



**FIRST YEAR EXAMINATION FOR THE AWARD OF THE  
DIPLOMA IN LAWS  
FIRST SEMESTER, 2022/2023  
(SEPTEMBER-DECEMBER, 2022)**

**DLAW 0115: INTRODUCTION TO CRIMINAL LAW**

**STREAM: Y1 S1**

**TIME: 2 HOURS**

**DAY: TUESDAY, 9:00 – 112:00 A.M.**

**DATE: 13/12/2022**

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**INSTRUCTIONS**

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE [Compulsory] and any other TWO Questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

**QUESTION ONE**

- a) The Supreme Court issued guidelines for its decision on the constitutionality of the mandatory death sentence for the offence of murder in the leading case of *Muruatetu. Francis Karioko Muruatetu & Another V Republic, Katiba Institute & 5 others (Amicus Curiae) [2021] EKLK 2015*. In its judgement, the supreme court found that the mandatory nature of death sentence as provided for under section 204 of the Penal Code was unconstitutional. The court ordered for the appellants matter to be re-heard on the question of sentencing only on priority basis. In a sentence re-hearing for the charge of murder, both aggravating and mitigating factors should guide the court. Discuss the mitigating and aggravating factors in a sentence re-hearing proceeding. (10 marks)
- b) Forfeiture is one of the punishments a court can inflict. It is a divesture or confiscation of one's property in consequence of a crime without compensation.

While settling for this type of punishment, the due process must be followed as was held in the case of *Letiyia ole Maine V Republic [2021] ECLR*.

i) Discuss the key elements to be proved in proceedings for forfeiture of an item used in the commission of a crime. (5 marks)

ii) Explain the due process requirements applicable to forfeiture proceedings. (5 marks)

iii) State the constitutional provisions that were allegedly violated in the above captioned case. (2 marks)

b) Briefly explain the requirements/essentials for the application of the defense of necessity as regards to the case of *Republic V Dudley & Stephens (1884)*. (8 marks)

## **QUESTION TWO**

With the aid of decided cases and various statutory provisions.

a) Explain the principles of sentencing. (10 Marks)

b) Explain the various parties to offences. (10 Marks)

## **QUESTION THREE**

a) Explain the Rights of an arrested person as enshrined in the Constitution. (10 marks)

b) Discuss the basic objectives of Kenya's criminal law with specific reference to the Penal code, Cap 63, Laws of Kenya. (10 marks)

## **QUESTION FOUR**

Hightone is in a pub when he has a violent sneezing fit. The glass he is holding flies out of his hand and hits Kariuki, the barman, cutting his neck. Kariuki is an epileptic who has forgotten to take his medication. Kariuki has an epileptic seizure and lurches out at a customer, Roselyn, kicking her before collapsing on

the floor. Roselyn has drunk several glasses of orange juice which, unknown to her, have been spiked with vodka and she kicks Kariuki whilst on the floor, severely damaging his kidney. Roselyn then lurches towards Hightone with a broken bottle in her hand.

Hightone thinks she is about to attack him and he punches Roselyn so hard that he knocks her down and injures her jaws.

Discuss the offences committed and the defenses which may be available to Hightone, Roselyn and Kariuki for the specific offences. (20 marks)

### **QUESTION FIVE**

Write explanatory notes on the following.

- a) Mens rea. (5 marks)
- b) Actus reus (5 marks)
- c) Major types of sexual offences. (5 marks)
- d) Purposes for sentencing. (5 marks)