

THE OPEN UNIVERSITY OF SRI LANKA  
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES  
 DEPARTMENT OF LEGAL STUDIES  
 LL.M IN CRIMINAL JUSTICE ADMINISTRATION  
 FIRST YEAR- FINAL EXAMINATION - 2022/2023  
 LLPA 605- CRIMINAL PROCEDURE  
 DURATION: 03 HOURS



Date: 29.10.2023

Time: 09.30 a.m.-12.30 p.m.

Total No. of Questions: 06

Answering question No. 01 is compulsory.

Answer 4 questions including question No. 01

Each question carries 25 marks.

Candidates will be penalized for illegible handwriting.

(1)

- (i) The 'privilege against self-incrimination' contained in the Fifth Amendment to the United States' Constitution, is reflected in the procedural criminal law of Sri Lanka in relation to interrogation by the law enforcement. Comment.
- (ii) Does the first information relating to a crime hold a unique status than the other statements recorded in the course of an investigation?

(2) When a person by the name of Sepala Ekanayake hijacked an aircraft, offences against air crafts were not prescribed as offences under the penal law of Sri Lanka.

- (i) How did the legislators and law enforcement take measures to indict Sepala Ekanayake for the said offence, without violating the constitutionally laid out 'rule against ex post facto legislation'

And

- (ii) dealt with the issue of the 'requirement of extra territorial jurisdiction'.

(3)

(i) The right to fair trial has been reaffirmed and elaborated since 1948 in legally binding treaties. The parameters of the right to a fair trial as reflected in the Bill of Rights of the Constitution of Sri Lanka has been satisfactorily elaborated and established by the common law. Comment.

(ii) Should the Sri Lankan jurisprudence follow the completely novel principle adopted by the South African case Shaik v State ([2007] 2 ACC, 19; 2008 (2) SA 208 (CC)) in relation to the right to fair trial?

(4) The Constitution of Sri Lanka guarantees the citizens the freedom of 'peaceful assembly'. However, when an assembly crosses the line of being peaceful, those assembled cease to exercise the fundamental freedom, at which point the police gain authority to exercise powers under section 95 of the Code of Criminal Procedure Act.

Critically examine how the Sri Lankan case law has amply demonstrated the concept, that 'the rules pertaining to peaceful assembly should be balanced against the maintenance of law and order, which is the ultimate objective a legal system'.

(5) In Sri Lanka the procedure in effecting an arrest, is statutorily defined, constitutionally safeguarded and the relevant rules have been amply enunciated by common law. Examine.

(6) Critically examine whether the novel concepts introduced to the jurisprudence of bail, by the Bail Act No. 30 of 1997, have succeeded in reflecting a balance between the conflicting interests, namely, sanctity of individual liberty, the interest of the society, and reducing the burden on the public treasury.

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