

UGANDA MARTYRS UNIVERSITY
NKOZI

UNIVERSITY EXAMINATION
July 2022

FACULTY OF LAW

BACHELOR OF LAWS (LLB) YEAR 1 END OF SEMESTER 1 FINAL ASSESSMENT
JANUARY 2022 INTAKE

FUNDAMENTALS OF CRIMINAL LAW
LLB 1103

DATE: Wednesday 13th July, 2022

TIME: 9:30 AM– 1: 00 PM

DURATION: 3 & HALF HRS

Instructions:

1. This is a closed book exam. No materials are allowed in the exam room.
2. A total of **FOUR questions** should be answered.
3. **Question 1 & 6 are COMPULSORY**, the other TWO should be picked at will. Note that each question carries 25 marks.
4. No **names** should be written anywhere on the examination book.
5. Ensure that your **Registration Number** is indicated on all pages of the examination answer booklet.
6. Take time to carefully think about the questions, the issues involved and the planning of your answers.
7. Marks will be awarded for answers that are well thought-out. Effective use of authorities drawn from statutory law and case law will earn you extra credit.

QUESTION 1 (COMPULSORY)

- a) Kandi tells Zooki that his neighbours Sande and his wife Sara will be away on holiday over Easter and that they have 15 million Uganda shillings in the house. Kandi suggests that Zooki joins him in burgling the house. Zooki agrees. Zooki asks Mwalimu to supply a large screw driver for "a job." A week before the planned burglary, Kandi tells Zooki that he does not wish to take part and pleads with Zooki not to do the burglary. Instead Zooki asks Tonto to help him. Tonto has a history of violent crime and always carries a knife. Although Zooki knows this, he considers that there will be little chance of violence being necessary because the house will be empty. Tonto and Zooki use the screw driver to break into the house. Sande is asleep in bed having decided not to go away for Easter. He is awakened by the noise and when investigating, Tonto stabs him with the knife and kills him.

Discuss the liability of the parties involved in this case. (15 marks)

- b) Pepe Kale and Azonto are popular journalists who own a newspaper. They published an article in their newspaper entitled "**Change of Government through constant riots is possible and not so difficult.**" The article expressed bad acts and intentions of members of government and the President himself. The publication of this article in November 2019 was motivational towards the public opening up revolutionaries against the Government and the President. A group called "**Red Rioters**" came up organising a coup which government secret agents stopped 3 days to the stage of the coup. The investigations have shown that the Red Rioters were motivated by the writing of the popular article "*Change of Government through constant riots*" is possible and not so difficult. Pepe Kale and Azonto have been charged.

Discuss the nature of criminal liability of Pepe Kale and Azonto. (10 marks)

QUESTION 2

A person charged with a crime/criminal offence cannot be found guilty unless actus reus and mens rea are found. Discuss **(25 marks)**

QUESTION 3

Discuss the criminal liability of the parties involved in the following factual situations:

- a) Kateeba wants to kill his wife Kairu for the proceeds of her life insurance policy. Kateeba contacts his friend Mwiru who is reputed to be a "hitman" and sets up a meeting for the next day. Kateeba meets with Mwiru and asks him if he will murder Kairu for 50 million Uganda Shillings. Mwiru agrees and Kateeba pulls out a wad of cash and pays him. Unfortunately for Kateeba, the day Mwiru was to hit Kairu, he fell down and broke his arms and legs and therefore he cannot fulfil the plan. **(7 marks)**
- b) Nyakato and Isingoma decide to poison their neighbour's dog because it barks loudly and consistently every night. Nyakato buys some rat poison at a super market. Isingoma coats a raw piece of meat with the poison and throws it over the fence into the neighbour's yard. By chance, it so happens that the neighbours are away on a weekend trip and the dog is with them. The next day, after a night of silence, Isingoma decides to check whether the dog was killed and he climbs the fence to see what happened to the dog. When he sees the piece of meat untouched on the ground, he picks it up and takes it back over the fence, later disposing of it in the trash. **(7 marks)**
- c) Pearl a barmaid sells whisky to a boy of 13 years without the knowledge of Muhumuza the owner of the bar and the boy gets drunk in the bar. **(6 marks)**
- d) Amanywa owns a hotel that has evaded paying taxes for 10 years. **(5 marks)**

QUESTION 4

- a) Criminal Law applies the concept of punishment, explain the theories that pertain to this concept of punishment. **(10 marks)**
- b) Distinguish between Criminal Law and Civil Law. **(15 marks)**

QUESTION 5

Alex had a grudge against Daniel. Deciding to kill Daniel, Alex spoke to his close friends Calvin, Lawrence and Adrian who all agreed to help out their friend deal with Daniel. They held 2 meetings at Alex's home twice prior to the day of executing their plan.

On the fateful Friday night, Alex and his friends Calvin, Lawrence and Adrian armed themselves with knives and proceeded to the house of Daniel, taking a taxicab driven by Eugene another friend. About 15 meters from their destination, the group alighted and after instructing Eugene the driver, to wait, they travelled on foot to the house of Daniel. Calvin positioned himself at a distance as the group's lookout. Lawrence and Adrian stood guard outside the house of Daniel. Before Alex could enter the house, Adrian left the scene without the knowledge of the others. Alex stealthily entered the house and stabbed Daniel. Daniel ran to the street but was blocked by Lawrence, forcing him to flee towards another direction. Immediately after Alex had stabbed Daniel, Alex also stabbed Michael a cousin to Daniel who was visiting him. Thereafter, Alex exited from the house and together with Calvin and Lawrence returned to the waiting taxicab and drove away. Michael died; Daniel survived.

Discuss the criminal liability of the parties involved in the death of Michael and the physical injuries of Daniel. (25 marks)

QUESTION 6 (COMPULSORY)

Discuss the possible defences available to all the parties in the following circumstances:

- a) Muggaga is charged with the murder of Phionah his neighbour's daughter. However, he states that on the fateful day, Phionah came to him accusing him of theft and he was so agitated by her accusation that he chased her away and when she refused, he ran after her, caught up with her and held her neck tightly while yelling at her never to return to his home. Thereafter, he does not remember what happened. All he knows is that he was picked up from his home by 2 Policemen the next day who stated that he is a prime suspect in the murder of Phionah. He says that he cannot quite remember the incident because he suffers from an abnormality of the mind due to an injury, he got in a tragic accident 5 years ago where he was the lone survivor. **(5 marks)**
- b) Muteesa is a well-known drunkard in Ffumbe Zone, Mukono District; he always visits the nearby local bars daily moving from one place to another looking for alcohol and especially the local brew. One Saturday night, Muteesa decided to engage in his usual activity of drinking heavily but this time round he had a group of friends who were always amused at his antics whenever he drank. 2 of these spiked his drink when he had stepped out to ease himself. On his return, Muteesa finished up the drink and thereafter started to behave insane; shouting and abusing

the revellers, he picked up a fight with the manager of the bar whom he thoroughly beat and injured with a broken bottle. **(5 marks)**

- c) Peter is arrested in connection with the defilement of Mercy Lucy that occurred on 19th August 2019 in Nkozi. However, Peter says that he had been in Mbarara looking for tuition and upkeep money since 7th July 2019 and Peter only returned to Nkozi on 4th September 2019 for the new Semester. **(5 marks)**
- d) Mutasa Kafeero, the President of Uganda confines Mukajjanga whom he suspects to be the leader of the ongoing riots in the country. During his confinement Mukajjanga is tortured by the security guards of Mutasa Kafeero who had ordered his boys to beat him up. Mukajjanga was finally released and he wants to institute criminal proceedings against the President. **(5 marks)**
- e) Hon. Zzimbe, a Member of Parliament in Kitooke Municipality in Gomba district was visiting his constituency and as he was driving to his farm in Gomba, he met a group of 6 men armed with machetes and stones ready to hit at any car that did not stop at their staged road block. As the villagers were engaging the occupants of the car right in front of Hon Zzimbe's car, he (Hon Zzimbe) fearing for his life because he knew he was next, pulled out his pistol and shot at the group of 6 men killing 2 instantly. **(5 marks)**