

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
CONSTITUTIONAL LAW II – LLU4708



CONTINUOUS ASSESMENT TEST II – 2023/24

DURATION – 01 HOUR

Date - 04-12-2023

Time - 11.30 AM-12.30 PM

You will be penalized for illegible handwriting.

Total number of questions – 02.

Answer one (01) question only.

1. State *Jumbhagya* has been experiencing economic difficulties in the recent times. There have been mass protests in the country where people expressing their displeasure to the government for not being able to redress the grievances of the general public. On 1st November 2023, the President of *Jumbhagya* declared a state of public emergency. He stated that this measure was taken since frequent protests disrupt public order and safety.

Following is an extract from the emergency regulations:

[...] 2.1. No person is allowed to organize any protest march. Organizing, directing, and participating in protest marches is prohibited.

2.2 No person is allowed to criticize the government's economic policy in public. Any such statement shall be deemed illegal and a violation of emergency regulations.

2.3 Persons suspected of committing, or aiding or abetting aforementioned acts shall be detained in separate locations prescribed by the Minister. The Minister may determine the period of detention not exceeding twelve months.

Despite the declaration, protests erupted throughout the country. Dias who is a final year undergraduate participated in one such protest held on 03rd of November. The protest was largely peaceful. However, the police dispersed the crowd, and Dias was arrested along with several other protestors. He was severely beaten at police custody. Later, he was detained under the emergency regulations for three weeks.

Dias seeks your advice on what grounds he can file a Fundamental Rights application. Advise Dias. Assume that the constitution of *Jumbhagya* is similar to the Sri Lankan constitution.

(20 Marks)

2. *Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law – Article 8, Universal Declaration of Human Rights*

Critically discuss the status of the right to constitutional remedy for fundamental rights violation in Sri Lanka. Your answer should be supported by relevant constitutional provisions and judicial authorities.

(20 Marks)
