



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
LLPA605/LWP2305 – CRIMINAL PROCEDURE
DURATION: 03 HOURS

Date: 25.07.2020

Time: 9.30 a.m. – 12.30 p.m.

Instructions for candidates:

- **Answer four (04) questions including question No. 01.**
- **Candidates will be penalized for illegible handwriting.**

01. The international Commission of Jurists at the Congress of Athens held in 1955, laid down the principle that “no prosecution should be instituted for an act which at the time of its commission, was not punishable by law”. Discuss whether there is an effective legislative mechanism in place, in Sri Lanka, assuring the protection of the said principle, subject to certain exceptions.

02. “The extent to which human rights are respected and protected within the context of its criminal proceedings is an important measure of a society’s civilization”

Sri Lanka’s constitutional protection of criminal procedure, though could be considered as satisfactory, needs much improvements to reach the set global standards, in striking a balance between the society’s need for protection against crime and the interest of suspected and accused persons. – Critically analyze.

03. Demonstrate how the South African case *State v. Botha* (1994- 4 SA 799), has influenced the protection of avital Constitutional Aspect of Criminal Procedure of Sri Lanka.

04. Public demonstrations are part of what makes up a pluralistic democracy. The freedom of expression and peaceful assembly guaranteed by the Constitution are note absolute rights and may be subject to limitations. Critically analyze the range of issues extensively discussed in case law impacting on the right of peaceful assembly and restrictions prescribed in the interest of public order, and powers assigned to the police in dispersing an assembly which becomes unlawful.

05. Critique the unfettered statutory discretion vested in the Attorney General to discontinue any criminal proceeding for any criminal offence, before the original courts, which discretion had been seen as abused through improper influences in some cases, compromising the impartial administration of justice. Suggest an effective mechanism that should be put in place, to scrutinize the said discretion of the Attorney General to ensure the expected fairness and respect for law.

06. Discuss the exceptions to the general rule that “every distinct offence of which any person is accused there shall be a separate charge and every charge shall be tried separately”

Support your answer with relevant case law authorities in Sri Lanka and any other common law jurisdiction.

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