

THE OPEN UNIVERSITY OF SRI LANKA
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES
 DEPARTMENT OF LEGAL STUDIES
 LL.B DEGREE PROGRAMME -2023/2024
 FINAL EXAMINATION
 LEVEL 5
 LLU5811/ LWU3314 - ENVIRONMENTAL LAW
 DURATION- THREE (03) HOURS



Date:20.05.2025

Time:1.30 p.m.-4.30 p.m.

Total number of questions – 07

Answer four (04) questions only.

Illegible handwriting will be penalised.

1. The right to a healthy environment is a recognized human right under International Law. The United Nations Human Rights Council recognized the right to environment as a human right in 2022. In a contemporary world, many States either have a right to environment as a fundamental right or are considering to adopt it as a constitutional right. The examination of South Asian countries reveals that these countries including Sri Lanka are still to ensure the right to a healthy environment through other existing constitutional fundamental rights.

Do you agree with this statement? Critically analyse it with reference to relevant legal authorities including Constitutional provisions and decided judgements. Your analysis must include the standpoint of Sri Lanka and any two (02) of the South Asian countries.

(25 Marks)

2. Boomi is an island country and its new government decided to sign investment projects with domestic investors to implement its sustainable energy policy. Accordingly, Boomi granted approval to 'Green Energy Ltd', a local company working on sustainable energy to install mega solar panels at selected areas in the country. As the first phase of this project, Green Energy Ltd decided to install a mega solar panel in the North Central Province of the country.

However, 'Green is the Colour' a civil society organization working for environmental protection and conservation in the country, published a report called 'The dark side of Solar Energy Power' - after the announcement of the launch of the project. A part of the report stated '... the solar energy project is considered as sustainable energy – as it does not contribute to air pollution or Green House gases. However, it requires large areas of land to facilitate the plan. The North Central province is the second highest populated province in the country and it is already experiencing human-wildlife

conflicts, particularly with elephants. This project will create further loss of wildlife habitat and aggravate this problem. Also, the North Central province faces water scarcity in the country with fewer natural water resources. As this mega solar panel requires the use of water and it will also lead to water pollution, this would create a crisis. The people of the North Central province are mainly involved in agriculture for their livelihood and employment'. The report ends by stating that 'in implementing this solar energy project which is in furtherance of its sustainable energy policy, the Government must also ensure that it does not result in adverse environmental and social impacts.'

In this context, assume that the legal system and international environmental obligations of Boomi are similar to those of Sri Lanka and you are the legal adviser to the project - mega solar energy power of Green Energy Ltd. Advise on guiding the project to meet the legal requirements before its implementation considering the report by 'Green is the colour'. Your advice should be supported by relevant legal provisions and decided judgements.

(25 Marks)

3. 'Kelani river ... is the second largest watershed and it is the most polluted river in Sri Lanka due to rapid growth of industries located in close vicinity of the river and passes through the country's most populated capital city...The gravity of water pollution is apparent when examining water quality measurements of Kelani river, which meets a major part of the demand of pipe borne drinking water supplies of Colombo.'

Water Quality in Kelani River Introduction, Official Website of Central Environmental Authority, www.cea.lk

Assume that you have been selected as a member of the research team of the 'Project – Environmental Development in Sri Lanka' under the Ministry of Environment. You are required to write a report on the prevailing 'water pollution in Sri Lanka'.

Your report should include the following;

- Introduction to environmental problem
- National and international obligation of Sri Lanka to address and mitigate the water pollution
- Reasons as to why the existing legal framework of the country fails in preventing increasing water pollution and proposals for effective implementation to protect the water quality in Sri Lanka.

(25 Marks)

4. Critically discuss the validity of below given statement with relevant legal examples.

- (a) From 'Silent spring' to 'international efforts to address climate change', the development of international environmental law has embodied the recognition of sustainable development.

(15 Marks)

- (b) Although there are several State agencies to look into various matters of environmental protection, the Central Environmental Authority has special role in protection, management and enhancement of the environment.

(10 Marks)

5. 'The rapid development of international environmental law has given rise to several principles and concepts which are now recognized, applied and enforced at both international and national levels ...'

Principles and Concepts of Environmental Law, Session 2, Environmental Law course material, Block 1, pg 17

In light of the above statement critically discuss how the principles of Environmental Law have been recognized and applied by the courts from different countries to interpret the broad meaning of environmental protection reflecting the socio-economic implications that impact the society. Your answer should include a critical discussion on any of the two (02) of the principles of Environmental Law below given.

- (a) Precautionary Principle
- (b) Polluter Pays Principle
- (c) Public Trust Doctrine

(25 Marks)

6. Identify and discuss in brief the domestic and international legal framework that could be invoked in the following circumstances;

- (a) A ship owned by Sri Lankan citizen, Shevan Dubey discharged excessive oil into the waters of the country damaging the natural resources of the seabed.

(10 Marks)

- (b) Piyal, a tourist guide, took a dog into a famous national reserve in the country with his tourist clients to attract wild animals for photography.

(05 Marks)

- (c) A development project proposed in the eastern part of the country poses a potential negative impact on archaeology. The Director General of Archaeology has given his approval to carry out the development project without any assessment.

(10 Marks)

7. Samagipura is a residential area with fifty families. The residents of Samagipura claimed that the urban council was dumping garbage in the vicinity of the Samagipura. This resulted in an increase in crows and other animals and also caused a foul smell. The elderly and children of Samagipura frequently fall ill. When the residents complained about garbage dumping in their area and its negative impacts to the Urban Council, the Council responded with the following arguments, stating that it cannot take any further measures.

- It was the only available site for the Urban Council to dump the garbage
- The Council has been introducing methods to hygienically dispose of the garbage
- The Urban Council faces difficulties regarding funds to look for alternative ways to carry out the garbage collection.
- Even though fifty families in a particular area complain about the garbage dumping, it is the only available way to dump garbage of hundreds of families in the locality and a few factories which are the source of employment to the working class of this area.

Advise the residents of Samagipura citing relevant legal authorities.

(25 Marks)

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