

THE OPEN UNIVERSITY OF SRI LANKA
LL.B. DEGREE PROGRAMME - LEVEL 4
FINAL EXAMINATION 2006
CRIMINAL LAW - LWU 2312
DURATION : THREE (03) HOURS



DATE : 22nd March 2006

TIME : 1.30 p.m. - 4.30 p.m.

ANSWER FIVE QUESTIONS ONLY.

Illegible handwriting will be penalized.

01. Mr. Henkel is a foreign national living in Sri Lanka for a long period of time. He is an expert webpage designer and also an internet addict. Being an unmarried person, he lives a very quiet life. One day he posted a bizarre advertisement in his personal webpage. He requested through this advertisement anyone who would voluntarily offer himself to be killed and eaten to contact him.

Mr. Philip, an American saw this message and replied to Mr. Henkel expressing his willingness to be killed and eaten by Mr. Henkel. Delighted by this response, Mr. Henkel exchanged a few more emails with Mr. Philip and subsequently arranged him visa and air tickets to travel to Sri Lanka.

On the day of his arrival Mr. Henkel went to the airport to welcome him and later he was accompanied to his house situated in an isolated area of the central hills of Sri Lanka.

They spend two days together having drinks and sex and on the third day Mr. Philip requested from Mr. Henkel to fulfill his desire. He further said that he had come all the way from America to materialize his inborn desire.

Though Mr. Henkel had totally given up his idea of killing, he acted on Mr. Philip's repeated requests. Mr. Henkel took a bread knife and slit Mr. Philip's throat and left the unconscious body on the bed for a while. He then severed Mr. Philip's head and limbs and kept them in the freezer. Later he prepared dishes using human flesh and ate it with wine and potato chips.

On a tip off given to the local police, a raid was conducted and the police found the severed body parts in the fridge. Now Mr. Henkel is charged with murder but he denies this charge and claims cannibalism is not forbidden in Sri Lanka. Further he claims that he acted in good faith on the demands of Mr. Philip who volunteered to be killed and eaten. Moreover he claims that the absence of mens rea is a defense to criminal liability under Sri Lanka Penal laws.

Discuss.

02. Mr. Ranabahu is the owner of "Soft Printing (Pvt) Ltd.," a private company engaged in printing business. One day he worked till mid night as there was an order to be delivered on the following day. At about 12.30 mid night an unknown person called him over the phone and demanded Rs. 50,000/- from him. The unknown caller threatened him saying that if this demand was not satisfied, his wife and kid would be abducted by his gang.

Mr. Ranabahu being a family man in fear of danger to the lives of his wife and the kid promised to give the money and asked the unknown caller to send someone to collect the money.

A little while later, a masked man appeared before his room door and Mr. Ranabahu delivered him Rs. 50,000/-

Discuss.

03. Mr. Danasiri is a junior bank executive of "Vanija Bank Ltd.". His main duties are accepting money deposits from customers, and depositing them into their individual accounts, authorizing withdrawals and clearing of cheques.

"Vanija Bank" recently introduced electronic banking as it is much safer and convenient to both customers and bank staff. With this new facility, customers are able to deposit and withdraw cash at any time of the day.

Mr. Danasiri's letter of appointment contains a number of conditions, the breach of which, it says, amounts to a criminal offence. The main conditions are that he is debarred from opening an account in his name with the bank and of any of his close relatives wish to open an account with the bank, he should disclose the relationship and other details to the bank authorities in writing.

Ms. Dananjani, a sister of Mr. Danasiri opened a savings account with "Vanija bank" but Mr. Danasiri did not disclose to the bank authorities about this matter. Subsequently Mr. Danasiri electronically transferred Rs. 500,000/- belongs to the bank to his sister's savings account.

He is now charged with theft under section 366 and 367 of the Penal Code. Bank authorities seek your advice as to whether this offence could be provable on the above facts and if not what would be the correct offence for which he could be prosecuted successfully.

Advice the bank authorities.

04. Mr. Muthalif is a police officer who retired recently. He had worked in a number of police stations around the country and has a good track record as a new abiding police officer. However his neighbour Mr. Siva is not in good terms with him due to an argument over the wire-fence which separates their land.

One day, Mr. Muthalif saw a part of the wire-fence had broken and he thought that it would have been done by Mr. Siva. Enraged by this, Mr. Muthalif questioned about it from Mr. Siva. At that moment, Mr. Siva provoked Mr. Muthalif saying "You old 'kossa' I am not scared of you". Mr. Muthalif lost his self restraint on hearing those insulting words and fired his pistol which was hidden in his waist. Mr. Siva died instantaneously.

The forensic pathologist who conducted the post-mortum examination had reported that there were multiple gun shot injuries both on the torso and head of the deceased person. One particular shot had entered the brain of the deceased which the reports says, was imminently dangerous to cause the death.

Discuss.

05. Discuss the defence of infancy with reference to the relevant provisions of the Penal Code of Sri Lanka.

06. Sirimal is a 19 years old law student of the Open University. He met Ranalee in the University and they fell in love shortly. It is wellknown among the batch mates of both of them that Ranmalee is seriously in love with Sirimal. Parents of both parties are aware of this relationship and in particular Ranmalee's parents have given their blessings for the couple. Sirimal who is employed part time at a nearby pizza hut spends all his pay to buy gifts to Ranmalee.

One day Ranmalee invited Sirimal to her house while her parents were out on holidaying. Sirimal stayed the night with Ranmalee and on her insistence had sex with Ranmalee. Ranmalee's parents came to know of Sirimal's night stay on their return and enraged by this indecent act, Ranmalee's father lodged a complaint in the local police station accusing that Sirimal had raped his daughter.

The police immediately arranged a medical examination. The medical report says that there no tear, bruises or scratches in or near the vulva. It further says seminal stains are visible on the labia majora but hymen remains intact.

Sirimal seeks your advice.

Advice Sirimal.

07. "Evidence is the means by which any fact in issue is proved or disproved before the court of law"

Discuss the different types of evidence in the light of the above statement.

Support your answer with the relevant statutory provisions and decided cases.

08. Write short notes on any TWO of the following topics.

- a) Criminal misappropriation.
- b) Consent as a defence
- c) Insanity
- d) Causation.