



UK Law Case study Solution – sample

CONFIDENTIAL

Law Case study Question -

Three men and a boy were shipwrecked in a small boat 1500 km at sea in the South Atlantic. What little food they had was exhausted within a few days. For the next six days they had no food whatever and subsisted only on rainwater. All three men were married, with young families. Two of the men suggested that if no relief came someone should be sacrificed to save the rest. The third man dissented and the boy was not consulted. A day later, the two men suggested to the third that they should cast lots to determine who should be put to death to save the rest, but the third refused to consent. The proposal was not put to the boy, who at that time was very much weakened and was lying helpless in the bottom of the boat. The three men spoke of their families and suggested that it would be better to kill the boy so that their lives could be saved. The first man proposed that if there was no vessel in sight by the next morning, the boy should be killed. On the following day, the two men offered a prayer for forgiveness, and proceeded to kill the boy with a knife. The three men fed upon the boy's body for four days until they were picked up by a passing ship. The first two men were charged with murder while the third was not charged with any offence.

Would you acquit or convict the two accused? Why or why not. Please argue both sides. (at least a full page, single space for the response)

Solution-

I shall not acquit the two accused. The two should be convicted.

The legal aspects covered in this situation are Homicide, Necessity, Ethics and Morality. These are covered broadly in the Law of Torts. This situation also gives a perspective to students on how most of the legal decisions are subjective to the judge's background and his/her thought process.

Two men are charged with murder for killing a boy to survive in the sea on the basis that they had families to look after. The third man dissented and the boy was not consulted. The proposal was not put to the boy, who at that time was very much weakened and was lying helpless in the bottom of the boat. The three men spoke of their families and suggested that it would be better to kill the boy so that their lives could be saved.

One more aspect that can be looked into in this case is the jurisdiction of the Court. The jurisdiction will depend only if the Sea falls into the territory of the State. Laws of any country are territory specific and therefore are application only in the territory and not beyond it.

It is perfectly clear that these men did an act that violates the literal wording of the statute which declares that he who "shall willfully take the life of another" is a murderer. As per the humble understanding of the author the two men could not be acquitted because "necessity is no defence against charge of murder".

The landmark judgment of *R v Dudley and Stephens* [1884] 14 QBD 273 DC is a leading English criminal case that established a precedent, throughout the common law world, that necessity is no defence against a charge of murder. It concerned survival

cannibalism following a shipwreck and its purported justification on the basis of a Custom of the Sea.

Basing my arguments on the abovementioned case, I believe that our positive law is predicated on the prospect of peoples' coexistence in the world. Whenever a circumstance arises in which the coexistence of men becomes unfeasible, then a condition that underlies all of our precedents and statutes ceases to exist. When that condition disappears, then it is my opinion that the force of our positive law disappears with it.

Ignoring the true spirit of law which are made by man would otherwise becomes not only obsolete but null and void too. Practical life scenarios show that often times a man may break the letter of the law but not the spirit of the law. Logically, the dynamics behind a man who is free to other resources and the outside world is significantly different than men who have no other options or resources readily available. The logic should be dynamic and should be accommodative of justice.

The defense of necessity is no defense in common law for the charge of murder. Self-defense can also not apply to this case as these two people were not trying to save themselves from some apparent danger in the terms of law.

If the two persons are not convicted to the charge of murder then it would set a precedent to other people that in times of necessity, which itself has not been defined in the the law, they could resort to anything including cannibalism which would create catastrophic conditions in the society.