ කරන්න.

(ලකුණු - 15)

- (ආ) රජය නීති සම්පාදනය කිරීමේ සීමාවන් උල්ලංගනය කර ඇති විටක එම නීති වලට අවනත වීමට පුරවැසියන් සතු බැඳීම පිළිබඳව සාකච්ඡා කරන්න.

(ලකුණු - 10)

(15 + 10 = ලකුණු 25)

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LLB DEGREE PROGRAMME
LEVEL 6-LLU6813 /LWU4321 JURISPRUDENCE
FINAL EXAMINATION -2022/2023
DURATION - THREE (03) HOURS



Date: 25th March 2024

Time: 09.30 a.m.-12.30 p.m.

Total number of questions **Eight (08)**.

Answer **Four (04)** questions only.

Illegible handwriting will be penalized.

1. The Higher Education (Amendment) Act (the Act) of Ramza introduced a highly selective admission criterion for degree programmes offered by its national universities. The Act provided that each application for admission to the national universities should be initially screened by a Selection Committee appointed by the respective university under four categories: academic, extracurricular, personal, and overall. For the 'overall' category, the Selection Committee could consider the applicant's race, colour, and national origin. An applicant who receives more than 60 marks in all categories is accepted for admission to the national universities. The Act was implemented with retrospective effect, and the judicial review has been excluded on this matter.

Empowerment for All (EFA) is a nonprofit organization whose purpose is 'to defend human and civil rights secured by law, including the right of individuals to equal protection under the law. The EFA argued that the colour and race-based admission criteria introduced by the Act violate the rights of the citizens and the colorblind principle guaranteed by the Constitution of Ramza. According to them, the admission criteria should be based solely on merit and qualifications.

(a) In light of the above scenario, critically examine the importance of the retention of the core values of the principles of Natural law school in the law-making process.

(15 marks)

02. (අ) “... මේ අනුව රාජ්‍යයේ විවිධ ආයතන ජනතා පරමාධිපත්‍ය ලෙස ආරෝපනය කර ඇති ඒ ඒ බලතල ක්‍රියාත්මක කරන විට, එවැනි ආයතන ජනතාව වෙනුවෙන් එම බලතල ක්‍රියාත්මක කරන බවත්, එබැවින් එවැනි බලතල අත්තනෝමතික ලෙස හෝ අතාර්කික ලෙස භාවිතා නොකිරීමට රාජ්‍ය ආයතන කෙරෙහි යුතුකමක් පැවරෙන බවත් මෙම අධිකරණය පිළිගෙන ඇත. මෙම අධිකරණය එහි තීරණ හරහා විධායක සහ/හෝ පරිපාලන අධිකාරීන් වෙත පැවරී ඇති අභිමතය පරිදි බලය භාවිතා කිරීම පරීක්ෂා කිරීමෙන් මහජන භාර මූලධර්මය වර්ධනය කර ඇති අතර, මූලික වශයෙන්ම ස්වභාවික සම්පත් ආරක්ෂා කිරීමට අවධානය යොමු කර එය පසුව රාජ්‍ය බලධාරීන් ක්‍රියාත්මක කරන තීරණ වල අත්තනෝමතික බව බැහැර කිරීම සඳහා දක්වා ක්‍රමයෙන් පුලුල්කර ඇත්තේය. එම ආයතන වලට පැවරී ඇති බලතල ජනතාවගේ පරම ප්‍රයෝජනය ක්‍රියාත්මක කිරීම සඳහා වේ. ”

Dr. Athulasiri Kumara Samarakoon and others v Ranil Wickraemesinghe and others SCFR No 195/2022

ඔස්ටින් විසින් ඉදිරිපත් කරන ලද ‘ස්වාධිපත්‍ය’ පිළිබඳ සාම්ප්‍රදායික අවබෝධය, ඉහත නඩු තීරණයේදී සාකච්ඡාවට ලක්වූ සමකාලීන සංකල්ප මගින් අභියෝගයට ලක්වී ඇතැයි ඔබ සිතන්නේද? තදකළ අතුරින් මුද්‍රිත සංකල්ප සහ වාක්‍ය කණ්ඩ පිළිබඳ විශේෂ අවධානය යොමු කරමින් ඉහත ප්‍රකාශය විවේචනාත්මකව සාකච්ඡා කරන්න.

(ලකුණු - 15)

- (ආ) ඔස්ටින් විසින් නිර්වචනය කරන ලද ‘ප්‍රකෘති නීතිය’ යන යෙදුම තුලට පහත සඳහන් කිසිවක් ඇතුළත් කල හැකිද යන්න පිළිබඳව පැහැදිලි කරන්න.
- (i.) වාර්ෂික වරිපණම් බදු වැඩිකිරීම සඳහා නගර සභාව විසින් නිකුත් කරන ලද රෙගුලාසියක්
- (ii.) ජාත්‍යන්තර නීතිය

(5 X 2 = ලකුණු 10)

(15+10 = ලකුණු 25)

03. “නීතියේ ජීවය තර්ක පමණක්ම නොව අත්දැකීම්ද වන්නේය. මිනිසා පාලනය විය යුතු රීති තීරණය කිරීමේදී හුදු ප්‍රබල තර්කයකට වඩා, කාලයට අනුරූප වන අවශ්‍යතා, පවතින සඳාචාරාත්මක හා දේශපාලනික සිද්ධාන්ත, මහජන ප්‍රතිපත්ති පිළිබඳ ආයතන ප්‍රකාශිතව හෝ අවිඥානිකව සහ තම සමකාලීකයන් සමඟ විනිශ්චයකාරවරුන් බෙදාගන්නා ලද අගනීත් පවා වඩා හොඳ ගනුදෙනුවක් සපයනු ලබයි. ”

Oliver Wendel Holmes Jr.

ඉහත ප්‍රකාශයේ හුවා දැක්වීම් සහ නීති විද්‍යාවට ඉන් ඇති වැදගත්කම පිළිබඳව ඇමරිකානු තත්වාකාරවාදී නීති විද්‍යාවට අනුව විශ්ලේෂණය කරන්න.

(ලකුණු - 25)

(b) Discuss the obligation of citizens to obey those laws when the government has transgressed its limits to make the laws.

(10 marks)

(15 + 10 = 25 marks)

2. (a) "...Thus, this Court has recognized that when different organs of the State exercise the respective powers attributed to them as the **Sovereignty of the People**, such organs exercise such powers on behalf of the People and therefore, a duty is cast on State organs not to use such powers arbitrarily or irrationally. This Court has through its decisions had developed the "**Public Trust Doctrine**" by examining use of the discretionary power vested on executive and / or administrative authorities, initially focusing on the protection of natural resources and subsequently expanded to exclude arbitrariness in decisions **where public authorities exercise powers vested on the said organs, to ensure the said bodies exercise such powers to the ultimate benefit of the people.**"

Dr. Athulasiri Kumara Samarakoon and others v Ranil Wickremesinghe and others SC FR No. 195/2022

Do you think that the traditional understanding of the concept of 'sovereignty' propounded by Austin has been challenged by the contemporary concepts as discussed in the above judgment?

Critically discuss the above statement by giving special reference to the concepts and phrases in bold.

(15 marks)

(b) Explain whether any of the following would be included within the term 'positive law' as defined by Austin.

(i) A regulation issued by the Urban Council to increase the annual Assessment Tax.

(ii) International Law.

(05 x 2 = 10 marks)

(15 + 10 = 25 marks)

ප්‍රශ්න අංක 04 (අ) හෝ 04 (ආ) යන දෙකෙන් එක් ප්‍රශ්නයකට පමණක් පිළිතුරු සපයන්න.

04. (අ) සැවිග්නිගේ කේන්ද්‍රීය අදහස වූයේ නීතිය යනු ජනතාවගේ කැමැත්ත ප්‍රකාශ කිරීමක් බවයි. එය නිතා මතා නීති සම්පාදනය කිරීමෙන් ඇති වූවක් නොව ජාතියේ සාමූහික විඥානයේ ක්‍රමානුකූල වර්ධනයක් ලෙස පැන නඟී.

D. Michele, *Jurisprudence: The Philosophy of Law* (2nd edn, Old Bailey Press, London, 2001) 233

ඓතිහාසික නීති ගුරුකුලයේ දාර්ශනික අවබෝධය පිළිබඳව අවධානය යොමු කරමින් ඉහත ප්‍රකාශය විවේචනාත්මකව අගයන්න.

(ලකුණු - 25)

04. (ආ) රුසෝ විසින් ජනතාවට ව්‍යවස්ථාපායක බලය ලබාදුන්නද, නීති සම්පාදනය කිරීම සඳහා ඔවුන්ට නීති සම්පාදකයෙකු අවශ්‍ය බව අවධාරනය කරයි. නීති සම්පාදකයා සතු විය යුතු ගුණාංග මොනවාද? එවැනි නීති සම්පාදකයන්ට මිනිසුන්ගේ නිදහසට සීමා පැනවිය හැක්කේ කොතෙක් දුරකටද? එවැනි සීමා කිරීම් සාධාරණීයකරනය කරන්නේ කෙසේද? මේවා වූ කලී සමාජ සම්මුතිවාදී න්‍යායයේ සන්දර්භය තුළ පවතින සමහරක් ආතතීන් වේ.

සමාජ සම්මුතිවාදී න්‍යායට අදාලව ඉහත ප්‍රකාශය විවේචනාත්මකව අගයන්න. තෝරාගත් අධිකරණ බල දෙකකින් ලබාගත් උදාහරණ ඇසුරින් ඔබේ පිළිතුර තහවුරු කරන්න.

(ලකුණු - 25)

05. හාන්ස් කෙල්සන් ගේ නීතිය පිළිබඳ නිර්මල වාදය අනුව නීති ක්‍රමය තුළ හඳුනාගත හැකි විවිධ වූ නියාම (Norms) මොනවාද යන්න පැහැදිලි කරන්න. කෙල්සන්ට අනුව ශ්‍රී ලංකාවේ දෙවන ජනරජ ආණ්ඩුක්‍රම ව්‍යවස්ථාව සහ ජාත්‍යන්තර නීතිය ශ්‍රී ලාංකික නීති පද්ධතිය තුළ ඔබ ස්ථාන ගත කරන්නේ කොතැනකද?

අදාල ව්‍යවස්ථාමය ප්‍රතිපාදන සහ නඩු නීතිය ඇසුරින් ඔබේ පිළිතුර සනාථ කරන්න.

(ලකුණු - 25)

06. කැපී පෙනෙන සෞඛ්‍ය අනතුරු ඇඟවීම් සහ දුම් පානය ආශ්‍රිත රෝග පිළිබඳව ග්‍රැෆික් රූප සහිතව ඔලිම් පාට සරල ඇසුරුම් වල (කිසිදු සංකේතාත්මක, සැරසිලි සහගත සහ ප්‍රචාරනාත්මක තොරතුරු අඩංගු නොවූ) දුම්කොළ නිෂ්පාදන අලෙවි කළයුතු බවට නියෝග කළ ලොව පළමු රට බවට ටෝරා පත්වෙයි. ටෝරාහි දුම්කොළ නිෂ්පාදන සරල ඇසුරුම් පනතේ පූර්විකාවේ දැක්වෙන පරිදි මෙම පියවරයන් දුම්කොළ නිෂ්පාදන භාවිතා කිරීමෙන් සහ දුම් පානයෙන් මිනිසුන් අධෛර්යමත් කිරීම මගින් මහජන සෞඛ්‍ය වැඩිදියුණු කිරීම අරමුණු කරගෙන ඇත. කෙසේ වෙතත් ටෝරාහි විවිධ දුම්කොළ සමාගම් මෙම පනතේ නීත්‍යානුකූල භාවය අභියෝගයට ලක් කළේ පනතේ විධි විධාන ඔවුන්ගේ වෙළඳ ලකුණු අයිතිවාසිකම් සහ අනෙකුත් බුද්ධිමය දේපල අයිතිවාසිකම් භාවිතයට සහ භුක්ති විඳීමට පටහැනි බව පවසමිනි. දුම්කොළ සමාගම් මෙම පනතේ

3. "The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, and even the prejudices which judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed. The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics..."

Oliver Wendel Holmes Jr.

Analyze the claims being made in the above statement, and their significance in jurisprudence with reference to American legal realism.

(25 marks)

Answer only one (01) question: **EITHER 4(a) OR 4(b)**

4 (a) Sevigny's central idea was that law is an expression of the will of the people. It doesn't come from deliberate legislation but arises as a gradual development of the common consciousness of the nation.

D.Michele, *Jurisprudence: The Philosophy of Law* (2nd edn, Old Bailey Press, London, 2001) 233

Critically evaluate the above statement concerning the philosophical understanding of the Historical school of law.

(25 marks)

4 (b) Although Rousseau gives legislative power to the people, he insists that they need a legislator to help them make the laws. What are the qualities that the legislator must possess? To what extent such legislators can impose restrictions on man's liberty? How such restrictions can be justified? These are some tensions that exist in the context of Social Contract Theory.

Critically evaluate the above statement with reference to the social contract theory. Support your answer with relevant examples taken from two selected jurisdictions.

(25 marks)

ආණ්ඩුක්‍රම ව්‍යවස්ථානුකූල භාවය අභියෝගයට ලක්කරමින් ටෝරාහි මහාධිකරණයේ නඩුවක් ගොනුකර ඇත.

ඔබ ටෝරා මහාධිකරණයේ මූලස්‍රූත හොඳවන විනිසුරු යැයි උපකල්පනය කරන්න. සමාජ විද්‍යාත්මක නීති ගුරුකුලයේ දෘෂ්ටිවාද මත පදනම් වෙමින් මෙම ගැටෙන අයිතිවාසිකම් තුලනය කරන්නේ කෙසේද යන්න පිළිබඳව වාර්තාවක් ඔබ විසින් සකස් කිරීමට නියමිතය. අදාළ උදාහරණ උපුටා දක්වමින් ඔබේ වාර්තාව ලියන්න.

(ලකුණු - 25)

07. ශ්‍රී ලංකාවේ සමකාලීන නීති පද්ධතිය තුළ නීති විද්‍යාවේ විෂය පථය සහ එහි අදාලත්වය විවේචනාත්මකව විග්‍රහ කරන්න.

(ලකුණු - 25)

08. මාක්ස්වාදී නීති ගුරු කුලය, රාජ්‍යයේ සහ නීතියේ භූමිකාව පන්නි අරගලය නැමැති කාවය තුළින් දකින අතර, සියළුම ආකාරයේ නීති, ආධිපත්‍ය සහිත පන්නින්නි සබඳතා වල ප්‍රකාශනයන් සේ සලකනු ලබයි.

ඔබ කැමති නීති ක්ෂේත්‍ර දෙකක් හඳුනා ගනිමින් ඉහත ප්‍රකාශයේ ඉදිරිපත් කර ඇති තර්කය සහ එහි සමකාලීන අදාලත්වය විවේචනාත්මකව පරීක්ෂා කරන්න.

(ලකුණු - 25)

- සියලුම හිමිකම් ඇවිරිණි. -

5. Explain the different types of norms that can be identified in a legal system according to Hans Kelsen's pure theory of law. Where would you place the Second Republican Constitution of Sri Lanka and international law according to Kelsen in the Sri Lankan legal system?

Support your answer with the relevant constitutional provisions and case law.

(25 marks)

6. Tora became the first country in the world to mandate that tobacco products be sold in olive-coloured plain packaging (without any figurative, decorative and promotional information) associated with prominent health warnings and graphic images of smoking-related diseases. As appeared in the preamble of the Tobacco Plain Packaging Act of Tora, these measures aimed to improve public health by discouraging people from smoking or using tobacco products. However, different tobacco companies in Tora challenged the legality of this legislation claiming that the provisions of the Act were contrary to the use and enjoyment of their trade mark rights and other intellectual property rights. The tobacco companies filed a case challenging the constitutionality of the Tobacco Plain Packaging Act in the High Court of Tora.

Assume that you are the presiding judge of the High Court of Tora. You are supposed to write a report on how to balance these conflicting interests based on the ideologies of the sociological law school. Write your report citing relevant examples.

(25 marks)

7. Critically assess the scope and relevancy of jurisprudence in the contemporary Sri Lankan legal system.

(25 marks)

8. Marxism views the role of the state and law through the lens of class struggle and concerns all forms of law as manifestations of dominant class relations.

Identifying two (02) areas of law of your preference, critically examine the argument presented in the above statement and its contemporary relevance.

(25 marks)

-Copyright reserved-

இலங்கை திறந்த பல்கலைக்கழகம்

மானுடவியல் மற்றும் சமூகவிஞ்ஞானங்கள் பீடம்

சட்டக்கற்கைகள் திணைக்களம்

சட்டமாணி பட்டப்படிப்பு நிகழ்ச்சித் திட்டம் -2022/2023

மட்டம் - 06 LLU6813/LLU4321- சட்டவியல்

இறுதிப் பரீட்சை 2022 / 2023

காலம் : மூன்று (03) மணித்தியாலங்கள்



திகதி : 25 மார்ச் 2024

நேரம்: மு.ப.9.30 - பி.ப.12.30

மொத்த வினாக்களின் எண்ணிக்கை எட்டு (08)

நான்கு (04) வினாக்களிற்கு மாத்திரம் விடையளிக்குக.

தெளிவற்ற கையெழுத்திற்கு புள்ளிகள் குறைக்கப்படும்.

- 1) ரம்ஸா என்ற அரசின் உயர்கல்வி (திருத்த) சட்டம் அதனுடைய தேசிய பல்கலைக்கழகங்களினால் அளிக்கப்படுகின்ற பட்டப்படிப்பு நிகழ்ச்சித்திட்டங்களில் ஆட்களை தேர்ந்தெடுப்பதற்கு உயர்மட்ட அனுமதி தகுதிகாண்களை அறிமுகப்படுத்தியது. இச்சட்டத்தின் பிரகாரம் தேசிய பல்கலைக்கழக அனுமதிக்கான ஒவ்வொரு விண்ணப்பமும் ஆரம்பத்தில் தொடர்புபட்ட பல்கலைக்கழகத்தினால் நியமிக்கப்படுகின்ற தெரிவிக்குமுவினால் நான்கு வகுதிகளின் அடிப்படையில் பரீட்சிக்கப்படும். கல்விசார் தகைமை கல்வி நடவடிக்கைக்கு புறம்பான விடயங்கள், தனிப்பட்ட விடயங்கள் மற்றும் ஒட்டுமொத்த விடயங்கள் என்பன நான்கு வகுதிகள் ஆகும். “ஒட்டுமொத்த” வகுதி என்பதற்குள் தெரிவிக்குமு விண்ணப்பதாரியினுடைய இனம், நிறம் மற்றும் பூர்வீகதேசியம், என்பவற்றை கருத்தில் எடுக்கும். மேலே தரப்பட்ட அனைத்து வகுதிகளிலும் 60ற்கு மேற்பட்ட புள்ளிகளை பெறுகின்ற விண்ணப்பதாரி ஒருவர் தேசிய பல்கலைக்கழக அனுமதிக்கு தகுதி பெறுவார். இச்சட்டம் பின்னோக்கி ஆளும் வகையில் அமுல்படுத்தப்பட்டதுடன் இவ்விடயம் தொடர்பான நீதிமுறை மீளாய்வும் அகற்றப்பட்டது.

அனைவருக்குமான மேம்பாடு (EFA) என்ற இலாப நோக்கமற்ற நிறுவனத்தினுடைய இலக்கு “சட்டத்தின் கீழ் சமமான பாதுகாப்பிற்கு உரிய தனிப்பட்டவர்களின் உரிமை உள்ளடங்கலாக சட்டத்தினால் பாதுகாக்கப்பட்ட “மனித மற்றும் குடியியல் உரிமைகளை பாதுகாப்பது” ஆகும். EFA மேலே குறிப்பிட்ட சட்டத்தினால் நிறம் மற்றும் இன அடிப்படையிலான அனுமதிக்கான தகுதிகாண்கள் பிரஜைகளுடைய உரிமைகளையும் ரம்ஸா அரசியலமைப்பு

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LLB DEGREE PROGRAMME
LEVEL 6-LLU6813 /LWU4321 JURISPRUDENCE
FINAL EXAMINATION -2022/2023
DURATION - THREE (03) HOURS



Date: 25th March 2024

Time: 09.30 a.m.-12.30 p.m.

Total number of questions **Eight (08)**.

Answer **Four (04)** questions only.

Illegible handwriting will be penalized.

1. The Higher Education (Amendment) Act (the Act) of Ramza introduced a highly selective admission criterion for degree programmes offered by its national universities. The Act provided that each application for admission to the national universities should be initially screened by a Selection Committee appointed by the respective university under four categories: academic, extracurricular, personal, and overall. For the 'overall' category, the Selection Committee could consider the applicant's race, colour, and national origin. An applicant who receives more than 60 marks in all categories is accepted for admission to the national universities. The Act was implemented with retrospective effect, and the judicial review has been excluded on this matter.

Empowerment for All (EFA) is a nonprofit organization whose purpose is 'to defend human and civil rights secured by law, including the right of individuals to equal protection under the law. The EFA argued that the colour and race-based admission criteria introduced by the Act violate the rights of the citizens and the colorblind principle guaranteed by the Constitution of Ramza. According to them, the admission criteria should be based solely on merit and qualifications.

(a) In light of the above scenario, critically examine the importance of the retention of the core values of the principles of Natural law school in the law-making process.

(15 marks)

உத்தரவாதப்படுத்தப்பட்ட நிற அடிப்படையிலான பாரபட்சம் இன்மை என்ற எண்ணக்கருவையும் மீறுகிறது என வாதித்தது. அவர்கள் பல்கலைக்கழக அனுமதிக்கான தகைமை, திறமை மற்றும் தகுதிகளின் அடிப்படையில் மாத்திரமே அமைய வேண்டும் என குறிப்பிட்டனர்.

அ) மேலே தரப்பட்ட சம்பவத்தின் பின்னணியில், சட்டவாக்க செயன்முறையில் இயற்கை சட்ட பள்ளியின் எண்ணக்கருக்களின் முக்கியமான பெறுமதிகளை தக்க வைத்துக்கொள்வதன் முக்கியத்துவத்தை விமர்சித்து ஆராய்க.

(15 புள்ளிகள்)

ஆ) சட்டங்களை ஆக்குகின்ற போது அரசாங்கம் அதனுடைய வரம்பினை மீறி சட்டமாக்குகின்ற போது அச்சட்டங்களுக்கு பிரஜைகள் கீழ்படிவதுடன் தொடர்பான கடப்பாடுகளை ஆராய்க.

(10 புள்ளிகள்)

- 2) அ) “ இவ்வகையில், மக்களுடைய இறைமை என்ற வகையில், தமக்கு அளிக்கப்பட்டுள்ள அதிகாரங்களை அரசினுடைய வேறுபட்ட நிறுவனங்கள் பிரயோகிக்கின்ற போது அத்தகைய அதிகாரங்களை மக்கள் சார்பாக பிரயோகிக்க வேண்டும் என்பதை அந்நிறுவனங்கள் அங்கீகரிக்க வேண்டும். இதன் காரணமாக அத்தகைய அதிகாரங்களை பிரயோகிக்கின்ற கடமைகளைக் கொண்ட அரச நிறுவனங்கள் ஏதேச்சதிகாரமாகவோ அல்லது பகுத்தறிவு அற்ற வகையிலோ அதிகாரத்தை பயன்படுத்த முடியாது. இங்கு குறிப்பிடப்பட்ட அரச நிறுவனங்கள் அவர்களுக்கு அளிக்கப்பட்டுள்ள அதிகாரங்களை பிரயோகிக்கின்ற போது நிர்வாக மற்றும் அல்லது நிறைவேற்றுத்துறை அதிகார சபைகளுடைய தந்துணிவு அதிகாரத்தின் பயன்பாட்டை, நீதிமன்றங்கள் ஆரம்பத்தில் இயற்கை வளங்கள் பாதுகாப்பு தொடர்பில் பொது நம்பிக்கைக் கோட்பாட்டின் ஊடாக அவதானம் செலுத்திய போதிலும் அவற்றினை அடுத்து மேற்கொண்ட தீர்மானங்களில் அதிகார சபைகள் ஏதேச்சாதிகாரத்தன்மையை தவிர்த்து மக்களுடைய முழுமையான நலனுக்கு செயற்பட வேண்டும் என்ற அளவிற்கு விரிவாக்கியுள்ளது.”

Dr. Athulasiri Kumara Samarakoon and others v Ranil Wickremasinghe and others SC FR No. 195/2022

ஓஸ்ரின் என்பவரால் முன்மொழியப்பட்ட “இறைமை” என்ற கோட்பாட்டின் பாரம்பரிய விளக்கம் மேலே குறிப்பிட்ட நீதிமன்ற தீர்ப்பில் ஆராயப்பட்ட வகையில் சமகால எண்ணக்கருக்களால் சவாலிற்கு உட்படுத்தப்பட்டுள்ளதா?

மேலே தரப்பட்ட கூற்றில் தடித்த எழுத்துக்களில் குறிப்பிடப்பட்டுள்ள கோட்பாடுகள் மற்றும் சொற்றொடர்களுக்கு குறிப்பாக அவதானம் வழங்கி விமர்சித்து ஆராய்க.

(15 புள்ளிகள்)

(b) Discuss the obligation of citizens to obey those laws when the government has transgressed its limits to make the laws.

(10 marks)

(15 + 10 = 25 marks)

2. (a) "...Thus, this Court has recognized that when different organs of the State exercise the respective powers attributed to them as the **Sovereignty of the People**, such organs exercise such powers on behalf of the People and therefore, a duty is cast on State organs not to use such powers arbitrarily or irrationally. This Court has through its decisions had developed the "**Public Trust Doctrine**" by examining use of the discretionary power vested on executive and / or administrative authorities, initially focusing on the protection of natural resources and subsequently expanded to exclude arbitrariness in decisions **where public authorities exercise powers vested on the said organs, to ensure the said bodies exercise such powers to the ultimate benefit of the people.**"

Dr. Athulasiri Kumara Samarakoon and others v Ranil Wickremesinghe and others SC FR No. 195/2022

Do you think that the traditional understanding of the concept of 'sovereignty' propounded by Austin has been challenged by the contemporary concepts as discussed in the above judgment?

Critically discuss the above statement by giving special reference to the concepts and phrases in bold.

(15 marks)

(b) Explain whether any of the following would be included within the term 'positive law' as defined by Austin.

(i) A regulation issued by the Urban Council to increase the annual Assessment Tax.

(ii) International Law.

(05 x 2 = 10 marks)

(15 + 10 = 25 marks)

ஆ) ஒஸ்ரீன் என்பவரால் வரைவிலக்கணம் வழங்கப்பட்ட “புலனறிவாத சட்டம்” என்ற சொற்பதத்திற்குள் கீழே தரப்பட்டுள்ளவற்றில் ஏதேனும் ஒன்று உள்ளடக்கப்படுமா என்பதை விளக்குக.

I. வருடாந்த வரி மதிப்பீட்டை அதிகரிப்பதற்காக நகர சபையினால் வழங்கப்பட்ட ஒரு ஒழுங்கு விதி

II. சர்வதேச சட்டம்

(05x02 =10 புள்ளிகள்)

(15+10 =25 புள்ளிகள்)

- 3) “சட்டம் உயிர் பெறுவது தர்க்கம் ஒன்று அல்ல.. அது ஒரு அனுபவமாகும். மக்களை ஆளுகின்ற விதிகளை தீர்மானிக்கும் போது உணரப்பட்ட காலத்தின் தேவைகள், நடைமுறையிலுள்ள ஒழுக்க மற்றும் அரசியல் கோட்பாடுகள், பொதுக்கொள்கை நிறுவனங்கள், உறுதியளிக்கப்பட்ட கூற்றுக்கள் அத்துடன் நீதிபதிகள் தமது சக நீதிபதிகளுடன் பகிர்ந்து கொள்கின்ற தவறான அபிபிராயங்கள் கூட முக்கூற்று முடிவுக்கு அப்பால் சென்ற ஒரு நல்ல ஒப்பந்தம் ஆகும். சட்டமானது பல நூற்றாண்டுகளாக உருவாக்கப்பட்ட தேசமொன்றின் வரலாற்றை உட்பொதித்துள்ளதுடன் கணித புத்தகத்தில் இருக்கக்கூடிய கோட்பாடுகள் மற்றும் தொடர்புகள் போன்று அவற்றை கருத முடியாது...” மேலே குறிப்பிட்ட கூற்றில் மேற்கொள்ளப்பட்ட கோரிக்கைகளை பகுப்பாய்வு செய்வதுடன் அமெரிக்க மெய்யியல் வாதத்துடன் தொடர்புறுத்தி சட்டவியலில் அவற்றினுடைய முக்கியத்துவத்தை ஆராய்க.

(25 புள்ளிகள்)

கீழே தரப்பட்ட 4 (அ) 4 (ஆ) என்பவற்றுள் ஏதேனும் ஒன்றை தெரிவு செய்து விடையளிக்குக.

- 4) அ) சவிங்கி (Sevigny) என்பவருடைய முக்கிய கருத்து யாதெனில் சட்டமானது மக்களுடைய விருப்பத்தின் வெளிப்பாடு ஆகும். இது திட்டமிட்ட சட்டவாக்கத்தில் இருந்து வருவதில்லை, ஆயின் ஒரு தேசத்தினுடைய பொதுவான உணர்வுகளின் படிப்படியான வளர்ச்சியில் இருந்து உருவாகின்றது.

Dr.Michele, *Jurisprudence: The Philosophy of Law* (2nd edn, Old Bailey Press, London, 2001)233

வரலாற்று சார் சட்டவியல் கொள்கையுடைய தத்துவம் சார் விளக்கத்தினை கருத்தில் எடுத்து மேலே உள்ள கூற்றை விமர்சித்து மதிப்பிடுக.

(25 புள்ளிகள்)

- ஆ) ருசோ என்பவர் சட்டவாக்க அதிகாரத்தை மக்களிடம் வழங்கியுள்ள போதிலும் அவர் சட்டங்களை ஆக்குவதற்கு உதவியளிக்க அவர்களுக்கு ஒரு சட்டவாக்குநர் தேவைப்படுவார் என்பதை வலியுறுத்துகிறார். சட்டவாக்குனர் ஒருவருக்கு இருக்கவேண்டிய தராதரங்கள்

3. "The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, and even the prejudices which judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed. The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics..."

Oliver Wendel Holmes Jr.

Analyze the claims being made in the above statement, and their significance in jurisprudence with reference to American legal realism.

(25 marks)

Answer only one (01) question: **EITHER 4(a) OR 4(b)**

4 (a) Sevigny's central idea was that law is an expression of the will of the people. It doesn't come from deliberate legislation but arises as a gradual development of the common consciousness of the nation.

D.Michele, *Jurisprudence: The Philosophy of Law* (2nd edn, Old Bailey Press, London, 2001) 233

Critically evaluate the above statement concerning the philosophical understanding of the Historical school of law.

(25 marks)

4 (b) Although Rousseau gives legislative power to the people, he insists that they need a legislator to help them make the laws. What are the qualities that the legislator must possess? To what extent such legislators can impose restrictions on man's liberty? How such restrictions can be justified? These are some tensions that exist in the context of Social Contract Theory.

Critically evaluate the above statement with reference to the social contract theory. Support your answer with relevant examples taken from two selected jurisdictions.

(25 marks)

என்ன? அத்தகைய சட்டவாக்குனர்கள் மனிதனுடைய சுதந்திரம் மீது எந்த அளவிற்கு மட்டுப்பாடுகளை விதிக்க முடியும்? அத்தகைய மட்டுப்பாடுகளை எவ்வாறு நியாயப்படுத்தலாம்? சமூக ஒப்பந்த கொள்கை கட்டமைப்புக்குள் இவை சில பதற்றங்கள் ஆகும்.

சமூக ஒப்பந்த கொள்கையின் பின்னணியில் மேலே தரப்பட்ட கூற்றை விமர்சித்து மதிப்பிடுக. தெரிவு செய்யப்பட்ட இரண்டு நியாயாதிக்கங்களில் இருந்து பொருத்தமான உதாரணங்களை கொண்டு உமது விடையை ஆதாரப்படுத்துக.

(25 புள்ளிகள்)

- 5) ஹண்ஸ் ஹெல்சனுடைய தூய சட்டக்கொள்கைக்கு அமைய சட்டமுறைமை ஒன்றில் இனங்காணக் கூடிய பல்வேறு வகைப்பட்ட விதிமுறைகளை விளக்குக. ஹெல்சனுக்கு அமைவாக இலங்கை சட்டமுறைமையில் இலங்கையின் இரண்டாவது குடியரசு யாப்பு மற்றும் சர்வதேச சட்டம் என்பவற்றை எந்த இடத்தில் வைப்பீர்? பொருத்தமான அரசியலமைப்பு கோட்பாடுகள் மற்றும் தீர்ப்புச் சட்டங்களை வலியுறுத்தி உமது விடையை ஆராய்க.

(25 புள்ளிகள்)

- 6) டோரா என்ற நாடு ஒலிவ் நிறத்திலான வெற்று பொதியமைப்பைக் கொண்டு (எந்தவிதமான உருவங்கள், அலங்காரம் மற்றும் ஊக்குவிப்பு தகவல்கள் அற்ற) புகையிலை உற்பத்திகளை விற்பனை செய்வதை அறிமுகப்படுத்திய முதலாவது நாடு ஆகும். இப்பொதியிடலில் புகைத்தலுடன் தொடர்புபட்ட வியாதிகள் சம்பந்தப்பட்ட முக்கியமான ஆரோக்கியம் சார்ந்த எச்சரிக்கை மற்றும் படங்களை உட்புகுத்துமாறு சட்டத்தினால் தேவைப்படுத்தப்பட்டது. டோராவினுடைய புகையிலை வெற்று பொதியிடல் சட்டத்தின் பாயிரத்தில் குறிப்பிட்டவாறு இந்நடவடிக்கைகள் மக்களை புகைத்தல் அல்லது புகையிலையுடன் தொடர்புபட்ட உற்பத்தி பொருட்களை பயன்படுத்துவதில் இருந்து தடுப்பதன் மூலம் பொது சுகாதாரத்தை மேம்படுத்துவதை நோக்கமாக கொண்டவையாகும் எனினும், டோராவில் உள்ள பல்வேறுபட்ட புகையிலை நிறுவனங்கள் இச்சட்டத்தின் சட்ட வலிதாந்தன்மையை கேள்விக்கு உட்படுத்தின. இச்சட்டத்தின் ஏற்பாடுகள் தமது வியாபார குறியீட்டு உரிமைகளையும் ஏனைய புலமைசார் சொத்து உரிமைகளையும் பயன்படுத்துவதையும் அனுபவிப்பதையும் தடுக்கின்றது என எடுத்துரைத்தனர். புகையிலை வெற்று பொதியிடல் சட்டத்தின் அரசியலமைப்பு வலிதுடமையை கேள்விக்குட்படுத்தி புகையிலை நிறுவனங்கள் டோராவின் மேல் நீதிமன்றத்தில் வழக்கொன்றை தாக்கல் செய்தது.

டோராவின் மேல் நீதிமன்றத்தை தலைமை வகிக்கும் நீதிபதி என உம்மை கருதுக. சமூகவியல் சார் சட்டக் கொள்கையின் கருத்துக்களின் அடிப்படையில் இங்கு நிலவுகின்ற முரண்படுகின்ற அக்கறைக்களுக்கிடையில் சமநிலை ஒன்றை எவ்வாறு பேணமுடியும் என்பது

5. Explain the different types of norms that can be identified in a legal system according to Hans Kelsen's pure theory of law. Where would you place the Second Republican Constitution of Sri Lanka and international law according to Kelsen in the Sri Lankan legal system?

Support your answer with the relevant constitutional provisions and case law.

(25 marks)

6. Tora became the first country in the world to mandate that tobacco products be sold in olive-coloured plain packaging (without any figurative, decorative and promotional information) associated with prominent health warnings and graphic images of smoking-related diseases. As appeared in the preamble of the Tobacco Plain Packaging Act of Tora, these measures aimed to improve public health by discouraging people from smoking or using tobacco products. However, different tobacco companies in Tora challenged the legality of this legislation claiming that the provisions of the Act were contrary to the use and enjoyment of their trade mark rights and other intellectual property rights. The tobacco companies filed a case challenging the constitutionality of the Tobacco Plain Packaging Act in the High Court of Tora.

Assume that you are the presiding judge of the High Court of Tora. You are supposed to write a report on how to balance these conflicting interests based on the ideologies of the sociological law school. Write your report citing relevant examples.

(25 marks)

7. Critically assess the scope and relevancy of jurisprudence in the contemporary Sri Lankan legal system.

(25 marks)

8. Marxism views the role of the state and law through the lens of class struggle and concerns all forms of law as manifestations of dominant class relations.

Identifying two (02) areas of law of your preference, critically examine the argument presented in the above statement and its contemporary relevance.

(25 marks)

-Copyright reserved-

தொடர்பில் அறிக்கை ஒன்றை நீர் தயாரிக்க வேண்டும். உதாரணங்களை குறிப்பிட்டு உமது அறிக்கையை தயாரிக்குக.

(25 புள்ளிகள்)

- 7) சமகால இலங்கை சட்டமுறைமையின் கீழ் சட்டவியலின் எல்லையையும் பொருத்தப்பாட்டையும் விமர்சன ரீதியான மதிப்பிடுக.

(25 புள்ளிகள்)

- 8) மாக்ஸிய வாதம் அரசு மற்றும் சட்டத்தின் வகிபாகம் என்பவற்றை வகுப்பு போராட்டத்தின் கண்ணோட்டத்தில் நோக்குகிறது. அத்துடன் அனைத்து சட்ட வடிவங்களையும் ஆதிக்கம் செலுத்துகின்ற வகுப்பு உறவுகளின் வெளிப்பாடுகள் என கருதுகிறது.

உமது விருப்பத்திற்கமைய இரண்டு (02) சட்டத்துறைகளை தெரிவு செய்து மேலே குறிப்பிட்ட கூற்றில் தரப்பட்ட வாத்தினையும் அதனுடைய சமகால பொருத்தப்பாட்டையும் பரீட்சிக்க.

(25 புள்ளிகள்)

-முழுப்பதிப்புரிமையடையது -