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THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES



LL.M IN CRIMINAL JUSTICE ADMINISTRATION – LEVEL 10- 1st Year

FINAL EXAMINATION – 2017/2018

LLPA504/ LWP2204 – EVIDENCE

DURATION –03 HOURS

Date: 23rd December 2018

Time: 09.30 a.m. – 12.30 p.m.

Total number of questions 07.

Answer four (04) questions only.

Candidates will be penalized for illegible handwriting.

1. Explain *res gestae*; a common law doctrine governing testimony and compare the applicability of this doctrine in Sri Lanka with two other different jurisdictions. The answer must be supported with relevant case law authorities.

(25 marks)

2. “Admissibility, relevancy, sufficiency and reliability of a fact in a legal proceeding of a criminal matter govern by different rules of evidence which direct the court to weigh such fact in determining its legal admissibility. However, all these rules establish certain principles to exclude rather than include the facts.”

Do you agree with above statement?

Discuss with reference to the relevant principles of Law of Evidence in Sri Lanka.

Support your answer with decided cases.

(25 marks)

3. “*Ponderantur testes non Numerantur*” is an established legal maxim in law of evidence which denotes that the testimonies are to be weighed not counted.

Discuss, how Sri Lanka, England and USA apply above maxim in their laws of evidence.

The answer must be supported with relevant statutory provisions and decided cases with special reference to the use of corroborative evidence as an exception to the above said maxim.

(25 marks)

4. Focusing on computer evidence as a separate category of evidence which has its own characteristics, explain the admissibility of computer evidence in a criminal matter.

Support your answer with the provisions of relevant statutes and decided cases in Sri Lanka.

(25 marks)

5. In England *voir dire* test is used to decide what evidence can or cannot be presented during the trial however in USA, *voir dire* is used as a mini trial within a trial to examine evidence in order to ensure the credibility of the witness

Discuss the impact of a *voir dire* trial in a criminal matter with special reference to different categories of witnesses.

(25 marks)

6. 'Character evidence is always admissible in a criminal trial irrespective of the nature of character of the person who is alleged to have committed the purported offence.'

Analyze the above statement and explain the rationale of the admissibility of character evidence of a witness in a criminal trial in proving the main elements of a particular offence.

The answer must contain a critique on the relevant provisions of law of evidence in two selected jurisdictions.

Support your answer with decided cases.

(25 marks)

7. Write short notes on the followings with special reference to the applicable provisions in the Evidence Ordinance, No. 14 of 1895.

(a) Presumption and burden of proof

(b) Dying declaration as an exception to the rule of hearsay evidence.

(25 marks)