

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR I – 2018

CRIMINAL LAW

(Three Hours)

Total Number of Questions: 07

Answer **FOUR** (04) questions only **including the COMPULSORY QUESTION NO.1.**(Candidates will be penalised for illegible handwriting.)

1. Give brief answers to the following by stating reasons. You are also required to quote appropriate provisions of the Penal Code of Sri Lanka and decided cases:
- (i) Why is the judgment by H.N.G Fernando J in *R v. Somapla* (1969) 72 N.L.R 121 is significant?
 - (ii) Students of the University of Utopia organize a musical evening. During the event, Suman, an undergraduate throws soft drink bottles and breaks the glasses of the building. What is the offence committed by Suman?
 - (iii) Suman, an undergraduate of the University of Utopia has a habit of coming to the University in his pair of shorts. Majority of students, especially the female students and the academic staff do not accept this. Pleas of them not to wear shorts had gone unheard by Suman and he continues with this habit. Has Suman committed any offence?
 - (iv) Raja and Rani are colleagues in an office. Raja used to send text messages to Rani using indecent words. Can Raja be charged for any offence?
 - (v) Ruwan is a train engine driver who reported for work while others were on strike. While he was about to board the train for duties he saw a gang shouting and coming towards him. He got down and started running. As the gang continued to chase, he took a stone and threw and it struck a small boy who was standing there. The boy sustained skull fracture. What are the alternate defences available to Ruwan and what is the most suitable defence?

2. Sumana was a 15 years old student. She was going to school in a crowded bus on a rainy day when Nihal stroke her on her body. Feared Sumana got down from the bus and stopped a three-wheeler and got in. Nihal also got down from the bus and jumped inside the same three-wheeler. Nihal closed her mouth without allowing her to shout. Despite her struggle, the three-wheeler went in a different direction passing an isolated area. Half an hour later Sumana was pushed outside the vehicle. Villagers found her on the roadside in an unconscious state. There were no visible bruises or injuries in her body, but blood stains were found on lower part her school uniform. The three-wheel driver was later identified by the Police as Viamal who was a friend of Nihal.

Discuss the offences committed by Nihal and Vimal quoting appropriate provisions of the Penal Code and decided cases.

3. Sunimal owned a grocery shop in his village and Kamal was one of his customers. Kamal used to buy good on credit and at the time of the incident there was a substantial sum due from Kamal to Sunimal. On the day of incident Kamal came to Sunimal's shop and requested some house hold items but Sunimal refused to give stating that he would not give anything unless the arrears are settled. Conversation turned into a heated argument and both started manhandling each other and then attacked with objects that were found nearby. Other customers around the place had to stop the fight. Sunimal sustained minor injuries, but Kamal was bleeding profusely and both were taken to the hospital. Kamal succumbed to his injuries few hours later.

Consider the offence committed by Sunimal in the following two different circumstances quoting the provisions of the Penal Code (including the exact limb, if any.) and case law.

- (i) Kamal recently underwent a surgery for *hernia* but still the wound was not completely healed. The autopsy report revealed that the cause of death was a heavy blow on the exact place where surgery was performed.
 - (ii) There was a deep cut injury in Kamal's thigh. According to the autopsy report a main artery was pierced due to a stab with a broken glass bottle and excess bleeding due to the deep cut was the cause of death.
4. Nigam worked as a dealer in pharmaceutical drugs in the Central Province. Recently, the Ministry of Health issued regulations relating to pharmaceutical drugs. One of the provisions of the said regulation provided as follows:

"No person shall be permitted to deal, distribute, carry or transport any pharmaceutical drug across the provinces in Sri Lanka other than under the authority of a license issued by the

Competent Authority of the Ministry of Health. Any person who deals, distributes, carries or transports without a license shall be guilty of an offence and be liable on conviction to imprisonment which may extent to a term of two years or with fine which may extend to one hundred thousand rupees or with both”.

Consequent to this, Nigam obtained a license to deal and distribute pharmaceutical drugs in the Central and Southern Provinces. One day, while he was driving from Galle towards Kandy via Colombo and just after passing Bentota, the boarder of Southern Province, his vehicle was stopped by the police and he was arrested for transporting pharmaceutical drugs without a license.

Discuss the criminal liability of Nigam applying the law of attempt. Support your answer by drawing relevant statutory provisions and case laws of Sri Lanka and England.

Suggest required amendments to Sri Lankan law.

5. (i) ‘Death Sentence’ is debatable not only in Sri Lanka but also in the international arena. Main issue in this regard is whether the law should provide for imposing of death sentence whilst another connected issue is, even if the law provides for it whether there should be selective execution of it.’

Reflecting upon the above statement, pose your arguments for and against death sentencing in light of the implications of such punishment and the theories of punishment.

- (ii) ‘Although the society never encourages anyone getting intoxicated, the law has been very lenient in allowing exculpatory and mitigatory defences for intoxication’.

Criticize the above statement with reference to the statutory provisions and case law.

6. Imagine that you have been appointed as a Commissioner of the Law Commission of Sri Lanka. The first task given to you is to write an expert opinion relating to the ambiguity that exists in the law of common intention that is frequently confused with similar intention and abetment.

Write an expert opinion with reference to the existing laws of Sri Lanka and India.

7. (i) Discuss the elements that are required to prove the offence of Criminal Breach of Trust under the Penal Code of Sri Lanka. Support your answer with decided cases.

- (ii) ‘It is not an exaggeration to say that the Criminal Law of Sri Lanka reached its technological innovation by the enactment of the Computer Crimes Act No.24 of 2007’

Discuss.