



THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF APRIL/MAY 2006

CODE AND NAME OF COURSE: LAW1120 (LA11B) - CRIMINAL LAW II

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 2 pages and 6 questions.

Answer any **THREE (3)** questions. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

1. At his trial for murder, Gregory pleaded an alibi. Evidence led by the prosecution, however, suggested that, prior to the killing, Gregory was verbally provoked by his victim. The trial judge, Lost J, directed the jury as follows:-

“You must be satisfied that Gregory did something unlawful to someone, the deceased, with an intention to kill him or cause him serious harm.

Now you may infer this intention if you believe that Gregory knew very well, as any reasonable man would, that it was substantially probable or morally certain that either of these things might follow what he did. This is what the lawyers call the ‘foreseeability’ test.”

Gregory was convicted of murder. He now wishes to appeal on the ground (i) that Lost J misdirected the jury on the mental element in murder, and (ii) that Lost J erred in not leaving provocation for the jury’s consideration since there was sufficient evidence of it before the court if Gregory’s plea of alibi was rejected by the jury.

Advise Gregory.

2. “The law on provocation is male-oriented. It pays little regard to the reasonable responses of women. This is unrealistic, unfair, chauvinistic and therefore unjust.”

Discuss.

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3. Jim obtained a quantity of heroin. One day, when Jim and Ted were at Jim's home, Jim suggested that he and Ted should inject themselves with the heroin. Accordingly, each injected himself with his own syringe.

After injecting himself, Ted lost consciousness. Despite knowing this, Jim left the house to buy some cigarettes. When he returned, he found that Ted was dead.

Discuss.

4. Consider the extent to which consent may be a defence to a criminal charge.
5. James was driving home one night when his car was waved down by Lucy who wanted a lift. James stopped his car and Lucy got in. Lucy was a prostitute. In the car, Lucy made lewd suggestions to James and fondled his thigh.

James stopped his car adjacent to a cane field in order to urinate. Lucy also got out and exposed her breasts to James. These events were observed by Grace, a minister of religion.

Once back in the car, James began to have sexual intercourse with Lucy. During the intercourse, Lucy asked James whether he had any money. James said he hadn't upon which Lucy told him to stop. James said "Yeah right. You're a bundle of laughs" and carried on. Lucy said nothing more and James took her home.

James, who was married to Dolores, then returned home himself. He told Dolores that he wanted to make love to her but Dolores said that it was "not his night". James refused to listen and had sexual intercourse with her.

Discuss.

6. "The idea of stealing - by whatever name the lawyers call it - seems simple enough. We all know we must not do it and are usually shrewd enough to know when we have. But for lawyers, it is a highly technical crime and at times wholly out of touch with what ordinary people would understand."

Discuss.

END OF PAPER