

THE OPEN UNIVERSITY OF SRI LANKA
LL.B. DEGREE PROGRAMME – LEVEL 5
FINAL EXAMINATION 2008
ENVIRONMENTAL LAW – LWU 3314/4332
DURATION - 3 HOURS



Date: 7th April 2008

Time: 9.30 a.m. – 12.30 a.m.

Illegible handwriting will be penalized

Answer FIVE questions only.

- (1) Explain to what extent the judiciary has relied on the concepts and principles of environmental law in deciding cases. You are expected to support your answer by citing cases decided in Sri Lanka and other jurisdictions.

- (2) It is proposed to build a power plant with the capacity of 60 megawatts close to the Sinharaja forest by Silkan Lanka (Pvt) Ltd. Once the basic information of the proposed project was given to the relevant project approving agency a Technical Evaluation Committee was appointed for the proposed project by the project approving agency. The Committee decided that an Initial Environmental Examination report would be sufficient for the proposed project. The Initial Environmental Examination report submitted by the project proponent contained very limited information. The Committee decided to grant approval for the project.

Green Action, a non governmental organization wishes to know whether the procedure followed in the above case was in accordance with the relevant legal provisions.

Advise the NGO.

- (3) Critically evaluate the effectiveness of the legal regime for the control of noise pollution in Sri Lanka with reference to the provisions of relevant legislation and decided cases.
- (4) Black waterfall is a beautiful waterfall in the state of Sinesta. Sinesta government contemplates to lease 10 acres of land in the area of waterfall to Shakya Company. It is believed that the company has a plan to construct a tourist hotel with observation rooms close to the waterfall to attract more tourists. A Minister states that this project will generate more employment opportunities and earn more foreign exchange. According to the sources of the Ministry of Environment, the Black waterfall area is going to be declared as a world heritage site. Both the government and Shakya company do not reveal any official information about the lease agreement and the project even though many such request have been made by the environmentalists.

Prasad, an environmentalist wishes to know the possible legal actions available to him if the project is carried forward.

Assume that the legal system of Sinesta is similar to the legal system of Sri Lanka. Advise him.

- (5) Piyal commenced his business in 2005 with a small poultry farm having 40 birds. Piyal gradually developed his poultry farm and he bought an adjoining land to expand the business. The number of birds increased up to 2000 by the end of January 2008. Piyal obtained an Environmental Protection License for his poultry farm from the Pradashiya Sabha in 2006. In 2006, he had only 1000 birds in the farm.

About ten families live in the area where Piyal has his farm. The bad smell emanating from the farm affects the residents. In addition, the waste from the farm causes water pollution in the area.

The residents of the area seek your advice as to the legal actions and measures available to them against Piyal. Advise them,

- (6) A committee appointed to review the "Environmental Impact Assessment" scheme in Sri Lanka is of the view that the scheme (EIA) has failed to achieve its objectives.

Do you agree with the above statement? Give reasons for your answer.

- (7) Critically evaluate the effectiveness of the Sri Lankan legal regime for the protection of bio-diversity in the light of relevant international instruments.

- (8) Critically explain citing illustrations from contemporary issues the importance of the concept 'Common but differentiated responsibilities' in international environmental Law.

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