

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR IV-2021 (ONLINE)

HUMAN RIGHTS LAW

(Three Hours)

Total Number of Questions: 06

Answer ANY THREE (03) questions ONLY.

(Candidates will be penalized for illegible handwriting)

1. Suya, Maya and Laya are three indigenous communities of the Republic of Suyama. They live scattered throughout the country. Mayans follow ancient social traditions, while Layans seem to be liberal thinkers. Sulaxiya, from Suya community, is the Prime Minister of Suyama. He has proposed a National Policy, “*Equal Future*” in order to ensure uniformity of laws across all three indigenous communities. A group of Suyans are protesting against the policy, asserting that Suyans have the oldest culture in Suyama. Since others are significantly different from Suyans, they argue, they cannot be treated alike.

Mayans disagree with the policy claiming that they are not prepared to abandon their practices of female genital mutilation, a tradition preserved for centuries. Male Mayans are proud of their continuing rituals which obligate Mayan wives and daughters to worship their husbands and fathers respectively. Female Mayans have no right to express their consent to marriage, or to own assets even if they have earned or inherited any property.

A group of Layans promotes the recognition of same sex marriage and advocates for legalisation of unrestricted abortion. Layans support the proposed National Policy of the Prime Minister.

Evaluate the above situation in light of philosophical approaches and the normative framework of Human Rights.

(100 marks)

2. The State of Thamasa has proposed a Bill titled “*Pandemic (Special Provision) Act*” to regulate the people’s conduct in times of a pandemic. The Bill includes the following provisions:
- a) The freedom to have a religion or belief and to manifest one’s religion or belief is subject to limitations as decided by the prescribed competent authority;
 - b) No person is permitted to leave their residence without obtaining prescribed vaccination and they should carry their vaccination card when they leave their residence;
 - c) A person diagnosed with a pandemic disease shall not be admitted to any health facility other than a facility prescribed by the health authorities. Names and addresses of the infected persons may be disclosed in an open data base in order to create public awareness;
 - d) The President of Thamasa is empowered to make emergency regulations under the provisions of this Act. Such regulations shall have legal effect of overriding, amending or suspending the operation of the provisions of any other law.

Assume that you have been appointed as an advisor to a human rights organization and that you have been commissioned to write a report on the above provisions of the Bill, considering the international and national human rights and legal regimes. The Constitution of the State of Thamasa is similar to the 1978 Constitution of Sri Lanka. Write your report.

(100 marks)

3. In 2015, the armed forces of Rajtan defeated the Heli Army, a religious armed group that claimed to represent the right to self-determination of the Heli faith. Before its defeat, the Heli army controlled Rahul, a remote region rich in natural resources.
- a) A large number of Heli combatants are held in detention. Recently the Government introduced regulations under the Rajtan National Security Law, authorizing the Minister in charge of defence to make decisions on rehabilitating the detainees.
 - b) Rajtan Government entered into a contract with Ola, a multi-national company, authorizing Ola to extract minerals from the Rahul region. Due to Ola’s activities, the air in Rahul region has become polluted, and a rise in respiratory illnesses has been reported. Forests in Rahul are being destroyed due to mining activities resulting in a landslide that killed 20 and destroyed homes.

- c) To prevent the re-emergence of the Heli Army, the Rajtan Government has banned the memorialization of the armed conflict and the marking of the death of any member of the Heli army.
- d) A few cases of residents infected with a new virus have been identified in Rahul. This virus has a 40% fatality rate. To prevent the spread of the virus, the Rajtan Government has declared daily curfew from 4pm to 6am under the Bio Security Law. The Bio Security Law has no provision for declaring curfew.
- e) Jena, a journalist has applied for information on the number of hospital beds in Rahul from the Ministry of Health. The Ministry refused to provide the information on grounds of national security.

Identify the human rights issues in the state of Rajtan and asses them on the basis of human rights law.

(100 marks)

4. Rita, a police officer in the State of Yoga, has applied for her next promotion, but her commanding officer returned her application advising her that (a) only ten positions are available for women and none of those positions are currently vacant and (b) that she does not meet the height requirement of 5 feet 6 inches. The other qualifications required for the promotion are completing 20 years of service and obtaining a Master's degree related to policing. Rita has satisfied both these requirements. Recently, the Human Rights Commission of Yoga has released a report on the country's criminal justice system in which they have noted underreporting by victims and inefficiencies in investigation methods as the reasons for the low conviction rates for offences related to sexual violence. The Commission has further noted that those who identify as Ragu, the smallest ethnic minority group, are not represented in the police workforce. In general, the Commission noted its concern over insufficient training provided to the police recruits. The report in particular was critical of the statements made by a police trainer condemning homosexuality. In Yoga, engaging in 'unnatural sex' is a criminal offence.

Identify and analyse the human rights issues in this scenario.

(100 marks)

5. Regional Protection Mechanisms of Human Rights have been designed to address unique human rights issues pertaining to different regions of the World. The Mechanisms have also been able to incorporate economic social and cultural rights in an advance scale.

Do you agree? Compare and contrast how two selected regional mechanisms have been able to effectively protect economic social and cultural rights in their respective regions. Your answer should be supported with specific examples drawn from the human rights instruments of selected regional protection mechanisms.

(100 marks)

6. Sama is a human rights activist in Megaland. During the pandemic, she organized a silent public protest against inflation and corruption in the country. Sama and her colleagues have launched a social media campaign as a part of the protest and uploaded posts criticizing the Government's failure to meet the citizens' expectations. One of these posts went viral on social media within hours.
- a) The National Cyber-Crime Prevention Unit reached out to Sama on the second day of the social media campaign to request that she take down all the posts she has shared so far. The officers of the Unit threatened Sama not to continue the campaign stating that it has created a negative impact on public moral during this difficult time.
- b) On the same day Sama was threatened, two of Sama's colleagues, Raja and Dilshan were arrested by the local police without giving any reasons. The arrestees' families claim that the policemen have inquired about Raja and Dilshan from their neighbours showing Raja's and Dilshan's social media posts of the protest campaign.
- c) Two days later, Sama learns that both Raja and Dilshan have been taken to a government quarantine centre without testing their infection-status. Although Raja and Dilshan were supposed to be in the quarantine centre for 14 days, they both were hospitalized with severe injuries 7 days after the quarantine period began. The police spokesperson stated that both of them have escaped from the quarantine centre on the day they were taken to the centre.

Assume that you are an attorney-at-law and advise Sama, Raja and Dilshan by identifying their rights which have been violated, and analysing their rights in light of the international human rights obligations of Megaland. Assume that Megaland has ratified all core international human rights conventions.

(100 marks)
