



The University of Fiji

SCHOOL OF LAW
Semester 1: Year 2018

FINAL COURSE EXAMINATION PAPER

LAW330: MILITARY LAW

Important Instructions to Students:

1. Read the questions and instructions carefully and answer all questions.
2. You are allowed an **extra 10 minutes** reading time (during this time, you are not allowed to write) and **180 minutes** (3 Hours) to complete this paper.
3. Write all your answers in the answer booklet provided.
4. **This Final Examination Paper is worth 60 marks or 60% of the total course.** All questions carry equal marks. Students must score at least 30 marks in this final exam to pass the course.
5. This paper contains **THREE questions**. All questions are compulsory. Read the instructions for each question carefully.
6. Write all your answers legibly. The marker has the right to award zero for answers that are not legible.
7. This is an **Open Book Examination**. Any reference material may be brought in and used. There is to be no discussion or sharing of materials. The University views plagiarism, cheating and dishonest practices as serious offences; offenders will be penalized.

Examination Paper Content (Format):

<u>Section</u>	<u>Question</u>	<u>Content</u>	<u>Marks</u>	<u>Suggested Time</u>
		ANSWER ALL QUESTIONS	60	
		TOTAL	60	180 Minutes

Question 1

25991 Lance Corporal Alipate Dau, a Regular Force member of the Engineer Regiment was charged for the following offences:

- a. Disobeying a Lawful Command Contrary to Section 34 of the Army Act 1955:**
- b. Committing a Civil Offence Contrary to Section 70 of the Army Act 1955, that is to say Assault Occasioning Actual Bodily Harm Contrary to Section 275 of the Crimes Act 2009; and**
- c. Spreading Reports Relating to Operations likely to Create Despondency or Unnecessary Alarm Contrary to Section 63A of the Army Act 1955**

On a finding of guilty and acceptance of award, the Officer Commanding Major Snow Buli awarded the following:

- Charge 1 - Reversion to the rank of Private:**
- Charge 2 - 28 days detention; and**
- Charge 3 - 60 days detention and discharge from the Forces for Service No Longer Required.**

The award has been submitted to the Appropriate Superior Authority for confirmation. Facts were as follows:

Lance Corporal Dau was posted to Delta Company in Nadi to assist in the disaster planning, evacuation of civilians as Cyclone Keni neared the Division. On 10 April 2018, Sergeant Kameli Soro rang Lcpl Dau and informed him to prepare for deployment and to issue necessary orders to his troops.

At 1800 hrs, orders were issued for a Section of the Delta Company to deploy to Denarau to evacuate civilians needing assistance due to the sudden rise of the water level. Sgt Soro advised Lcpl Dau to proceed to Denarau with his Engineering Section and assist in evacuating personnels to the designated centres. In approaching Nadi Town, Lcpl Dau instructed Private Sailasa Mua to proceed to Cuvu Village. He stated that he wanted to ensure that his inlaws were safe and well provided for in the villiage. Pte Mua was hesitant. He reasoned with Lcpl Dau about proceeding immediately to Denarau and that the changing tide level could pose further difficulties in hours. Lcpl Dau then slapped Pte Mua's head and told him to obey his superiors. Pte Mua proceeded to Cuvu Village with concerns.

On returning from Cuvu and entering the Nadi Town, the military vehicle ran out of fuel. The vehicle could not proceed any further.

In realizing what had happened, Lcpl Dau posted a message on his facebook page stating "Nadi Town was completely under water and that the waters from surrounding dams were moving

towards the Town". He further stated that all recovery operations were suspended and the military and police personnels were withdrawing due to safety concerns. The facebook postings were widely circulated with personnels moving to assist and see the happenings in Town.

The facebook comment was brought to the attention of Major Snow Buli who immediately negated the comments and denied any such happenings.

Major Snow Buli then directed Private Anil Prakash to arrest Lcpl Dau and to place him under close arrest at Delta Company in NASA.

You are a Legal Officer at the Directorate Army Legal Services. You have been asked to review the case and provide a legal opinion regarding the arrest and custody, charges and award of punishments against Lance Corporal Alipate Dau. Your legal opinion should include relevant authorities. Lance Corporal Dau holds a temporary rank.

[20 marks]

Question 2

28793 Sergeant Sosi Liga (substantive Corporal) is a Territorial Force member who has been enlisted to serve in the Regular Force stationed with the United Nations Interim Forces in Lebanon (UNIFIL). Sgt Liga departed Fiji on 13 February, 2018. He has been attested to serve in the Regular Force for 14 months.

In Lebanon, Sgt Liga has been assigned the duties of a driver. On 11 March 2018, he was assigned to drive 3 Section, 4 Platoon, Delta Company for routine mobile patrol along the coastal road.

As he was driving, a civilian car registration number 1057896 swerved past Sgt Liga's vehicle, UNIFIL 983. Sgt Liga told the Section Commander, 29977 Corporal Abras Singh that the civilian driver was reckless. Sgt Liga then increased the speed of his vehicle and was travelling at 85 kmph. The speed limit for all UNIFIL vehicles is restricted at 40kmph.

In approaching the road junction to Qana Village, civilian vehicle 1057896 suddenly turned without giving any indication. Sgt Liga saw the civilian vehicle turn but could not maneuver his vehicle in time. UNIFIL vehicle collided on the left rear of the civilian vehicle causing extensive damage.

Sgt Liga got off the vehicle and started to argue with the civilian driver, namely Abu Rahim. The situation escalated when other Lebanese nationals joined and accused Sgt Liga of driving recklessly.

In fearing for his safety, Sgt Liga drew his rifle and fired a warning shot to disperse the crowd.

The projectile from the fired bullet ricocheted from a rock and struck the Section Commander, Corporal Abras Singh injuring his right thigh. Members of his section rendered first aid.

A Board of Inquiry was convened by the Commanding Officer. As a result, Sgt Liga was charged for the following offences:

Charge 1

Disobedience to Standing Orders Contrary to Section 36(1) of the Army Act 1955

in that he at Coastal Road, South Lebanon on 11 March 2018 contravened 1FIR (UNIFIL) Standing Orders no. 31/18 which was known to him or which he might reasonably be expected to know by driving UNIFIL vehicle 983 at a speed of 85 kmph in a 40kmph zone.

Charge 2

Neglect to the Prejudice of Good Order and Military Discipline Contrary to Section 69 of the Army Act 1955

In that he, at Coastal Road, South Lebanon on 11 March 2018 so negligently drove UNIFIL vehicle UN 983 as to cause it to come into collision with Lebanese Civilian vehicle 1057896, the property of Abu Rahim, thereby occasioning damage to the said vehicle to the extent of \$1500.00 (USD).

On a finding of guilty and acceptance of award, the Commanding Officer has awarded the following punishments:

Charge 1

Reversion to substantive rank of Corporal, and 3 days extra guard duty.

Charge 2

Fine of 7 days pay and stoppage of \$1500.00 (USD) and repatriated to Fiji.

You are a legal officer of the Directorate Army Legal Services. You have been asked to provide legal opinions regarding the case. Your opinion should include authorities.

[20 marks]

Question 3

21773 Private Jope Biu is a member of 2 Platoon, Bravo Company of 3FIR. He enlisted into the Forces on 24 January 2009. On 16 January 2016, he was walking from Albert Park after watching the Army against Imperial cricket game. He neared the Dragon night club and met

36339 Corporal Sena Bera another member of the RFMF who had just returned from the Middle East. Cpl Bera invited Pte Biu into the nightclub for few beers. They both drank merrily until 2300 hours when Pte Biu excused himself. He had got a text message that his wife had gone into labour and was rushed to CWM Hospital. As he descended down the stairs, he collided with Sisa Lutu. Mr Lutu and Pte Biu both rolled down the stairs. At the bottom landing, Mr Lutu got up and started swearing at Pte Biu, resulting in each pulling and pushing each other. Pte Biu threw a punch which caught Mr Lutu on his chin. Mr Lutu staggered backwards and landed on the pavement. His head hit the edge of the first step. Mr Solomon Dau, the bouncer intervened and escorted Pte Biu outside. Outside, Mr Dau hailed a military vehicle that was passing by. Warrant Officer Class Two Napolioni Mudu the Orderly Officer for the day was travelling to Government House to check the security guards. He got off and recognized Pte Biu. He arrested Pte Biu and placed him in the vehicle. WOII Mudu headed to Government House and then to Queen Elizabeth Barracks. As he neared the main gate, he saw a police car parked outside. On seeing WOII Mudu's vehicle, the Police Officer hailed the military vehicle. Police Constable Raj Singh identified himself and informed WOII Mudu that a police complaint had been lodged by Mr Lutu in that Pte Biu had assaulted him. WOII Mudu refused to release Pte Biu stating that Pte Biu was a soldier and only subject to military law. WOII Mudu entered the Camp and placed Pte Biu under close arrest.

Cpl Bera who was in the night club heard of Pte Biu's arrest. He came down to Mr Dau (the bouncer) and questioned him as to why Pte Biu was arrested. He told Solomon Dau, that as a reservist member of RFMF he should have looked after Pte Biu. Mr Dau admitted that he is a territorial soldier who was recruited in 1988.

Private Biu has been charged for the following offences:

Charge 1

Drunkenness Contrary to Section 43(1) of the Army Act 1955
in that he at Dragon Night Club, Suva, on 16 January 2016 was drunk.

Charge 2

Fighting Contrary to Section 43A(a) of the Army Act 1955
in that he at Dragon Night Club, Suva on 16 January 2016 without reasonable excuse fought with Mr Sisa Lutu.

On hearing the charge and finding of guilty, Lieutenant Colonel Samuela Damuni, the Commanding Officer awarded the following punishments:

Charge 1

Awarded 30 days detention, Fine \$130.00 and reprimand.

Charge 2

Awarded fine of 28 days pay and stoppage of \$150.00 as compensation.

You are a Legal Officer of the Directorate Army Legal Services. You have been asked to provide legal opinions regarding the arrest and custody, charges and award of punishments against Private Biu.

[20 marks]