



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A

MAIN EXAMINATION

JANUARY – APRIL 2015 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 205: CRIMINAL LAW II

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Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

Q1. Moses is an ardent admirer of big cars. He owns no car of his own. One night as he strolled leisurely in the estate he passed through a lonely dumpsite and sported a Subaru forester which appeared abandoned. He examined the car closely and realized that its doors were unlocked. Its keys were in the dashboard yet there was no one on site.

He drove away the car counting his luck. He did not report to the nearest police station, he did not try to ask around if anyone knew the car owner.

It transpired later that the car indeed was abandoned but by car hijackers who used it for escape from another crime scene. The rightful owner had reported the matter to the police who were looking for the car. Moses was arrested at once by police and charged.

- a) State the offence(s), if any, that Moses has committed in the above fact pattern. **(2 marks)**
- b) What are the elements of the offence stated in (a) above? **(8 marks)**
- c)
 - i) With the aid of case law and statutory provisions, explain to Moses how the court is likely to resolve his matter when he is finally arraigned in court. **(16 marks)**
 - ii) Would the court findings be any different had the car been abandoned by its owner? Explain. **(4 marks)**

Q2. Tom disagreed with his neighbor, Willy. He (Tom) then considered that the best way to punish Willy was to set his house a blaze at night when his (Willy's) family members were asleep. He also burnt down the neighbour's pasture. Willy's family members escaped but with various degrees of burns.

Explain clearly the offence(s) with which Tom is likely to be charged outlining the elements of each named offence(s). **(20 marks)**

Q3. Marie wishes to secure a form one slot in a national school for her daughter who has just received her standard eight results. She approaches the school's secretary who assures her that she can help out. The secretary however informs Marie that she would have to deliver to the secretary Ksh.150,000 to facilitate the admission. Marie agreed to this and delivered the said amount whereupon an admission letter is promptly given to her.

The Local County Education officials got wind of the events in the school and alerted the police. Both Marie and the school secretary were arrested questioned and are in custody.

You are a prosecuting counsel and have been assigned this task. Explain to both parties – Marie and the secretary their crimes (if any) and the punished that may follow if convicted. **(20 marks)**

Q4. a) Distinguish between robbery and robbery with violence. **(6 marks)**
b) Leso and two others confronted a tourist and took away his camera and unknown amount of money in foreign currency. The three were later arrested and released on cash bail.

On arraignment in court they were convicted of robbery (simple robbery). Was the trial court justified in its finding and holding? Explain your answer fully. **(14 marks)**

Q5. A woman walked into your chamber complaining bitterly that her husband has been raping her consistently for a whole week. She informs you that she plans to press for a charge of rape against her irate husband.

Advise her regarding the current position of the law on rape and therefore her chances of success in the matter. **(20 marks)**

END