

8 MAY 2023

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination, May-2023

Semester: VIII

Subject: Human Rights and Criminal Justice System (Criminal law Hons).

TIME: Three Hours

Marks: 100

Instructions:

- i. Attempt any Five questions.
- ii. Assume the facts wherever necessary. Brevity will be appreciated.
- iii. Marks for the Answers are indicated at the end of each question.
- iv. No bare acts and/or study materials are allowed.
- v. No clarification will be sort during examination.

Q.1. Write short note on the following:

- i. *Actus Non Facit Reum Nisis Sit Mens Rea*
- ii. *Mala in se and Mala Prohibitum*
- iii. *Presumption of innocence*
- iv. *Nullum crimen sine lege*

(Marks 4*5=20)

Q.2. An arrest is the deprivation of an individual's personal liberty by a legal authority, in order to ensure that an accused is not arrested arbitrarily or capriciously, the arrest procedure should follow certain safeguards set forth by the law. Discuss those safeguards and also discuss the rights, if any of the arrested person. (Marks 20)

Q.3. 'A fundamental principle of the criminal justice system is that all defendants are innocent until proven guilty, accordingly the granting of bail should be rule rather than exception,' this was observed in the case of State of Rajasthan vs Balchand, 1978 SCR (1) 535. Discuss the concept and importance of bail under the criminal justice system and also discuss its role in protecting human rights of an accused. (Marks 20)

Q.4. Every criminal trial must come to a conclusion with a judgment, either of acquittal or conviction. All cases of conviction have to be appropriately sentenced as per the requirements of the statute. However, before passing the order of sentence the judge is required in terms of Ss 360 and 361 of the Code to keep in mind the reformatory considerations in matters of sentencing because S. 361 imposes a duty on the Courts to record special reasons with a view to emphasizing the reformatory sentencing alternative. In the light of the above statement discuss the reforms suggested by the different committees on the punishment and sentencing policy in India and how today human rights plays role in the development of the same?

(Marks 20)

Q.5. One 'X' along with his associates, who lived in Jodhana opened an institution which helped people in getting training for admission in NDA. All the affairs were managed on phone

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calls the people who approached the institution had conversation on phone only with 'X' and had never met him personally. 'X' also provided them all with some handwritten notes for understanding the concepts. After few years 'X's' institution became popular in the city and was running with almost every batch full. On one fateful day 'X' eloped with all the money deposited as fees and didn't turn up to his institution. Even after much of the efforts people were unable to find his whereabouts finally, they lodged an FIR against 'X' and his associates. One of the associates was arrested and a mobile phone along with some registers were seized from him. In order to verify whether the conversations recorded on the phone was between the associate and 'X', as well as to ensure the writing in the register is of 'X' the Investigating Authority filed an application before the Chief Judicial Magistrate, Jodhana requesting the court to summon 'X' for giving his voice and hand writing sample. This order of the CJM was challenged by 'X' under Article 20 and 21 of the Indian Constitution. Discuss the relevancy of this challenge in the light of Indian Constitution and International Covenants. (Marks 20)

Q.6. Do the case analysis of the following cases:

i. Manish Jalan vs State of Karnataka AIR 2008 SC 3074

ii. Hussainara Khatoon vs State of Bihar 1980 SCC 98.

(Marks 10+10=20)