

THE OPEN UNIVERSITY OF SRI LANKA
LL.B. DEGREE PROGRAMME – LEVEL 5
FINAL EXAMINATION 2008/2009



ENVIRONMENTAL LAW – LWU 3314

DURATION - THREE HOURS

Date: 1 April 2009

Time: 9.30 a.m – 12.30 p.m.

Students will be penalised for illegible handwriting.

Answer **five** questions only.

1. *Poverty is one of the main causes of environmental degradation. Therefore alleviating poverty and providing people with their basic needs will greatly facilitate the goal of environmental conservation.*

Discuss this statement in relation to Sri Lanka. In your answer you should

- (a) cite examples of current issues and problems; and
- (b) suggest strategies to overcome poverty without causing environmental harm and suggest possible laws and/or amendments to laws which would support these strategies.

2. The Government of Sri Lanka is considering the establishment of special Environmental Tribunals to deal with environmental problems. You have been appointed to a committee to study this issue and give your recommendations. The Committee has decided in principle that Environmental Tribunals should be set up in Sri Lanka and this should be recommended to the Cabinet of Ministers.

The Committee has asked you to prepare a memo on its behalf to be submitted to the Cabinet of Ministers. Your memo should include recommendations (with justifications) on the following points.

- (i) The need for Environmental Tribunals.
- (ii) Who should sit on these Tribunals?
- (iii) The jurisdiction of such Tribunals.
- (iv) The way in which they should carry out their functions.

3. *The environmental impact assessment (EIA) procedure in Sri Lankan law has generally failed to further the objective of sustainable development.*

Do you agree with this statement? Analyse the strengths and weaknesses of EIA law in Sri Lanka in the light of this statement. You should cite relevant examples in your answer.

4. In the last two years large groups of whales have been discovered off the eastern coast of Taprobane. As a result, Taprobane has become a major tourist attraction and the numbers of tourists to the country have increased. Several tourism companies have started taking people on whale watching cruises by which they are earning a lot of money. The Tourist Board has also started advertising Taprobane worldwide as a whale watching destination.

However, fishermen in the area have started complaining that the numbers of whale watching boats are crowding their fishing grounds and disturbing the fish. They say that their catch, and therefore their income, has decreased in the last two years. Further, the Marine Species Conservation Front, a non-governmental organisation, is concerned that the large number of tourist boats are having adverse impacts on the whales, which are both an endangered and a migratory species. Both the fishermen and the organisation want whale watching activities restricted and possibly prohibited. The matter has been referred to the Department of Oceans and Marine Species of Taprobane which has jurisdiction over the issue. The Tourist Board has supported the position of the whale watching companies.

The Director of the Department seeks your recommendations as to how she should resolve this problem. Submit your recommendations, citing reasons for them. All laws and international obligations in Taprobane are the same as in Sri Lanka.

5. *International environmental conventions can provide useful guidelines for national courts in decision making. However, they serve no other purpose as they cannot be enforced.*

Is this an accurate assessment of international environmental conventions? Discuss, citing reasons for your answer.

6. The President of Serendib is scheduled to pay a State visit to Micronesia. On the occasion of the visit, the Serendib government decided to gift a baby elephant to the people of Micronesia. They selected a two year old elephant named Mala from the national elephant transit home for this purpose. Earlier, Mala had been selected to be sent back into the jungle together with a group of other elephants.

Ali Rakaganno, a non governmental organisation dedicated to the conservation of elephants in Serendib, has protested about sending Mala to Micronesia. They argue

that elephants are endangered in Serendib and are also globally classified as an endangered species. They further argue that Micronesia which is a newly formed State, after having ended a twenty year old civil war, does not have adequate institutions or facilities to maintain an elephant in humanitarian conditions.

Ali Rakaganno wishes to stop Mala being sent to Micronesia and intends to challenge this decision in court. They seek your advice as to the grounds on which they can do so. Assuming that the law in Serendib is the same as in Sri Lanka, advise them with reference to national law and Serendib's international obligations.

7. *The law of public nuisance has evolved from a relatively unimportant branch of law into one of the most useful tools for pollution control.*

Discuss this statement with reference to the development of the law in Sri Lanka and other jurisdictions.

8. Water scarcity is becoming one of the most critical global problems. It has also become a serious issue in Sri Lanka. The government of Sri Lanka has decided to formulate a National Water Policy for the country. The Policy is to be based on the principles of **equity** and **sustainability**.

If you were on the drafting committee what suggestions would you make to ensure that all citizens of Sri Lanka have access to water in a manner that is equitable and which also ensures the sustainable use of water resources?

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