

NATIONAL LAW UNIVERSITY, DELHI

LL.M. Degree Programme, I-Semester (Batch of 2018)

End Semester Examinations, December 2018

Paper: Contemporary Issues in Criminal Law

Time: 3:00 Hours

Total Marks: 50

Instructions:

1. Read the questions carefully. Answers should be precise and to the point.
2. This is an open book examination. You are permitted to bring your notes, reading materials, and Criminal Major Acts into the examination hall. Laptops, mobile phones and other electronic devices are not permitted. Textbooks are not permitted. Credit shall be given for analysis, and usage of relevant material.

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1. Z owned a shop right next to a railway track in the outskirts of Delhi. Z had opened the shop in 2008, and hence had spent ten years at the location, as of 2018. Due to this reason, he knew the schedule of most passenger trains that passed through on the track.

On September 5, 2018, Z saw a group of 25 people preparing to shoot an advertisement film near the railway track. The advertisement appeared to involve a man and a woman talking on the phone as they crossed the tracks. It was 4:45 pm, and Z knew that the Superfast Rajdhani express passes on the track at about 5 pm, at its top speed of around 100 kilometres per hour. He saw that the men were continuing to shoot the film, not knowing that a train was going to pass by soon. Z thought of warning them about it, but then assumed that they must have taken permission from the Indian Railways to shoot the advertisement film and hence, must be aware of the Rajdhani Express passing by at 5 pm. Hence, he did not say anything to them. At exactly 5 pm, the Rajdhani Express arrived at the spot. Unfortunately, exactly at that moment, the man and the woman who were acting in the advertisement film, and a few other of the technical staff happened to be on the railway track, and were hit by the train. 4 people were killed, and 2 were injured in the accident. The police officer investigating into the incident wants to prosecute Z for his omission to inform the 25 people of the danger of the Rajdhani Express passing by at 5 pm. Prepare a reasoned note on whether Z can be held liable for his omission to inform the 25 people of the danger.

(5 marks)

2. A, a 28 year old woman was married to B, a 29 year old man. B was always extremely violent towards A and he regularly beat her. At around 3 am on January 2, 2018, B and A had an argument, and B began hitting A with an iron rod and caused multiple injuries to her. A feared for her life, and so she ran out of the house. It was an extremely cold night, and in fact, the Weather Department had warned people to stay indoors as far as possible, due to the extreme cold conditions. A planned to go a friend's house, which was a 20 minute walk from hers. Unfortunately, around 5 minutes from her friend's place, A fell unconscious and subsequently died due to the cold weather conditions. The post-mortem revealed that death was due to the exposure to the cold, and not due to the injuries that B had inflicted on A. The police nevertheless want to prosecute B for causing A's death. B argues that there was a break in the chain of causation. You are the judge in this case. You have to first decide on the merits of B's argument. Write your reasoned opinion on the same.

(5 marks)

3. A, a famous film director told B, a woman, who was an aspiring actress that he would cast her as the lead actor in his next film if she had sexual intercourse with him. Consequently, B had sexual intercourse with A, which by her own admission was consensual. Few months later, when the cast for A's new movie was announced, B was shocked to see that she had not been given a role in the movie. She approaches you for legal opinion on whether she can prosecute A for the offence of rape. Advise her. **(5 marks)**
4. A and B were a married couple. They got married in May 2013. B (the woman) gave consent to A to videograph them when they indulged in sexual acts. A had a folder on his computer which had multiple videos of the two of them indulging in sexual acts. Due to various reasons, their relationship soured and B walked out of the relationship. She started living separately. A was infuriated by this. On the morning of April 15, 2018, he sent an email to a group of their mutual friends, attaching the videos of him and B indulging in sexual acts. C, one of their male friends who received the videos further circulated it to a group of his friends (who both A and B did not know). B wants to prosecute A and C. Does she have redress available under the Indian Penal Code? **(5 marks)**
5. Keeping in mind the arguments made by Michelle Oberman in her article *Regulating Consensual Sex with Minors: Defining a Role for Statutory Rape*, critically analyse the provisions of the Protection of Children from Sexual Offences Act, 2012 **(10 marks)**
6. Critically analyse the templates of formats used for medical examination of rape victims, as provided in pages 269-274 of the Course Pack. **(5 marks)**
7. Critically analyse the jurisprudence developed by Indian High Courts on Section 377, IPC prior to the Naz Foundation judgment of the Delhi High Court. **(5 marks)**
8. Does the definition of "consent" in the Indian Penal Code, introduced by the Criminal Law (Amendment) Act, 2013 protect a woman's sexual autonomy and freedom more effectively than the definition provided by the Punjab High Court in *Rao Harnarain Singh*? **(5 marks)**
9. A was a 17 year old girl, who lived in an apartment complex in Sector 14, Dwarka. Her neighbour, B was a police officer, who was posted as an Inspector of Police in the Tughlaq Road Police Station, New Delhi. On August 12, 2018, at around 8 pm, when A was alone at home working on an assignment for school, she heard a knock on the door. When she opened the door, she found B standing at the door. He asked A if her parents were at home. When she said that they were not, B forcibly entered the house. He then locked the door, and engaged in sexual intercourse (penile-vaginal penetration) with A. Throughout the incident, A kept saying "No." After engaging in the sexual act, B left A's house, warning her not to tell anyone about it. A, however, rushed to the nearest police station, and sought to file a FIR against B. You happen to be in the police station, conducting field-work for your dissertation. The Station House Officer (SHO) seeks your assistance on the relevant legal provisions to invoke in this case. Advise her, providing reasons for your response. **(5 marks)**