

Tutorial letter 101/3/2018

Selected topics of Criminal Law CRW2603

Semesters 1 & 2

Department of Criminal and Procedural Law

IMPORTANT INFORMATION:

This tutorial letter contains important information about your module.

BAR CODE

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1 INTRODUCTION

Welcome to this module, which deals with the general principles of criminal law, as well as specific crimes which you may have to deal with when performing your duties. We hope that you will find this module interesting and rewarding.

This tutorial letter contains important information about this module. We urge you to read it carefully and to have it available when working through the study material, doing assignments, preparing for the examination, and addressing questions to your lecturers.

This tutorial letter also provides all the relevant information with regard to the prescribed study material. Please read this information carefully and make sure that you obtain the prescribed material as soon as possible.

In this tutorial letter you will also find the assignments for the semester and instructions on how to do and submit them.

Finally, we have included information on general and administrative matters relevant to this module. Please study this section of the tutorial letter carefully.

We would like to point out that you must read all the tutorial letters you receive during the semester immediately and carefully—they always contain important, and sometimes urgent, information.

The study material for CRW2603 consists of the following:

- one study guide
- this tutorial letter, Tutorial Letter 101/2018
- further tutorial letters (which you will receive online via *myUnisa* during the semester)

Some of this tutorial matter may not be available when you register. Tutorial matter that is not available when you register will be available on *myUnisa*.

We hope that you will enjoy this module and wish you all the best with your studies!

2 PURPOSE OF AND OUTCOMES FOR THE MODULE

2.1 Purpose

The code of this module is CRW2603. CRW2603 is a semester module. This means that if you register for this module in the first semester of 2018, you will write your examination in May/June 2018, and if you register in the second semester of 2018, you will write your examination in October/November 2018. If you fail the examination in May/June 2018 but are granted a supplementary examination, you will write the supplementary examination in October/November 2018. If you fail the main

examination in October/November 2018 but are granted a supplementary examination, you will write the supplementary examination in May/June 2019.

The work in this module is based on the general principles of criminal law. A selection of specific crimes is also discussed. The **purpose** of this module (CRW2603) is that you should gain the knowledge, skills and competencies that will enable you to analyse and critically evaluate the current general principles for criminal liability, as well as know the principles involved in the selection of specific crimes. A further aim of this module is that you should be able apply the knowledge, skills and competencies to practical problems.

2.2 Outcomes

The **main outcomes**, and the competencies that you should develop by studying this module, are the following:

- the ability to discuss the rules that govern the principles of participation in a crime
- the ability to discuss the rules that govern the principles of attempt, conspiracy, and incitement
- the ability to discuss the rules that govern the principles of a selection of specific crimes.

The outcomes mentioned above are also relevant for **assessment** purposes (by your lecturers and yourself). In the examination you will have to answer **theoretical questions** which will require you to demonstrate your knowledge of the study material. A number of **problem-type questions** will also be posed to assess your understanding and ability to apply your theoretical knowledge in practice. Both types of question will assess how you use certain competencies, such as the ability to remember legal principles and to apply them to factual scenarios.

Since you are a Unisa student learning through distance education, you will also be required to assess yourself. **Self-assessment (or self-evaluation)** is an important tool for assessing the extent to which you have mastered the study outcomes. Apart from the feedback on assignments, which will provide specific guidance, you must take note of the specific outcomes identified in each study unit of your study guide to determine whether you have achieved the knowledge and insight required. In this way you will be able to identify areas in which you may need to improve your knowledge and/or understanding.

3 LECTURER(S) AND CONTACT DETAILS

3.1 Lecturer(s)

Please direct all queries about the module content (**but not about administrative matters**) to us, and ensure that you have the study material at hand when doing so.

Letters should be sent to:

The Module Leader (**CRW2603**)
Department of Criminal and Procedural Law
PO Box 392
UNISA 0003

PLEASE NOTE: Letters to lecturers may not be enclosed with or inserted into assignments.

You may contact me by telephone, email or fax:

Dr. BJ Gordon (012) 429 8652
E-mail: bgordon@unisa.ac.za

When I am not available, it is preferable to send me an e-mail, or leave a voice message on my telephone number. I shall reply as soon as possible. You are welcome to visit me to discuss any queries about or problems concerning the module. However, **please make an appointment beforehand**; otherwise there is a risk that I may not be available. My office is on the 8th floor of the Cas van Vuuren Building, Main Campus, Muckleneuk Ridge, Pretoria. My office number is 8-46.

3.2 Department

You are welcome to leave a message with the departmental liaison secretary, Ms. Choene Mabotja, at (012) 429 4995.

3.3 University

If you need to contact the University about matters not related to the content of this module, please consult the publication, *my Studies @ Unisa*, which you received with your study material. This brochure contains information on how to contact the University (e.g. to whom you can write for different queries, important telephone and fax numbers, addresses and details of the times certain facilities are open).

Here is a list of often used contacts:

Description	Contact Detail	SMS	Type
Student assessment administration	Exams@unisa.ac.za	43584	Examination queries
myLife e-mail	MyLifeHelp@unisa.ac.za	43582	myLife queries
Graduations	gaudeamus@unisa.ac.za		Graduation enquiries
Finance	finan@unisa.ac.za	31954	Student account queries
Despatch	despatch@unisa.ac.za	43579	Study material queries
Student assessment administration	Assign@unisa.ac.za	43584	Assignment queries
Student admissions and registrations	Study-info@unisa.ac.za	43578	Application and registration queries
myUnisa	MyUnisaHelp@unisa.ac.za	43582	myUnisa queries

4 MODULE-RELATED RESOURCES

4.1 Inventory letter

You should have received an inventory letter telling you what you have received in your study package and also indicating the items that are still outstanding. Also see the brochure entitled *my Studies @ Unisa*. Check the study material you received against the inventory letter. You should have received all the items specified in the inventory, unless a particular item is indicated as “out of stock” or “not available”. If any item is missing, follow the instructions on the back of the inventory letter without delay.

PLEASE NOTE: Your lecturers cannot help you with missing study material.

4.2 Study material

The Department of Despatch should have supplied you with the following study material for this module:

- A study guide
- Tutorial Letter 101 at registration and others later during the course of the semester

Apart from Tutorial Letter 101, you will also receive other tutorial letters during the semester. These tutorial letters will not necessarily be available at the time of registration, but will be released to you as soon as they are needed (for instance, for feedback on assignments). Please note that some (shorter) tutorial letters will be available on *myUnisa* only, and will not be printed. It is therefore important that you check *myUnisa* periodically to read your tutorial letters.

If you have access to the Internet, you can view the study guides and tutorial letters for the modules for which you are registered on *myUnisa*, at: <http://my.unisa.ac.za>.

4.3 Prescribed books

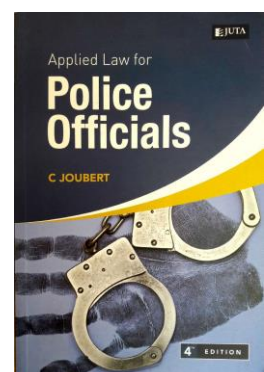
The prescribed book for this module is Joubert, *Applied Law for Police Officials*, (4th ed.) 2013, Juta.

4.4 Recommended books

There are no recommended books for this module.

4.5 Electronic Reserves (e-Reserves)

There are no E-reserves for this module.



5 STUDENT SUPPORT SERVICES FOR THE MODULE

5.1 General Support

For information on the various student support systems and services available at Unisa (e.g. student counselling, tutorial classes, language support), please consult the brochure *my Studies @ Unisa* **which** you received with your study material.

We recommend that you establish contact with fellow students. One way of doing this is to form study groups. The addresses of other students in your neighbourhood are obtainable from:

Directorate: Student Administration and Registration
PO Box 392
UNISA
0003

The *myUnisa* learner management system is the new virtual campus that will help you to communicate with your lecturers, other students and the administrative departments of Unisa – all via the internet.

To go to the *myUnisa* website, start at the main Unisa website <http://www.unisa.ac.za> and click on the link “Login to *myUnisa*” under the subject head “*myUnisa*”. This will link you to the *myUnisa* main website. You can also go there directly by typing in <https://my.unisa.ac.za>.

No group discussion classes have been scheduled for this module.

Unisa offers an additional academic support service to students to develop and enhance their learning experience and academic performance. Students, at especially first- and second-year levels, are provided with weekly face-to-face tutorials led by qualified tutors. For more information on tutorial support services, consult *my Studies @ Unisa*.

5.2 Social Media

In 2018 I will be experimenting with delivery of study material and other notices *via* social media. After extensive research I have decided to use an app called Telegram Messenger. This app is available on a variety of platforms, such as Android, iPhone, Windows phone and computers (Windows, Mac and Linux).

Telegram Messenger is in many ways similar to the popular social media app, Whatsapp Messenger, but I chose to use Telegram Messenger because it avoids a number of common limitations of Whatsapp Messenger when using large groups.

It is very important to note that this is an *experiment* to serve you better with your studies,



but will *not* be a replacement for *myUnisa*. Using Telegram to communicate with you is also *voluntary* – you do not have to participate if you do not want to.

If you do decide to participate, you will be joined to a group where I am the administrator. I will send tutorial letters, voice notes, and maybe even short video clips to you in order to help you through the study guide. Hopefully this will all help you to stay focused and make the module more enjoyable.

If you want to be a part of the Telegram group, you will have to do a few things:

- Install telegram from your Android Play Store or iPhone App Store to your cellular phone, or to your pc by visiting <https://telegram.org/>.
- E-mail your first name, last name and cellular phone number to bgordon@unisa.ac.za. I will then join you to the group.

6 PRINT BASED AND ONLINE MODULE

6.1 Introduction

This module is both print based and an online module. This means that the entire curriculum is printed in a study guide, but is also electronically available through *myUnisa*. (The online portion of this module contains podcasts, which are basically “mini-contact sessions” to help you get familiar with the study material).

If you do not access this module on *myUnisa*, you will not be prejudiced. It is simply a tool to help you with your studies.

6.2 Electronic submission through *myUnisa*

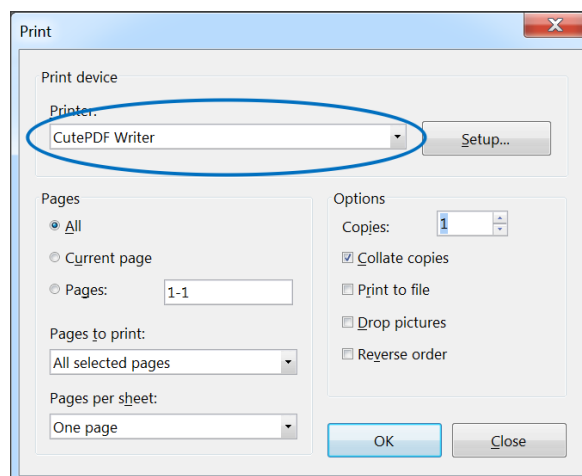
YOU ARE STRONGLY ADVISED TO SUBMIT YOUR ASSIGNMENTS THROUGH MYUNISA, AND NOT THE TRADITIONAL PAPER BASED ROUTE LIKE IN THE PAST. The reason for this is that the turnaround time for electronic assignments is shorter than paper based assignments. You can also verify that your assignment was submitted successfully.

If you choose to submit electronically, you will have to convert your electronic Word processing document file into a PDF file.

This is an explanation on how to create an Adobe Acrobat pdf file. Follow the instructions below, and it will not be too difficult.

Step 1: Find a good free pdf creation program on the Internet, and download it. My personal favourite is “CutePDF” (<http://www.cutepdf.com>) At under 2mb it is a small download. (If you want to look at other free pdf printers, Google for “best free pdf printer”.)

Step 2: Install the pdf printer program.



Step 3: Open your assignment in your word processing program, and then 'print' the document as you would have on a printer. (Usually "File -> Print".)

Instead of selecting the physical printer, choose the PDF printer (in this case CutePDF). The program will prompt you for a file name, and the file will be created.

Step 4: Open the pdf-file in a pdf Reader program. If you are satisfied with the contents of the pdf file, submit it (the pdf file) to us. (Now we'll see the document exactly the same way as you formatted it on your computer.)

If you need to view a pdf file, consider many of the free pdf viewer programs. The 'official' Adobe pdf reader is only one among excellent other programs!

7 MODULE-SPECIFIC STUDY PLAN

The specific study plan for CRW2603 below is based on the assumption that all academic activities for the 1st semester 2018 will commence in February and continue until the end of April 2018. For the 2nd semester 2018, studies will commence in July and continue until the end of September 2018. The examination period for the 1st semester commences early in May 2018 and runs until early June 2018, while the examination period for the 2nd semester commences early in October 2018 and runs until November 2018.

Study Plan	Study plan for the First Semester 2018	Study plan for the Second Semester 2018
Study Unit 1	2018-01-29	2018-07-02
Study Unit 2	2018-02-05	2018-07-09
Study Unit 3	2018-02-12	2018-07-16
Study Unit 4	2018-02-19	2018-07-23
Study Unit 5	2018-02-26	2018-07-30
Study Unit 6	2018-03-05	2018-08-06
Study Unit 7	2018-03-12	2018-08-13
Study Unit 8	2018-03-19	2018-08-20
Study Unit 9	2018-03-26	2018-08-27
Study Unit 10	2018-04-02	2018-09-03
Study Unit 11	2018-04-09	2018-09-10
Study Unit 12	2018-04-16	2018-09-17
Revision	2018-04-23	2018-09-24
Revision	2018-04-30	2018-10-01

8 ASSESSMENT

8.1 Assessment plan

You have to submit two compulsory assignments during the semester for which you have registered. If you have registered for the first semester, you must submit only the assignments for the first semester. If you have registered for the second semester, you must submit only the assignments for the second semester. Both assignments contribute to your semester mark.

The semester mark counts 20% towards the final mark and is calculated as follows:

Assignment 1 = 10% of the semester mark.

Assignment 2 = 10% of the semester mark.

The final examination mark counts 80% towards the final mark.

NB! PLEASE NOTE THAT YOU *MUST* SUBMIT THE FIRST ASSIGNMENT IN ORDER TO BE ADMITTED TO THE EXAMINATION.

All students who submit the first compulsory assignment in time (before or on the date of submission) will be admitted to the examination, regardless of the mark they obtain for this assignment. In other words, a student who submitted the first assignment but obtained 0% will still be allowed to write the examination. Students who do not submit the first compulsory assignment before or on the due date will not be admitted to write the examination, irrespective of whether they submit the second compulsory assignment afterwards.

Assignments, like the activities in the study guide, form an extremely important part of this module. When you do the assignment, study the prescribed reading, consult other resources, discuss the work with fellow students or do research, you are actively engaged in learning. In the assignments you have to prove that you have the required knowledge about and insight into the subject to answer relevant questions. You must submit two compulsory assignments during the semester for which you have registered.

This tutorial letter also includes a Self-evaluation assignment, which is numbered Assignment 3. You should *not* submit this assignment to Unisa. It is provided to help you prepare for the examination.

Students often find it rewarding to work in a group when preparing an assignment. Unisa encourages students to work together. However, note that when doing an assignment you must give your own interpretation of what you have learnt in the group. Identical assignments by different members of a group are not acceptable. Please note: Although students may work together when preparing assignments, each student must write and submit his or her own individual assignments. Several students may not hand in identical assignments merely because they worked together on them. This is plagiarism, and such assignments will not be marked. In addition, these students may be penalised or subjected to the disciplinary proceedings of the University.

8.2 General assignment numbers

8.2.1 Unique assignment numbers

Semester 1/2018

Assignment 1: **661025** (Written assignment)

Assignment 2: **732827** (Multiple choice assignment)

Semester 2/2018

Assignment 1: **839645** (Written assignment)

Assignment 2: **782403** (Multiple choice assignment)

8.2.2 Due dates for assignments

Semester 1/ 2018

Assignment 1: 14 March 2018

Assignment 2: 22 March 2018

Semester 2/2018

Assignment 1: 22 August 2018

Assignment 2: 30 August 2018

8.3 Submission of assignments

To submit an assignment via *myUnisa*:

- Go to *myUnisa*.
- Log in with your student number and password.
- Select the module.
- Click on assignments in the menu.
- Click on the assignment number you want to submit.
- Follow the instructions.

Assignment queries

PLEASE NOTE: Enquiries about assignments (e.g. whether the University received your assignment or the date on which an assignment was returned to you) cannot be addressed to lecturers. You may call the College of Law directly at (012) 441 5516. You might also find some relevant information on *myUnisa*.

8.4 Assignments

First Semester 2018

There are TWO compulsory assignments for this module. While both compulsory assignments contribute to your semester mark, you have to submit the first compulsory assignment in order to obtain admission to the examination.

8.5 How to answer a scenario-type question in the assignments or exam

I find that some students still have some difficulty in answering a scenario-type question simply because they do not know how to properly plan it. Please read through the example below, as well as the comments given on the side. Then you will be able to understand how to maximize the number of marks that you may obtain from your answer. So, I will be giving you the question and answer below.

Typical criminal law scenario question

While Harry was on holiday in the Far East, he saw that fake "Abibas" shoes could be bought at a tenth of the normal retail price. Genuine Abibas shoes are very expensive because they are shoes of a very high quality, and people are generally quite prepared to pay a substantial amount for them. Harry saw that the shoes were not genuine Abibas shoes, but realised that he had the opportunity to make a lot of money in a short time. He bought shoe stock for the amount of R10 000, shipped it to South Africa and sold the shoes at a flea market in South Africa as genuine Abibas shoes. Harry's stall carried a huge advertising board stating: "Genuine Abibas shoes for sale here - only R400". Harry also told people walking past the stall that the shoes were original Abibas shoes. He sold the shoes for R400 a pair, knowing that he had paid only R60 per (fake) pair. However, before he could sell all the shoes, the police arrived and arrested Harry.

Can Harry be convicted of any crime? Discuss in detail.

Answer:

Before attempting to answer a long question, first *plan* what you are going to say. If you do not do this, your answer will not make sense, and it will look as if you have merely written down your own thoughts as they came up. This, of course, does not create a good impression.

When the question requires you to discuss the perpetrator's criminal liability, or asks whether the perpetrator can be convicted of a crime, then it means that you must discuss the question by referring to the elements of the crime. (Note: A long question does not always take this form - sometimes you must take another approach. This question is merely an example.)

The structure of the answer may be as follows:

Introduction	From this illustration you can see that the answer is structured in a specific way. First we have the introduction where the topic is introduced. Then we have the body of the answer. Here the principles are discussed first, and then it is applied to the scenario. The last part of the answer contains the conclusion.
Definition	
Conduct	
Application	
Unlawfulness	
Application	
Culpability	
Application	
Conclusion	

Side note:

What is the difference between a principle and the application?

A principle states what the legal position is regarding a particular issue. This is the 'rule' that will apply in all cases. For example, a principle of fraud is that there must be a misrepresentation. This will apply to ALL cases involving fraud, and not only to the particular scenario.

The *application of the principle* is where you explain how the particular principle plays out in the scenario. For example: "Harry's conduct amounts to a misrepresentation because he told customers that the shoes were genuine". You can see from the example that principles are **general** (applies to all cases), whereas the application of the principle is **specific** (is specific to the current scenario).

Now I am going to show you how to answer the question by using *principles* and *applications*.

Answer

Explanation

Introduction

Harry can be charged with fraud. However, before he can be convicted of this crime, it must be clear that he complied with all the requirements of the crime. (1)

In the introduction to the answer you have to identify which crime you will be dealing with. It is VERY important that you identify the correct crime, because if you fail to do this, you will not earn any marks for a discussion of the wrong crime!

Definition

Fraud is the unlawful and intentional making of a misrepresentation with fraudulent intent so that the prejudiced person suffers actual or potential prejudice. (1)

The definition of the crime is always important, because it gives all the elements of the crime in a nutshell.

From here on the requirements of the crime are discussed.

Conduct

Misrepresentation

The act of fraud consists in making a misrepresentation to the prejudiced person. This misrepresentation must be false, and the prejudiced person must be brought under a false impression as to the real facts. (1)

The misrepresentation can be made in a variety of ways. It can be made by means of the spoken or written word, or it can even be made through conduct. It can be a positive act or even an omission. (1)

Prejudice

It is a requirement for fraud that the misrepresentation should entail some prejudice to the aggrieved person. The prejudice can be real or potential. (1)

Real prejudice takes place when the prejudiced person has already acted to his or her prejudice, in other words, the prejudiced person has already suffered a financial loss of some kind. (1)

Potential prejudice takes place when the prejudiced person has not yet acted to his prejudice, but the possibility exists that the person might act on the misrepresentation and thus cause a loss to himself or herself. (1)

Application

Harry told all his customers at the flea market that the shoes were originals, knowing that this was not the truth. Therefore Harry made an oral misrepresentation to all his customers. (1)

The prejudice was also made in writing, because the advertising board falsely represented the shoes as originals. (1)

The customers who had already bought shoes had already suffered real prejudice. Harry's potential clients suffered potential prejudice, because they could possibly

After the introduction and definition you have to discuss the *elements* of the crime. This is what you studied in your study guide. For example, with fraud you would have to discuss the misrepresentation, what prejudice entails, (this is all part of the conduct element), unlawfulness and culpability. These elements will differ according to the specific crime which you are discussing.

NOTE THAT YOU MAY NOT COPY FROM THE STUDY GUIDE. Write down the principles IN YOUR OWN WORDS.

Notice that when discussing the principles you DO NOT MENTION THE PARTICULAR SCENARIO! Look at the answer to your left, and you will notice that Harry is NOT MENTIONED ANYWHERE when discussing the misrepresentation and prejudice. Only the legal principles are explained.

You will discuss the scenario with the application, which will follow only later.

You can see here that it is very important to know what the elements of the particular crime that you are discussing are. The elements form the outline (headings) of your discussion.

VERY IMPORTANT: You only discuss the *principles* here.

Now that you have completed discussing the principles of fraudulent conduct, you will give the application. This means that you will take the principles which you have discussed so far (misrepresentation and prejudice), and see how it applies to the scenario. Does Harry's conduct amount to a misrepresentation? Did he cause prejudice?

Notice that this is the FIRST TIME that Harry's is mentioned here. Students often "mix up" the principles and application, and then they lose many marks. Do NOT fall into that trap!

The discussion of the element of conduct is complete. The principles of conduct, namely misrepresentation

be swayed to buy the fake shoes.

(1) and prejudice were discussed, and application was given. Now we move on to the principles of the next element, namely unlawfulness.

Unlawfulness

Unlawfulness means that the perpetrator's conduct must infringe the *legal convictions of society*. If the perpetrator's conduct is wrong in the eyes of the community, his or her conduct will be unlawful. (1)

Again, the principles of unlawfulness are discussed first, followed by the application.

However, before it can be said whether the perpetrator's conduct is actually unlawful, it must be clear that the perpetrator cannot rely on some ground of justification. If the perpetrator can rely on a ground of justification, his or her conduct would not be unlawful. (1)

Notice again that the principles are discussed, i.e. the legal position is given. NO mention is made of Harry in the scenario.

Compulsion or obedience to orders may conceivably operate as grounds of justification with fraud. (1)

Application

Harry's conduct infringes the legal convictions of society, as he is trying to defraud some members of the public. There is no ground of justification that Harry can rely on, and as a result his conduct is unlawful. (1)

This application explains if Harry's conduct was in violation of the element of unlawfulness. Notice that this application talks *only* about unlawfulness, as discussed directly above.

Culpability

Fraud can only be committed intentionally. In this regard it is very important to note a crucial distinction, and that is the difference between the intention to deceive and the intention to defraud. (1)

Now we move on to the next element, namely culpability. Again the principles are discussed first.

The intention to deceive involves the perpetrator telling a lie without intending the prejudiced person to act on the misrepresentation. It is therefore not the perpetrator's intention that the aggrieved person should act to his or her prejudice. (1)

With some crimes it is not merely intention or negligence that is required. There are also some additional requirements. Fraud is an example of this, where the intention to defraud is required. It is therefore important to discuss all specific requirements, where relevant.

In contrast, the intention to defraud means that the perpetrator makes a misrepresentation with the intention that the aggrieved person should act to his or her prejudice. (1)

If the perpetrator merely has the intention to deceive, this is not sufficient to satisfy the element of culpability regarding fraud. Only if the perpetrator has the intention to defraud would it be sufficient to constitute the necessary intention required for fraud. (1)

Application

From the given facts it is clear that Harry had the intention to **defraud**. He wanted the people at the flea market to buy the fake shoes for more than they were really worth, and therefore he wanted the customers to act to their prejudice. (1)

Conclusion

Harry complies with all the requirements for fraud and as a result he can be convicted of this crime. (1)

Here the application deals with culpability. Did Harry have the intention to deceive, or the intention to defraud?

In the conclusion, all the applications that have been made are condensed into a whole. Now we can see that the perpetrator complies with all the elements of the crime of fraud, and only if this is the case, can the perpetrator be convicted of the crime. If the perpetrator does not comply with all the requirements of the crime, he will have to be acquitted.

You can see that a systematic approach to dealing with the question was followed.

First Semester 2018 – Assignment 1**DUE DATE: 14 March 2018****UNIQUE NUMBER: 661025**

Please note that this assignment is compulsory for students registered for CRW2603 for the FIRST SEMESTER 2018. It is the first compulsory assignment for the FIRST SEMESTER. You have to submit this assignment on time in order to obtain admission to the examination in May/June 2018.

Assignment 1

Johnny is an amateur pilot, and loves flying around in his new, two seater aeroplane. He often flies around his neighbourhood to see anything which might interest him. However, he sometimes fly so low over neighbouring houses that some people have complained to him about his negligent behaviour. He also knows it is against air traffic regulations to fly so low over a populated neighbourhood.

One day, while flying low over his neighbourhood, Johnny loses control over his aeroplane, and crashes into the ground. He miraculously survives, but three pedestrians are killed.

- 1.1 Which crime, if any, did Johnny commit? Explain fully by referring to the elements of the crime. (10)

Note: Do not discuss any air traffic violations. Discuss the main crime that was committed, and focus on the fact that people were killed. Look carefully at the element of culpability.

- 1.2 What would the position have been if police later found out that one of the three pedestrians that were killed, was Johnny's ex-girlfriend, and that Johnny intentionally crashed the aeroplane in order to kill his ex-girlfriend? (5)

[15]

TIP: Read the section: “**8.5 How to answer a scenario-type question in the assignments or exam**” (above) before completing this question. It will assist you in answering the question logically in the assignment, as well as teach you how to answer a question in the exam.

End of Assignment 1

Please turn the page...

Assignment 2

PLEASE SUBMIT THIS ASSIGNMENT ON THE INTERNET THROUGH MYUNISA. SEE ALSO POINT 6 OF THIS TUTORIAL LETTER (ABOVE).

Question 1

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Tip: Write the answer on a piece of paper before submitting the answer via *myUnisa*.

Statements:

- (a) The doctrine of common purpose requires that two or more people, having a common purpose to commit a crime, act together in order to achieve that purpose. In such a case the acts of each of them in the execution of such a purpose are imputed to the others.
- (b) With the doctrine of common purpose it is important that participants associate themselves *actively* with the conduct.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 2

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) Malicious damage to property can be committed only in respect of someone else's property.
- (b) With malicious damage to property the property may be movable only.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 3

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) When a statue is painted, it cannot be regarded as malicious damage to property, because the statue was not broken in any way.
- (b) According to our law property is generally regarded as being damaged if the owner has to spend money or at least some measure of effort to restore it to its original form.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 4

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) When a police official breaks open a gate to catch a dangerous criminal, he/she can be convicted of malicious damage to property.
- (b) A malicious motive is crucial with malicious damage to property (i.e. malicious damage to property requires that the perpetrator must have a malicious motive).

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 5

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) Arson can be committed in respect of movable property only.
- (b) Arson can be committed in respect of immovable property only.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 6

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) A perpetrator commits attempted arson when he tries to set a building alight, but is caught before the building catches fire.
- (b) When a person sets his own home on fire to claim the value thereof from his insurance, then he commits arson.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 7

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) Assault can be committed only when one person *physically* harms another person.
- (b) If X sets a vicious dog on Y with the intention to physically harm Y, then X have committed assault even though he did not touch Y.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 8

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) According to Section 120(6) of the Firearms Control Act 60 of 2000 it is illegal to point an antique firearm at someone else without good reason to do so.
- (b) According to Section 120(6) of the Firearms Control Act 60 of 2000 it is illegal to point an airgun ("BB-gun") at someone else without good reason to do so.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 9

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) Because corruption is so prevalent in our society, it cannot be regarded as a crime anymore.
- (b) Corruption is committed when X offers a bribe to Y with the intention that Y acts in a certain manner.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 10

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) If X offers a bribe to Y's *daughter* with the intention that Y should perform her work in a certain manner, and Y complies with this request, then X and Y commits corruption.
- (b) If X offers a bribe to Y's *daughter* with the intention that Y should perform her work in a certain manner, and Y complies with this request, then X, Y and Y's daughter commits corruption (assume that Y's daughter did not know about the "arrangement" between X and Y).

Choose the correct option:

- (1) (a) and (b) are correct.
 - (2) (a) and (b) are incorrect.
 - (3) Only (a) is correct.
 - (4) Only (b) is correct. (1)
- [10]**

End of Assignment 2

First Semester 2018 – Assignment 3

DUE DATE: NONE

DO NOT SUBMIT THIS ASSIGNMENT TO UNISA. IT IS A SELF-EVALUATION ASSIGNMENT

This assignment takes the form of an exam paper. The purpose of this assignment is to help you prepare for the examination. It illustrates what kinds of questions you may expect in the exam. Note, however, that none of these questions will be asked in the upcoming exam. All questions of the current exam paper will be new.

Sample exam paper **CRW2603**

**Read the instructions carefully before answering any questions.
Answer all the questions.**

Question 1

Read statements (a) and (b) with each of the questions (below) and decide whether the statement is true or false. Then choose the correct option (1), (2), (3) or (4), and write the number in your examination book.

For example: Question 1.1 – 2

Question 1.1

- (a) Murder can be committed negligently.
- (b) If a perpetrator sets another person's car alight, it will amount to arson.

Choose the correct option below and write the number in your answer book.

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (2)

Question 1.2

- (a) In terms of the Prevention and Combating of Corrupt Activities Act 12 of 2004 the conduct of both the corruptor and corruptee are made punishable.
- (b) When a group of people toyi-toyi in front of an office building (without destroying anything), they are committing public violence.

Choose the correct option below and write the number in your answer book.

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (2)

Question 1.3

- (a) Culpable homicide can be committed by way of an omission.
- (b) A person can be kidnapped irrespective of his/her age.

Choose the correct option below and write the number in your answer book.

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (2)

Question 1.4

- (a) Arson can only be committed in respect of *someone else's* property.
- (b) The crime of arson is completed only when the thing is completely burnt out.

Choose the correct option below and write the number in your answer book.

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (2)

Question 1.5

- (a) Kidnapping can only be committed against a woman.
- (b) With kidnapping it is a requirement that the perpetrator has sexual intercourse with the victim.

Choose the correct option below and write the number in your answer book.

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (2)

Question 1.6

- (a) Kidnapping and abduction are exactly the same crimes.
- (b) With the crime of abduction the victim could be a grown woman.

Choose the correct option below and write the number in your answer book.

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (2)

Question 1.7

- (a) If a person attempts to commit suicide, but does not succeed, he/she can be charged with attempted murder.
- (b) If a person lies to another person, it is always fraud.

Choose the correct option below and write the number in your answer book.

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (2)

Question 1.8

- (a) At least potential prejudice is required for fraud.
- (b) With fraud the misrepresentation can be made by omission.

Choose the correct option below and write the number in your answer book.

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (2)

Question 1.9

- (a) The crime of corruption is regulated by the Prevention and Combating of Corrupt Activities Act 12 of 2004.
- (b) If Peter offers a bribe to Susan, then he commits corruption only if Susan accepts the bribe.

Choose the correct option below and write the number in your answer book.

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (2)

Question 1.10

- (a) The Prevention and Combating of Corrupt Activities Act 12 of 2004 introduces a new crime where certain persons can commit a crime if they *fail to report corrupt activities*.
- (b) When a police official takes down a statement in terms of section 34 of the Prevention and Combating of Corrupt Activities Act, he has to give the person who made the statement an *acknowledgement receipt*.

Choose the correct option below and write the number in your answer book.

- (1) (a) and (b) are correct.
 - (2) (a) and (b) are incorrect.
 - (3) Only (a) is correct.
 - (4) Only (b) is correct. (2)
- [20]

Question 2

The Vote-for-us union organises a demonstration at the premises of The Motorcar Company, because workers are allegedly being underpaid. When the day of the demonstration arrives, nearly 1000 workers show up. At first the demonstration is peaceful, but when the workers see one of the managers walking out of the offices to talk to them, they start to assault him by kicking and hitting him. Other workers run into the office building and start breaking windows, computers and other office equipment. The damage is estimated at around R 1 million.

Two hundred workers are arrested at the scene.

- 2.1 Can the two hundred workers be convicted of public violence? Explain your answer by first stating the requirements for the crime and then applying it to the facts. (10)
 - 2.2 Can the workers also convicted of damage to property? Explain in detail. (10)
 - 2.3 Is assault committed here? Explain in detail. (10)
- [30]

Question 3

Peter and his beautiful wife, Betsy, have been married for five years. They live next door to a young bachelor named John. John finds Betsy very attractive, and eventually falls in love with her. John knows that Betsy is happily married and he decides to get rid of Peter so that he can marry Betsy himself. John plans to murder Peter. One evening, while Peter is locking the front gate, John walks over to Peter, pulls out a knife and stabs him. Peter dies of the stab wound that John inflicted. John returns to his own house and hides the knife. Two weeks later, the police apprehend John.

What crime did John commit? Discuss in detail, with reference to the elements of the crime. [15]

Question 4

Briefly state the similarities and differences between common law perjury and statutory perjury. [10]

Question 5

After working at a company called Computer Solutions for two years, Mr A is unfairly dismissed. He is very angry with the management of the company, and decides to 'get back at the company' by setting it's buildings alight. He tells his friends, Mr B and Mr C about his plans. They volunteer to help him. Mr B buys petrol and matches for the crime, and the three friends drive to Computer Solutions. Mr C helps Mr A to throw out the petrol along the sides of the building, and then walks to the car where Mr B is waiting. While Mr B and C are waiting for Mr A, they see how he (Mr A) strikes a match and sets the company building alight. In a few seconds the whole building is set alight. Mr A jumps into the car and the three criminals speed off. They drive to Mr D's house and tell him what they have done. He volunteers to take them into his house until everything quietens down.

- 5.1 Which of these persons are **perpetrators**, **accomplices** and **accessories after the fact**?
Explain your answer fully. (12)
- 5.2 Can Mr B and Mr C be charged as accomplices to arson if Mr A is caught in the flames and dies as a result? (3)
- [15]**

Question 5

List the requirements of:

- theft and
 - robbery
- and explain the difference between the crimes briefly. [10]

TOTAL: 100

Second Semester 2018 – Assignment 1

DUE DATE: 22 August 2018

UNIQUE NUMBER: 839645

Please note that this assignment is compulsory for students registered for CRW2603 for the SECOND SEMESTER 2018. It is the first compulsory assignment for the SECOND SEMESTER. You have to submit this assignment on time in order to obtain admission to the examination in October/November 2018.

Question

Assignment 1

Stephen loves driving around in fast cars. He buys a fast German sports car, and frequently takes it for a drive around his neighbourhood. His mother knows that he frequently drives much too fast around the neighbourhood, and warns him about the dangers of driving too fast in the suburbs, like killing a child that may run in front of a car. Stephen just laughs at his mom, and says that she is an old lady who knows nothing.

One day, while speeding excessively in his neighbourhood, Stephen loses control over his fast car and hits four pedestrians standing at the side of the road. Stephen miraculously survives the car crash, but all four pedestrians are killed.

- 1.1 Which crime, if any, did Stephen commit? Explain fully by referring to the elements of the crime. (10)

Note: Discuss the main crime that was committed, and focus on the fact that people were killed. Look carefully at the element of culpability.

- 1.2 What would the position have been if police later found out that one of the four pedestrians that were killed, was Stephen's biggest enemy who had an affair with his (Stephen's) wife, and that Stephen intentionally drove into the crowd in order to kill the man that had an affair with his wife. (5)

[15]

TIP: Read the section: “**8.5 How to answer a scenario-type question in the assignments or exam**” (above) before completing this question. It will assist you in answering the question logically in the assignment, as well as teach you how to answer a question in the exam.

End of Assignment 1

Second Semester 2018 – Assignment 2
DUE DATE: 30 August 2018
UNIQUE NUMBER: 782403

Assignment 2

PLEASE SUBMIT THIS ASSIGNMENT ON THE INTERNET THROUGH MYUNISA. SEE ALSO POINT 6 OF THIS TUTORIAL LETTER (ABOVE).

Question 1

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Tip: Write the answer on a piece of paper before submitting the answer via *myUnisa*.

Statements:

- (a) *Crimen iniuria* is the unlawful, intentional and serious infringement of the dignity or privacy of another.
- (b) With *crimen iniuria* the interests protected by the crime are the dignity and privacy of a person.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 2

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) With *crimen iniuria*, a person's right to privacy can only be infringed upon if the person ("victim") is aware of such invasion of privacy.
- (b) The South African Constitution recognises a person's right to dignity and privacy.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 3

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) Consent can never be a valid ground of justification with *crimen iniuria*.
- (b) Official capacity can be regarded as a valid ground of justification with *crimen iniuria*.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 4

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) Kidnapping is committed when a person is unlawfully and intentionally deprived of his/her freedom of movement or, if that person is a child, the unlawful and intentional deprivation of a parent's control over that child.
- (b) The deprivation of freedom of movement with kidnapping must always be forcible.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 5

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) Kidnapping and abduction are essentially the same crime.
- (b) Childstealing is not a separate offence, but is essentially a form of kidnapping.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 6

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) It is a requirement of kidnapping that the perpetrator should remove the victim.
- (b) If a twelve-year-old girl runs away with her boyfriend without having any parental consent, the boyfriend can rely on consent as a ground of justification to a charge of kidnapping, because the girl gave consent to being taken away.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 7

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) With kidnapping the perpetrator must have the intention to permanently deprive the victim of her freedom of movement.
- (b) A male person can never be kidnapped, i.e. with kidnapping the "victim" must always be female.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 8

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) Abduction is committed against the parent of the minor.
- (b) Only females can be abducted.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 9

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) The purpose of abduction must always be to have sexual intercourse with the minor.
- (b) The act of abduction consists of the removal of the minor from the control of the parents or guardian without their permission.

Choose the correct option:

- (1) (a) and (b) are correct.
- (2) (a) and (b) are incorrect.
- (3) Only (a) is correct.
- (4) Only (b) is correct. (1)

Question 10

Look at these two statements ((a) and (b) below), and decide whether they are correct or not. Then choose the correct option (1, 2, 3, or 4) below.

Statements:

- (a) If X removes Y, a twenty year old female, from the control of Y's parents without their consent, he commits abduction.
- (b) A minor is anyone under the age of 18 years.

Choose the correct option:

- (1) (a) and (b) are correct.
 - (2) (a) and (b) are incorrect.
 - (3) Only (a) is correct.
 - (4) Only (b) is correct. (1)
- [10]

End of Assignment 2

9 CONCLUSION

I trust that you will enjoy this module. All the best with your studies!

Dr. BJ Gordon
Senior lecturer: Selected Topics of Criminal Law

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