**Proportionality**

Thank you for sharing insights about the principle of proportionality and reversed burden of proof.

Indeed, there are unresolved issues of clarity in justification for a reverse onus and proportionality, which leaves a grey area, which leaves the court with discretional authority to determine if proportionality has been met. In *Woolmington –vs- DPP (1935) A. C 462*, the court was convinced that the prosecution did not prove its case beyond a reasonable doubt. It was further submitted that the trial Court convicted the Appellant on the grounds of suspicion only rather than facts[[1]](#footnote-1). This was when it is trite law that suspicion, regardless of how strong it is, cannot offer the foundation of inferring guilt on the accused.

Looking at various cases where reversed onus has been applied, it is clear that proportionality is determined on a balancing act that is not expressly clear. This explains why each of the particular reverse burden of proof is determined on a case-by-case basis, which brings about variances in how each case is decided because of varying circumstances[[2]](#footnote-2). Some cases of reversed onus end up being successfully appealed while others withstand the test of time[[3]](#footnote-3). In essence, the weight and value of each case of reversed onus vary from one another.

1. Woolmington –vs- DPP (1935) A. C 462 [↑](#footnote-ref-1)
2. R V CLIVE LOUDEN CARASS (2001). [↑](#footnote-ref-2)
3. Attorney General’s Reference No 4 of 2002 CACD 21-Mar-2003. [↑](#footnote-ref-3)