

BOWEN UNIVERSITY, IWO, OSUN STATE

COLLEGE OF LAW

FIRST SEMESTER EXAMINATIONS, 2023/2024 SESSION

CRIMINAL LAW 1 - PIL 305

INSTRUCTIONS: a. Answer any two questions from Section A and any two questions from Section B.

b. Time allowed: 3 hours.

SECTION A

1. Akpan, Comfort, Austin and Atim went to the house of Rocky to rob. When they got there, Austin saw Rocky's sister and was infatuated. He pushed her on the couch and raped her with the assistance of Comfort. Meanwhile, Akpan was stationed outside for surveillance. He sighted a police man, using the silent revolver gun, he quickly shot and killed him. Unknown to all others, Atim picked and pocketed the brown new designer Rolex wrist watch of Mr. Rocky. They completed their operation successfully. Few days later, Akpan, Comfort, Austin and Atim were arrested by the Police. Meanwhile, on the 15th day of December, 2023, Mr John Orong and Mrs, Christy Orong, agreed to steal the money of Engr. Abba. To achieve this, Mr. Orong went to Engr. Abba's office and emptied his safe. He was accosted by the security personnel at Engr. Abba's office and handed over to the police.

Answer the following questions, with the aid of statutory and case law authorities.

- a. The Police wants to charge Mr John Orong and Mrs. Christy Orong for conspiracy and stealing.
 - b. Who amongst the offenders can be charged for rape?
 - c. Can all the offenders be charged for stealing the designer Rolex wrist watch of Mr. Rocky?
 - d. Who is responsible for the murder of the policeman?
2. Efa loved Esther but all his overtures were being frustrated by Tony, Esther's male friend. Angered by this, Efa sought for an opportunity to teach Tony a lesson. A wealthy businessman within their neighbourhood had a mega party, Efa drank all sort of alcoholic drinks and became tipsy. On his way home, under the influence of alcohol, he sighted Esther and Tony coming from the opposite direction. He grabbed a stone, flung it at the duo, the stone hit Tony on the head. He sustained severe injury and was rushed to the hospital. Few days later, Tony died from the injury sustained. Efa is standing trial for the murder of Tony and his counsel is contemplating raising the defence of intoxication. Achi, a well-built boy, was caught in the house of Mrs. Anne eating food from her pot. He was charged for stealing. During the proceedings, it was discovered that Achi will be 7 years old two months from that time. On the six of November, 2022, Atim and Atung were arrested for raping a 17 year old girl, Doris. The police had to investigate the crime. Their investigation revealed that Atung was 11 years old while Atim was 18 years. The Police is considering charging both of them for the offence of unlawful carnal knowledge.
3. Write short notes on the following:
- i. The principle of law enunciated in *Aoko v. Fagbemi* [1961] 1 All NLR 400.
 - ii. Sources of Nigerian Criminal Law.
 - iii. Every offence is a moral wrong but not every moral wrong is an offence.
 - iv. Strict liability offence.

SECTION B

4. Jack Malachy, an Iwo-based commercial taxi driver, was a committed family man who loved his wife, Mrs. Evelyn Malachy. On the 31st day of December, 2022, he rushed back home to pick his taxi-cab spare key. To his chagrin, he met his neighbour, Micholo Benson, beating Mrs. Evelyn Malachy on a trivial allegation. Jack Malachy narrated this domestic experience to a co-driver, Sunday Akaahs, who advised Jack Malachy to take at least three bottles of Don Simon, an alcoholic beverage, in order to “maximally” deal with Micholo Benson. At about 11:30 pm on that fateful day, Jack Malachy came back home drunk. He stabbed Micholo Benson with a sherd of a bottle. Some good Samaritans rushed Micholo Benson to the General Hospital, Iwo, Osun State, where no doctor was on duty as a result of a two-day warning strike embarked upon by medical doctors in the state. Helplessly, Micholo Benson died as a result of excessive bleeding. The state is prepared to arraign Jack Malachy on the 28th day of February, 2023, on a lone-count charge of murder. Jack Malachy, insisting that Sunday Akaahs and the striking doctors were responsible for Micholo Benson’s death, intends to rely on the defence of intoxication.
 - (a) With the aid of relevant statutory and judicial authorities, consider the prospects of Jack Malachy’s proposed defence of intoxication.
 - (b) Examine the strength of his excuse that Sunday Akaahs and the striking medical doctors were the ones who caused Micholo Benson’s death.
5. The dichotomy between an act as a form of *actus reus* and an omission as *actus reus* is more difficult to discern than the dichotomy between *actus reus* and *mens rea simpliciter*. **Discuss.**
6. Askari Alasco has, in the last twenty years and even till today, been an insane person at Aleshinloye Market Area of Ibadan, Oyo State, with interspersed lucid periods spanning a minute and twenty seconds. On the 22nd day of November, 2022, he pounced on an innocent passer-by by dragging her on a jagged road and crushing her head with a heavy stone. Upon his immediate arrest, he claimed that even though the dragging was done with his active and informed knowledge, he never knew when exactly he crushed the deceased’s head with a heavy stone, which last act killed the deceased. At his trial, he raised the defence of insanity in relation to the act of head crushing. The trial court discharged the accused person on his defence of insanity and ordered him to go home as a free citizen. The court based its decision on four grounds, to wit: i. The prosecution failed to prove that Askari Alasco was sane; ii. Insanity was not clearly made out as the killing took place between an interval of a lucid period and a short period of mental imbalance; iii. The accused need not establish insanity in any specific ways; and iv. the requirements of the defence of insanity under the Criminal Code are in favour of an accused person, unlike the ones in *MacNaughten* case. The prosecution has appealed against the decision of the trial court. Consider the prospects or otherwise of the appeal based on the legal issues involved in the case.