

THE OPEN UNIVERSITY OF SRI LANKA
LL.B DEGREE PROGRAMME- LEVEL 3
FINAL EXAMINATION –2006
CONSTITUTIONAL LAW I – LWU 1201
DURATION – 3 HOURS



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Date -15th March 2006

Time -1.30 p.m.- 4.30 p.m.
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Answer **FIVE** questions only

Illegible handwriting will be penalized

01. Write a report on the nature of Constitutional Law considering the following observations. The report should include examples from the contemporary world and an analysis on the validity of these observations.

- The concept of State is an important aspect in Constitutional Law and it is different from the concept of Government.
- The Constitution of a State could be classified as unitary or federal and also as rigid or flexible
- Constitutions could also be Autochthonous or Granted.

02. "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".

C.F Scarman, *English Law -The New Dimension* cited in Constitutional and Administrative Law by A.W.Bradley, K.D. Ewing, 12th Ed., page 111.

Do you agree with this statement? Give reasons for your answer.

03. Social, political and economic factors have contributed to the foundation of the structure of the Constitution of a State. When the foundation changes with the time, the structure should also change accordingly. Therefore, the majority accepts that the existing Constitution should be amended. However, it is not an easy task to amend the basic law of the country. Some provisions could be easily amended but not all. Similarly, some provisions in the Constitution could be expressly amended while some other provisions could be amended impliedly. But it could be observed that all these attempts to amend the Constitutions can be changed by restrictions embodied in the Constitution itself.

Discuss the above statement with reference to amending the Constitution.

04. The concept of 'Sovereignty of Parliament' is an unlimited concept with a long history. It could be seen that the concept was operating as a result of glorious historical necessities. However there are, in practice, many limitations to Legislative Supremacy of Parliament. Therefore, Parliamentary Supremacy is only a legal fiction.

Analyze this statement in relation to the concept of 'Legislative Supremacy' under the First Republican Constitution of 1972 and the Second Republican Constitution of 1978.

05. It is mandatory to separate powers for a more efficient and fair governance. Jurists believe that the efficacy of the different organs is manifested when they operate with separated powers, which are used exclusively. Power devolved on different institutions of the government varies according to their tasks and their composition. It is debated that this affects the efficacy of the institutions of the government.

Critically evaluate the above statement according to the experiences of United States of America, United Kingdom and Sri Lanka.

06. The Executive Presidency is the most important concept of the 1978 Constitution. The authorities forming a part of Executive are the reason for this importance. The Executive Presidency is also the most debated factor of the Constitution. The reason for this controversy is the opposing views taken by and on the authorities attached to it. This is more evident when we consider the Powers of the president to impose his or her powers on the institutions of the government.

Do you agree? Explain.

07. Independence of the Judiciary is an extraordinary as well as important principle of the Constitution of a State. If the thread, which binds society together, is the law, it is imperative to strengthen the judicature, which is the ultimate institution of justice. The stability of the society and the government depend on the degree of independence of the Judiciary. Even though various steps have been taken to enhance the independence of the Judiciary by the 1978 Constitution, it has been criticized that this has fallen short and be improved.

Do you agree with this criticism? Give reasons for your answer.

08. Write notes on any **TWO** of the following.
- (a) Social Action Litigation
 - (b) The Referendum
 - (c) The Ombudsman
 - (d) The Manning Constitution