

**NATIONAL UNIVERSITY OF LESOTHO**

**FACULTY OF LAW**

**LL.B. EXAMINATIONS**

**L2307 – GENERAL PRINCIPLES OF CRIMINAL LAW**

**JANUARY 2024**

**TOTAL MARKS: 100**

**3 HOURS**

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**INSTRUCTIONS:**

1. Read the instructions carefully.
  2. There are six (6) question in total.
  3. Answer any two (2) questions from **Section A** and any two (2) questions from **Section B**.
  4. When answering Section B, essays must not be longer than two (2) pages.
  5. All answers must be numbered.
  6. Please ensure that your handwriting is legible.
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## SECTION A

### QUESTION 1

- a) What does the term *nullum crimen sine lege* mean/stand for? **4 Marks**
- b) List the three principal requirements that must be met in order for a particular act or event to qualify as a *novus actus interveniens*? **6 Marks**
- c) In order to exclude *dolus*, and thus absolve the accused from liability for a crime, the accused's mistake or ignorance need only meet two requirements. List these requirements? **2 Marks**
- d) Provide a brief description of *aberratio ictus* and a hypothetical scenario to illustrate the answer? **6 Marks**
- e) List the three defences that can exclude criminal capacity? **3 Marks**
- f) List the two primary *M'Naghten* Rules? **4 Marks**

**[25 MARKS]**

### QUESTION 2

- a) List the three defences that are covered by the term 'private defence'? **3 Marks**
- b) With respect to private defence of property, list any three requirements for the attack/threat and the three requirements for the defender's response? **6 Marks**
- c) The defence of necessity encompasses a wide variety of situations that are recognised by law, but are not covered by the defence of private defence. List three examples? **3 Marks**
- d) What are the requirements for the defence of impossibility? **3 Marks**
- e) In the context of religious, customary or superstitious purposes, consent to injury may or may not be a defence. This being so, briefly explain why this defence was upheld in *R v Njikelana* 1925 EDL but did not succeed in *S v Sikunyana* 1961 (3) SA? **10 Marks**

**[25 MARKS]**

**QUESTION 3**

- a) What is the test for factual causation in our law? (Latin and English terms)? **4 Marks**
- b) Briefly explain why, having established factual causation, it is also important to establish legal causation? **4 Marks**
- c) List the three requirements that must be satisfied for an act/event to qualify as a *novus actus interveniens*? **6 Marks**
- d) In what circumstances will medical negligence constitute a *novus actus interveniens*? Refer to the facts of at least one decided case to illustrate your answer. **8 Marks**
- e) List any three (out of the four) forms of unlawful conduct? **3 Marks**

**[25 MARKS]****SECTION B****QUESTION 4**

- (a) David goes out to shoot ducks at the Lakeside Dam in Maseru. When he gets to the dam, he notices, far away on the opposite bank, some people having a picnic. David realizes that, if he shoots at a duck and misses, there is a good chance that the bullet might strike one of the picnickers. He decides to go ahead anyway, rather than losing out on his afternoon of duck-shooting. One of his shots misses the duck and strikes Lineo, one of the picnickers, with fatal consequences.

Did David have the necessary intention to murder Lineo? Identify the relevant test for intention and apply it to the facts. Support your answer with relevant case law and legislation. **15 Marks**

- (b) Lerato has done a hard day's work and has not eaten all day. Feeling weak from hunger, she drives to the shop to buy something for her supper. On her way, she has a black-out. Her car swerves and crashes into an oncoming car, and this results in the death of the

driver in the other vehicle, Mr X. Lerato is later charged with murder. She raises the defence that she cannot be held criminally liable because one of the crucial elements of *actus reus* is missing.

Discuss whether, on the above facts, Lerato can be held criminally liable for causing the deceased's death? Refer to relevant case law to support your answer. **10 Marks**

**[25 MARKS]**

### **QUESTION 5**

- a) 'Maliphoso walks into her bedroom one day, to find her 3-year-old son, Damon, holding an open bottle of her sleeping pills. 'Maliphoso asks Damon if he has swallowed any pills, but all he says is, 'Sweeties!' In a panic, 'Maliphoso puts Damon into her car and rushes him to hospital, where his stomach is pumped out. The doctors find no trace of any pills in Damon's stomach contents and, greatly relieved, 'Maliphoso takes him home. In due course, she receives a summons for exceeding the speed limit it being alleged that she intentionally drove above the speed limit. 'Maliphoso raises the defence of necessity.

Discuss whether the defence of necessity will succeed in the above circumstances? In your answer, identify the requirements for the defence of necessity and apply them to the facts. Refer to relevant case law to support your answer. **5 Marks**

- (b) The accused (X) inflicted a head wound on the deceased (Y), a man who lived in rural and primitive conditions somewhere in the mountains of Lesotho. Y's employer advised him to go to hospital, but he did not. Instead, he bound his head up with some rags; contracted an infection from the wound and died nine days later. X was later charged with murder, it being alleged that he caused Y's death.

Based on the above facts, would Y's conduct constitute a *novus actus interveniens*? In your answer, distinguish between *R v Loubser* 1953 (2) PH H 190 (W) and *S v Mokgethi* 1990 (1) SA 32 (A). **10 Marks**

**[25 MARKS]**

**QUESTION 6**

- (a) List the three categories of participants in crime? **3 Marks**
- (b) Explain the terms 'accomplice' and 'accessory after the fact'? **4 Marks**
- (c) List the three requirements for accomplice liability? **3 Marks**
- (d) X joins in with a mob that is stoning an old woman to death for allegedly bewitching a young girl. After throwing two stones at the deceased, X is himself injured and decides to leave the scene to go home. A short while after he leaves, the mob sets the old woman on fire thereby causing her death.

With reference to relevant case law, discuss whether, based on the above facts, X can be held liable for the murder of the deceased? In your answer, explain the doctrine of common purpose, the various ways it can be formed and the concept of 'disassociation from a common purpose'.

**15 Marks****[25 MARKS]**