



UNIVERSITY OF EMBU

2017/2018 ACADEMIC YEAR

SECOND SEMESTER EXAMINATIONS

FIRST YEAR EXAMINATION FOR THE DEGREE OF BACHELOR OF CRIMINOLOGY
ARTS IN CRIMINOLOGY AND SECURITY STUDIES

HSM 125: INTRODUCTORY TO CRIMINAL LAW

DATE: APRIL 6, 2018

TIME: 2:00-4:00PM

INSTRUCTIONS:

Answer Question ONE and ANY Other TWO Questions.

QUESTION ONE (30 MARKS)

- a) Mr. Kinyua normally comes home drunk. One evening as he returned home, he found his wife asleep and act which annoyed him. He grabbed his wife and threw her out of the bed asking for dinner. The wife woke up and ran to the kitchen to fix something for her husband. Before she knew it, the husband rained blows on her as he regretted the day he married a lousy woman of her caliber. Mr. Kinyua then signalled their adopted daughter, Karegi aged 7 years, to bring a gun and shoot her mother. Karegi has never been happy with her mother since she always found herself on discipline schedules. She ran into her father's bedroom and returned with a gun. The father demonstrated to Karegi how to shoot. Karegi then pulled the trigger that instantly killed the mother.
- i) Discuss the elements of a crime that would help establish Mr Kinyua's criminal responsibility (10 marks)
- ii) Discuss any defence(s) available to Kinyua and Karegi (5 marks)
- b) Write an explanatory note on sources of criminal law (5 marks)
- c) State and explain Five exceptional cases where the accused bears a burden of proof (5 marks)
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- d) Discuss the defence of provocation (5 marks)

QUESTION TWO (20 MARKS)

- a) "Unless the statute clearly or by necessary implication rules out mens rea as a constituent part of a crime, a court should not find a person guilty of a criminal offence unless he has guilty mind." With reference to the above statement discuss the application of strict liability in criminal law (10 marks).
- b) Discuss the elements of a crime that would be necessary to prove the offence of murder (10 marks)

QUESTION THREE (20 MARKS)

- a) Write short notes on the following:
- i) Defence of defences in criminal law (10 marks)
 - ii) Discuss the principle of legality in the context of criminal law (10 marks)

QUESTION FOUR (20 MARKS)

- a) Discuss the key elements of the offence of conspiracy (10 marks)
- b) Define the term crime and discuss the main characteristics of criminal law (10 marks)

QUESTION FIVE (20 MARKS)

- a) Kimathi faces a theft charge. Kimani's donkey was found tethered in Kimathi's compound at his village in Kiambu County. Kimathi explains that Kimani is his neighbour, and for quite some time his donkey has been straying into Kimathi's property and destroying his crops. He had warned Kimani about it, but Kimani apparently did not restrain his donkey. Kimathi says that he tethered the donkey after it trespassed into his farm, and as it is the practice in that community he waited for Kimani to come so that they could view the damage, and thereafter release the donkey to him and embark on negotiations on the issue of compensation. When Kimani learnt that his donkey was tethered at Kimathi's, instead of paying him a visit he reported to the police that Kimathi stole his donkey.
- i) Advice as to the defence or defences available to Kimathi (10 marks)
 - ii) Write short notes on the following:
- b) Age of immaturity (7 marks)
- c) What is the meaning of the expressions "burden of proof" and the "standard of proof"? (3 marks)

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