

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW
BACHELOR OF LAWS EXAMINATION, YEAR IV – ~~2019~~/2020

HUMAN RIGHTS LAW

(Three Hours)

Total Number of questions: 07

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

(Candidates will be penalized for illegible handwriting)

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1. “The dynamic nature of the concept of human rights is evident through its evolutionary development since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948. A notable feature of such development is the thematic approach taken towards various areas of human concerns which had not ever been thought of by the drafters of the UDHR”.

Identify one of such areas of human concerns to which the UN has paid much attention in the recent past and discuss the response of the members of the UN in advancing the same in the human rights sphere.

2. The right to equality before the law and equal protection of the law does not make all differences of treatment discriminatory.

Do you agree with the above statement? Support your answer with special reference to domestic and international case law authorities.

3. Sunil, a resident of Farmland, is taken into custody on 31st December 2019 by the police on suspicion of selling illicit alcohol. When Sunil refutes the charges he is blindfolded and pushed into the police jeep. When Madara, His wife demands the police to show the arrest warrant, she is pushed aside. At the police station, Sunil is striped, tied to a bar, and beaten with a pipe and sticks by Sub-Inspector Bandu at the presence of Inspector Sandu. He is physically severely tortured during investigation and as a result he starts bleeding from nose and becomes unable to move on his own. On the following day morning, he is admitted to a private hospital. His head injuries require six stitches and his internal organs show signs of severe contrusion. Inspector Sandu threatens him not to disclose anything to the medical officer. Sunil’s health condition deteriorates leading to coma stage. The medical report indicates severe damage to his brain cells.

You are an attorney at law attached to an NGO working for the protection of torture victims. Assume that the legal system of Farmland is similar to that of Sri Lanka. Advise Madara as to the legal remedies available to Sunil under the rights regime in Sri Lanka.

4. Sobar, a renowned free thinker and an asylum seeker from the United States of Makonia, was detained by the Federal Border Agency of Swakiland (FBAS) in the State Detention Centre after his application for asylum became unsuccessful. The FBAS considers an option of immediate deportation of Sobar to the State of Makonia along with other illegal immigrants, who have been suspected of having COVID 19 pandemic. The FBAS and health authorities of Swakiland embark upon the repatriating immigrants to several countries without any medical tests. The Makonian Supreme Religious Council has already pronounced death penalty on Sobar and his followers for preaching free thinking which is against the State religion. Meanwhile, it has been reported that Makonia has failed to control community spread of COVID 19 and the situation in Makonia deteriorating day by day as the number of COVID 19 victims is on the rise.

Swakiland and Makonia are State parties to all major international human rights instruments. Assume that their Constitutions are similar to that of the Constitution of Sri Lanka.

Answer the following:

- a) Advise Swakiland on Sobar's plea for asylum in Swakiland in light of its international human rights obligations;
- b) What is your opinion if Sober is an illegal immigrant to Swakiland?;
- c) Would your answer be different if Swakiland is not a State party to the major international human rights instruments?

5. Answer both (A) and (B):

(A) Women have the right to full legal recognition under international human rights law and that they must be treated on an equal footing with men. However, the precarious condition in which many of the world's women live making the enjoyment of many of their human rights illusory, gives rise to a very special responsibility to protect and promote for both national authorities and international monitoring bodies.

Discuss the above statement with special reference to post-conflict societies. Support your answer with relevant authorities.

(B) The members of national minorities have the right to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language (UNESCO Convention against Discrimination in Education (1960)).

Comment on the above statement with special reference to inclusive education system in a plural country.

6. The Executive Director of Rights-Voice Movement seeks your advice on the following decisions taken by the authorities of the State of Swarna:

- a) Screening of a film directed by Mr. Topraya titled *'The Last Temptation of Messenger'* based on the family story of a messenger of a religion has been permitted by the Swarna National Censorship Board on the conditions that the film could be screened only for the audience of above 20 years of age and in the selected theatres only;
- b) Recommendations made by two groups of sociological educationists for the introduction of integrated and compulsory sex education in primary and secondary schools have been rejected by the National Education Commission of Swarna;
- c) A regulation has been passed by the Internal Affairs Department of Swarna stating that publishing political caricature in newspapers is prohibited and any violation of the regulation would not be tolerated and necessary legal action will be taken;
- d) A policy known as *'one society and uniform social order'* in the country proposed by the Defence Ministry of Swarna stipulates that public gathering for any purpose, forming people's activity associations, promoting one's own culture over the other and accessing protected cultural heritage sites are prohibited until further notice.

Assuming that the legal system of Swarna is similar to that of Sri Lanka, evaluate the above situations and prepare your advisory report.

7. The statement by Sri Lanka in response to the views expressed by the 'Core Group on Sri Lanka' at the United Nations Human Rights Council at the Interactive Dialogue on the annual report of the High Commissioner for Human Rights and her oral update on COVID-19, during the 44th Session of the Human Rights Council notes, *inter alia*,

“With regard to views expressed on 30th June 2020 by the Core Group on Resolution 30/1 on Sri Lanka (UK, Canada, Germany, North Macedonia and Montenegro), the Government of Sri Lanka has made clear that even as it withdraws from co-sponsorship of Resolution 30/1, it remains committed to achieve reconciliation, accountability and human rights within the framework of the Sri Lankan Constitution, through a domestically designed and executed process in line with the Government’s policy framework”

Discuss the above statement of Sri Lanka in light of international human rights obligations undertaken by States and the argument of inviolability of State sovereignty and territorial integrity.

Support your answer with case law and academic authorities.
