

# CRW2602 – SPECIFIC CRIMES

## UNIT 5 – CRIMES AGAINST LIFE AND POTENTIAL LIFE

# MURDER

STUDY PAGES 437-441 (DO NOT STUDY THE PRESCRIBED PUNISHMENT FOR MURDER)

## THE ELEMENTS OF THE CRIME:

- ▣ THE CAUSING OF THE DEATH
- ▣ OF ANOTHER PERSON
- ▣ UNLAWFULLY
- ▣ INTENTIONALLY

# MURDER – ANOTHER PERSON

- ANOTHER PERSON MUST BE KILLED
- THE OBJECT OF THE CRIME MUST BE A LIVING HUMAN BEING

# MURDER

## ▣ MSHUMPA CASE

# CULPABLE HOMICIDE

## ELEMENTS OF THE CRIME:

- ▣ THE CAUSING OF THE DEATH
- ▣ OF ANOTHER PERSON
- ▣ UNLAWFULLY AND
- ▣ NEGLIGENTLY

# CULPABLE HOMICIDE

- **ONUS ON THE STATE TO PROVE BEYOND A REASONABLE DOUBT THAT:**
  - A REASONABLE PERSON IN THE SAME CIRCUMSTANCES AS X WOULD HAVE FORESEEN THE POSSIBILITY THAT HIS CONDUCT MIGHT BRING ABOUT THE DEATH OF ANOTHER PERSON; AND
  - THE REASONABLE PERSON WOULD HAVE TAKEN STEPS TO GUARD AGAINST SUCH A POSSIBILITY AND THAT X'S CONDUCT DIFFERED FROM THAT OF A REASONABLE PERSON

# ACTIVITY

X IS A KEEN HUNTER AND HE OWNS A MUSGRAVE 270 HUNTING RIFLE. ONE DAY, HE DECIDES TO CLEAN HIS RIFLE, WHICH HE KEEPS IN HIS STUDY. X IS UNDER THE IMPRESSION THAT THERE ARE NO BULLETS IN THE MAGAZINE OF THE RIFLE BECAUSE HE HAD REMOVED THEM AFTER HIS PREVIOUS HUNTING EXPEDITION.

AFTER CLEANING THE RIFLE, HE PULLS THE TRIGGER JUST TO TEST WHETHER IT IS WORKING. A SHOT GOES OFF AND KILLS X'S WIFE. X IS CHARGED WITH MURDER. X'S DEFENCE IS THAT HE MADE A FACTUAL MISTAKE AND THEREFORE LACKED INTENTION TO COMMIT MURDER HE WAS UNDER THE IMPRESSION THAT THERE WERE NO BULLETS IN THE MAGAZINE.

YOU ARE THE STATE PROSECUTOR OF WHAT CRIME SHOULD X BE CONVICTED AND WHY? ALSO EXPLAIN THE ONUS ON THE STATE IN PROVING THIS OFFENCE