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THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
DEGREE OF MASTER OF LAWS IN CRIMINAL
JUSTICE ADMINISTRATION
FINAL EXAMINATION – 2018/2019
LLPA409/LWP2209 - HUMAN RIGHTS RELATING TO CRIMINAL
JUSTICE ADMINISTRATION
DURATION: 03 HOURS

Date: 16.08.2020

Time: 9.30 a.m. – 12.30 p.m.

Instructions for candidates:

- **Answer four (04) questions only**
- **Candidates will be penalized for illegible handwriting.**

01. ‘The Universal Declaration of Human Rights (UDHR) has been hailed as an historic event of profound significance and as one of the greatest achievements of the United Nations.’

After about 72 years of its adoption do you believe that the UDHR is currently appreciated in the same colour and the glamour by the world in the backdrop of several changes occurred over the time in the regime of international human rights law. Explain your opinion substantiated with authorities.

02. If a scholar argues that sovereign States have shown much favouritism on the so called ‘first generation rights’ over the ‘second generation’ rights in implementing their international human rights obligations at the domestic level how do you develop a contrary opinion with the support State practices, legislations and case law jurisprudence of minimum of three States?

03. Taana, and indigenous community of Motta State, predominantly live in a virgin forest in the North-East region of Motta, are absolutely unaware about the rights enjoyed by

the citizens of any modern civil society. They live under lack of basic facilities and described by the media of so-called civilized societies as of human-shaped animals.

Assuming that you are a human rights activists working for the enhancement of rights of indigenous communities, clarify the government of Motta about the need to protect and promote their group rights. Support your elucidation with examples drawn from international human rights instruments, case law jurisprudence and State practices.

04. 'Regional human rights regimes need to be understood in the context of the broader normative structures in which they are embedded.The impact of processes of regionalization on the development of international law lies in the ways in which they shape the interaction between "universal" human rights standards and regional diversity and traditions.'

Focusing on your understanding about regional human rights mechanisms, critically discuss the above statement with reference to any three regional human rights regimes.

05. 'The UN human rights agenda has reached the mature age of 70 years any many UN mechanisms created to implement this agenda are themselves in their middle-age. However, despite this maturity and expected efficacy of these mechanisms holding governments to account for violations of human rights, the picture is much more dismal.

Drawing recent examples critically analyze the above statement.

06. 'Equality and equal protection of law are integral aspects of human rights entitled by every human being. However, when *equality* becomes a part of the fundamental right jurisdiction in a country as 'equal protection of law', it takes a different shape with different requirements against violation of this right. The cases decided by the courts in USA, India and Sri Lanka clearly evince that this fundamental right of the people does not purely depend on proving discrimination but, in many cases, on satisfying arbitrariness or unreasonable action from the part of the respondent'.

Do you agree with this statement? Analyze as to how the court has interpreted 'equality before law' under different circumstantial context with special reference to Sri Lanka.

07. 'Despite many stringent restrictions imposed against free enjoyment, the protection of freedom of expression is important as this right extends to secure human personality and dignity in many respects. However, the court has consistently emphasized that these restrictions are not imposed to the extent that they would lead to create an authoritarian government but to the extent that these restriction would secure national interest of the country by striking a balance between the rights of an individual and the public interest of the society at large'.

To what extent this statement explains the scope of freedom of expression as envisaged by the Article 14(I) (a) of the 1978 Constitution of Sri Lanka? Critically discuss with particular emphasis on the position taken by the Court on this right.

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