

The Open University of Sri Lanka
Faculty of Humanities and Social Sciences
Department of Legal studies
LL.B Degree Programme - Level 04
Final Examination 2021/2022
Criminal Law – LLU4806/LWU2312
Duration: Three (03) hours



Date: 17th January 2023

Time: 1.30 p.m. – 4.30 p.m.

Total number of questions: 08

Answer FIVE (05) questions only.

Candidates will be penalized for illegible hand writing.

1. "... [B]oth elements of the crime must co-exist; and the proof of guilty intention without the overt act, or of the deed not shown to have been actuated by any criminal intent, cannot result in conviction. Prosecution has to establish both elementswhich constituted the particular crime..."

Per T. Chand J, in *Mohinder Singh Vs The State* (AIR 1960 PH 135)

Critically discuss the constituent elements of a crime in light of the above statement.
Support your answer with appropriate case law and practical examples.

(20 marks)

2. Vidura is a junior executive at a private bank. One Friday night, he had dinner at a city restaurant with his friends. Vidura left the restaurant around 11.30 p.m. in a three-wheeler, refusing his friends' offer to drop him home. In an isolated area beyond the city limits, Sira, a notorious criminal of the area armed with a gun, signaled to stop the three-wheeler. Sira dragged Vidura out of the three-wheeler, pressed the gun to his throat and threatened to kill him unless he delivered all the valuables to Sira. The frightened three-wheeler driver ran away from the scene, screaming for help. Vidura was extremely frightened for his life and handed over to Sira his wallet, wristwatch, and gold bracelet. Sira, having seen the police patrol approaching towards the scene, ran away, with the gold bracelet only.

Analyze the above factual situation and discuss the culpability of Sira with reference to the relevant provisions of the Penal Code of Sri Lanka and case law.

(20 marks)

3. Critically discuss the following statements with reference to the relevant statutory provisions and case law.

- a) Section 77 of the Penal Code of Sri Lanka is a mere reflection of the *M'Naghten Rules*.
- b) It is an accepted position in Sri Lanka that unless a particular statute expressly excludes its applicability, the defence of mistake of facts is applicable to all offences.

(10x2=20 marks)

4. "...[I]t is my view upon all the authorities that in the case of a charge of criminal misappropriation where the property is taken from the possession of another, such initial taking must be innocent, for this is the feature which marks out this offence from the offence of theft and other offences which may be committed. To view this matter otherwise may result in obscuring the line of demarcation between criminal misappropriation and such offences as theft and cheating...."

Per Weeramantry J in *Ranasinghe Vs Wijendra* (1970) 74 NLR 38 at page 43

Does the above statement reflect the correct position of the present law governing the offence of criminal misappropriation of property in Sri Lanka?

Critically discuss citing the relevant statutory provisions and case law.

(20 marks)

5. At a New Year celebration party held at Perera's place, the guests were served with a large quantity of food and liquor. John, who consumed a few glasses of hard liquor, accidentally fell onto a young lady's lap. Perera shouted at John asking to behave himself and apologize to the lady. John shouted back refusing to do so and challenged Perera to remove him from the party if possible. Perera grabbed an empty liquor bottle, smashed it, and attacked John on his chest with the broken bottle. Perera also attacked Siva; another guest, who intervened to stop the attack and injured his stomach. Both John and Siva were hospitalized. John succumbed to the injuries on the following day. Since Siva's wounds were healing, he was discharged after ten days.

Discuss the criminal liability of Perera and examine whether there are any defences available to him.

(20 marks)

6. 23 year old Chathura and 14 year old Dulini, who live in the suburbs of Gampaha, are neighbours. Dulini is very friendly with Chathura and his two younger sisters. One Sunday, Chathura's sisters invited Dulini to join them to go to the latest movie at a cinema hall in Gampaha town. At first, Dulini's mother refused to allow Dulini to go with them, however, gave her consent later due to the continuous pleading of the girls.

Dulini left with them gladly and promised to return home at the earliest. Since Dulini did not return home till late night as promised, her mother went to Chathura's house to inquire about her. Chathura's two sisters were there at that time, and when inquired whereabouts of Dulini, Chathura's sisters said that both Dulini and Chathura left the cinema hall during the interval. On the same day, Dulini's mother lodged a complaint in the police against Chathura on forcibly taking away her under-aged daughter. Three days later, Dulini and Chathura were found at a place in Kandy. It was revealed that Chathura has submitted a notice of intention for registration of marriage stating that Dulini was 18 years old.

Chathura is charged with kidnapping Dulini from her lawful guardianship under the Penal Code of Sri Lanka.

Discuss with reference to the relevant statutory provisions and case law.

(20 marks)

7. "..... [A] woman is said to consent when she freely agrees to submit herself. It is always a voluntary and conscious acceptance of what is proposed to be done by another and concurred in by the former. There is a difference between consent and submission to sexual intercourse. Every consent involves submission, but the converse does not follow, and a mere act of submission does not involve consent...."

Per J.A.N. de Silva J, in *Inoka Gallage Vs Kamal Addararachchi and Another* (2002) 1 SLR 307 at page 311

With reference to the above statement, critically discuss the law relating to the offence of rape, drawing your special attention to the provisions in the Penal Code (Amendment) Act No.22 of 1995.

(20 marks)

8. Write notes on the following.

a). The concept of crime and the various approaches to the definition of crime.

b). Various state agencies involved in the administration of criminal justice in Sri Lanka and their specific functions.

(10x2=20 marks)

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