

30 APR 2024

# NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination, May-2024

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.a. One Harry, was arrested along with several others on 30.11.2020, for the alleged commission of offences on 30<sup>th</sup> October, 2020 under Sections 148, 302, 149, Section 325 read with Section 149 and Section 323/149 Indian Penal Code. When they were tried before the court the major issue which was faced by the judges was the age of Harry as Harry's father, submitted that the date of birth of Harry is 1.1.1984. Furthermore, the medical examination conducted in respect of the appellant by a Medical Board indicated that his age at the relevant time was between 18 and 19 years. There was confusion regarding the exact age of Harry. Does the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021 provide for solution to such dilemma? If yes, then discuss how?

b. The Juvenile Justice (Care and Protection of Children) Amendment Act, 2021 provides for different category of offences committed by the juvenile discuss them also discuss the procedure to deal with such offences. (Marks 8+12=20)

Q.2. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

Article 3 of the CEDAW states that '*States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.*' Discuss the steps taken by Indian government to achieve the same. (Marks 20)

Q.3. Discuss following in the light of Criminal Justice System:

- i. *Presumption of Innocence.*
- ii. *Autrofois convict & Autrofois acquit*

(Marks 10+10=20)



Q.4. With the rise of concerns for human rights, International Conventions like UDHR, ICCPR etc., have included the basic rights of an accused and have made it mandatory for countries to follow them stringently. Any law interfering with the basic privileges would go against the notions of liberty and humanity. Our substantive law has also incorporated these rights under its sections. Discuss the rights guaranteed to an accused under the Code of Criminal Procedure, 1973. (Marks 20)

Q.5. Analyse *any one* of the following cases:

i. State of Maharashtra v. Christian Community Welfare Council of India AIR 2004 SC 7

ii. Sheela Barse v. State of Maharashtra (1983) 2 SCC 96 (Marks 10+10= 20)

Q.6. One Rahul Shah, was arrested in 1953 on the charges of murdering his wife. However, on June 3, 1968, he was acquitted by the Muzaffarpur Sessions Court, releasing him from all the charges. Despite the acquittal, he remained incarcerated till October 16, 1982, leading to imprisonment without any proper legal cause. He filed a writ petition of habeas corpus in the Supreme Court on November 22, 1982, when he was not yet released from his unlawful detention. In his petition, he asked for his release from prison on the ground that it was a false imprisonment that was against constitutional freedoms.

The petitioner sought relief under Article 32 of the Indian Constitution, which consisted of ancillary reliefs like ex-gratia payment for his rehabilitation and reimbursement for the medical treatment that he may have incurred. He also sought compensation for his illegal imprisonment even after being acquitted as per the due procedure of law. The main issues that arose before the Supreme Court of India were as follows:

- i. Whether the Court can grant monetary compensation for the infringement of fundamental rights under Article 32 of the Constitution.
- ii. Whether the scope of Article 21 includes the right to compensation for the violation of the right to personal liberty.

Decide the issues encountered by the court and also give reasonable justification to your answer. (Marks 20)