

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LL.B. DEGREE PROGRAMME- LEVEL 06
FINAL EXAMINATION- 2022/2023
LLU 6717- INTERNATIONAL HUMAN RIGHTS LAW
DURATION – 03 HOURS



Date: 28.03.2023

Time: 09.30 a.m.- 12.30 p.m.

Total No. of questions: 08

Answer five (05) questions only.

Illegible handwriting will be penalized.

1. The idea of human rights was historically influenced by the theory of natural rights. However, natural rights theory is not the only intellectual inspirer of the human rights idea. Human rights have other secular and non-secular roots.

In light of the above statement, critically assess the relevance of the natural rights theory to the development of the human rights idea. (20 Marks)

2. '[...] the cultural variability of human nature not only permits but requires significant allowance for cross-cultural variations in human rights. But if all rights rested solely on culturally determined social rules, as radical cultural relativism holds, there could be no human rights, no rights one has simply as a human being. This denial of human rights is perfectly coherent and has been widely practiced. Nevertheless, it is morally indefensible today.'

- Jack Donnelly, 'Cultural relativism and universal human rights' (1984) 6:4 HRQ 419

Explain the tension between the universal claim of human rights and the cultural specificity of morality by giving appropriate examples. Do you agree with Donnelly's statement above on the moral indefensibility of radical cultural relativism? Justify your answer.

(20 Marks)

ශ්‍රී ලංකා විවෘත විශ්ව විද්‍යාලය

මානව ශාස්ත්‍ර හා සමාජ විද්‍යා පීඨය

නීති අධ්‍යයන දෙපාර්තමේන්තුව

නීතිවේදී උපාධි පාඨමාලාව - හයවන මට්ටම

අවසාන පරීක්ෂණය 2022/2023

අන්තර්ජාතික මානව හිමිකම් නීතිය LLU6717



දිනය - 28-03-2024

වේලාව - පෙ.ව 9.30-ප.ව 12.30

මුලු ප්‍රශ්න ගණන: 8

ප්‍රශ්න පහකට (05) පමණක් පිළිතුරු සපයන්න.

අපැහැදිලි අත් අකුරු සඳහා ලකුණු අඩු කරනු ලැබේ.

1. මානව හිමිකම් පිළිබඳ සංකල්පය ඓතිහාසිකව අනුප්‍රාණය ලද්දේ ස්වභාවික අයිතිවාසිකම් පිළිබඳ න්‍යාය තුළින්ය. කෙසේ වුවද, ස්වභාවික අයිතිවාසිකම් න්‍යාය මානව හිමිකම් සංකල්පයේ එකම බුද්ධිමය අනුප්‍රාණය නොවේ. මානව හිමිකම් සංකල්පයට වෙනත් ලෞකික හා ලෞකික-නොවන මූලයන් පවතී.

ඉහත ප්‍රකාශයේ පසුබිම තුළ, මානව හිමිකම් සංකල්පයේ වර්ධනය සඳහා ස්වභාවික අයිතිවාසිකම් න්‍යාය අදාළ වූ ආකාරය විවේචනාත්මකව අගයන්න. (ලකුණු 20)

2. '[...] මනුෂ්‍ය ස්වභාවය තුළ පවතින සංස්කෘතික විවිධත්වය නිසා මානව හිමිකම් සම්බන්ධ අන්තර්-සංස්කෘතික විවිධත්වය පැවැතීම සඳහා අවසරය දෙනු පමණක් නොව, එය අවශ්‍ය දෙයක් බවට ද පත් කරයි. එහෙත් සියලුම අයිතිවාසිකම් සංස්කෘතික වශයෙන් නිර්ණය වූ සමාජ රීතින් මත පරායක්ෂ්‍ය වේ නම්, මානව හිමිකම් යනුවෙන් දෙයක් ගැන කතා කළ නොහැක. යමෙක් මනුෂ්‍යයෙක් වීම නිසාම ඔහුට තිබෙන අයිතිවාසිකම් ගැන කතා කිරීමට ඉඩක් නොමැත. මානව හිමිකම් මෙලෙස ප්‍රතික්ෂේප කිරීම පැහැදිලි ලෙසම සංගත තර්කයක් වන අතර පලල් වශයෙන් එය ව්‍යවහාරයට ද නගා ඇත. කෙසේ වුවද, වර්තමානය තුළ, මෙය සඳාචාරාත්මක වශයෙන් සාධාරණීකරනය කළ හැකි ආස්ථානයක් නොවේ'.

- Jack Donnelly, 'Cultural relativism and universal human rights' (1984) 6:4 HRQ 419

මානව හිමිකම්වල විශ්වීය ස්වභාවය පිළිබඳ අදහස සහ සදාචාරයේ සංස්කෘතික සාපේක්ෂතාවය අතර තිබෙන ආතතිය යෝග්‍ය උදාහරණ ආශ්‍රයෙන් පැහැදිලි කරන්න. රැඩිකල් ලෙස සංස්කෘතික සාපේක්ෂතාවාදී ස්ථාවරයක් සදාචාරාත්මක වශයෙන් සාධාරණීකරනය කළ නොහැකි වීම සම්බන්ධව ඩොනොලි ඉහත උද්ධෘතයේ දක්වන අදහස සමග ඔබ එකඟ වන්නේද? ඔබගේ පිළිතුරු සඳහා හේතු දක්වන්න. (ලකුණු 20)

3. 'The recognition of individual complaint mechanisms under the United Nations treaty mechanism framework marked a great leap forward in terms of human rights protection, because the individual gain access to remedy at the international level transcending the limits imposed by state sovereignty'.

Do you agree with the above statement? Critically assess with referring to relevant examples. (20 Marks)

4. X and Y are neighboring countries and have had fraternal relations for decades. X is a regional power with superior military might, whereas Y is a relatively smaller nation. In 2013, a new President was elected in Y who wanted to have stronger ties with state Z, which is another regional power having a hostile relationship with state X. After the new President was elected, X launched a military campaign against state Y. The government in X alleged that the new President was discriminating against the minority community known as Zumalthans. Zumalthans are people having their origins in the state X but have a long history in residing in Y's territory. In the course of the invasion, the armed forces of X destroyed a number of border towns through indiscriminate air strikes. Human rights groups reported that around 20,000 civilians died during the air strikes. In retaliation, President of Y ordered the total destruction of twenty villages where Zumalthan communities live. Consequently, enraged armed forces of Y carried out a two-week pogrom against Zumalthans, and even Zumalthan individuals living outside the designated twenty villages were brutally massacred.

The United Nations Security Council envisages referring the situation in Y to the International Criminal Court (ICC). X is a state party to the Rome Statute, whereas Y has not ratified the convention. Assuming you are a legal advisor to the Council, prepare a brief report outlining whether charges can be brought against both presidents in X and Y before the ICC. You should identify the possible charges in your outline. (20 Marks)

5. The protection of the rights of children has seen a remarkable development in the area of international law in the past few decades. Several international treaties refer to the rights of the child, and the Child Rights Convention (CRC) has established a specific regime to safeguard these rights.

3. 'එක්සත් ජාතීන්ගේ සම්මුතිමය-යාන්ත්‍රණ රාමුව යටතේ තනි පුද්ගල පැමිණිලි යාන්ත්‍රණ ස්ථාපිත කිරීම මානව හිමිකම් ආරක්ෂණය සම්බන්ධව විශාල ඉදිරි පිම්මක් සලකුණු කරයි. මන්ද යත්, රාජ්‍යයේ ස්වාධිපත්‍යය විසින් පැනවූ සීමාවන් අතික්‍රමණය කොට, අන්තර්ජාතික තලයේ පවතින ප්‍රතිකර්ම සඳහා එමගින් පුද්ගලයාට ප්‍රවේශය ලැබෙන බැවිනි.'

ඉහත ප්‍රකාශය සමග ඔබ එකඟ වන්නේද? අදාළ උදාහරණ සමග විවේචනාත්මකව අගයන්න.

(ලකුණු 20)

4. X හා Y යනු සහෝදරාත්මක සම්බන්ධකම් දශක ගණනාවක් තිස්සේ පැවැත්වූ අසල්වැසි රටවල් වෙති. X උසස් හමුදා ශක්තියක් සහිත, කලාපීය බලවතෙක් වන අතර, Y සාපේක්ෂව කුඩා ජාතියකි. 2013 වර්ෂයේ දී Y රාජ්‍යයේ නව ජනාධිපතිවරයෙක් බලයට පත්වූ අතර ඔහුට X රාජ්‍යය සමග පසම්බුද්ධ සම්බන්ධයක් තිබෙන තවත් කලාපීය බලවතෙක් වන Z රාජ්‍යය සමග සමීප සබඳතා ගොඩනගා ගැනීමට අවශ්‍ය විය. නව ජනාධිපති බලයට පත් වූ පසුව, X රාජ්‍යය Yට විරුද්ධව හමුදා මෙහෙයුමක් දියත් කළේය. X ආණ්ඩුව වෝදනා කළේ නව ජනාධිපතිවරයා සුමල්තත්වරුන් නම් වූ Y හි ජීවත් වන සුලුතර ජනවර්ගයට එරෙහිව අලුත පත්වූ ජනාධිපති වෙතස් කොට සැලකීමේ ප්‍රතිපත්තියක් පවත්වා ගෙන යන බවයි. සුමල්තත් ජනතාවගේ මූලයන් පවතින්නේ X රටේ වන නමුත්, Y හි දේශභූමිය තුළ ඔවුන් කාලාන්තරයක් තිස්සේ ජීවත්ව ඇත්තාහ. මෙම හමුදා ආක්‍රමණය අතරවාරයේ X හි හමුදා දේශසීමා අසල පිහිටි නගර සමූහයක් වෙත් කර ගැනීමකින් තොරව සිදුකළ ගුවන් ප්‍රහාර මගින් විනාශ කළේය. මෙම ගුවන් ප්‍රහාර අතරවාරයේ, සිවිල් වැසියන් 20,000 පමණ මිය ගිය බව මානව හිමිකම් සංවිධාන වාර්තා කළේය. මීට එකට එක කිරීමක් ලෙස, Y රාජ්‍යයේ ජනාධිපති සුමල්තත් ජාතිකයන් ජීවත් වන ගම්මාන විස්සක් සම්පූර්ණයෙන්ම විනාශ කරන ලෙසට අණ කළේය. ඉන් පසුව, කෝපයට පත්ව සිටි Y හමුදා සාමාජිකයන් සුමල්තත්වරුන්ට එරෙහිව සති දෙකක සංහාරයක් දියත් කළ අතර ජනාධිපති නියම කළ ගම්මාන විස්සට පිටින් ජීවත් වූ සුමල්තත්වරුන් පවා සාහසික ලෙස ඝාතනයට ලක්විය.

Y රාජ්‍යයේ තත්වය අන්තර්ජාතික අපරාධ අධිකරණයට යොමු කිරීමට එක්සත් ජාතීන්ගේ ආරක්ෂක මණ්ඩලය අරමුණු කරයි. X රෝම ප්‍රඥප්තියේ පාර්ශ්වකාර රාජ්‍යයක් වන අතර, Y රාජ්‍යය එය අපරාදානුමත කොට නැත. ඔබ ආරක්ෂක මණ්ඩලයේ නීති උපදේශක ලෙස පත් කොට ඇති බවට උපකල්පනය කොට, X හා Y යන රටවල් දෙකෙහිම ජනාධිපතිවරුන්ට එරෙහිව අන්තර්ජාතික අපරාධ අධිකරණය ඉදිරියේ වෝදනා ගොණු හැකි දැයි කරුණු දක්වමින් සාරාංශගත වාර්තාවක් සම්පාදනය කරන්න. මෙලෙස ඉදිරිපත් කළ හැකි වෝදනා කවරේදැයි ඔබගේ වාර්තාව තුළ දැක්විය යුතු වෙයි.

(ලකුණු 20)

5. ළමා අයිතිවාසිකම් ආරක්ෂාව සම්බන්ධයෙන් අන්තර්ජාතික නීතිය තුළ පසුගිය දශක කිහිපය තුළ සුවිශාල වර්ධනයක් සිදුව තිබේ. අන්තර්ජාතික සම්මුතීන්කීපයක් ළමයින්ගේ අයිතිවාසිකම් පිළිබඳ සඳහන් කරන අතර, මෙම අයිතිවාසිකම් සුරක්ෂිත කිරීම සඳහා ළමා අයිතිවාසිකම් ප්‍රඥප්තිය විසින් විශේෂිත නීති රාමුවක් ස්ථාපිත කොට ඇත.

(අ) ළමා අයිතිවාසිකම් ප්‍රඥප්තිය වෙත විශේෂ අවධානය යොමු කරමින්, ළමා ආරක්ෂණය පිළිබඳ වූ අන්තර්ජාතික නීතියේ විවිධ ප්‍රතිපාදන කවරේදැයි සාකච්ඡා කරන්න.

- (a) Discuss various provisions of international law that provide for the protection of children with special reference to the CRC. (10 marks)
- (b) Assess the national framework in Sri Lanka concerning rights of children in light of the standards recognized by the CRC. (10 marks)
6. Various treaty-based mechanisms provide a comprehensive framework for the protection and promotion of human rights at the international level. The role of state party reporting is restricted to a mere monitoring task, lacking any authority for implementation.
- Critically discuss the above statement with appropriate examples. (20 Marks)
7. Assume that you have been appointed to a Presidential Commission mandated to recommend law reforms in Sri Lanka to make the Sri Lankan legal system in line with Sri Lanka's state obligations under the Convention on Elimination of all forms of Discrimination against Women (CEDAW). Prepare a summary of recommendations that you will make. In preparing the summary you should focus on the following thematic areas: (a) equality of women in political life; (b) social and economic rights of women; (c) prohibition of discrimination with respect to matters of private and family life.

You should refer to the relevant statutory and treaty provisions in your answer. (20 Marks)

8. Write brief notes on the following.
- (a) Article 2 of the International Covenant on Economic, Social and Cultural rights
- (b) Optional Protocol I of the ICCPR
- (c) Universal Periodic Review
- (d) Duty bearers in human rights (20 Marks)

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(ආ) ළමා අයිතිවාසිකම් ප්‍රඥප්තිය විසින් පිළිගනු ලැබූ සම්මතයන්ගේ පසුබිම තුළ, ළමා අයිතිවාසිකම් සම්බන්ධව ශ්‍රී ලංකාව තුළ පවතින ජාතික නීති රාමුව සාකච්ඡා කරන්න.

(ලකුණු 10×2= 20)

6. විවිධ සම්මුති-පාදක යාන්ත්‍රණ (treaty-based mechanisms) අන්තර්ජාතික තලය තුළ මානව හිමිකම් ආරක්ෂණය හා ප්‍රවර්ධනය සඳහා අංග සම්පූර්ණ රාමුවක් ස්ථාපිත කොට ඇත. රාජ්‍ය වාර්තා (state reports) සැපයීමේ භූමිකාව හුදු අධීක්ෂණය කිරීමේ කාර්යයකට සීමා වී ඇත. ඊට බලාත්මක කිරීමේ බලයක් නොමැත.

ඉහත ප්‍රකාශය විවේචනාත්මකව අගයන්න.

(ලකුණු 20)

7. ශ්‍රී ලංකාවේ නීති පද්ධතිය කාන්තාවන්ට එරෙහි සියලු ආකාරවල වෙනස්කම් පිටුදැකීමේ අන්තර්ජාතික සම්මුතිය (CEDAW) යටතේ වන බැඳීම් සමග සමපාත කිරීම සඳහා ස්ථාපිත කොට තිබෙන ජනාධිපති කොමිසමක සාමාජිකයෙක් ලෙස ඔබව පත් කොට ඇති බවට උපකල්පනය කරන්න. ඔබ විසින් සිදු කරනු ලබන නිර්දේශවල සාරාංශයක් පිළියෙල කරන්න. මෙම සාරාංශය පිළියෙල කරන විට, පහත දැක්වෙන තේමා කෙරෙහි අවධානය යොමු කළ යුතුය : (අ) දේශපාලන ජීවිතය තුළ කාන්තාවන්ගේ සමානතාවය; (ආ) ස්ත්‍රීන්ගේ සමාජ හා ආර්ථික අයිතිවාසිකම්; (ඇ) පුද්ගලික හා පවුල් ජීවිතය සම්බන්ධ කරුණුවලට අදාළව වෙනස් කොට සැලකීම.

ඔබගේ පිළිතුර තුළ, අදාළ ව්‍යවස්ථාපිත හා සම්මුතිමය ප්‍රතිපාදන කෙරෙහි අවධානය යොමු කළ යුතුය.

(ලකුණු 20)

8. පහත මාතෘකා සම්බන්ධයෙන් කෙටි සටහන් ලියන්න.

(අ) ආර්ථික, සමාජ හා සංස්කෘතික අයිතිවාසිකම් පිළිබඳ අන්තර්ජාතික සම්මුතියේ 2 වන වගන්තිය

(ආ) ICCPR සම්මුතියේ පලමු වෛකල්පික සන්ධානය (Optional protocol I of the ICCPR)

(ඇ) විශ්ව කාලාන්තර සමාලෝචනය (Universal Periodic Review)

(ඈ) මානව හිමිකම්වල යුතුකම් දරන්නෝ (duty bearers in human rights)

(ලකුණු 20)

හිමිකම් ඇවිරිණි

இலங்கை திறந்த பல்கலைக்கழகம்

மானுடவியல் மற்றும் சமூகவிஞ்ஞானங்கள் பீடம்

சட்டக்கற்கைகள் திணைக்களம்

சட்டமாணி பட்டப்படிப்பு நிகழ்ச்சித் திட்டம் -2022/2023

மட்டம் - 06 LLU6717/LLU4326- சர்வதேச மனித உரிமைகள்

இறுதிப் பரீட்சை 2022 / 2023

காலம் : மூன்று (03) மணித்தியாலங்கள்

திகதி : 28 மார்ச் 2024

நேரம்: மு.ப.9.30 - பி.ப.12.30

மொத்த வினாக்களின் எண்ணிக்கை - 08

ஐந்து (05) வினாக்களுக்கு மட்டும் விடை தருக.

தெளிவற்ற கையெழுத்துக்களுக்கு புள்ளிகள் குறைக்கப்படும்

- 1) மனித உரிமைகள் என்ற கருத்தேற்பு வரலாற்று ரீதியாக இயற்கை உரிமைகள் கோட்பாடுகளால் செல்வாக்கு செலுத்தப்பட்டுள்ளது. எனினும் இயற்கை உரிமைகள் எண்ணக்கரு மாத்திரம் மனித உரிமைகள் கருத்தேற்பு உருவாவதற்கான ஒரேயொரு புலமைசார் ஊக்குவிப்பாளர் அல்ல. மனித உரிமைகள் ஏனைய மதம் சாராத மற்றும் மதம் சார்ந்த ஆணிவேர்களாலும் உருவாக்கப்பட்டுள்ளன.

மேலே தரப்பட்ட கூற்றின் பின்னணியில், மனித உரிமைகள் கருத்தேற்பு விருத்தியடைவதற்கு இயற்கை உரிமைகள் எண்ணக்கருவின் இயைபுடைமையை விமர்சித்து ஆராய்க.

(20 புள்ளிகள்)

- 2) '[...] மனித இயல்பினுடைய கலாசார மாறுபாடானது மனித உரிமைகளில் கலாசாரங்களுக்கிடையான தொடர்புகளுக்கு குறிப்பிடத்தக்க சலுகை ஒன்றை அனுமதிப்பது மாத்திரமன்றி அதனை தேவைப்படுத்துகிறது. ஆயின் தீவிரமான கலாசார சார்புடைமை குறிப்பிடுவது போன்று அனைத்து உரிமைகளும் முழுமையாக கலாசார ரீதியாக தீர்மானிக்கப்படுகின்ற சமூக விதிகளில் தீர்மானிக்கப்படின், அங்கு மனித உரிமைகள் எதுவும் இருக்க முடியாது. அதே போல ஒரு மனிதன் என்ற வகையில் எவருக்கும் உரிமையொன்று இருக்க முடியாது. இந்த மனித உரிமைகளை மறுத்தலானது கச்சிதமாக, ஒத்திசைவாக அமைவதுடன் பரந்தளவில் நடைமுறைப்படுத்தப்படும். எவ்வாறாயினும், இன்று இது ஒழுக்கரீதியாக பாதுகாக்கப்பட முடியாது.'

-Jack Donnelly, 'Cultural relativism and universal human rights' (1984) 6 : 4 HRQ 419

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LL.B. DEGREE PROGRAMME- LEVEL 06
FINAL EXAMINATION- 2022/2023
LLU 6717- INTERNATIONAL HUMAN RIGHTS LAW
DURATION – 03 HOURS



Date: 28.03.2023

Time: 09.30 a.m.- 12.30 p.m.

Total No. of questions: 08

Answer five (05) questions only.

Illegible handwriting will be penalized.

1. The idea of human rights was historically influenced by the theory of natural rights. However, natural rights theory is not the only intellectual inspirer of the human rights idea. Human rights have other secular and non-secular roots.

In light of the above statement, critically assess the relevance of the natural rights theory to the development of the human rights idea. (20 Marks)

2. '[...] the cultural variability of human nature not only permits but requires significant allowance for cross-cultural variations in human rights. But if all rights rested solely on culturally determined social rules, as radical cultural relativism holds, there could be no human rights, no rights one has simply as a human being. This denial of human rights is perfectly coherent and has been widely practiced. Nevertheless, it is morally indefensible today.'

- Jack Donnelly, 'Cultural relativism and universal human rights' (1984) 6:4 HRQ

419

Explain the tension between the universal claim of human rights and the cultural specificity of morality by giving appropriate examples. Do you agree with Donnelly's statement above on the moral indefensibility of radical cultural relativism? Justify your answer.

(20 Marks)

பொருத்தமான உதாரணங்களை தந்து மனித உரிமைகளுக்கான உலகளாவிய கோரிக்கை மற்றும் ஒழுக்கத்திற்கான கலாசார விசேடதன்மை என்பவற்றிற்கிடையிலான பதற்றத்தை விளக்குக. தீவிர கலாசார சார்புடைமையின் ஒழுக்கரீதியான பாதுகாக்க முடியாத தன்மை தொடர்பாக Donnelly உடைய மேலே குறிப்பிட்ட கூற்றுடன் நீர் உடன்படுகின்றீரா, உமது விடையை நியாயப்படுத்துக.

(20 புள்ளிகள்)

- 3) “ஐக்கிய நாடுகள் பொருத்தனை சார் கட்டமைப்பின் கீழ் தனிப்பட்ட முறைப்பாட்டு பொறிமுறையை அங்கீகரித்தமையானது மனித உரிமைகள் பாதுகாப்பு தொடர்பில் ஒரு பாரிய முன்னோக்கிய நடவடிக்கை ஒன்றாக குறிக்கப்படுகிறது, ஏனெனில் அரச இறைமையாண்மையினால் விதிக்கப்பட்டுள்ள வரையறைகளைக் கடந்து தனிப்பட்ட ஆள் ஒருவர் சர்வதேச மட்டத்தில் பரிகாரம் ஒன்றை பெற முடியும்”.

இக்கூற்றுடன் நீர் உடன்படுகின்றீரா? பொருத்தமான உதாரணங்களை குறித்துக்காட்டி விமர்சித்து மதிப்பிடுக.

(20 புள்ளிகள்)

- 4) X மற்றும் Y ஆகிய இரண்டும் அண்டைய நாடுகளாகும் மேலும் இவற்றுக்கிடையில் பல்லாண்டு காலமாக சகோரத்துவ உறவு தொடர்ந்து நிலவுகிறது. X அரசு உயர்தர இராணுவப் பலத்தைக் கொண்ட பிராந்திய அதிகாரம் பொருந்தியதாகவும், Y அரசு ஒப்பீட்டளவில் மிகச் சிறிய தேசமாகவும் உள்ளது. 2013 இல் Y அரசில் புதிய ஜனாதிபதி ஒருவர் தெரிவு செய்யப்பட்டார். அவர் Z என்ற அரசுடன் வலுவான உறவை பேண எண்ணினார். Z அரசு X அரசுடன் எதிர் பகைமையை கொண்ட இன்னுமொரு பிராந்திய அதிகாரம் பொருந்திய நாடாக இருந்தது. புதிய ஜனாதிபதி தெரிவு செய்யப்பட்ட பின்பு, X அரசு Y அரசுக்கு எதிராக ஒரு இராணுவ பிரசாரத்தை உருவாக்கியது. X அரசினுடைய அரசாங்கம், புதிய ஜனாதிபதி சுமல்தான் என அறியப்பட்ட சிறுபான்மை மக்களுக்கு எதிராக பாரபட்சமாக நடக்கின்றார் என குற்றம் சாட்டியது. சுமல்தான் மக்களுடைய பூர்வீகம் X ஆகும். எனினும் Y ஆட்புல எல்லைக்குள் அவர்கள் நீண்ட காலம் வாழ்ந்து வந்தமைக்கான வரலாறு உண்டு. ஆக்கிரமிப்பின் போது, X அரசின் இராணுவப்படைகள் கண்மூடித்தனமான விமானத்தாக்குதல்கள் மூலம் பல எண்ணிக்கையான எல்லைப்புற நகரங்களை அழித்தன. மனித உரிமைகள் குழுக்கள், ஏறக்குறைய 20,000 குடிமக்கள் விமானத்தாக்குதலின் போது இறந்தனர் எனக் குறிப்பிட்டது. எதிர்ப்பின் போது, Y அரசின் ஜனாதிபதி சுமல்தான் சமூகம் வசித்து வருகின்ற 20 கிராமங்களை நாசப்படுத்துமாறு உத்தரவிட்டார். அதனைத் தொடர்ந்து ஆத்திரமடைந்த Y இனுடைய ஆயுதப்படை சுமல்தான் சமூகத்திற்கு எதிராக இரண்டு வார கால படுகொலைகளை மேற்கொண்டன. மேலும்

3. 'The recognition of individual complaint mechanisms under the United Nations treaty mechanism framework marked a great leap forward in terms of human rights protection, because the individual gain access to remedy at the international level transcending the limits imposed by state sovereignty'.

Do you agree with the above statement? Critically assess with referring to relevant examples. (20 Marks)

4. X and Y are neighboring countries and have had fraternal relations for decades. X is a regional power with superior military might, whereas Y is a relatively smaller nation. In 2013, a new President was elected in Y who wanted to have stronger ties with state Z, which is another regional power having a hostile relationship with state X. After the new President was elected, X launched a military campaign against state Y. The government in X alleged that the new President was discriminating against the minority community known as Zumalthans. Zumalthans are people having their origins in the state X but have a long history in residing in Y's territory. In the course of the invasion, the armed forces of X destroyed a number of border towns through indiscriminate air strikes. Human rights groups reported that around 20,000 civilians died during the air strikes. In retaliation, President of Y ordered the total destruction of twenty villages where Zumalthan communities live. Consequently, enraged armed forces of Y carried out a two-week pogrom against Zumalthans, and even Zumalthan individuals living outside the designated twenty villages were brutally massacred.

The United Nations Security Council envisages referring the situation in Y to the International Criminal Court (ICC). X is a state party to the Rome Statute, whereas Y has not ratified the convention. Assuming you are a legal advisor to the Council, prepare a brief report outlining whether charges can be brought against both presidents in X and Y before the ICC. You should identify the possible charges in your outline. (20 Marks)

5. The protection of the rights of children has seen a remarkable development in the area of international law in the past few decades. Several international treaties refer to the rights of the child, and the Child Rights Convention (CRC) has established a specific regime to safeguard these rights.

குறித்துரைக்கப்பட்ட 20 கிராமங்களுக்கு வெளியே வசித்து வருகின்ற சுமல்தான் சமூகத்தை சார்ந்த தனிப்பட்ட நபர்களும் கொடூரமாக தாக்கப்பட்டனர்.

ஐக்கிய நாடுகள் பாதுகாப்பு சபை, Y யினுடைய நிலைமையை சர்வதேச குற்றவியல் நீதிமன்றத்திற்கு (ICC) ஆற்றுப்படுத்த எதிர்பார்க்கின்றது. X உரோம நியதிச்சட்டத்திற்கு உறுப்பு நாடாக இருக்கும் அதே வேளை Y நியதிச்சட்டத்தை ஏற்று அங்கீகரித்து இருக்கவில்லை. பாதுகாப்பு சபையின் சட்ட ஆலோசகர் என உம்மைக் கருதி ICC இன் முன்னிலையில் X மற்றும் Y ஆகிய அரசுகளின் இரண்டு ஜனாதிபதிகளுக்கும் எதிராக குற்றச்சாட்டுக்களை கொண்டு வர முடியுமா என்பதை குறிப்பிட்டு சுருக்கமான அறிக்கை ஒன்றை தயாரிக்குக. உமது வரைபில் சாத்தியமான குற்றச்சாட்டுக்களை முன்வைக்க வேண்டும்.

(20 புள்ளிகள்)

- 5) கடந்த சில தசாப்பதங்களில் சர்வதேச சட்டத்துறையில் சிறுவர்களின் உரிமைப் பாதுகாப்பு குறிப்பிடத்தக்க அளவு வளர்ச்சியை கண்டுள்ளது. பல சர்வதேச பொருத்தனைகள் சிறுவர் உரிமைகளைக் குறிப்பிடுவதுடன், சிறுவர் உரிமைகள் சமவாயம் (CRC) இவ்வரிமைகளை பாதுகாக்க விசேட சட்டக் கட்டமைப்பு ஒன்றை உருவாக்கியுள்ளது.

அ) CRC க்கு விசேட அவதானம் செலுத்தி சர்வதேச சட்டத்தின் கீழ் சிறுவர்களை பாதுகாப்பதற்கு இருக்கக்கூடிய ஏற்பாடுகளை ஆராய்க.

(10 புள்ளிகள்)

ஆ) CRC இன் கீழ் அங்கீகரிக்கப்பட்ட தராதரங்களின் பின்னணியில் சிறுவர் உரிமைகள் தொடர்பாக இலங்கையில் உள்ள உள்நாட்டு கட்டமைப்பை மதிப்பிடுக.

(10 புள்ளிகள்)

- 6) சர்வதேச மட்டத்தில் மனித உரிமைகளை பாதுகாக்கவும் மேம்படுத்தவும் பல்வேறு பட்ட பொருத்தனை சார் பொறிமுறைகள் விரிவான கட்டமைப்பை வழங்குகிறது. அரச திறத்தவருடைய அறிக்கையிடல் பொறிமுறையின் வகிபாகம், கண்காணிப்பு பணிக்கு மாத்திரமே வரையறுக்கப்பட்டுள்ளதுடன் அமுல்படுத்துவதற்கான எந்த அதிகாரத்தையும் கொண்டிருக்கவில்லை.

மேலே தரப்பட்ட கூற்றை பொருத்தமான உதாரணங்களுடன் விமர்சித்து ஆராய்க.

(20 புள்ளிகள்)

- 7) பெண்களுக்கு எதிராக அனைத்து பாரபட்சங்களையும் இல்லாதொழிக்கும் சமவாயத்தின் (CEDAW) கீழ் ஏற்றுக்கொள்ளப்பட்ட அரச கடப்பாடுகளிற்கு அமைய இலங்கை சட்ட முறையை மாற்றுவதற்கு தேவையான சட்ட சீர்திருத்தங்களை பரிந்துரை செய்வதற்கான ஜனாதிபதி ஆணைக்குழுவிற்கு உம்மை நியமித்து உள்ளதாக கருதுக. நீர் மேற்கொள்ளும் பரிந்துரைகளின்

- (a) Discuss various provisions of international law that provide for the protection of children with special reference to the CRC. (10 marks)
- (b) Assess the national framework in Sri Lanka concerning rights of children in light of the standards recognized by the CRC. (10 marks)
6. Various treaty-based mechanisms provide a comprehensive framework for the protection and promotion of human rights at the international level. The role of state party reporting is restricted to a mere monitoring task, lacking any authority for implementation.

Critically discuss the above statement with appropriate examples. (20 Marks)

7. Assume that you have been appointed to a Presidential Commission mandated to recommend law reforms in Sri Lanka to make the Sri Lankan legal system in line with Sri Lanka's state obligations under the Convention on Elimination of all forms of Discrimination against Women (CEDAW). Prepare a summary of recommendations that you will make. In preparing the summary you should focus on the following thematic areas: (a) equality of women in political life; (b) social and economic rights of women; (c) prohibition of discrimination with respect to matters of private and family life.

You should refer to the relevant statutory and treaty provisions in your answer. (20 Marks)

8. Write brief notes on the following.
- (a) Article 2 of the International Covenant on Economic, Social and Cultural rights
 - (b) Optional Protocol I of the ICCPR
 - (c) Universal Periodic Review
 - (d) Duty bearers in human rights
- (20 Marks)

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சுருக்கமான உரையை தயாரிக்குக. உமது சுருக்க உரையை தயாரிக்குகையில் பின்வரும் துறைசார் விடயங்களிற்கு அவதானம் வழங்குக.

அ) அரசியல் வாழ்க்கையில் பெண்களுக்கான சமத்துவம்

ஆ) பெண்களின் சமூக மற்றும் அரசியல் உரிமைகள்

இ) தனிப்பட்ட மற்றும் குடும்ப வாழ்க்கை தொடர்புபட்ட விடயங்களில் பாரபட்சத்தை நீக்குதல்.

உமது விடையில் பொருத்தமான நியதிச்சட்ட ஏற்பாடுகளையும் பொருத்தனை ஏற்பாடுகளையும் குறிப்பிட வேண்டும்.

(20 புள்ளிகள்)

8) பின்வருவன மீது சுருக்கமான குறிப்புகளை எழுதுக.

அ. அரசியல் சமூக, மற்றும் கலாசார உரிமைகள் தொடர்பான சர்வதேச சாசனத்தின் உறுப்புரை
2

ஆ. ICCPR இற்கான முதலாவது விருப்பத்தெரிவு ஆவணம்

இ. உலகளாவிய காலாந்தர மீளாய்வு

ஈ. மனித உரிமைகளின் கடமைப்பாடுகள்.

(04x02=20 புள்ளிகள்)

- முழுப்பதிப்புரிமையடையது -