

# CENTRAL UNIVERSITY



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## END-OF- FIRST SEMESTER EXAMINATIONS: 2016/2017

FACULTY OF LAW

LAW 107

CRIMINAL LAW I

TIME ALLOWED: 2 1/2 HOURS

LEVEL 100/200

STUDENT ID No.....

### INSTRUCTIONS

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

Question 1 is compulsory.

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.

Please write legibly

**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 & Reynolds Twumasi Jnr

## QUESTION 1

Mensah and Kwei are ardent supporters of Mighty Warriors and Great Gladiators Football clubs respectively. Mighty Warriors and Great Gladiators are the main contenders for the coveted Presidential Golden Cup derby, which attracts a bonus package of GHC20,000.00 and a gift of brand new Venza saloon car per player for the winning team. Assured of his club's chance of beating Great Gladiators, Mensah placed a bet of GHC5,000.00 boasting that Kwei could take this amount should Great Gladiators win. The betting money was lodged with Abu for safekeeping and eventual release to the ultimate beneficiary after the match.

The match ended in favour of Great Gladiators as Mighty Warriors were beaten by 3 goals to 2. Excited by the turn of events, Kwei rushed to Abu's house to claim the GHc5,000.00, but Abu requested that they wait for Mensah before the money could be released to Kwei. Meanwhile, distraught about the outcome of the match coupled with imminent loss of his money, Mensah, accompanied by his friends, Miezah and Akonnor, all armed with knives, also headed towards Abu's house with the motive of preventing the latter from releasing the betting money to Kwei.

On meeting at Abu's house, an altercation ensued between the two protagonists leading to heightened tension with Mensah and his friends vowing that they would not allow the betting money to be given to Kwei. Sensing danger, Kwei fled but was chased by Miezah and Akonnor who inflicted wounds on him. However, Kwei succeeded in getting hold of Akonnor's knife and hit back by stabbing him resulting in him (Akonnor) dying instantly. After the incident, Kweku, Miezah and Kwei went into hiding but were found by the Community Police volunteers and handed over to the local police. Abu, acting as a 'good Samaritan', reported the death of Akonnor to the police, but was apprehended by the police for complicity in the death of Akonnor.

- a. **With the aid of relevant legal authorities, state and discuss the criminal liability, if any, of Mensah, Miezah and Abu.**

[30 Marks]

- b. **What defences, if any, are available to Mensah, Miezah and Abu.**

[10 Marks]

## QUESTION 2

In **Woolmington v DPP (1935) All ER**, the House of Lords per Lord Sankey enunciated the 'golden thread' rule underpinning criminal law thus:

*'Throughout the web of the ... Criminal Law one golden thread is always to be seen that is the duty of the prosecution to prove the prisoner's guilt subject to ... the statutory defence of insanity and subject also to any statutory exception. If, at the end of and on the whole of the case, there is reasonable doubt created by the evidence given by either the prosecution or the prisoner ... the prosecution has not made out the case and the prisoner is entitled to an acquittal, the principle*

*that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained'.*

**Discuss the extent to which this statement is applicable to Ghanaian criminal jurisprudence. Your answer should take into account exceptions, if any, under the Ghanaian legal system that may 'whittle down' this 'golden thread' rule as pertains under the common law.**

[30 Marks]

### QUESTION 3

Opana Kojo was employed as an Accounts Officer by the Supreme Prosperity Bank in Hohoe after emerging successful in a recruitment exercise undertaken by the Bank. Shortly after commencing the employment he started to make unauthorized transfers from accounts of the customers of the Bank into a personal account he had created. An internal audit conducted into his operation disclosed that an amount of GHc238,000.00 had been illegally transferred into his personal account. He was dismissed from the Bank after an administrative enquiry by the Bank. The Bank lodged a complaint with the Hohoe Police, who arraigned him before the Circuit Court on a charge of stealing, contrary to section 124 of the Criminal and Other Offences Act, Act 29, 1960. John has mounted a spirited defence in court that he has already suffered the punishment for the incident by virtue of his dismissal from the Bank and any further trial would violate the protection accorded him by the law.

**What is the nature of the defence Kojo is raising in court. Is he likely to succeed?**

[30 Marks]

### QUESTION 4

On the night of 24<sup>th</sup> December 2016, Tettey and his partner Enyonam were invited to a party by Nana at which they took some Malt and Coca-Cola drinks. Lately, Tettey has been experiencing dizzy spells and epileptic fits, but he has not been medically diagnosed to ascertain the nature of his medical condition. At the party, Tettey became dizzy and was given some valium tablets by Nana in an attempt to calm him down. Shortly after taking the tablets, Tettey and Enyoman left the party. On their way home, Tettey started behaving in an unusual manner by repeatedly hitting Enyonam's head with a Coca-Cola bottle which he took away from the party. Barely an hour after they got home, Enyonam started experiencing severe head pains and was rushed to a nearby hospital, where she was pronounced dead.

Tettey was arrested by the police and consequently charged with murder. When interrogated by the police during investigations, Tettey pleaded: *'I cannot remember hitting her. I believe I had a blackout and did not know what happened last night'*.

**Discuss possible defences available to Tettey.**

[30 Marks]

## QUESTION 5

Atia Vuduga has been married to Dzifa for ten years and they live together at Sawaka, a suburb of Accra. Kukua a friend of Dzifa tipped Atia that Dzifa had been having an affair with Zakaria, a young man who lives in a rented room in the same house as the couple. Kukua further told Atia that Dzifa spends most of her time in Zakaria's room when Atia leaves home for work. Armed with this information, Atia on the 2<sup>nd</sup> of January, 2017 informed Dzifa that he was travelling to Bawku and would spend five days. Unknown to Dzifa, Atia went to the market to purchase a cutlass and had it sharpened for him. He returned under the cover of darkness to observe whether his wife would sleep in her room. At about 11pm he saw Dzifa sneaking into Zakaria's room. He waited for some minutes and forcibly broke the door of Zakaria to find the two engaged in sex. Atia pulled his cutlass and slashed Zakaria several times until he became unconscious. He was later pronounced dead at the hospital. Atia turned himself in to the Police and was subsequently arraigned before court on a charge of murder. Atia has pleaded provocation in court.

**With the aid of the *Criminal and Other Offences Act, Act 29*, critically examine the nature of the defence of provocation in relation to adultery and determine if Atia's defence will succeed.**

[30 Marks]

## QUESTION 6

Articles 19(5) and 19(11) of Ghana's 1992 Constitution provides:

*Article 19(5) -*

*'A person shall not be charged with or held to be guilty of a criminal offence which is founded on an act or omission that did not at the time it took place constitute an offence'.*

*Article 19(11) -*

*'No person shall be convicted of a criminal offence unless the offence is defined and the penalty for it is prescribed in a written law'.*

**State and explain the relevant principles of criminal law underpinning the above constitutional provisions. Discuss the circumstances under which these principles have protected the rights of accused persons in Ghana.**

[30 Marks]

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