

GX 1823

**Ollscoil na hÉireann, Gallimh**  
**National University of Ireland, Galway**

**Semester II Examinations, 2002/2003**

<b>Exam Code(s)</b>	2BL1, 2BL2, 3BL1, 3BL2, 4BL2
<b>Exams(s)</b>	2 <sup>nd</sup> 3 <sup>rd</sup> & 4 <sup>th</sup> LL.B
<b>Module Codes(s)</b>	LW330
<b>Module(s)</b>	Criminal Law
<b>Paper No.</b>	1
<b>Repeat Paper</b> __ <b>Special Paper</b> __	
<b>External Examiner(s)</b>	Professor G.R. Sullivan
<b>Internal Examiner(s)</b>	Mr. Conor Hanly
<b>Instructions</b>	<p><b>Students must answer <u>Question 1 AND Question 2 AND Question 3</u></b></p> <p><b>This Examination will be conducted on a full Open Book Format</b></p>
<b>Duration</b>	<b>THREE</b> Hours
<b>No. of AnswerBooks</b>	
<b>Requirements:</b>	Open Book Format
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	
<b>No. of Pages</b>	<b>3</b>
<b>Department(s)</b>	Law

Q.1 Answer A **OR** B

- A) "The defence of provocation, while once tightly restricted, is now subject to virtually no restrictions at all, and this is how it should be". Discuss the truth of this statement in the light of developments in Irish law. Refer in detail to case-law, and, where necessary, comparisons with the approaches used in other jurisdictions may be made.

**OR**

- B) Bearing in mind the decision of the European Court of Human Rights in *Winterwerp v. Netherlands*, discuss whether Ireland's insanity defence is in breach of the European Convention on Human Rights. Refer in detail to relevant case-law, and, where necessary, comparisons with the approaches used in other jurisdictions may be made.

- Q.2 John is a professional burglar. Last night, he assembled his burglary gear: a screwdriver, which he put in his pocket, and a length of rope, which he put in a canvas bag, which he then slung across his shoulder. He left his home, and approached his target house, which he knew contained many valuable items, and attempted to gain entry by squeezing through a small window. Unfortunately, he got stuck with only his head and arms through the window. With no small amount of difficulty, he managed to free himself, and, dispirited, he walked towards his own home. On the way, however, he spotted a house with a lower window open. He went up to the window and peered inside, where he saw the beautiful Mary asleep. On a sudden sexual impulse, John climbed into the room and sat on the bed where he caressed Mary's hair. She awoke, but in the dark, assumed that the man sitting on the side of her bed was her boyfriend, Michael. She invited "Michael" into her bed and he penetrated her. However, she suddenly realised that "Michael" was in fact John, and started screaming. Alerted by the screams, Mary's parents, Tom and Angela, came running into the room, where they saw John making for the window. Angela, suffering from a heart condition, was so frightened at seeing a strange man in her home that she collapsed and died from heart failure. Meanwhile, Tom roared at John, "How dare you touch my 16 year old girl", but John had already jumped out through the window and was running away. Discuss the legal issues that arise in this scenario.

3. Brian takes a group of 8 people on a five day trek through the Wicklow Mountains. The group consists of two families – the O'Reilly's and the O'Brien's – in which the fathers are first cousins but hate each other, and this attitude of animosity is shared by all members of each family. After two days of constant bickering between the group, Brian finally loses his cool, and in

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frustration he throws a punch at Mr. O'Brien but misses and strikes Mr. O'Reilly. Brian apologises to both men, and the apology is accepted. However, ten minutes later, Mrs. O'Brien, who observed the incident, comes up and strikes Brian with a branch, stating publicly that "no-one hits my husband and gets away with it". Eventually peace is restored, but the next day, things go worse. During an orienteering lesson, 11 year old Danny O'Reilly deliberately, and without provocation, punches 12 year old Emily O'Brien in the face. While Brian tries to sort this out, Mr. O'Reilly, who can't swim, falls into a nearby river and begins to drown. A very short distance away, Mr. O'Brien, who is a qualified lifeguard, sees that Mr. O'Reilly is in trouble but merely grins and waves at him. Brian is alerted to the incident by Mrs. O'Reilly's screams, but by the time he reaches the river, Mr. O'Reilly is dead and his body has floated away. To make matters worse, Mr. O'Reilly had been leading the orienteering lesson and had the only map and compass, and his body cannot be found. The group decides collectively to wait for rescue, but after a few days they have consumed all of their food. After two weeks, with starvation beckoning, Brian suggests that they should kill and eat Mr. O'Brien – after all, he says, their predicament is all his fault. This the group does, despite Mr. O'Brien's protests. The group is rescued two days later, and doctors later confirm that only for eating Mr. O'Brien, the entire group would have died.

Discuss the legal issues that arise in this scenario. Note, you may ignore any discussion of offences; instead, your answer should focus upon the general principles of criminal liability.

**END**