

# CENTRAL UNIVERSITY



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## END OF SECOND SEMESTER EXAMINATIONS: 2016/2017

### FACULTY OF LAW

LAW 108: Criminal Law II

Wednesday 21<sup>st</sup> June 2017

TIME ALLOWED: 3 HOURS

LEVEL 100

INSTRUCTIONS

There are a total of six (6) questions. Candidates are required to answer three (3) questions only.

Question One (1) is **compulsory** and carries 40 marks. The other questions carry 30 marks each.

Answer sheets will be provided. Each answer must begin on a fresh page.

Any extra answer sheet should be properly tied to the original answer sheet.

Marks will be awarded for good presentation, clarity in legal arguments and proper use of legal authorities.

You are allowed to carry the *Criminal Offences Act, 1960 (Act 29)* to the examination hall. The Annotated version is not allowed.

Please write legibly.

**Candidates are allowed 10 minutes to preview the questions before the start of the examination**

**DO NOT TURN-OVER THIS PAGE UNTIL YOU HAVE BEEN TOLD TO DO SO BY THE INVIGILATOR.**

Examiners: Justice Eric Kyei Baffour, Dr. Isaac Annan & Mr. Raymond Twumasi

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### Question 1

Atsu, Haruna, Quaye and Naa Sei are all level 200 students at Top Top University and have been friends for the past two years. They have had difficulties in paying their fees each semester since they started the University. Atsu, who until he started the school was a houseboy in the house of Alhaji Musah, an international business tycoon, suggested to his three friends that he could not understand why his boss, Alhaji Musah, was fabulously rich but stingy when it comes to payment of his fees. He further told his friends that Alhaji brings thousands of dollars home every weekend and was prepared to leave the entrance door to the house unlocked if only they would agree to come for what he calls '*a quick operation*' that would help them get enough money to take them through the end of their course.

Haruna, Quaye and Naa Sei hailed the proposal as great and agreed. Haruna was to provide a mask, a locally manufactured gun, a hammer and all the necessary tools needed to storm the house of Alhaji Musah. Quaye was to lead the operation where they will meet Atsu in the house of Alhaji and bind him with ropes with intent to create the impression that Atsu is also a victim of their operation. The plan was to mount the operation on the 28<sup>th</sup> of January, 2017. However, a day before the operation Naa Sei called that he had accepted Jesus Christ as his Lord and personal saviour and was no longer interested in the operation. Despite the setback of Naa Sei's non-participation, Quaye and Haruna stormed the house of Alhaji Musah at Bacam's Estate in Accra. They bound Atsu and Alhaji with ropes. The two forcibly demanded and took \$30,000.00 from Alhaji that night. Not satisfied with the money, Haruna fired at Alhaji killing him on the spot. Upon hearing of the death of Alhaji and overcome by guilt, Naa Sei reported to the Police that he had information that could lead to the arrest of the killers of Alhaji. He assisted Police to arrest all three of his friends, who after investigations were charged and arraigned before Court.

- a. **Assess the criminal liability, if any, of each of the four friends. Will any defence be available to Naa Sei? Will the fact that he did not tip off the Police until after the incidents be of any relevance?**

**[25 marks]**

- b. Discuss in detail the substantive charge of murder only to be preferred by the prosecution? Will the substantive charge be preferred against all?

[15 marks]

Question 2

Kasum is a 49 year old man who abandoned his wife, Akweley and daughter, Adei, when Adei was only two years old. When Adei turned 18 years she was brought by the mother, Akweley to live with the father. Kasum started having sexual intercourse with Adei his daughter within three days after her arrival to stay with him. Adei became pregnant and Kasum threatened Adei to abort the pregnancy. Adei went through the process of abortion before a herbalist, Nana Oye Good. She bled profusely and was admitted at the hospital. After her discharge the nurses reported the abortion to Police leading to the arrest of Kasum and Nana Oye Good.

**Discuss the criminal liabilities of Kasum and Nana Oye Good with reference to relevant legal authorities.**

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[30 marks]

Question 3

- a. Taller and Blackie are among the top students in Criminal Law at the Faculty of Law, All Saints University. After the end of semester examinations, Taller came out as the top student in Criminal Law with Blackie taking the fifth position. Taller decides to flaunt his enviable feat by taunting Blackie insinuating 'no challenger' after all. Angered by the insinuation, Blackie picked a chair and hit Taller on the head resulting in bruising to his scalp. Addo, also a student, who felt Blackie had over reacted

in relation to the harm caused Taller, punched Blackie in the groin to repel further attack on Taller. Blackie fell to the floor and suddenly fell into coma. Blackie and Taller have been rushed to the nearest hospital for medical attention.

**Discuss, with the aid of relevant legal authorities, the criminal liabilities, if any, of Taller, Blackie and Addo.**

[15 marks]

- b. *“Extortion under section 151 and extortion by a public officer under sections 239 and 247 of the Criminal Offences Act, 1960 (Act 29) demonstrates how any attempt at fighting corruption has been nothing but cosmetic”.*

**Examine this statement with an analysis of the two offences.**

[15 marks]

#### Question 4

Smart and his family live in a flood-prone area within the vicinity of Adjorman. After two days of heavy and incessant downpour, Adjorman, as usual, got flooded, resulting in destruction and disruption of essential services, particularly electricity and water and, consequently, closure of the local shops. In addition, the bridge connecting the Adjorman to the main shopping centre in Opaninkrom, was washed away by the flood thereby rendering travelling for shopping impossible. Smart's stock of food items has run out and he has not been able to replenish it stock due to his inability to travel to Opaninkrom for shopping. Faced with imminent starvation, Smart went to his neighbour and friend, Kwamina, for assistance. On reaching Kwamina's house, Smart realized that the door was left open and he shouted 'Charlie, what's up'. There was no response from Kwamina. Smart made his way to Kwamina's kitchen and took a tuber of yam, two tins of sardine, some tomatoes

and pepper, a bottle of *frytol* cooking oil, as well as a pair of *dolce gabana* spectacles.

On his return home, Smart found Baah lying by the road side and realizing that the latter is in a state of stupor, attempted to remove his (Baah) *rolex* wrist watch. Sensing contact with his wrist, Baah resisted momentarily, but Smart succeeded in exerting force enabling him remove the wrist watch. Smart approached Mantey with an offer of GH¢50.00 in respect of the wrist watch, which Mantey readily accepted. Meanwhile, at the annual 'Dawadawa' festival at Adjorman attended by Smart, Baah, Kwamina and Mantey, Kwamina and Baah noticed Smart and Mantey wearing the 'missing' pair of spectacles and the wrist watch, respectively. Kwamina and Baah have reported to the police and the two men have been arrested.

**Advise the prosecution as to the possible charges that can be preferred against Smart and Mantey as well as possible defences available to them.**

[30 Marks]

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**Question 5**

Alberta was a first year University student at Gongon University, who had a boyfriend by name Philip. On the 6<sup>th</sup> of March, 2017 they went to a night club and returned to their hostel very late and tired. While sleeping the lights were out and they opened their window for fresh air. Philip was drunk and fell into a deep sleep. Opana had long admired Alberta and had proposed to her without any response from Alberta. On that fateful night, Opana who was returning to his hostel, happened to have passed by the hostel of Alberta and saw the window of Alberta opened. He entered to see Alberta sleeping by the side of Philip almost naked. Aroused by the nakedness of Alberta, he began to fondle her. Alberta thought it was Philip and responded to the touch leading to a mutual sexual intercourse between them. After the act Alberta realized that it was not Philip and has reported Opana to the Police.

With the aid of the Criminal Offences Act, 1960 (Act 29) and decided cases, discuss whether Opana can be held liable for any crime and on what basis?

[30 marks]

#### Question 6

Foster is a Polytechnic graduate who got employed as a technician with Project Consult, a Real Estate company. He had a girlfriend, Josephine who became pregnant for him just two months into their relationship. Josephine dismissed any suggestion of aborting the pregnancy. Foster picked an altercation with Josephine and in the heat of it slapped and kicked Josephine by the abdomen while screaming "I can't be responsible for this bastard child". Josephine bled until a friend took her to the hospital. She was treated and told that the pregnancy was intact. Josephine gave birth to a baby boy five months after the incident. The baby died two weeks after birth. The cause of death was given as brain damage and the only link is the kicking of the abdomen of Josephine by Foster while pregnant.

Assuming you are a prosecutor, how will you go about establishing the liability of Foster, if any, under Act 29?

[30 marks]