

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR IV – ~~2019~~/2020

ENVIRONMENTAL LAW

(Three Hours)

Total Number of questions: 07

Answer any **FOUR** questions and, no more.

(Candidates will be penalized for illegible handwriting)

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- 1) Sustainable development seeks to make a balance within social, economic and environmental priorities in a national development context. Following the adaptation of the United Nations Sustainable Development Goals (SDGs) in 2015, the world community is required to fulfill a wide range of commitments towards achieving SDGs, when it is implemented at the national level.

Discuss the evolution of the concept of sustainable development in light of the evolution of environmental law discourse.

(25 Marks)

- 2) 'Super Power (Pvt) Ltd' is a private enterprise registered to produce quartz grits. Its production house is located in Ratmalana. Super Power (Pvt) Ltd has begun its activities in January 2020. Since then, the residents near the production house have been disturbed with sound, heat and dust emitted from the production house. Few of them have started to develop symptoms of severe sneezing and skin rashes. Doctors have testified that these would be developed into longer term illness of sinuses and skin issues. Further, the residents have noted that health of their plants have been diminished during this time. By having a preliminary background study, the residents found out that the Super Power (Pvt) Ltd has begun its operation without obtaining the Environmental Protection License (EPL).

Assume that the residents seek your legal advice to bring an action against Super Power (Pvt) Ltd. Advise them citing the relevant statutory and case law authorities.

(25 Marks)

- 3) Recognizing right to environment through right to life and other related areas of human rights was celebrated within the third generational human rights discourse. With the adverse impact of climate change, the world community is now gradually moving towards analyzing the close interlinkages of climate change and human rights. In future, the champions on human rights perspectives of environmental protection will celebrate the rights of nature in a broader spectrum. The recognition of rights of nature places the man in his rightful position as a part of the environment and recognizes that the nature has rights and legal standing to fight for its own preservation.

Critically analyse the above statement in light of the interlink between human rights and environmental protection. Your analysis should include a comparative perspective of any two jurisdictions in the world.

(25 Marks)

- 4) Many incidents of coastal erosion were reported in the recent past in Penguinia in the State of Pearland. The Department of Coastal Development in Pearland initiates a coastal nourishment plan by filling sand artificially in an area covering approximately 3 kilometers along the Southern beach of Pearland. The project is implemented under the development strategies of the government of Pearland to promote tourism. The project is estimated to cost approximately \$150 million of the government treasury funds. The officials from the Ministry of Environment and Sustainable Development emphasise that the project has to be expedite as it prevents vast area of the beach in Penguinia from sand erosion by encroaching waves. The project is in three stages. Under the first phase of the project, 1.5 km long and 25 m wide an artificial beach will be constructed. Two hundred thousand cubic meters of sand will be used for the filling process. The first stage of the construction work of Penguinia beach is currently underway. At a recently held press conference, the Director of the Department of

Coastal Development in Pearland highlights several important issues with regard to his power to permit such actions without consulting the National Environmental Authority. In response to a question why the Environmental Impact Assessment (EIA) process has not been followed with regard to Penguin coastal nourishment project, the Director stresses that it is not mandatory for him to follow EIA procedure prior to the implementation of the project.

Meanwhile, Centre for Environmental Law and Policy conducts an investigation into the Penguin project and publishes a research report disclosing alarming environmental problems related to the Penguin beach filling project. Key arguments in the report were waste of public funds and the sustainability of the project. In responding to these findings, the Director the Department of Coastal Development in Pearland states that the funding for this project was approved last year after a feasibility report was carried out and the sustainability of the project was analysed under the feasibility report prior to the project was implemented.

You are an Attorney - at - Law working for Marine and Coastal Resource Trust, a non-governmental organization working with the mandate of protection of marine and coastal resources of Pearland. Analyse the above facts in the situation and evaluate the possible legal arguments related to the project procedure and the decision made by the Director with regard to Penguin project.

(25 Marks)

- 5) 'Weaknesses in the existing statutory guidelines and lack of awareness among the general public are the major contributory factors that challenge environmental preservation in Sri Lanka'.

Assume that you have been appointed as a junior researcher of the Environmental Law Reform Project. You are expected to prepare a report addressing to the Ministry of Justice highlighting the areas for reform in the **National Environmental Act** and **two (02)** other Acts of your choice.

(25 Marks)

6) Answer **both (a) and (b)**

- a) State sovereignty over the natural resources of a State is limited by its responsibility towards other States and areas beyond its territories. This is considered as a binding principle under international environmental law.

Discuss.

(13 Marks)

- b) 'Climate Change' is undoubtedly the most discussed area of international law at present. The issues related to climate change make an adverse impact across the other branches of international law at the global level. The recognition of climate change threat at global fora ultimately influences the decision making of all the States at the national level.

Do you agree? Evaluate the development of judicial application of climate change policies, at least, by two national level jurisdictions.

(12 Marks)

7) Select **two** of the following concepts and principles and discuss their application in major international and national instruments on environmental protection:

- a) Precautionary principle;
- b) Principle of Common but differentiated responsibilities;
- c) Principle of Intergenerational equity;
- d) Public Trust Doctrine

(25 Marks)