

**UNIVERSITY OF FORT HARE
NELSON R MANDELA SCHOOL OF LAW
(East London Campus)**

**CRIMINAL LAW (SALGA)
LCL 123E**

**MAIN EXAMINATIONS
NOVEMBER / DECEMBER 2019**

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Time: 3 Hours

Subject: LCL 123E

Marks: 100

This paper consists of THREE (3) pages including the cover page

INTERNAL EXAMINER

Advocate S. Seti

INTERNAL EXAMINER

Advocate V. Booysen

INSTRUCTIONS

1. Answer ALL FIVE (5) questions.
2. Do not separate subsections of questions.
3. Pay careful attention to marks allocated.
4. Refer to relevant authorities.
5. Write legibly.

QUESTION 1

Discuss fully the theories of punishment. In your answer, explain which theory the South African courts apply when imposing sentence.

[20 Marks]

QUESTION 2

Before an accused person may be convicted of committing any crime, the state must prove beyond reasonable doubt that his conduct complied with the requirement for criminal liability.

What are the requirements for criminal liability? Discuss fully.

[20 Marks]

QUESTION 3

Sipho lives in a small shack near East London and he recently got a job as casual employee in a construction company. One Friday evening Sipho walks home from work carrying a bag containing his identity document, envelop with his monthly salary, clothing, shoes and food. Temba, who is armed with a tomahawk, robs Sipho of his bag and all its contents. Sipho then went to his nearby shack, fetched a knife and returned to recover his bag. When Sipho tried to take back his bag, Temba resisted and again threatened him with the tomahawk. Sipho then stabbed him with the knife, causing his death. Sipho is charged with murdering Temba.

You are Sipho's attorney and you enter a plea of not guilty on the basis of the defence of 'private defence'. Will you succeed? Discuss fully.

[20 Marks]

QUESTION 4

During the armed robbery X shot Y the owner of the grocery shop because Y was reluctant and hesitant in complying with X's orders of handing over the cash which he was demanding at gun point. X shot Y at the chest and he then fled. Y was taken to hospital and he was operated but Y later died of complications because the doctor who operated him had no experience as there were no experienced doctors at that

time. On a trial for Y's murder, X argues that the death of Y was caused by the hospital negligence and not as a result of his actions.

Discuss if his argument will be acceptable to the court and make reference to relevant case law.

[20 Marks]

QUESTION 5

5.1 Write explanatory notes about the following concepts and give examples:

5.1.1 Direct intention;

5.1.2 Indirect intention; and,

5.1.3 *Dolus eventualis*.

[15]

5.2 Outline the sources of the South African criminal law.

[5]

[20 Marks]

TOTAL: 100 MARKS

-END OF EXAMINATION-