

UNIVERSITY OF FORT HARE
NELSON R. MANDELA SCHOOL OF LAW
East London

CRIMINAL LAW B
LCL 221E

SUPPLEMENTARY EXAMINATIONS
JANUARY 2020

Time: 3 hours

Subject: CRIMINAL LAW B

Marks: 100

This paper consists of 3 pages including the cover page

Internal Examiners

Adv. V. Booysen

Dr. C.S. Namakula

Moderator

Dr. T. Shumba

INSTRUCTIONS

1. Answer ANY (4) questions.
2. Do not separate subsections of questions.
3. Pay careful attention to marks allocated.
4. WRITE LEGIBLY.

QUESTION 1

Define the following crimes:

- (a) Rape (2 Marks)
- (b) Indecent assault (2 Marks)
- (c) Corruption (2 Marks)
- (d) Housebreaking with the intention to commit a crime (2 Marks)
- (e) Extortion (2 Marks)

[10 Marks] *remains to be seen*

QUESTION 2

Murder can be defined as the unlawful and intentional killing causing of death of another person.

Keeping the above definition in mind, discuss the element 'causing of death', by focussing on the following:

- 2.1 Intention
- 2.2 Unlawfulness

[15 Marks] *remains to be seen*

(25 Marks)

QUESTION 3

In the High Court case of *S v Pistorius 2014 JDR 2127 (GP)* the court, in coming to a decision that the accused was not guilty of murder, and could only be convicted of culpable homicide, when he fired four shots through a toilet door. The court reasoned as follows (at 69-70):

"[I]t cannot be said that the accused did not entertain a genuine belief that there was an intruder in the toilet, who posed a threat to him... This court has already found that the accused cannot be guilty of murder dolus eventualis either, on the basis that from his belief and his conduct, it could not be said that he foresaw that either the deceased or anyone else, for that matter, might be killed when he fired the shots at the toilet door. It also cannot be said that he accepted that possibility into the bargain."

Critically comment on this statement by the court, explaining the legal principles to which the court refers, and assessing whether these principles were correctly applied. In your answer, make reference to relevant case law and legislation where applicable.

(25 Marks)

QUESTION 4

The class convenor for the course of crimes in South Africa sent a whatsapp message to the students urging them to show the University what they are made of. This followed agitation within the student community about the lack of bottled water in lecture rooms. The students arose early, went to the lecture rooms and pulled down all the projection screens. They broke the microphones as well and the podiums. The course convenor was not among the students on the mission.

The University sought to have the students that were involved in the incident prosecuted. Three other students were willing to give evidence on how the whole plot was organised. They informed the police that the perpetrators were street dwellers that shared in the cause of the students. This was later found to be misleading information that was only intended to protect the perpetrators.

You have been hired as the prosecutor. Identify the key issues and examine them with the aid of authorities.

(25 Marks)

QUESTION 5

Zella and Ntombi are disappointed with the government of Zamunda. The state of Zamunda has a similar legal system with the Republic of South Africa. They convened a meeting to discuss their discontent with Peter and Andile in a Southern Cape resort.

As they met, they were served by Sandy, a local, quiet gentleman, who was harbouring anger against the regime for a long time. Sandy's feelings were awakened; he organised his friends that invaded the provincial parliament building. They set it on fire so as to render parliament dysfunctional.

Sandy and his friends were arrested and charged for high treason. The investigation led to the discovery of recordings of Zella and Ntombi's discussion.

Discuss the liability of each of the parties while illustrating knowledge of the offences of treason and sedition.

(25 Marks)

END