



RIARA LAW SCHOOL

UNIVERSITY OF EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE

[Date]

RLB 201: CRIMINAL LAW I

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INSTRUCTIONS

1. This is the final examination in Criminal Law I. You will earn 70% of your final grade from this final examination and 30% from Continuous Assessment Assignments.
2. This paper consists of **FIVE** questions. Answer **QUESTION ONE** and **ANY OTHER TWO** questions.
3. Time allocated for this examination is **TWO (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. Neither should you bring to the examination room books or materials unrelated to this course. 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

[***]

QUESTION TWO

James, a college student at Kilimo College, was arrested for being in possession of a narcotic drug namely, cannabis, contrary to Section 3 of the Narcotic Drugs and Psychotropic Substances (Control) Act. At the time of arrest, James had four sticks cannabis in his pocket which he intended to deliver to his cousin, Felix. James has never consumed cannabis or any other prohibited drug before.

In light of these circumstances, and with the aid of relevant principles and authorities, provide responses to the following:

- a) Explain whether it would be a relevant factor in assessing James's criminal liability if he can establish that he did not intend to smoke the cannabis. **(10 marks)**

- b) Assess whether James' lack of awareness regarding the provisions of Section 3 of the Narcotic Drugs and Psychotropic Substances (Control) Act would be a relevant to any defence James may raise at trial. **(10 marks)**

QUESTION THREE

Part A:

“Defences in criminal law afford the suspect an escape from criminal responsibility, on the basis that his behaviour was excusable or justified....” W Musyoka, *Criminal Law* (2013 Law Africa Publishing Ltd), p. 105.

Citing relevant statutory law and authorities, discuss ‘self-defence’ as a general defence in criminal law. What are the requirements for a defendant to rely on ‘self-defence’? Which offences can it be used as a defence for? **(10 Marks)**

Part B:

Mr Hasira has a hot temper. He has been advised to stop against drinking alcohol because he often loses control of his temper whenever he gets drunk. Hasira recently found out that his wife was having an affair with their neighbour. He threatened the wife with death if she was not going to stop the affair. A week after that incident, Hasira heard that his wife was seen in the local market with the same neighbour. Having bought a machete and sharpened it, he went to the local pub and drank himself up telling his friends that it was his day to prove that he was “a real man”. When Hasira returned home, he immediately killed his wife by slitting her throat with the machete Hasira has been arrested and is due to be arraigned in court to answer to charges of murder. Advise the police on the applicability of the defences of intoxication and insanity to this case. (10 Marks)

QUESTION FOUR

“It is our cardinal principle of law that in a criminal case the legal onus is always on the prosecution to prove the guilt of an accused person, and the standard of proof is proof beyond reasonable doubt.....An accused person does not assume any burden to prove his innocence in a criminal case. He is obliged only, if he so wishes, to give an explanation or to raise a defence to the charge, which is probably or possibly true. If he does this, then he discharges his burden of proof and his explanation or defence must be accepted.” (*Republic v David Ruo Nyambura & 4 others* [2001] eKLR)

Critically discuss this statement, examining the principles of burden and standard of proof placed on the prosecution and the defendant's responsibility, **if any**, to support or prove any defences. Cite relevant legal authorities to support your arguments **(20 Marks)**.

QUESTION FIVE

For the past five years, Alex and Jordan have been part of “the Reds”, a notorious criminal gang in Nairobi. The gang's fortunes took a dark turn when most of its members were convicted of the chilling murder of an elderly woman in Riara estate last year. This incident took place during a robbery where the deceased's protest triggered a fatal gunshot from Simba, a member of the gang. By a stroke of luck, Alex and Jordan escaped arrest during this tragic incident due to their absence,

as they had been given permission by the gang leader to take a 'break' and spend their last few victories.

Feeling fortunate, Alex and Jordan resolve to leave criminal past behind. They, however, decide to execute one final ambitious heist that would facilitate a fresh start for them in another town. Their chosen target is the KBC Bank in Kahawa West. Devoting weeks to studying the bank's operations, they meticulously devise a daring plan to gain unnoticed access into the Bank's strong room. They rent a small stall adjacent to the bank, cleverly masking their true intentions by pretending to run a bookshop. From inside the stall, they painstakingly construct a 30-meter tunnel, linking their makeshift base to the bank's strong room.

When the time comes to execute their bold plan, they successfully enter the bank's strong room through the underground tunnel they've built. However, an unexpected turn of events unfolds when the Bank's newly installed security alarms suddenly go off, catching them off guard. Their hopes of accessing the safes collapse and they are apprehended by authorities.

With reference to appropriate authorities, discuss the criminal liability, if any, of Alex and Jordan.
(20 marks)