

COUNCIL OF LEGAL EDUCATION

EXAMINATION FOR AWARD OF DIPLOMA
IN LAW (PARA-LEGAL STUDIES)

JULY, 2009

CRIMINAL LAW 1

KENYA SCHOOL OF LAW
LIBRARY

Instructions

- (a) Answer **QUESTION 1 and ANY OTHER THREE QUESTIONS**
- (b) QUESTION 1 is **COMPULSORY** and carries 25 marks
- (c) All other questions carry 15 marks each
- (d) Marks may be lost for illegibility
- (d) Time allowed is **Two (2) Hours**

1. "There is a presumption that '*mens rea*' or evil intention or knowledge of the wrongfulness of the act is an essential ingredient in every offence but that presumption is liable to be displaced either by the words of the statutes creating the offence or by the subject matter with which it deals and both must be considered"
Wright, J in Sherras -vs- Derutsen (1895) 1QB 918
 - (a) Discuss the various ways by which the evil intention or *mens rea* manifests itself for purposes of Criminal Law. (15 marks)
 - (b) In respect of what offence, if any, is *mens rea* deemed to be irrelevant? (5 marks)
 - (c) Is the test of *mens rea* an objective or subjective one? (5 marks)
2. What are the general principles, policies and guidelines that influence sentencing of offenders in Kenya? (15 marks)
3. "The general object which all laws have, or ought to have, in common, is to augment the total happiness of the community, and therefore, in the first place, to exclude, so far as may be, everything that tends to subtract from that happiness; in other words, to exclude mischief. All punishment in itself is evil. Upon the principle of utility, if it ought at all to be admitted, it ought only to be admitted in as far as it promises to exclude some greater evil"
Jeremy Bentham " The principles of morals and Legislation (New York Hafuer Publishing Co. 1961) at page 17

Discuss. (15 marks)

4. As a general rule of the criminal law, intoxication is not a defense to a criminal charge unless it has the effect of rendering the accused incapable of forming *mens rea* for the relevant offence.

Discuss this statement in light of your understanding of *actus reus* and the defences available to an accused in criminal law.

(15 marks)

5. Provide a critique of the different definitions of 'crime' and "a criminal person"

(15 marks)

6. Discuss the social and legal sources of criminal law and indicate the essential relationship between the two.

15 marks)

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