

THE OPEN UNIVERSITY OF SRI LANKA
LL.B. DEGREE PROGRAMME - LEVEL IV
FINAL EXAMINATION - 2008 / 2009
CRIMINAL LAW LWU 2312
DURATION - THREE HOURS



Date: 23rd March 2009

Time: 9.30 a.m. – 12.30 p.m.

Answer FIVE questions only.

Candidate will be penalized for illegible handwriting.

04.

1. "... The most obviously culpable state of mind is no doubt an intention to cause the injurious result, but knowing disregard of an appreciated and unacceptable risk of causing an injurious result or a deliberate closing of the mind to such risk would be readily accepted as culpable also..."

Per Lord Bingham J in *R Vs G and another* [2003] UKHL 50

Critically analyse the concept of *mens rea* in the light of the above statement and decided cases

05.

2. Nimal had carried a grudge against Saliya as he believed that Saliya had caused the break up of the love affair between Nimal and his neighbour Chathuri. One day when Nimal was on his way home from work, he spotted Saliya. Nimal sprang on Saliya and punched him in the face, hitting him as hard as he could. Saliya fell to the ground, striking his head heavily against a rock which rendered him unconscious. Nimal, in a panic and believing that Saliya was dead, dragged his unconscious body in to a back lane and covered it with garbage. Saliya died the following morning after he was run over by a garbage truck, while he was lying there.

Discuss the criminal liability of Nimal.

3. Palitha, who was in financial difficulties, decided to rob the monies brought to pay salaries of the company he works for. He purchased a shot gun and borrowed a motor bike to carry out his plan. Palitha rode the bike to the office and waited for Perera, the security guard who delivers the suitcase containing the money. Perera is usually armed with a pistol. As Perera was about to enter the building, Palitha rushed up behind him and hit him on the back of the head with his shot gun. Palitha ran off with the money and got in to his bike.

In a daze from the blow to his head, Perera shouted "stop right here you thief, or I will shoot!". Palitha started the bike and rode off. As he did so, Perera shot him in the shoulder. In a state of pain and fearing Perera may shoot again, Palitha turned the bike around and rode directly at Perera. The bike struck Perera and he was thrown to the ground, striking his head. Perera suffered a fractured skull.

Discuss the criminal liability if any, of Palitha and Perera.

4. Rita asked Ramani, one of her very good friends, if she could borrow Ramani's gold necklace to wear to an appointment which Rita had later on that day, as she wanted to impress the person she was meeting.

Ramani was hesitant as she was worried that Rita might lose it. Rita persuaded Ramani to lend her the necklace promising to return it the same evening after the appointment.

Rita's appointment ended earlier than she expected. On the way home, as she was short of money, Rita decided to pawn the necklace and redeem it when she receives her salary and return it to Ramani.

Discuss Rita's criminal liability.

5. Anthony is a fisherman who spends long hours at sea. He had been an alcoholic but he had stopped drinking for the last six months. He had constant quarrels with his wife due to his drunkenness. One day he returns home from fishing earlier than usual, and finds his wife Matilda in bed with his friend Sira. Enraged by this, Anthony goes to the kitchen, consumes two glasses of arrack and returns with a knife. In the subsequent quarrel with Matilda, she scolds him 'get lost you hopeless drunkard!'. Enraged and humiliated by these words, Anthony stabs Sira 14 times. Sira dies on the way to hospital. Anthony is charged with murder.

Advise Anthony.

6. An Army Corporal and number of other passengers were trapped in a stricken ferry and they were in grave danger of drowning. A possible way of escape up a rope ladder was barred by a man, petrified by cold and fear, who could move neither up nor down. After fruitless attempts to persuade him to move, the Corporal ordered the other passengers to push him off the ladder. As they did so, the man fell in to the water and disappeared. The trapped passengers were then able to climb up the ladder to safety.

The Corporal is charged with murder.

Advise him.

7. Consider the following cases and write a legal opinion on Arul's liability

- (i) Arul, residing in Colombo is an agent for Sukumar, residing in England. There is an express contract between Arul and Sukumar that all sums remitted by Sukumar to Arul shall be invested by Arul according to Sukumar's direction. Sukumar remits three million rupees to Arul, with directions to Arul to invest the same on buying a suitable building in the Colombo suburbs for a fast food outlet. Arul dishonestly disobeys the directions, and invests the money in his own business.
- (ii) Arul, not dishonestly but in good faith, believing that it will be more beneficial for Sukumar to hold shares in the Golden Gate Company, disobeys Sukumar's directions and buys shares in Sukumar's name instead of buying a building for a fast food outlet

8. Write notes on **any two** of the following.

- (i) The Role of state institutes that assist the administration of criminal justice.
- (ii) The concept of relevancy and admissibility of evidence.
- (iii) The issue of consent in the offence of rape.
- (iv) The offence of kidnapping.

- COPYRIGHT RESERVED -