



KENYATTA UNIVERSITY

UNIVERSITY EXAMINATIONS 2008/2009

FIRST SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF
LAW

LPR 105: CRIMINAL LAW II

DATE: WEDNESDAY 26TH NOVEMBER 2008 TIME: 8.00 A.M.- 10.00 A.M.

INSTRUCTIONS:

Answer questions one (1) and any other two questions'

1. On Sunday night, Mwizi and Mkora, armed with two toy pistols and a machete go to the home of Muema where they break the front door and enter into house. They demand for KShs. 100,000/= and all valuables from the Muema family. Muema surrenders his mobile phone and his wife's phone to Mkora. Muema tells them that he does not have any money or any other valuable. Mwizi then ransacks the house, while Mkora who is aware that he is HIV-positive, sodomises Muema and then forces Muema's wife to have oral sex with him while pointing a toy gun at her head. Muema is so embarrassed at being sodomised in the presence of his wife and son that he abuses Mkora and calls him a dog, upon which Mkora gets very annoyed and hits Muema with the machete on the head killing him instantly. Muema's son starts to cry loudly and Mkora slaps the small boy and tells him to shut up. The robbers then lock Muema's wife and son in the bathroom and escape. As they leave, Mwizi who has been smoking cigarettes and chewing *miraa* (khat) the whole day, lights up another cigarette and drops a lighted matchstick on a newspaper on the coffee table and it catches fire. They then take off with the family's television set, two mobile phones, a packet of royco, some cooked chicken from the refrigerator and a matchbox. On the way out, they give the watchman the chicken and the royco and tell him to take to his wife. The watchman gladly accepts the "gift" and takes the same to his wife the next morning. Meanwhile, a neighbour of the Muemas sees smoke coming from the Muema home and he rushes to wake them up only to find Muema's wife and son locked in the bathroom and Muema dead. The neighbour calls the police and the fire brigade who arrive and manage to put out the fire. Muema's wife tells the Police that two gun-wielding thugs, who smelt of alcohol, attacked them and killed her husband.

What crimes have been committed and what are the available defences?

(40 Marks)

2. Roy, a carpenter by profession, walks into the cosmetics section of the Tusky's supermarket and removes a price label for Kshs. 123/= from Limara body lotion and affixes the same label of Kshs. 123/= to Cobra perfume that should cost Kshs. 132/=. His act is detected in the counter as he tries to pay for the mislabelled perfume. Upon arrest, and search, it is discovered that Roy has a pair of pliers in his pocket. Should Roy be charged with any crime? Why?

(15 Marks)

3. "Terrorism is not a crime. One person's terrorist is another person's freedom fighter." *Anonymous*.

Discuss this statement in light of the various definitions attributed to terrorism and the responses to terrorism in Kenya and in the world.

(15 Marks)

4. Reverend Oli is the leader of a large congregation that meets every Saturday afternoon for their services. They call themselves "Oli Fire Ministry" and have a Holy-guidance Book from where they get their spiritual nourishment. Reverend Oli has convinced his congregation that the Holy-guidance book was delivered from heaven millions of years ago. Unknown to the congregation, the Holy-guidance book was actually written by Reverend Oli himself. According to the Holy-guidance Book, the world is coming to an end on the 21st December 2008. Reverend Oli has convinced his congregation that it is better to be dead by the time the world ends because then they will go to heaven "directly". So he organises for the "direct flight" to heaven by gathering all his followers in one room where he sprays them all with petrol and sets them ablaze. Three quarters of the congregation including Reverend Oli are saved by the fire brigade which responds to a fire alarm from neighbours while the rest perish in the fire. Reverend Oli has now been charged with murder and he has approached you to represent him during the trial.

(a) What is your advice to him concerning the murder charge? **(10 Marks)**

(b) What other offence(s) is Oli likely to be charged with? **(5 Marks)**

5. Discuss **any three (3)** of the following:

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| a. Conspiracy | (5 marks) |
| b. Technical assault | (5 marks) |
| c. Things capable of being stolen | (5 marks) |
| d. The doctrine of recent possession | (5 marks) |
| e. Perjury | (5 marks) |