

**THE OPEN UNIVERSITY OF SRI LANKA**  
**FACULTY OF HUMANITIES AND SOCIAL SCIENCES**  
**LL.M. IN CRIMINAL JUSTICE ADMINISTRATION - LEVEL 7**  
**FINAL EXAMINATION – 2015/2016**  
**LWP 2305 – CRIMINAL PROCEDURE**  
**DURATION – 03 HOURS**



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Date : 17.06.2017

Time: 09.30 a.m. – 12.30 p.m.

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Total number of questions 6

Candidates will be penalized for illegible handwriting.

Answer 04 questions only. Each question carries 25 marks

1. Chapter XI of the Code of Criminal Procedure Act No: 15 of 1979 (relating to investigation of offences) is what gives the teeth to the guarantee of individual freedom enshrined in the Constitution of Sri Lanka. It is the most important safeguard against arbitrary deprivation of the liberty of the subject. It is the bounden duty of the courts to be extremely vigilant and ensure that those who are charged with the duty of exercising the powers vested in them by the provisions of the said chapter, not only exercise such powers within the limits imposed by law and do not overstep them, but also that they do not sidestep and circumvent the said provisions unless such deviation is provided for in terms of the law.

Analyze the correctness of the above statement with the support of relevant case law authority in Sri Lanka and explain how such cases influence in achieving the main objectives of criminal justice

2. The right to fair trial - enshrined in the law of international Human Rights - has been well protected in Sri Lanka by the Constitution, procedural law.

Do you agree? Support your answer with decided cases in Sri Lanka and provisions of the Constitution and relevant statutes.

3. Critically evaluate the powers vested with the Attorney General by express provisions of law, in relation to the institution of proceedings and conduct of prosecution both in the Magistrate court and High Court and his powers to enter a *Nolle Prosequi*. Make your recommendations to the existing law mentioned in the above to ensure the norm, 'Access to Justice'.
4. Examine the merits and demerits of the revolutionary changes made into the law relating to bail, by way of introducing novel concepts and features into the legal system of Sri Lanka by the Bail Act No 30 of 1997. Suggest your recommendations to overcome the identified drawbacks in our law by comparing with that of prevailing laws relating to Bail in another common law jurisdiction. Your answer should support with the relevant case law authority
5. The general rule is that for every distinct offence of which any person is accused, there shall be a separate charge and every such charge shall be tried separately.

Does the above statement correctly reflect the Sri Lankan law? Give reasons for your answer supported by relevant statutory provisions and decided cases with special reference to the underpinning rationale of the above said general rule and exceptions, if any, to that rule in the procedural law of Sri Lanka.

6. Critically evaluate the adequacy of the mechanism in place to protect, the rights and entitlements of victims of crime and witnesses and any suggested amendments to the said mechanism. What amendments do you suggest to the said mechanism in order to be aligned with the relevant standards declared in international human rights law?

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