

# UNIVERSITY OF COLOMBO, SRI LANKA

## FACULTY OF LAW

### DEGREE OF MASTER OF LAWS IN PUBLIC AND INTERNATIONAL LAW- 2024/25

#### SEMESTER I END EXAMINATION

(Environmental Law and Policy – TLLM 1138)

(Three Hours)

Total number of questions: 04

Answer **THREE (03)** questions and **no more**.

(Candidates will be penalized for illegible handwriting.)

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#### Question 01

*"Although the international instruments and constitutional provisions cited above are not legally binding upon governments, they constitute an important part of our environmental protection regime. As evidenced by the decision of this court in Bulankulama v. Secretary, Ministry of Industrial Development...they constitute a form of soft law, the importance and relevance of which must be recognized when reviewing executive action vis-a-vis the environment, In this case the Supreme Court adverted to principle 1 of the Rio declaration that "Human beings are the center of concern for sustainable development. They are entitled to a healthy and productive life in harmony with nature."*

*Justice Shiranee Tilakawardena in Watte Gedera Wijebanda v Conservator-General of Forests and Others [2007] SLR 337, Vol 1 of 2009*

In light of the above judgement, examine the role of international instruments and constitutional provisions that have made a meaningful contribution for the development of environmental jurisprudence of Sri Lanka. You are expected to cite the relevant case laws in examining the above statement.

(20 Marks)

### Question 02

National Environmental (Amendment) Act No. 56 of 1988 introduced two new tools to maintain the necessary balance between the conflicting interests of environmental and developmental priorities. Critically analyse the two tools from the perspective of whether they have been operating since their introduction to meet the said objectives of the 1988 Amendment Act. Your analysis is required to include the necessary recommendations for the improvement of the two tools to address the contemporary challenges to the environment.

(20 Marks)

### Question 03

*Although the right to live and enjoy a clean and healthy environment is referred to in academic discourses as a 'third generation right', it is in my view one of the fundamental, if not the most fundamental right of a human being. None of the myriad of other fundamental rights, including civil and political rights, can be meaningfully exercised by a human being in the absence of a clean and healthy environment which can sustain life. Man must live to exercise any of the fundamental or human rights bestowed upon him. A clean and healthy environment is a sine qua non for the meaningful expression of any other fundamental right or human right.*

Justice Janak de Silva in *Ministry of Environment, Energy and Climate Change and others v Woodlands Holdings Ltd and another* [2024] 2 LRC 449

SCA CL 01/2023 (Seychelles Court of Appeal)

In the light of the above judgement, answer the both questions below.

- i) Analyse the interdependency of civil and political rights and economic, social and cultural rights within the context of environmental protection. (10 marks)
- ii) The rights-based discourse on environmental protection has now goes beyond the anthropocentric human rights to clean environment to rights of nature. Reflect on this statement. (10 marks)

(Total 20 Marks)

#### **Question 04**

**Analyse the legal validity of the following statements:**

- 1) Public nuisance is a criminal law remedy that is available for an act or omission that causes a common injury to the people at large. At present, public nuisance action is important to protect the environment from pollution. (5 marks)
- 2) ~~When a complaint is made for public nuisance against the Industrialists, they often claim that public come to the nuisance.~~ (5 marks)
- 3) Statutory nuisance lawsuits maintain a peaceful and clean atmosphere in which everyone lives in harmony with each other. (5 marks)
- 4) In a public nuisance lawsuit, holding an Environmental Protection License by the polluting industrialist is considered by the Magistrate in making his decision. (5 marks)

**(Total 20 Marks)**