

NATIONAL UNIVERSITY OF SINGAPORE

EXAMINATION FOR THE PART A BAR COURSE

(Semester I : AY2009-10)

CRIMINAL LAW

Time Allowed: 2.00 Hours

INSTRUCTIONS TO CANDIDATES

1. This examination paper contains **THREE (3)** questions and comprises **FOUR (4)** printed pages, inclusive of this cover page.
2. Answer **ANY TWO (2)** questions only.
3. Each question counts for 50 marks, making a total of 100 marks for this examination paper.
4. Record your student matriculation number and the number of the questions attempted on the cover of your answer book.
5. This is A CLOSED BOOK examination.

QUESTION ONE**Answer BOTH Sections 1 and 2.****Section 1**

Lim and Tan are secret society leaders who wish to teach Seet, a rival gang chief, a lesson by scarring his face with acid. They recruit three other members of their secret society, including Leong, and inform them of their plan to ambush Seet when he is doing his morning tai-chi exercise in a public park. Lim will bring a bottle of sulphuric acid and Tan will use a gun to threaten Seet into submission.

Leong tells Lim and Tan that he is prepared to participate in the attack but that on no account must Seet be killed. Tan assures Leong by showing him the empty cylinder of his gun. Later on, Tan secretly loads his gun. Like the rest, Lim is unaware of this but knows that Tan gets a thrill from discharging his gun.

As the group approaches him, Seet recognises Lim and Tan and promptly retrieves a pistol from his bag and aims it at them. However, before Seet can shoot, Tan fires his gun and kills Seet.

Assume that Tan is criminally liable for killing Seet. Discuss the criminal liability, if any, of Lim and Leong for the death of Seet. (Do not discuss criminal conspiracy.)

(35 marks)**AND****Section 2**

Select any ONE case from the following cases and state, providing reasons, whether or not you think it positively advanced the law and suggest improvements if thought necessary:-

- (i) *Chua Kian Kok v PP* [1999] 2 SLR 542
- (ii) *Kannan s/o Kunjiraman v PP* [1995] 3 SLR 757

(15 marks)

QUESTION TWO

Answer **BOTH** Sections 1 and 2.

Section 1

Abu is increasingly distraught over having to nurse Sita, his wife, who is dying from a slow and painful terminal illness. Abu confides in Raman, a friend who is sub-normally intelligent. Raman consoles Abu by saying that things will get better soon.

Unknown to Abu, Raman decides to put Sita out of her misery by poisoning her. He believes that, although killing Sita is contrary to law, it is a morally noble thing to do. Raman finds an occasion when Abu is not at home to carry out the deed. He makes Sita drink rat poison and leaves the apartment.

Upon returning home a few hours later, Abu finds Sita moaning, frothing in the mouth and writhing in agony. He surmises that Raman is the culprit when he finds the empty bottle of rat poison. Abu initially decides to let the poison take its course, but cannot bear to see Sita's state of suffering, and summons an ambulance. However, it is too late to save Sita who dies shortly after the ambulance arrives. Medical evidence shows that Sita could have been saved had Raman called the ambulance sooner.

Abu and Raman are charged with the murder of Sita. How likely is this charge to succeed? Might your answer be different if Raman was heavily intoxicated at the time when he made Sita drink the poison?

(35 marks)

AND

Section 2

Select any ONE case from the following cases and state, providing reasons, whether or not you think it positively advanced the law and suggest improvements if thought necessary:-

- (i) *Ng Keng Yong v PP* [2004] 4 SLR 89
- (ii) *PP v Zulkifli bin Omar* [1998] 6 MLJ 65

(15 marks)

QUESTION THREE

Answer (a) or (b):

- (a) “The judicial approach to strict liability offences is entirely unsatisfactory, leaving the law uncertain and prone to producing injustice.”

Discuss.

OR

- (b) “The objective test in the law of provocation creates artificial constructs which are difficult to comprehend and apply in real life.”

Critically evaluate this comment, and suggest proposals for reform of the law on this issue, if any.

(50 marks)

- End of Paper -

NATIONAL UNIVERSITY OF SINGAPORE

**PART A: CRIMINAL LAW
(SAMPLE QUESTIONS)**

Time Allowed: 2.00 Hours

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QUESTION ONE

Answer BOTH Sections 1 and 2.

Section 1

Mary has suffered enough violence at the hands of Arun, her husband of ten years. She plans to kill him by rendering him unconscious with a drug, placing him on the driver's seat of his car and then pushing it over the edge of a high cliff to make it look like a road accident. Mary feeds Arun a dinner laced with a strong sedative and he is rendered unconscious soon afterwards.

Mary carries out the next stage of her plan. Just before pushing the car with Arun in it over the cliff, she hears a human voice coming from below the cliff. In a state of panic, she pushes the car over the edge. The car lands on and kills Chan, a rock climber who had just descended to the bottom of the cliff. Arun also dies in the crash.

Mary says that at the time of the alleged offence, she knew that what she did to Arun was contrary to law but believed that society would not judge her conduct as morally wrong because of the violence she had suffered at Arun's hands all those years. She tenders medical evidence showing that she had been diagnosed as severely clinically depressed for the past year and was using strong medication when the alleged offences occurred. Since Arun's death, she no longer suffered from depression.

With regard to the death of Chan, Mary says that she had realised the possibility that someone might be present below the cliff but had not waited to find out because of her state of panic, and also because she believed that the presence of a person at that spot was unlikely as it was not accessible by any road or pathway.

Discuss the criminal liability, if any, of Mary for the deaths of Arun and Chan. (Do not discuss diminished responsibility.)

(35 marks)

ANDSection 2

Select any ONE case from the following cases and state, providing reasons, whether or not you think it positively advanced the law and suggest improvements if necessary:-

- (i) case name
- (ii) case name

(15 marks)

QUESTION TWO

Answer BOTH Sections 1 and 2

Section 1

Over drinks at their favourite pub one evening, Tom, Dick and Harry decide to rob a taxi-driver to pay for their planned seaside vacation. Tom shows the others a mean looking dagger, saying, "This should scare the shit out of anyone". Harry, the smallest and most nervous of the trio, downs a couple of whiskies in quick succession to muster the courage he needs for the robbery. All three then go out onto the street and flag down a taxi driven by Sally.

After ten minutes of being driven in the taxi, Tom nicks Sally's throat with the tip of his dagger and orders her to pull over to the roadside. Sally slows down and makes as if she is coming to a stop but suddenly accelerates, at the same time turning the steering wheel sharply to throw her passengers off balance. Sally's action produces the desired effect. Unfortunately, however, the lurching motion causes Tom to fall heavily against Sally and the dagger he is holding plunges deeply into the side of her chest.

The taxi crashes into a ditch and comes to a standstill. Tom and Dick manage to get themselves out of the wreckage and they pull Harry out because of his heavily intoxicated condition. Indeed, Harry had fallen asleep as soon as the taxi commenced its journey and was unconscious when Tom had threatened Sally with the dagger. Tom and Dick examine the blood-soaked Sally and, feeling no pulse, believe her to be dead. They find a can of petrol in the boot of the taxi and use it to set the taxi on fire with Sally's body in it. The autopsy report shows that Sally died in the fire and not as a result of the stabbing or car crash.

Discuss the criminal liability, if any, of Tom, Dick and Harry for the murder of Sally.

(35 marks)

AND

Section 2

Select any ONE case from the following cases and state, providing reasons, whether or not you think it positively advanced the law and suggest improvements if necessary:-

- (i) case name
- (ii) case name

(15 marks)

QUESTION THREE

Answer either (a) or (b):

- (a) (quotation)

Discuss.

OR

- (b) (quotation)

Discuss.

(50 marks)

- End of Paper -

NATIONAL UNIVERSITY OF SINGAPORE

PART A OF THE SINGAPORE BAR EXAMINATION

2010

CRIMINAL LAW

November 2010 - Time Allowed: 2 Hours

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QUESTION ONE

Answer **BOTH** Sections 1 **and** 2.

Section 1

Pam, a hospital technician, has done a poor job servicing a machine which monitors the health of a patient while anaesthetised. Dr Lim, an anaesthetist working at the same hospital, connects the machine to Wong, a patient who is about to undergo heart surgery. An hour into the operation, Dr Lim, before going off to the toilet, confirms that the readings on the monitor are satisfactory. In fact, a fault in the monitor which Pam had not rectified, fails to register that Wong is greatly deprived of oxygen.

Soon after, Wong goes into a huge seizure and the surgical nurse cries out for urgent assistance. Dr Lim rushes back to the operating room and checks that the monitor is correctly attached to Wong and the readings show no abnormality. At the same moment, it dawns on Dr Lim that Wong was suspected of murdering Dr Lim's father several years ago but there was insufficient evidence to charge him for the offence. Dr Lim there and then decides not to inject Wong with a drug which would have saved him.

The commotion is heard by Pam who immediately suspects that the source of the problem is the machine she had serviced earlier that day. However, instead of informing Dr Lim of this, Pam decides to remain silent, justifying her inaction on the ground that she has just gone off-duty. Wong dies on the operating table.

- (i) **Assess the prosecution's chances of success of convicting Pam for causing death by doing a rash or negligent act under s 304A of the Penal Code. Would your answer be different if Pam was a trainee technician?**
- (ii) **Assess also Pam's criminal liability if she had learnt that Dr Lim wanted Wong dead and Pam had omitted informing Dr Lim of the problem with the machine because it would assist him to achieve his objective.**
- (iii) **Assess the prosecution's chances of success of convicting Dr Lim of murder. Assuming that Wong did not die, what offence might Dr Lim be guilty of?**

(Note: you are not required to discuss issues of causation.)

(35 marks)

AND**Section 2**

Select any ONE case from the following cases and state, providing reasons, whether or not you think it positively advanced the law and suggest improvements if thought necessary:-

- (i) *PP v Kwan Cin Cheng* [1998] 2 SLR 345
- (ii) *Lee Chez Kee v PP* [2008] 3 SLR 447

(15 marks)

QUESTION TWO

Answer **BOTH** Sections 1 and 2.

Section 1

Lara, a 70 year old horticulturalist in the Mandai area of Singapore, has sprayed her fruit trees with insecticide each April for the past ten years. An unusually long and heavy spell of rain causes the insecticide to be washed into a reservoir situated two kilometres downhill from Lara's orchard.

Tan, a 30 year old burly inspector from the Water Board, traces the source of the pollution to Lara's orchard. When he confronts Lara with the evidence, she rejects it out of hand, pointing to the drains she has dug all around her orchard to prevent any spillage and to the fact that she has never before received any complaints of this nature. Lara also retorts, "Anyway, I had read in the local papers that the reservoir had closed for good six months ago." The newspaper had indeed erroneously reported this information but had pointed out the mistake in its very next issue which Lara had not read.

Tan nevertheless places a summons in Lara's hand charging her with committing an offence under s 39 of the *Environmental Protection Act* which reads:

"A person shall not cause or permit any waters of a reservoir to be polluted so that the physical, chemical or biological condition of the water is so changed as to make or be reasonably expected to make those waters unfit or potentially unfit for human consumption."

Lara is very upset with Tan for issuing her with the summons. She yells abuse at Tan and bends down as if to pick up a stick lying on the ground. Tan, believing that Lara is about to strike him with the stick, gives her a shove, causing Lara to fall and suffer bruises. In fact, Lara had bent down because she had a stomach cramp from all the stress.

(i) Discuss the criminal liability, if any, of Lara in these circumstances. You should, where relevant, comment critically on the law you have applied.

(ii) If Tan were charged with voluntarily causing hurt to Lara, what defences, if any, might be available to him, and what are their chances of success? (Note: Assume that the elements of the charge are proven.)

(35 marks)

AND

Section 2

Select any ONE case from the following cases and state, providing reasons, whether or not you think it positively advanced the law and suggest improvements if thought necessary:-

- (i) *Tan Chor Jin v PP* [2008] 4 SLR 306
- (ii) *PP v Lim Poh Lye* [2005] 4 SLR 582

(15 marks)

QUESTION THREE

Answer (a) or (b):

- (a) “While the crime control model takes precedence over the due process model under the Singapore criminal justice system, there is sufficient recognition of the latter model in our system and the criminal law itself to ensure that justice is afforded to the individual accused.”

Discuss.

OR

- (b) “The Penal Code’s treatment of mental malfunctioning is, in some instances too generous and in others too strict, towards accused persons.”

Critically evaluate this comment, and suggest proposals for reform of the law on this issue, if any.

(50 marks)

- End of Paper -