



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A MAIN EXAMINATION

AUGUST – DECEMBER 2018 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 205: CRIMINAL LAW II

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Date: DECEMBER 2018

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

- Q1. a) Bob and Sue lived together. They were both alcoholics who had violent rows when drunk. In the course of their rows Sue often made derogatory comments about Bob which affected his self-esteem and he always beat her up whenever she made such comments. He had served a number of prison sentences for these assaults on Sue. Sue and Bob spent one Saturday afternoon together in a bar, both drinking heavily. Bob left before Sue and went to another bar where he met some other friends and continued drinking before leaving. He got home before Sue. When she arrived home a couple of hours later, she told Bob that she had just seen their neighbour, John, with his 'ex' and they looked like they had been 'making out'. Bob misheard her and thought she had said that she had just had sex with John. Incensed, he picked up a kitchen knife and stabbed her several times. Overcome with remorse, he called an ambulance but, due to heavy traffic, the ambulance took 50 minutes to arrive. Sue died on the way to hospital. Doctors believe that had Sue received medical attention much earlier, she would not have died.
Discuss Bob's possible criminal liability. **(20 marks)**
- b) 'The distinction between robbery and robbery with violence is superficial and unwarranted. Indeed, the law requires reform in this area.' – Anonymous.
Discuss. **(10 marks)**
- Q2. a) Discuss the *actus reus* and *mens rea* of the offence of bribing agents

provided for under S39 of the Ant-Corruption and Economic Crimes Act.
(12 marks)

- b) Donald has been employed by Mary as a cleaner in her office. One evening, as he was cleaning, he noticed that Mary's computer was still on and her e-mail inbox was open. He read through her e-mails, before proceeding to open his e-mail, which he used to solicit prostitutes from some websites advertising the sale of sexual services. Discuss his criminal liability under the Kenya Information and Communications Act, Cap 411A.
(8 marks)

Q3. a) The Rector of the National Defence College has invited you to deliver the annual address to the graduating cadet class. The topic of the lecture is treason. Prepare a draft of the speech, discussing the elements of the offence of treason.
(14 marks)

- b) Highlight the elements of the offence of perjury.
(6 marks)

Q4. a) Mike, an employee of Top Dollar Bank, was sued and found liable for negligence, the result of which was that he had to pay a huge sum of damages. As a consequence, he was unable to service his mortgage. He decided to take some money from the office expense account, to which he was the sole signatory, in order to pay off some balance on the mortgage to avoid eviction, and to return the money once he was paid his dividend from some investments. As a result of an audit, his employer found out. Mike is facing prosecution for theft. With the aid of decided cases, discuss his possible criminal liability for theft.
(10 marks)

- b) Write explanatory notes on:
i) Attempted crimes and **(5 marks)**
ii) Conspiracies. **(5 marks)**

Q5. Mike, a law student at Hardy University, had always had what he described to his room-mate, Larry, as 'a serious romantic interest in Natasha', a classmate. He once asked her out for a coffee date but she rebuffed him, telling him she had a boyfriend, Jason, with whom she was planning to move in with after finishing her law degree. One day, in the course of a discussion at the Student's Centre Bar, Mike overheard Tim boast loudly that he had had sex with Natasha twice; in Tim's words, 'Natasha is an easy catch, all you need to do is buy her some alcohol, get her tipsy and she's yours the whole night.'
At the next end-of-semester dance party, Mike and some of his friends shared a table with Natasha and her friends. Mike chatted with Natasha as they drank alcohol. Mike paid for all the alcohol that he and Natasha drank and he

encouraged her to consume as much as she possibly could. In the course of the chat, Natasha whispered to Mike that her relationship with Jason was over. In the early hours of the morning, as they prepared to leave, Mike noticed that Natasha was too drunk to walk alone to her hostel, so he decided to go with her to his dorm room. Mike suggested that they have sexual intercourse, but Natasha just giggled and in a drunken stupor, responded, 'No, Jason, I don't love you anymore', before falling asleep. Mike went ahead and had sex with her. Mike has been charged with the rape of Natasha. Discuss his possible criminal liability.

(20 marks)

END