

University of Colombo, Sri Lanka

Faculty of Law

Bachelor of Laws Degree (Honors), Year I Examination

2nd Semester – End Examination – 2023

LAW12301– Criminal Law

(2 hours and 15 minutes)

Total Number of Questions: 04

Answer any two (02) questions and no more.

(Candidates will be penalized for illegible handwriting.)

01. Commission of a crime involves the presence of *mens rea* on the part of the accused person as per the well-established maxim '*actus non facit reum nisi mens sit rea*'. Accordingly, a crime consists of two separate elements: the physical element or criminal act and the fault element or criminal mind. Also, a causal connection should be established between the criminal act and the criminal mind in order to impose criminal liability on the accused person.

Do you agree with the above statement? Your answer should be supported with the relevant provisions of the Penal Code and case Law.

(30 Marks)

02. Shariland, a state which has a legal system similar to Sri Lanka, recently enacted the Cosmetic and Beauty Products Act No. 14 of 2023 with the objective of regulating the production, importation, and consumption of cosmetic products. The Act established the Central Cosmetic Regulating Authority (CCRA), empowering the Authority to inspect individuals as well as premises. Furthermore, Section 3 of the Act states the following: "Importing, producing, storing, possessing, selling, and promoting any whitening cream that contains mercury concentrations greater than one part per million (PPM) is an

offense and is punishable with rigorous imprisonment of a maximum of six months or a fine of two hundred thousand rupees, or both.”

Teena, the owner of Teena’s Beauty Secrets, imports ingredients from a neighbouring country to produce homemade whitening night creams, and the mercury concentration of the ingredients was greater than three PPM. Anil, an agent of Teena’s Beauty Secrets, stored fifty packs of Teena’s whitening night cream for retail sales. Kamala, a regular customer of Anil’s shop, visited to purchase cosmetic items. Influenced by Anil’s recommendation, Kamala purchased two packs of Teena’s whitening night cream. Meanwhile, responding to certain complaints, CCRA officers entered Anil’s shop and discovered several packs of Teena’s whitening night creams in the premises. The officers also found two packs of the same cosmetic products when they inspected Kamala’s handbag. The CCRA intends to take legal actions against Teena, Anil, and Kamala under the provisions of the Regulation of Cosmetic and Beauty Products Act. Discuss the criminal liability of the parties involved.

(30 Marks)

03. Answer **BOTH** (a) and (b)

(a) Describe the primary objectives of punishment in Sri Lankan criminal law and explore how these objectives are addressed through the recognised modes of correctional methods in Sri Lanka.

Support your answer with applicable theories on punishment and sentencing.

(15 Marks)

(b) *“An attempt is made punishable, because every attempt, although it falls short of success, must create alarm, which by itself is an injury, and the moral guilt of the offender is the same as if he had succeeded... As the injury is not as great as if the act had been committed, only half the punishment is awarded.”* – Arijit Pasayat, J. in ***Aman Kumar and Another v. State of Haryana*** (2004) 4 SCC 379.

Do you agree with the above statement? Support your answer with relevant legal authorities from Sri Lanka.

(15 Marks)

(15 x 2= 30 Marks)

04. The charred bodies of David Wellington, his wife and two sons had been found in their fully burnt house. James Tyne, his wife Mary and their five sons had been arrested for the crimes. Both Wellington and Tyne family had been seen arguing and threatening each other on several occasions over a property dispute. James Tyne and his wife had procured an unlicensed gun and stored several cans of gasoline to kill the Wellington family and burn their house. James or Mary haven't told their plans to their five sons, but unknown to their parents the five sons were planning to attack the two sons of the Tyne family. On the night of the crime, a fight broke up between the sons of the two families and the parents also got involved. When David rushed to help his sons, James appeared in the scene carrying his gun. One of James' sons grabbed his father's gun and fired several shots, fatally wounding David. David's family retreated to their house. Unknown to their five sons, using his stock of gasoline, James set fire to David's house, although Mary pleaded with her husband not to kill them because she 'had changed her mind'.

Assume that you are a lawyer in the Prosecutor's team of the Attorney-General's Department of Sri Lanka. Explain what approach would you take to impose criminal liability on the seven members of the Tyne family, **ONLY** referring to their modes of participation discussing common intention, same intention, conspiracy or attempt related Penal Code sections and case law.

(30 Marks)
