



KENYATTA UNIVERSITY

UNIVERSITY EXAMINATIONS 2019/2020

FIRST SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS

LPR 102: LEGAL RESEARCH AND WRITING I

DATE: Friday, 13th December 2019

TIME: 9.00 a.m. - 11.00 a.m.

INSTRUCTIONS:

1. Answer ALL questions
 2. Support your answer with relevant illustrations from 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. Do 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.
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QUESTION ONE

The course of legal research and writing is hailed to be one of the most important as far as the life of a lawyer in drafting documents is concerned. You have been invited to give the incoming first-year law students a talk appraising the course of legal research and writing in terms of its content and the skills to be honed. Proceed to write down this presentation giving and describing briefly the content of the course and giving the skills useful to the life of a lawyer.

(30 marks)

QUESTION TWO

In order to avoid plagiarism, legal research and writing provides a number of options for referring to another researcher's work. One can paraphrase, quote directly, or use citations.

- (a) Explain with examples each of these methods of avoiding plagiarism. (8 marks)
- (b) Discuss critically, how the writer below has used each of such skills of referencing.

(12 marks)

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Rwanda, Prior and during 1994

Genocide and ethical differences.

Before going into the situation in Rwanda, it is important to note a few things right from the outset. Despite the vast literature² of what constitutes genocide, there are certain striking similarities of what constitutes the crime. Genocide as defined in the Genocide Convention³, "involves the elimination of one group from the society as a result of failed co-existence or/and other motivations". The consequences of this failed co-existence is that one of these rival groups, normally known as the aggressor group, resorts to mass killings all geared towards the elimination of the victim group⁴. Consequently, social institutions and ideologies are reconfigured to accommodate the absence of the subjected group⁵, not necessarily due to the reasons, which have been thought out in the reconfigured social institutions but mostly because there are deeper feelings between the victim group and the aggressor group.

Footnotes

- 2 Some of the most remarkable studies in the Epistemology and Sociology of Genocide include: Z Bauman, *Modernity and the Holocaust*, Ithaca, 1996; H. Arendt, *Eichmann in Jerusalem: A report on the Banality of Evil*, New York, 1964; V. Jankelevitch, *L'imprescriptible: Pardonner? dans l'honneur et la dignite*, Paris, 1986; C. Browning, *Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland*, New York, 1992
- 3 Genocide Convention, Art 2
- 4 The phrase 'victim group' is intended to refer to those particular national, 'racial, ethnic or political groups' which are subject to intentional extermination. Within a specific context, the designation, however, may not be stable or capable of being stabilized; the boundary defining the category may shift and the group who was the victim may become the aggressor and the aggressor may become the victim.
- 5 Jason Benjamin Fink, Deontological Retributivism and the Legal Practice of International Jurisprudence: The Case of the International Criminal Tribunal for Rwanda, *Journal of African Law*, 49, 2(2005) p 103

Extracted From 'A Jurisprudential Analysis of Law, Morality, And Genocide Retributive Justice versus Truth and Reconciliation'. By N. Kamunde

QUESTION THREE

Academic Research has shown that defendants who seek to use the defence of provocation are most likely to be male. They have killed their partners or friends and are charged with murder, which they admit to committing, but they use the excuse that they were, in some way, provoked.

This feeds a general public perception that men are unable to hold their temper, that they 'fly off the handle' at the slightest thing. However, the law in this area is slowly turning. Women are now being recognized as having a 'slow burn' reaction to circumstances or jibes. Is this appropriate? Must provocation be a defence to killing at all?

It appears that men and women are now afforded the same defence but on different grounds: men snap, women simmer. This is an indication that the criminal law is becoming decidedly more subjective and personal. One should argue that it does not matter whether a man or a woman snaps or simmers - they should not kill, and they should *definitely* not be afforded a defence to the murder simply because they could not control themselves emotionally. Emotional control is a part of every day's life - 'if you cant take the heat, get out of the kitchen'

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Emotional control is a part of every day's life - 'if you cant take the heat, get out of the kitchen' On the other hand, releasing emotions is a part of human life too. A human who controls all emotions is just like a robot. Therefore, perhaps the law should take account of 'real life', no mater how idiotic some people's decisions may be? No, this would be wrong, it would justify the worst crime of all and it would impart little meaning to the lives of those who have passed through no real fault of their own.

All in all, it seems like defendations can use any excuse they want as a defence to murder: 'she laughed at my haircut...' he called me fat...' Where does the law draw a line and restore common sense? We all have bad haircuts That's no reason to kill'

In the above fictional legal argument find and explain the following features:

- (a) The main line of reasoning
- (b) Arguments in support reasoning
- (c) Evidence
- (d) Analysis of evidence
- (e) Conclusion
- (f) Descriptive writing
- (g) Signals and sign posts
- (h) Counter-arguments
- (i) Rationale behind the conclusion

(20 marks)