

# **Tutorial letter 201/1/2018**

## **Introduction to Fundamental Penology**

### **PEN1501**

#### **Semester 1**

#### **Department of Corrections Management**

**IMPORTANT INFORMATION:**

This tutorial letter contains important information  
about your module.

## Overview

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### ***Introduction***



**Please study this tutorial letter thoroughly.** It contains important information to help you in preparing for the examination. I am amazed every year to see how many learners simply neglect to read their tutorial letters thoroughly. This also applies to the **GENERAL TUTORIAL LETTER** in which instructions are given on the technical presentation of assignments. Unfortunately, this approach is also often followed during the examination and **many learners lose marks unnecessarily by not reading their examination papers (and the instructions) thoroughly!**

- **You will be writing a closed-book examination.**
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### ***In this tutorial letter***

This tutorial letter contains the following topics:

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## General remarks

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### **Lecturer's observations**

The first two assignments are behind you now, and those who have already gained admission are in the final straight to the examination. My experience shows that it has unfortunately been at this very stage that learners start to slip up for no reason.



Based on the numerous enquiries I have received, as well as learners' eventual answers to questions in the examination, I wish to make the following remarks to assist you:

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### **Insufficient preparation**

A significant number of learners come to sit for the examination insufficiently prepared, undoubtedly because they start their preparations too late.



- **Whatever the reason may have been, it was clear that a considerable number did not even know which topics were covered by their courseware — this is a critical mistake.**

Avoid unnecessary stress by making sure that you arrive at the examination centre on time. Make sure that you **do not** take any written notes with you into the examination venue: such notes will be regarded as unauthorised and you will be in contravention of the examination rules. At the end of the examination, before handing in your examination script, check that your student number is filled in correctly so that your script does not get misplaced.

**Handwriting** We are not all blessed with neat handwriting. However, I must add that most learners' handwriting is relatively easy to read. Now and again, though, the marker is faced with an examination script that is a nightmare. The marker has no wish or need to withhold marks from a student who earns it with his/her application of his/her knowledge. However, the marker is only able to award marks for what they can read.



- **There are cases in which just a good pen can already make a significant difference. Test several pens - you may be amazed by the difference.**

The marker wishes to be fair to you - try to make this possible for them.

## The examination

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**Time allowed and marks awarded**

- **You will be writing an examination of 120 minutes (2 hours) for 75 marks.**

These marks are then converted to a percentage ( $\text{YOUR MARK} \div 75 \times 100 = \%$ ). For example, a student who receives a mark of 46 out of 75 for the examination:  $46 \div 75 \times 100 = 61\%$ .

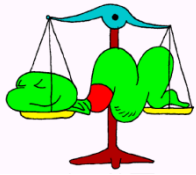


**Write concise answers**

During your preparation, **practise** giving concise, but complete answers. Learners often waste a lot of time by writing long, drawn out answers, with the result that they have to rush through their last answers.

**Application of knowledge**

**The examination is intended to test whether you are able to apply your acquired knowledge in the practical work environment.** It would serve no purpose if you can hang a diploma on the wall, but you are not able as a result of your studies to produce improved performance in the workplace.

**Weight of year mark**

**Please note that the year mark only counts 20% of your final mark.** THIS MAKES IT ESSENTIAL TO DO WELL IN THE EXAMINATION. A year mark of 40% will, for example, contribute only 8% towards your final mark. You will therefore need an examination mark of 53%, which contributes 42% to your final mark: 8% + 42% = 50%.

**Good advice!**

The format of the examination paper

- **The paper consists of Three (3) questions**, of which you will have to answer all **three (3)** questions.
- Each question counts 25 marks and might be made up of different subsections, or it might require a single comprehensive answer.
- **One of the most common mistakes continues to be the fact that learners often do not read the questions thoroughly. Instead of answering what has been asked, students regularly provide answers to what they think has been asked!!!**

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## Preparing for the examination

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**NOTE:** Remember, **your assignment questions form PART OF YOUR PREPARATION** for the examination.

Study the **SOLUTIONS TO THE ASSIGNMENT** for the **first** registrations, assignment 02 and make sure you understand them.

Study **ALL UNITS OF YOUR STUDY GUIDE**, since examination questions are focused on the questions asked in **Tutorial Letter 101 of second registrations**. The following are the study units you need to study for exam

- **Study unit 1: THE FIELD OF STUDY OF PENOLOGY AND ITS RELATION TO SOCIAL CONTROL AND THE LAW**
- **Study unit 2: CRIME AND THE CONCEPT OF PUNISHMENT**
- **Study unit 3: THE HISTORICAL DEVELOPMENT OF PUNISHMENT**

- Study unit 4: ELEMENTS AND THEORIES OF PUNISHMENT
- Study unit 5: SENTENCING AND FORMS OF PUNISHMENT

**Note:** The guidelines provided *supra* apply for the May/June 2018 and supplementary examinations.

## Guideline to answers to the assignment

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**Introduction** In marking these assignments, markers are required to use their own judgement to a large extent in evaluating learners' answers. It is important that you learn to give your own opinions, provided you explain why you take a specific position. Even if you give an answer/solution to a problem that the marker personally would have approached differently, the marker considers your explanation in relation to the answer.



**ASSIGNMENT 02****DUE DATE : 13 April 2018****Question 1****1.1 Discuss three principles of classical schools in penology (10)**

- ✓ **Firstly**, the rights and obligations (responsibilities) of every individual must be protected (safeguarded).
- ✓ Since all people are equal, all criminals must be tried equally.
- ✓ **Secondly**, a specific punishment must follow a specific crime,
- ✓ since crime is a judicial abstraction. (An abstraction is a concept that originates in the mind and does not exist in concrete reality).
- ✓ **Thirdly**, punishment should be limited to what is socially necessary.
- ✓ Social necessity is related to the deterrent value of punishment, and just enough punishment as is necessary to deter others from committing a similar crime should be administered.

**1.2 Discuss the evaluation of rehabilitation as a theory of crime (7)**

- ✓ One of the points of criticism against rehabilitation as a motive for punishment is that it (rehabilitation) impairs basic human values.
- ✓ It is postulated that it is not only a violation of the individual's freedom and dignity,
- ✓ but it is also exceptionally cruel. Here Bartollas (1985:38) singles out treatment like aversion therapy, for example.
- ✓ Snyman (1995:25) points to the problem of determining the time within which rehabilitation must take place.
- ✓ Since the rehabilitators are working with a person,
- ✓ it is difficult to determine when an individual has been rehabilitated.
- ✓ Rehabilitation is an ideal rather than a reality.

**1.3 Name the main features of Hammurabi's code**

**(3)**

- ✓ Reinforcement of the state authority
- ✓ Protection of the weak against the strong
- ✓ Restoration of the relationship between the offender and victim.

**1.4 List the principal objectives of punishment**

**(5)**

- ✓ Rehabilitation
- ✓ Retribution
- ✓ Incapacitation
- ✓ Deterrence
- ✓ Prevention

**[25]**

**Question 2**

**2.1 Describe the principles which are applicable in imposing a fine.**

**(4)**

- ✓ Before a fine is imposed, the presiding officer must consider all relevant factors regarding the desirability or otherwise of imposing a fine.
- ✓ The ability of the offender to pay the fine must be carefully determined before such a sentence is imposed.
- ✓ The court must exercise its discretion in each particular case. This means that there should be no fixed tariff or scale for specific offences.
- ✓ In the case of a first offender, the imposition of a fine is often a sound alternative to imprisonment.



## **2.2 Give a detailed discussion on the early forms of punishment under the following headings.**

### **2.2.1 Breaking on the wheel (3)**

- ✓ Breaking on the wheel was the punishment which was meted out to murderers in particular the criminal was fastened to a wheel
- ✓ with his or her limbs scratched out along the spokes of the wheel.
- ✓ The wheel was then turned while the criminal's bones were broken with an iron bar.

### **2.2.2 The electric chair (5)**

- ✓ Electrocution as a means of execution was first employed on 6 August 1890 in Auburn Prison in New York State,
- ✓ United States of America. For this method of execution,
- ✓ the condemned person is strapped to a sturdy chair by means of straps around his or her waist, legs and wrists.
- ✓ One of the electrodes is attached to the criminal's clean-shaven head and
- ✓ is held in place by a type of helmet, whereas the other electrode is attached to the right calf.

### **2.1.3 Suffocation (5)**

- ✓ More recently, suffocation has been employed as a method of execution.
- ✓ The place in which the execution is carried out, or the gas chamber,
- ✓ is equipped with two observation windows,
- ✓ both which are designed for one-way observation of the execution process from outside the chamber.
- ✓ The observers are a medical doctor and those who are required to be present in their official capacity.

#### **2.1.4 Drowning**

**(5)**

- ✓ Drowning as a form of execution was obviously a problem in areas where water was very scarce,
- ✓ for an example in the highlands of Judea.
- ✓ In contrast, in both Rome and Greece, where water was plentiful, drowning was often used as a method of punishment.
- ✓ The belief that criminals should be deprived of all life-giving elements,
- ✓ such as water, air, and soil, resulted in victims first being encased in an air tight sack.

#### **2.1.5 Stoning**

**(3)**

- ✓ Stones are considered to be the first weapons used by human beings. Consequently,
- ✓ stoning is also one of the oldest forms of punishment and featured prominently in Greek mythology.
- ✓ In Ancient Mosaic Law, stoning was prescribed as a punishment for all forms of crimes against God which would drive away his protective hand.
- ✓ To ward off this threat, all were involved in stoning a criminal.

**[25]**

### **Question 3**

#### **3.1 Discuss various elements or components of punishment.**

**(12)**

- ✓ Punishment implies the element of pain or unpleasant consequences.
- ✓ Punishment follows the transgression (breaking) of a law.
- ✓ Punishment is applied to an offender.

- ✓ It is deliberate suffering caused by a human agent (other than the offender himself or herself).
- ✓ Punishment can only be administered by a person who has the power(authority) to do so.
- ✓ If you keep in mind the various requirements for punishment, it is actually
- ✓ Punishment is accompanied by a robbing of something or by a privation.
- ✓ It is enforceable.
- ✓ It is imposed by the state.
- ✓ Punishment supposes that rules have been broken.
- ✓ Punishment is imposed on an offender.
- ✓ The punishment imposed is related to the offence committed.

**3.2 Discuss the general principles which are applicable in imposing a sentence of “periodic” imprisonment.**

**(8)**

- ✓ A sentence of periodic imprisonment may not be linked to any other form of punishment.
- ✓ It may, however, be suspended, either fully or in part, with any conditions being linked to such suspended sentence.
- ✓ The court must make detailed enquiries about the personal circumstances of the accused.
- ✓ Periodic imprisonment is an appropriate sentence in cases where the accused will retain his or her job.
- ✓ The accused will be able to fulfil his or her obligations towards his or her family.
- ✓ A sentence of periodic imprisonment may be carried out over weekends, even where the accused is unemployed.
- ✓ Periodic imprisonment is an appropriate punishment for first and second offenders, but must, at all times, be considered on the merits of each particular case.

**3.3 Make a list of valid forms of punishment during Roman Empire.**

**(5)**

- ✓ Lowering of status to that of a slave.
- ✓ Branding on the forehead.
- ✓ Mutilation
- ✓ Fines

- ✓ Forfeiture of property
- ✓ Banishment

[25]

**Total**

**{75}**

<b>ASSIGNMENT 03</b>	<b>SELF-EVALUATION</b>
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**Question 1**

**1.1 List nine (9) early forms of death penalty.**

**(9)**

- ✓ Human sacrifice
- ✓ Human sacrifice
- ✓ Crucifixion
- ✓ Stoning
- ✓ Drowning
- ✓ Burning at the stake
- ✓ Flaying alive
- ✓ Being thrown into a pit with reptiles or beasts of prey
- ✓ Crushing of the skull by an elephant

**1.2 Describe the important provisions that must be considered in the case of community-service sentence.**

**(5)**

The following provisions are of importance in the case of community-service sentences:

- ✓ The minimum period of service is 50 hours per suspended or postponed Sentence.

- ✓ The period of service for each offender is determined according to the gravity of the crime, the blameworthiness of the offender, the ability of the supervising institution to keep the offender busy, and the work circumstances of the offender.
- ✓ In practice, community-service sentences are imposed for both serious and less serious offences.
- ✓ Today, community-based sentences are receiving greater attention internationally than was the case a decade or so ago.
- ✓ By implementing corrective supervision as a community-based punishment, South Africa has become one of the leading countries in this sphere.

### 1.3 Discuss the levels in which deterrence take place.

(11)

#### ✓ **Individual deterrence**

- ✓ The purpose of punishment is "to teach offenders a lesson" so that they do not transgress again.
- ✓ This lesson that has to be learned, then, is also often a justification for a suspended sentence.
- ✓ A person who receives a suspended sentence lives with the threat of the sentence hanging over his or her head like a sword.
- ✓ If that person observes the legal prescriptions, the sentence does not come into effect; if not, the sentence is imposed. Such punishment undoubtedly has a deterrent value.

#### ✓ **General deterrence**

- ✓ Together with the compensation theory, the general deterrence principle is considered one of the most important theories on punishment.
- ✓ This theory is based on the principle that society is deterred from committing crime by the threat of possible punishment.
- ✓ Unlike in individual deterrence, there is no actual imposition of punishment.
- ✓ Another premise that applies in this theory is that people, as rational beings,
- ✓ will consider the advantages and disadvantages of a proposed action before carrying out the action.

**TOTAL****[25]**

## **Conclusion**



I trust that this tutorial letter will assist you in your preparation for the examination.

- **If you have skipped parts of this tutorial letter, then please go back and read them – it will be in your own interest to do so!**

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I trust that you will enjoy a successful year!



Aaron Labane

**LECTURER: Introduction to Fundamental Penology**