



**RIARA LAW SCHOOL**

**UNIVERSITY EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS (LLB)**

**MAY- AUGUST 2024**

**RLB 209: CRIMINAL LAW II**

**INSTRUCTOR: MS.JOSEPHINE OYOMBE**

**INSTRUCTIONS**

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1. This is the final examination in **CRIMINAL LAW II**. You will earn 70% of your final grade from this final examination and 30% from Continuous Assessment Assignments.
2. This examination has **FIVE** questions. Please answer **QUESTION ONE** and **ANY OTHER TWO** questions.
3. Time allocated for this examination is **TWO HOURS** (2) hours. You must stop writing when time is called.
4. Please sign the roll sheet when you turn in your answer sheet. If you fail to sign the roll sheet, we shall have no way of establishing that you sat for this examination and your marks will not be reported.
5. This is a **CLOSED BOOK** examination. This means you are not permitted to bring ANY hard or soft materials to the examination room. You are also not allowed to access materials stored in computers, electronic gadgets or the internet. You should not bring to the examination room any of the following: cell phones, tablets, computers, statutes, notes, outlines, or books. If you need to have medicine or food items with you, please let the invigilator know before the examination begins.
6. This examination is governed by **Riara University Academic Honesty Regulations**. Students who violate those regulations will be penalized. Students have an obligation to report to the invigilator any incidences of academic dishonesty compromising the integrity of this examination.

## **QUESTION ONE**

### **PART A**

Annike runs a line of retail shops dubbed “Newline Square” that supplies a series of home and office products imported from Germany. Until recently, this has been the preferred retail shop for home and office supplies. In December 2023, Gerald opened a similar store nearby and the same has had an adverse effect on Annike’s business. On 21<sup>st</sup> April 2024, Annike entered the premises owned by Gerald through the ground floor “safety exit” and set the retail shop on fire. The premises was destroyed and unfortunately, Gerald and his wife Rita who were in the premises taking stock died in the fire. Annike claims that he had been told by neighbors that Gerald always goes to play chess on Sunday’s and no one is left in the premises on Sunday until the following morning. Annike admits that he intended to destroy the shop by the claims that he genuinely believed that the building was uninhabited at the time. Annike has been charged with the Murder of Gerald and Rita.

- i. Supporting your answer with statutory provisions and case law, Advise him on the offences he is likely to be charged with ?

**(15 marks)**

### **PART B**

The Court’s, in a number of decisions have considered that where malice aforethought is not proved, but there is proof of death linked to the accused, the Court should convict the accused of the lesser offence of manslaughter. Evaluate the requisite essentials with Malice aforethought?

**(15 marks)**

## **QUESTION TWO**

- i. Discuss the theories of Retribution and Deterrence as theories of punishment in criminal law.
- ii. How do these theories of punishment compare in their approaches to justice, and what roles do they play in deterring crime?

**(20 marks)**

### **QUESTION THREE**

On 19<sup>th</sup> February 2024, Josiah and Kevin, 21 year old second year students attended the inter-university Sports day at Ulinzi Field. They see Jane, an 19 year old first year student at Sunshine University, passing by with two of her friends. Both Josiah and Kevin are so happy to see Jane. Josiah suggests that they go for late lunch after the sports day activities. On arrival at the lunch joint, Josiah changes his mind and says, why don't we go for the "Jam Session" instead ? Which is the usual thing that they do after the annual sports day activities.

Josiah advises them to go to "Mahewa Club" the most popular club within Langas estate. Upon arrival, Josiah buys a bottle of Gin to be shared amongst themselves. Unknown to Kevin, Josiah had a liking for Jane and he had decided that this day was his golden chance to actualize his desires. Josiah persistently stated at the way Jane was drinking the Gin and asked her whether she was enjoying it? Jane said in a stupor of drunkenness that she was enjoying it.

It was getting late and Josiah suggested that they move to a room upstairs, which were part of the lodging facilities owned by Mahewa Club. Kevin was hesitant but jerry pleaded with him to assist him move Jane from the Club to the room. Jane was too drunk to walk. They lifted Jane and took her to the room upstairs. Josiah and Kevin decide to have sexual intercourse with her upon arriving in the room and they decide to abandon Jane late at night. Very early in the morning, Jane's father traced her daughter's steps with the police officers at the Club. Josiah and Kevin are arrested by the police.

- i. Advise on the offences to be charged as well as the criminal liability of both Josiah and Kevin?
- ii. With the aid of statutory provisions and case law, analyze the elements of the offence committed in the above scenario?

**(20 marks)**

#### **QUESTION FOUR**

The citizens of Warobi are agitated over the introduction of Ushuru Bill during hard economic times. The youth gather to protest against the government, using slogans like “REJECT THE BILL” and “ZAYO MUST GO” amongst others. Kamau is arrested on 2nd June 2024 and charged with the offense of treason under the Penal Code.

- i. With the aid of Case Law, discuss each of the elements of the offence of treason as set out in the Penal Code ?
- ii. What special safeguards are provided for by the penal code for an accused person in a trial for treason ?

**(20 marks)**

#### **QUESTION FIVE**

Ochieng, Onyango and Oloo agree that the evening of Friday, 1<sup>st</sup> May 2024 that they would turn up for the Mission to steal. They agree to separately enter and rob three different houses in the Ushuru estate then share the loot. On the eve of the agreed date, Ochieng goes to his designated house. He checks the door and windows and they are all locked. He gets desperate and smashes the glass window with a metal bar he finds near the house. He sees a 41 inch TV through the window but when he hears some movements he runs away.

Onyango on the other hand finds the door to his designated house open. He walks in and carries away all the electronics he finds in the living room

Upon arriving at his designated house, Oloo finds the doors closed but the window wide open. He climbs the wall and tries to make entry through the window. While attempting to enter the house, he notices someone in the house who immediately raises an alarm. Oloo falls on the ground and runs away,

- i. Supporting your answer with statutory provisions and case law, discuss Ochieng, Onyango and Oloo’s criminal responsibility in relation to the offence of housebreaking and burglary.

**(20 marks)**