



KENYATTA UNIVERSITY
EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS

LPL 111: CRIMINAL LAW II

2ND SEMESTER 2022/2023

TIME: 2 Hours

INSTRUCTIONS:

1. Answer ALL questions
2. Support your answer with relevant illustrations for case law, statutory provisions and any other references
3. Your writing must be NEAT and LEGIBLE
4. Your answer booklet must bear your assigned REGISTRATION NUMBER, both on the cover and every written page therein.
5. Don not scribble or draft answers on the inner or outer cover pages or your answer booklet.
6. Do not write anything except your REGISTRATION NUMBER on this question paper.
7. ALL Kenyatta University Examinations rules apply as if they were contained herein.

Question One

Kivuva wished to kill his wife so that he could marry another woman. He explained his plans to Jeuri who advised him to kill her by administering poison. Jeuri bought the poison and gave it to Kivuva to give to his wife. Kivuva mixed the poison with two pieces of roasted apples and gave it to his wife. After tasting it, the wife handed rest of the apples to Emmanuel, their four year old son. Kivuva, on seeing this merely said, "apples were not good for such infants", but when his wife persisted he simply watched his son die of poison while the wife survived.

- (a) Explain the criminal liability of Kivuva and the defenses available to them. (15 marks)
- (b) Explain the theories of punishment in light of the above scenario. (15 marks)

Question Two

The new law on offences against morality (sexual offences) under the Sexual Offences Act No. 3 of 2006, Laws of Kenya has recently undergone a radical reform. Discuss the new sexual offences that have been created by the recent comprehensive registration and state which offences have been modified and distinguish such new offences from other types of offences against morality under the penal code, Chapter 63 Laws of Kenya. (20 marks)

Question Three

In *Wycliff Oluoch Odhiambo v. Republic*, CR. CRA NO 27 OF 1988 (Gicheru. Tunoi and Okubasu, JJA), held that there was evidence that the appellant did indeed stab the deceased and cause his death, but there was doubt as to whether he had malice aforethought. His conviction of murder was substituted with manslaughter.

In view of the above holding, discuss citing case law and relevant statutes extenuating circumstances where the *mens rea* for murder falls short of malice aforethought. (20 marks)