

THE OPEN UNIVERSITY OF SRI LANKA
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES
 DEPARTMENT OF LEGAL STUDIES
 LLB DEGREE PROGRAMME- LEVEL 3
 FINAL EXAMINATION - 2023/2024
 LLU 3901 – CONSTITUTIONAL LAW 1
 DURATION-3 HOURS



DATE: 11th MAY 2025

TIME: 01.30 p.m. – 4.30 p.m.

Total number of Questions -08

Answer FIVE 05 questions only

Illegible handwriting will be penalized.

1. 'The principle of autochthony is variously described by the use of such phrases as the constitution is rooted in the native soil or "the constitution has sprung from the home soil.'

R.K.W. Goonesekere and Jayantha Almeida Gunaratne, *Constitutional Law Block 1* (The Open University of Sri Lanka, 1984)12.

In light of the above statement, describe the concept of Autochthony under the 1947 and 1972 Constitutions of Sri Lanka.

Support your answer with reference to the relevant constitutional provisions of Sri Lanka and case law.

(20 Marks)

2. Dumindu is a 22-year-old first-year university student in the Democratic Socialist Republic of Garland. Nalaka, a third-year student at the same university, held a grudge against Dumindu due to a dispute. Nalaka's father is a well-known politician in Garland, and he told his father about this dispute. One day, when Dumindu was on his way home after the university holidays, three police officers blocked the road and checked his bag and brutally assaulted him, claiming that there were drugs inside the bag. During the attack, Nalaka and his father also attacked Dumindu. Dumindu suffered severe head injuries due to the attack and had to be admitted to the hospital. Nalaka and his father have not been arrested yet.

After hearing about this incident, a friend of Dumindu intends to write an article for a newspaper on the topic "Justice or injustice? Reassessing the rule of law in Garland."

Since you are a law student, he seeks your advice on the legal matters to be included in the article.

Advise him on the concept of 'rule of law' with relevant legal provisions.

Consider the Constitution of Garland is similar to the Constitution of 1978 of Sri Lanka.

(20 Marks)

3. 'To preserve democratic principles and values of a state in the law-making process, it is crucial to determine the nature of the legislative power given to the legislature.'

Critically examine the above statement referring to the concept of 'legislative supremacy' under the 1972 and 1978 constitutions in Sri Lanka.

Support your answer with relevant constitutional provisions, examples and case law.

(20 Marks)

4. Mr. Paul is the newly appointed executive president of the Democratic Socialist Republic of Noriko. Some of the decisions he has taken recently have created controversy.

a) Mr. Paul dissolved the parliament of Noriko one year after it was elected, without the consent of the members of the parliament.

(5 Marks)

b) Mr. Paul, unexpectedly prepares to resign due to health issues, appointing his advisor as the next president of Noriko. He says that parliament and the judiciary should agree with his decision.

(5 Marks)

c) Mr. Paul orders the arrest of a journalist who criticized his economic policies. He states that the journalist cannot sue him as he is the president of Noriko.

(5 Marks)

- d) Mr. Paul appoints Mrs. Sai as the prime minister, who does not have the confidence of the majority of the parliament of Noriko. **(5 Marks)**

Critically analyse the legal validity of the above decisions and actions he has taken and assuming that the Constitution of the Democratic Socialist Republic of Noriko is similar to that of the 1978 Constitution of Sri Lanka. Refer to the relevant constitutional provisions and case law where necessary.

(Total - 20 Marks)

5. 'If the power is concentrated in a single person's hand or a group of people, then it results in a tyrannical form of government. The three branches of government ought to be composed of different persons.

De Smith S.A., *Constitutional and administrative law* (3rd edn, Penguin Books, New York 1981)36.

Critically explain the above statement with reference to the scope and application of the concept of 'separation of powers' in Sri Lanka under the 1978 Constitution and the Constitutions of the United States of America and the United Kingdom.

Support your answer with relevant statutory provisions and case law.

(20 Marks)

6. Janu and Janath, citizens of the Democratic Socialist Republic of Hillwoodland were denied access to a national religious event held. The Ministry officers of the Ministry of Religious and Cultural Affairs denied their request to enter the event. The ministry states that, as there was a large crowd, no one would be allowed to enter due to public security reasons. However, despite this restriction, ministry officers allowed their relatives to enter the premise.

On behalf of all others who were not allowed to participate in the religious festival, Janu

and Janath intend to file a fundamental rights petition.

They seek your advice on whether they can file a fundamental rights petition. Advise them with relevant constitutional provisions and case law, assuming that the constitution of Hillwoodland is similar to that of the 1978 Constitution of Sri Lanka.

(20 Marks)

7. 'The independence of the judiciary is a silent strength of a just society. It is a vigilant guardian of justice, and it is through this independence that the rule of law prevails'.

Do you agree with the above statement? Critically analyse the scope and application of the concept of 'independence of the judiciary' in Sri Lanka under the Constitution of 1978.

Support your answer with relevant constitutional provisions, case law, and examples where necessary.

(20 Marks)

8. Select **any FOUR (04)** of the following and write short notes.

- a. Main features of the Donoughmore Constitution
- b. Constitutionalism
- c. Proportional representation
- d. The Referendum
- e. Ombudsman

(5X4=20 Marks)