

**CRW1501**

October/November 2017

**INTRODUCTION TO THE GENERAL PRINCIPLES OF CRIMINAL LAW**

Duration 2 Hours

100 Marks

**EXAMINERS**

FIRST

DR K NAIDOO

SECOND

DR BJ GORDON

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Closed book examination

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**This examination question paper consists of five (5) pages**

**Read the instructions carefully before answering the questions**

**Answer all four (4) questions.**

**[TURN OVER]**

**QUESTION 1**

Five questions, marked 1.1 to 1.5 follow. Each question includes three statements marked (a) to (c). Some of the statements are correct and some are incorrect. You must decide which of the statements are correct. The three statements are followed by five allegations. Each of them alleges that a certain statement or combination of statements is correct. You must decide which allegation accurately reflects the conclusion you have reached and write down only the corresponding number in your examination answer book (either 1, 2, 3, 4 or 5).

**QUESTION 1.1**

- (a) Roman-Dutch law was brought to the Cape in 1652 by officials of the Dutch East India Company  
 (b) The legal rules applicable to crimes such as murder and theft are codified  
 (c) After the annexation of the Cape by the British, English law exerted a significant influence on the Roman-Dutch common law
- (1) Only statement (a) is correct  
 (2) Only statement (b) is correct  
 (3) Only statements (a) and (b) are correct  
 (4) Only statement (c) is correct  
 (5) Only statements (a) and (c) are correct (2)

**QUESTION 1.2**

- (a) It is presumed that an accused is innocent until the state has proved his guilt beyond reasonable doubt  
 (b) When determining criminal liability, the first issue to decide is whether the accused person acted with criminal capacity at the time of the act  
 (c) The accused person's conduct must comply with the definitional elements of the crime he or she is charged with
- (1) Only statement (a) is correct  
 (2) Only statement (b) is correct  
 (3) Only statements (a) and (b) are correct  
 (4) Only statement (c) is correct  
 (5) Only statements (a) and (c) are correct (2)

**QUESTION 1.3**

- (a) Conduct is voluntary if X is capable of subjecting his bodily movements to his will or intellect  
 (b) Conduct which is not willed, such as acts which a person commits negligently, are not punishable  
 (c) The voluntary nature of an act can never be excluded by absolute force
- (1) Only statement (a) is correct  
 (2) Only statement (b) is correct  
 (3) Only statements (a) and (b) are correct  
 (4) Only statement (c) is correct  
 (5) Only statements (b) and (c) are correct (2)

[TURN OVER]

**QUESTION 1 4**

- (a) X's act is the legal cause of Y's death if "but for" X's act the prohibited condition would not have happened
- (b) An act is a *conditio sine qua non* for a situation if that situation exists because the act took place
- (c) In the case of *Mokgethi* 1990 (1) SA 32 (A) 40-41, the court held that the proximate cause theory is the only theory of legal causation that should be applied in all circumstances
- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (a) and (c) are correct (2)

**QUESTION 1 5**

- (a) Private defence is also referred to as self-defence, but this description is too narrow since not only persons who defend themselves, but also those who defend others, can rely upon this ground of justification
- (b) Putative private defence refers to a situation where X thought he was acting in private defence but in reality the defence only existed in his (X's) thoughts
- (c) Private defence can only be invoked to protect two interests life or physical integrity
- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (b) and (c) are correct (2)
- [10]**

**QUESTION 2**

- 2 1 Name and briefly discuss each of the four elements of criminal liability [8]
- 2 2 Does the following charge meet the requirements of the principle of legality? Provide brief reasons for your answer  
*Parliament enacts a law which provides that it is a crime if a person does not behave properly in public* [3]
- 2 3 Name and discuss the points of difference between a crime and a delict [12]
- 2 4 Read the scenario below and then answer the questions that follow  
*X wishes to kill Y He stabs Y with a knife and inflicts a small wound to Y's arm Y tries to escape from X and runs into the street where he is run over by a car driven by Z and killed*  
Explain whether X is the factual cause of Y's death [5]
- 2 5 Explain what you understand by the theory of *novus actus interveniens* [2]
- [30]**

[TURN OVER]

**QUESTION 3**

3 1 Read the scenario below and then answer the questions that follow

X, a 20-year old woman is walking down the street holding a packet of fruit. She is approached by Y, an 11-year old pickpocket who tries to grab the packet of fruit from X's hand. X retaliates by pulling out a revolver from her pocket and shooting Y in the head. Y dies instantly. Can X successfully rely on private defence on a charge of murder? Discuss with reference to the requirements of the defence in private defence [10]

3 2 Read the scenario below and then answer the questions that follow

X is returning home one evening when he sees a dog viciously attacking his elderly neighbour. X takes out his gun and shoots the dog. A few days later the owner of the dog lays a charge of damage to property against X. Which ground of justification can X rely on? Discuss in detail with reference to the requirements of this ground of justification [10]

3 3 Can X rely on consent as a ground of justification in the following examples? Explain your answers

3 3 1 X is a doctor. After examining Y, a healthy 11-year-old boy, X obtains consent from Y and performs an operation on him to remove his appendix [3]

3 3 2 X is a police officer. He arrests Y, an attractive young woman, on a minor charge and takes her to the police station. X promises to release Y if she has sex with him. Y agrees and they have sex [3]

3 4 Give two examples of conduct that would not be regarded as unlawful since it is justified by the ground of justification of official capacity [4]  
[30]

**QUESTION 4**

4 1 Briefly discuss how culpability is established [3]

4 2 Explain the two (2) components of the test used to determine whether a person is endowed with criminal capacity [4]

4 3 List two (2) defences that exclude criminal capacity. [2]

4 4 List the possible orders that a court may make if X succeeds with his defence of mental illness [3]

4 5 Name the two (2) elements of intention and explain briefly what each entails [4]

4 5 Why is it said that the test for intention is subjective? Explain briefly [5]

[TURN OVER]

4.6 *Discuss fully whether X's mistake in the two scenarios below can exclude the intention to commit murder*

X wants to kill Y. He aims his gun and pulls the trigger. However, it later appears that the person whom X shot and killed was not Y, but Z. **[3]**

4.7 The test for negligence is described as objective, whereas the test for intention is described as subjective. Discuss the main differences between the two tests. **[6]**  
**[30]**

**TOTAL: [100]**

**CRW1501**

( 494292)

May/June 2014

**INTRODUCTION TO THE GENERAL PRINCIPLES OF CRIMINAL LAW**

Duration 2 Hours

100 Marks

EXAMINERS :

FIRST  
SECONDMR K NAIDOO  
DR N MOLLEMA

MR PS SENOAMADI

Closed book examination.

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*The paper consists of four (4) pages.*

*Read the instructions carefully before answering the questions*

*Answer all four (4) questions*

**QUESTION 1**

Five questions marked 1.1 to 1.5 follow. Each question contains three statements marked (a) to (c). Some of the statements are correct and some are incorrect. You must decide which of the statement(s) is/are correct. The three statements are followed by five allegations. Each of them alleges that a certain statement or combination of statements is correct. You must decide which allegation accurately reflects the conclusion you have reached and write down only the corresponding number on your answer sheet (either 1, 2, 3, 4 or 5). Please answer this question in your answer books!

- 1.1**
- (a) The general rule in criminal matters is that the onus is on the state to prove the accused's guilt on a balance of probabilities
- (b) The state must prove that the accused's conduct and state of mind complied with at least two of the elements of the crime charged
- (c) It is the state (or prosecution) that has to prove beyond reasonable doubt that an accused is guilty
- (1) Only statement (a) is correct  
 (2) Only statement (b) is correct  
 (3) Only statements (a) and (b) are correct  
 (4) Only statement (c) is correct  
 (5) Only statements (b) and (c) are correct

(2)

**[TURN OVER]**

## 1.2

- (a) It must be beyond dispute that the accused's conduct is recognised as a crime in our law
- (b) Conduct can lead to liability only if it is voluntary
- (c) The element of culpability focuses on the act or conduct of the perpetrator

- (1) Only statement (a) is correct
- (2) Only statement (b) is correct.
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (b) and (c) are correct (2)

## 1.3

- (a) Well-known grounds of justification are private defence, necessity and consent
- (b) Examples of people who lack criminal capacity are mentally ill persons and young children
- (c) In the case of a crime it is the private party who institutes action whereas in the case of a delict it is the State that prosecutes

- (1) Only statement (a) is correct.
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (b) and (c) are correct (2)

## 1.4

- (a) All rules of law, irrespective of whether they are contained in legislation or in common law, must be compatible with the Bill of Rights.
- (b) When determining criminal liability, the first issue to decide is whether the accused person acted with criminal capacity at the time of the act
- (c) The accused person's conduct must comply with the definitional elements of the crime he is charged with

- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (a) and (c) are correct (2)

- 1.5
- (a) Some examples of involuntary conduct are a sleepwalker trampling on somebody or an epileptic hitting somebody in the face
- (b) No legal duty to act positively is imposed by the common law
- (c) Where a person accepts control for a dangerous or potentially dangerous object, a legal duty arises to control it properly
- (1) Only statement (a) is correct  
 (2) Only statement (b) is correct  
 (3) Only statements (a) and (b) are correct  
 (4) Only statement (c) is correct  
 (5) Only statements (a) and (c) are correct
- (2)  
[10]

## QUESTION 2

- 2 1 Name and briefly discuss each of the four elements of criminal liability [8]
- 2 2 Name and discuss the points of difference between a crime and a delict [12]
- 2 3 List the rules that are contained in the principle of legality [5]
- 2 4 A legal duty to act positively may sometimes arise by virtue of the fact that a person holds a certain office. Discuss this statement with reference to case law [5]  
[30]

## QUESTION 3

- 3 1 *Read the scenario below and then answer the questions that follow*

X wishes to kill Y X shoots at Y but the bullet misses Y Y then runs into a building to escape X However, Y does not know that Z, who has nothing to do with X, has planted a bomb in the building. The bomb goes off and Y is killed

- 3 1 1 Explain whether X is the *factual cause* of Y's death [5]  
 3 1 2 Explain whether X is the *legal cause* of Y's death [10]
- 3 2 List some of the interests that could be protected when invoking private defence as a ground of justification [5]
- 3 3 Officials occupying a public office who commit acts which would otherwise be unlawful can rely as a defence on the fact that they are entitled to perform these acts because the acts were performed in the course of their official duties Discuss this statement critically [4]
- 3 4 In cases where consent is raised as a ground of justification, it must comply with a number of requirements List these requirements (NB You do not have to discuss each requirement) [6]

[TURN OVER]

**QUESTION 4**

- 4 1 Explain the difference between the concepts of "criminal capacity" and "intention" [4]
- 4 2 What are the two (2) components of the test used to determine whether a person is endowed with criminal capacity? [4]
- 4 3 Name the two (2) elements of intention and explain briefly what each entails [4]
- 4 4 Define each of the three (3) forms of intention and illustrate each by means of an example [6]
- 4 5 "Where there is no direct proof of intention, a court may infer or find that an accused acted intentionally from indirect proof." List some of the factors that a court can take into consideration when trying to prove intention [6]
- 4 6 Suppose X wants to kill his enemy, Y, by throwing a javelin at him. X throws the javelin at Y but just as the javelin leaves X's hand, Z runs out from behind a bush in front of Y and the javelin strikes and kills Z. Can X be found guilty of murdering Z? What about X's criminal liability in relation to Y? Explain [6]  
[30]

**TOTAL: 100 MARKS**



UNIVERSITY EXAMINATIONS

UNIVERSITEITSEKSAMENS



**CRW1501**

May/June 2015

**INTRODUCTION TO THE GENERAL PRINCIPLES OF CRIMINAL LAW**

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**EXAMINERS**

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**[TURN OVER]**

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*Read the instructions carefully before answering the questions  
This examination question paper consists of 3 pages  
Answer all four (4) questions*

**QUESTION 1**

Five questions, marked 1 to 5, follow. Each question contains three statements marked (a) to (c). Some of the statements are correct and some are incorrect. You must decide which of the statements is/are correct. The three statements are followed by five allegations. Each of them alleges that a certain statement or combination of statements is correct. You must decide which allegation accurately reflects the conclusion you have reached and write down only the corresponding number in your answer book (either 1, 2, 3, 4 or 5).

**Question 1 1**

- (a) The term "common law of South Africa" refers to those rules of law that are not contained in an act of parliament or in any other legislation
- (b) The common law of South Africa is indigenous law
- (c) Conduct is voluntary if X is capable of subjecting his bodily movements to his will or intellect
- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (a) and (c) are correct (2)

**[TURN OVER]**

**Question 1.2**

- (a) If a law is incompatible with the Bill of Rights, it may be declared null and void
- (b) One of the sources of our common law is the writings of our Roman Dutch authors
- (c) It is presumed that an accused is guilty until the state has proved his innocence

- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (b) and (c) are correct

(2)

**Question 1.3**

- (a) The onus is on the state to prove that the accused's conduct complied with at least two elements of the crime charged
- (b) It must be beyond dispute that the accused's conduct is recognised by the law as a crime
- (c) The general rule in criminal matters is for the state to prove the accused's guilt on a balance of probabilities

- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
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(2)

**Question 1.4**

- (a) Conduct can lead to liability only if it is voluntary
- (b) A crime is directed against public interests whereas a delict is directed against private interests
- (c) The culpability requirement comprises two sub-requirements that of criminal capacity and either intention or negligence

- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (b) and (c) are correct

(2)

**Question 1.5**

- (a) The principle of legality is based on principles of constitutional democracy and equity as contained in the Constitution
- (b) A court of law must interpret the wording in the definition of a crime widely
- (c) Courts can create new crimes

- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (b) and (c) are correct

(2)  
[10]

[TURN OVER]

**QUESTION 2**

- 2 1 Name and briefly discuss each of the four elements of criminal liability [8]  
 2 2 List the rules that are contained in the principle of legality [5]  
 2 3 A statute may impose a duty on a person to act positively. Give three (3) examples of statutes which place a duty on a person to act positively [6]  
 2 4 A legal duty to act positively may sometimes arise by virtue of the fact that a person holds a certain office. Discuss this statement with reference to case law [5]  
 2 5 One of the instances in which our law does not regard conduct as voluntary is where a person behaves in a mechanical fashion. This is referred to as "automatism". Give four (4) examples of conduct that could fall under the heading of "automatism" [4]  
 2 6 Explain what you understand by the theory of *novus actus interveniens* [2]  
**[30]**

**QUESTION 3**

- 3 1 X, a well-built 30-year-old man, is walking home one evening when he is approached by Y, a slightly built 16-year-old boy. Y grabs hold of X's shoulders and tries to steal the pen in X's pocket. X retaliates by pulling a gun out of his trouser pocket and shooting Y in the chest. Y dies a few seconds later. Can X successfully rely on private defence on a charge of murder? Discuss with reference to the *requirements of the defence in private defence* [10]  
 3 2 Distinguish between private defence and necessity [4]  
 3 3 Distinguish between absolute and relative compulsion, and indicate which of the two constitutes necessity [4]  
 3 4 Can X rely on consent as a ground of justification in the following examples? Explain your answer  
 3 4 1 X is a doctor. His father, Y, is 85 years old and is in severe pain from a terminal illness. Y begs X to end his life as he cannot bear the pain and suffering any longer. X administers a lethal injection to Y. Y dies peacefully a few minutes later [2]  
 3 4 2 X is a young body builder. He threatens to stab Y, a frail old woman, with a knife if she does not hand her handbag over to him. Y meekly hands the bag over to X [2]  
 3 4 3 X is a doctor. After examining Y, a healthy 11-year old girl, X obtains consent from Y and performs an operation on her to remove her tonsils [2]  
 3 5 In the case of *S v Mostert 2006 (1) SACR 560 (N)*, the court applied the principle in section 199(6) of the Constitution of the Republic of South Africa, 1996, that the defence of obedience to orders will be successful provided that the orders were not manifestly unlawful. Discuss with reference to the requirements of this defence [6]  
**[30]**

**QUESTION 4**

- 4 1 Explain the difference between the concepts of "criminal capacity" and "intention" [4]  
 4 2 Name the two (2) elements of intention and explain briefly what each entails [4]  
 4 3 Define each of the three (3) forms of intention and illustrate each by means of an example [6]  
 4 4 Why is it said that the test for intention is subjective? Explain briefly [5]  
 4 5 Where there is no direct proof of intention, a court may infer or find that an accused acted intentionally from indirect proof. List some of the factors that a court can take into consideration when trying to prove intention [6]  
 4 6 Suppose X wants to kill his enemy, Y, by throwing a javelin at him. X throws the javelin at Y but just as the javelin leaves X's hand, Z runs out from behind a bush in front of Y and the javelin strikes and kills Z. Can X be found guilty of murdering Z? What about X's criminal liability in relation to Y? Explain [5]  
**[30]**

**Total [100]**

**CRW1501**

( 489225)

October/November 2015

**INTRODUCTION TO THE GENERAL PRINCIPLES OF CRIMINAL LAW**

Duration 2 Hours

100 Marks

EXAMINERS ·

FIRST

SECOND

MR K NAIDOO

MR BJ GORDON

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**Answer all four (4) questions.**

**[TURN OVER]**

**Question 1**

Five (5) questions marked 1.1 to 1.5 follow. Each question contains three statements marked (a) to (c). Some of the statements are correct and some are incorrect. You must decide which of the statements is/are correct. The three statements are followed by five allegations. Each of them alleges that a certain statement or combination of statements is correct. You must decide which allegation accurately reflects the conclusion you have reached and write down only the corresponding number in your examination book (either 1, 2, 3, 4 or 5).

**Question 1.1**

- (a) One of the sources of our common law is the writings of the Roman Dutch authors
  - (b) The term 'common law of South Africa' refers to those rules of law that are contained in Acts of Parliament and other legislation
  - (c) If a law is incompatible with the Bill of Rights, it can never be declared null and void
- (1) Only statement (a) is correct
  - (2) Only statement (b) is correct
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**Question 1.2**

- (a) Roman-Dutch law was brought to the Cape in 1852 by officials of the Dutch East India Company
  - (b) The legal rules applicable to crimes such as murder and theft are codified
  - (c) After the annexation of the Cape by the British, English law exerted a considerable influence on the Roman Dutch common law
- (1) Only statement (a) is correct
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**Question 1.3**

- (a) It is presumed that an accused is guilty until the state has proved his innocence
  - (b) It is the state (or prosecution) that has to prove beyond reasonable doubt that an accused is guilty
  - (c) The element of culpability focuses on the act or conduct of the perpetrator
- (1) Only statement (a) is correct
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  - (3) Only statements (a) and (b) are correct
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**[TURN OVER]**

**Question 1.4**

- (a) A court may convict and punish a person merely because his conduct is immoral  
 (b) The legality principle is regarded as an essential "element" of a crime  
 (c) Assuming that the court regards the accused's conduct as a crime, the first step is to enquire whether there was an act or an omission
- (1) Only statement (a) is correct  
 (2) Only statement (b) is correct  
 (3) Only statements (a) and (b) are correct  
 (4) Only statement (c) is correct  
 (5) Only statements (b) and (c) are correct (2)

**Question 1.5**

- (a) The "prohibition on retrospectivity" in the principle of legality means that the conduct of an accused does not have to be recognised as a crime at the time of its commission  
 (b) A sentence may only be imposed on a convicted person if such a sentence was recognised by law in clear terms only after the crime was committed  
 (c) The principle of legality is recognised in section 35(3) (l) and (n) of the South African Constitution, 1996
- (1) Only statement (a) is correct  
 (2) Only statement (b) is correct  
 (3) Only statements (a) and (b) are correct  
 (4) Only statement (c) is correct  
 (5) Only statements (b) and (c) are correct (2)
- [10]

**Question 2**

- 2 1 Name and briefly discuss each of the four elements of criminal liability [8]  
 2 2 Name and discuss the points of difference between a crime and a delict [12]  
 2 3 Name three factors which exclude the voluntary nature of an act [3]  
 2 4 Explain what you understand by the theory of *novus actus interveniens* [2]  
 2 5 X wishes to kill Y X shoots at Y but the bullet misses Y Y then runs into a building to escape X However Y does not know that Z, who has nothing to do with X, has planted a bomb in the building The bomb goes off and Y is killed Explain whether X is liable for Y's death in terms of the theory of *factual causation* [5]
- [30]

[TURN OVER]

**Question 3**

- 3 1 List some of the interests that can be protected when invoking private defence as a ground of justification? [5]
- 3 2 X is walking home one evening when he notices smoke coming out from under the door of a house. On closer inspection X sees that there are children in the house. Being a responsible citizen, X breaks open the front door of the house and rescues the children inside. A few days later the owner of the house lays a charge of damage to property against X. Which ground of justification can X rely on? Discuss in detail with reference to the requirements of this ground of justification. [10]
- 3 3 In cases where consent is raised as a ground of justification, it must comply with a number of requirements. List these requirements. (NB You do not have to discuss each requirement.) [6]
- 3 4 Give two examples of conduct that would not be regarded as unlawful since it is justified by the ground of justification *official capacity*. [4]
- 3 5 In the case of *S v Mostert* 2006 (1) SACR 560 (N), the court applied the principle in section 199(6) of the Constitution of the Republic of South Africa, 1996, that the defence of obedience to orders will be successful provided that the orders were not manifestly unlawful. Discuss this case with reference to the requirements of this defence. [5]
- [30]**

**Question 4**

- 4 1 Briefly discuss how culpability is established. [2]
- 4 2 What are the two (2) components of the test used to determine whether a person is endowed with criminal capacity? [4]
- 4 3 Name the two (2) elements of intention and explain briefly what each entails. [4]
- 4 4 Where there is no direct proof of intention, a court may infer or find that an accused acted intentionally from indirect proof. List some of the factors that a court could take into consideration when trying to prove intention. [6]
- 4 5 Explain the concept of *error in objecto* by means of a practical example. [4]
- 4 6 Explain and discuss the concept of the "reasonable person". [10]
- [30]**

**TOTAL: [100]**

PART 1 (GENERAL/ALGEMEEN) DEEL 1

STUDY UNIT e.g. PSY100-X  
STUDIE EENHEID by PSY100-X

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PAPER NUMBER  
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STUDENT NUMBER  
STUDENTENOMMER

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c1	c1	c1	c1	c1	c1	c1	c1
c2	c2	c2	c2	c2	c2	c2	c2
c3	c3	c3	c3	c3	c3	c3	c3
c4	c4	c4	c4	c4	c4	c4	c4
c5	c5	c5	c5	c5	c5	c5	c5
c6	c6	c6	c6	c6	c6	c6	c6
c7	c7	c7	c7	c7	c7	c7	c7
c8	c8	c8	c8	c8	c8	c8	c8
c9	c9	c9	c9	c9	c9	c9	c9

INITIALS AND SURNAME  
VOORLETTERS EN VAN

DATE OF EXAMINATION  
DATUM VAN EKSAMEN

EXAMINATION CENTRE (E.G. PRETORIA)  
EKSAMENSENTRUM (BY PRETORIA)

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For use by examination invigilator  
Vir gebruik deur eksamenopsiener

- IMPORTANT**
- USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET
  - MARK LIKE THIS
  - CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY
  - ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT
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  - CHECK THAT ONLY ONE ANSWER PER QUESTION HAS BEEN MARKED
  - DO NOT FOLD

- BELANGRIK**
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PART 2 (ANSWERS/ANTWOORDE) DEEL 2

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Specimen only

**CRW1501**

May/June 2016

**INTRODUCTION TO THE GENERAL PRINCIPLES OF CRIMINAL LAW**

Duration 2 Hours

100 Marks

**EXAMINERS**

FIRST

MR K NAIDOO

SECOND

MR BJ GORDON

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**Closed book examination**

**This examination question paper remains the property of the University of South Africa and may not be removed from the examination venue**

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Read the instructions carefully before answering the questions

This examination question paper consists of 4 pages

Answer all four (4) questions

**[TURN OVER]**

**Question 1**

Five questions marked 1.1 to 1.5 follow. Each question contains three statements marked (a) to (c). Some of the statements are correct and some are incorrect. You must decide which of the statements is/are correct. The three statements are followed by five allegations. Each of them alleges that a certain statement or combination of statements is correct. You must decide which allegation accurately reflects the conclusion you have reached and write down only the corresponding number in your examination answer books (either 1, 2, 3, 4 or 5).

**Question 1.1**

- (a) Most of the rules of substantive criminal law are contained in legislation
- (b) One of the primary sources of our common law is the writings of the Roman-Dutch authors
- (c) It is presumed that an accused is guilty until the state has proved his innocence

- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (a) and (c) are correct

**(2)****Question 1.2**

- (a) An accused may not be convicted of a crime unless the type of conduct with which he or she is charged has been recognised by the law as a crime
- (b) Conduct which is wrong from a moral or religious point of view is not necessarily also forbidden by law
- (c) Courts of law are free to create new crimes

- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (a) and (c) are correct

**(2)****Question 1.3**

- (a) Merely thinking of committing a crime is punishable
- (b) An act can be described as voluntary human conduct
- (c) An omission to act is only punishable where there is a legal duty on a person to act positively

- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (b) and (c) are correct

**(2)****[TURN OVER]**

**Question 1.4**

- (a) The conduct of X must comply with the definitional elements of the particular crime with which he or she has been charged
- (b) The definitional elements of a crime are exactly the same as the definition of a crime
- (c) The definitional elements always contain a description of the kind of act which is prohibited
- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (a) and (c) are correct (2)

**Question 1 5**

- (a) Conduct is unlawful if it accords with the definitional elements of a crime
- (b) For conduct to be unlawful it must conflict with the *boni mores* or legal convictions of society
- (c) Unlawfulness is usually determined by referring to an accused's state of mind
- (1) Only statement (a) is correct
- (2) Only statement (b) is correct
- (3) Only statements (a) and (b) are correct
- (4) Only statement (c) is correct
- (5) Only statements (a) and (c) are correct (2)
- [10]

**Question 2**

- 2 1 Name and briefly discuss each of the four elements of criminal liability (8)
- 2 2 A legal duty to act positively may sometimes arise by virtue of the fact that a person holds a certain office. Discuss this statement with reference to case law. (5)
- 2 3 One of the instances in which our law does not regard conduct as voluntary is where a person behaves in a mechanical fashion. This is referred to as "automatism". Give two (2) examples of conduct that could fall under the heading of "automatism" (2)
- 2 4 *Read the scenario below and then answer the questions that follow*  
X wishes to kill Y. He stabs Y with a knife and inflicts a small wound to Y's arm. Y tries to escape from X and runs into the street where he is run over and killed by a car driven by Z.
- 2 4 1 Explain whether X is the *factual cause* of Y's death (5)
- 2 4 2 Explain whether X is the *legal cause* of Y's death (10)
- [30]

[TURN OVER]

**Question 3**

- 3 1 Distinguish between absolute and relative compulsion, and indicate which of the two constitutes necessity (4)
- 3 2 X, a 25-year-old man, is walking to work one morning when he is approached by Y, a 12-year-old pickpocket. Y tries to steal the plastic lunchbox that X is carrying. X retaliates by pulling a gun out of his trouser pocket and shooting Y in the chest. Y dies a few seconds later. Can X successfully rely on private defence on a charge of murder? Discuss with reference to the requirements of the defence in private defence (10)
- 3 3 In cases where consent is raised as a ground of justification, it must comply with a number of requirements. List these requirements (NB You do not have to discuss each requirement) (6)
- 3 4 Officials occupying a public office who commit acts which would otherwise be unlawful, can rely as a defence on the fact that they are entitled to perform these acts because the acts were performed in the course of their official duties. Discuss this statement critically (5)
- 3 5 In the case of *S v Mostert* 2006 (1) SACR 560 (N), the court applied the principle in section 199(6) of the Constitution of the Republic of South Africa, 1996, that the defence of obedience to orders will be successful provided that the orders were not manifestly unlawful. Discuss with reference to the requirements of this defence (5)
- [30]**

**Question 4**

- 4 1 Explain the difference between the concepts of "criminal capacity" and "intention" (4)
- 4 2 List two (2) defences that exclude criminal capacity. (4)
- 4 3 Name the two (2) elements of intention and explain briefly what each entails (4)
- 4 4 Define each of the three (3) forms of intention and illustrate each by means of an example (6)
- 4 5 Where there is no direct proof of intention, a court may infer or find that an accused acted intentionally from indirect proof. List some of the factors that a court can take into consideration when the state is trying to prove intention (6)
- 4 6 The test for negligence is described as objective, whereas the test for intention is described as subjective. Discuss the main differences between the two tests (6)
- [30]**

**Total. [100]**

**CRW1501**

October/November 2016

**INTRODUCTION TO THE GENERAL PRINCIPLES OF CRIMINAL LAW**

Duration 2 Hours

100 Marks

**EXAMINERS**

FIRST

DR K NAIDOO

SECOND

MR BJ GORDON

Closed book examination

This examination question paper remains the property of the University of South Africa and may not be removed from the examination venue

**This examination question paper consists of four (4) pages**

**Read the instructions carefully before answering the questions**

**Answer all four (4) questions**

**[TURN OVER]**

**Question 1**

Five questions marked 1.1 to 1.5 follow. Each question contains three statements marked (a) to (c). Some of the statements are correct and some are incorrect. You must decide which of the statement(s) is/are correct. The three statements are followed by five allegations. Each of them alleges that a certain statement or combination of statements is correct. You must decide which allegation accurately reflects the conclusion you have reached and write down only the corresponding number in your examination answer books (either 1, 2, 3, 4 or 5).

**Question 1.1**

- (a) South African criminal law, including the general principles of criminal law, is summarised in a code.
  - (b) The common law of South Africa was brought to the Cape in 1652 by officials of the Dutch East India Company.
  - (c) The general rule in criminal matters is that the onus is on the accused to prove his innocence beyond reasonable doubt.
- (1) Only statement (a) is correct
  - (2) Only statement (b) is correct
  - (3) Only statements (a) and (b) are correct
  - (4) Only statement (c) is correct
  - (5) Only statements (a) and (c) are correct (2)

**Question 1.2**

- (a) The principle of legality is based on principles of constitutional democracy and equity.
  - (b) If conduct is prohibited by law, it is a crime.
  - (c) The conduct of the accused person must have been recognised as a crime at the time of its commission.
- (1) Only statement (a) is correct
  - (2) Only statement (b) is correct
  - (3) Only statements (a) and (b) are correct
  - (4) Only statement (c) is correct
  - (5) Only statements (a) and (c) are correct (2)

**Question 1.3**

- (a) While an attempt to commit a crime is punishable, even then, some act is required which goes beyond a mere idea.
  - (b) A human being can be punished if he or she commits a crime through the agency of an animal.
  - (c) An act or omission is only punishable if it is involuntary.
- (1) Only statement (a) is correct
  - (2) Only statement (b) is correct
  - (3) Only statements (a) and (b) are correct
  - (4) Only statement (c) is correct
  - (5) Only statements (a) and (c) are correct (2)

**Question 1.4**

- (a) The definitional elements of a crime always refer to the elements of unlawfulness and culpability  
 (b) Crimes may be categorised into two groups, namely formally and materially defined crimes, according to their definitional elements  
 (c) As regards materially defined crimes, the question which always arises is whether a causal link exists between X's conduct and the prohibited result (or the death of Y)
- (1) Only statement (a) is correct  
 (2) Only statement (b) is correct  
 (3) Only statements (a) and (b) are correct  
 (4) Only statement (c) is correct  
 (5) Only statements (b) and (c) are correct (2)

**Question 1.5**

- (a) Some well-known grounds of justification include private defence, necessity and consent  
 (b) Grounds of justification may be considered as practical aids in the determination of unlawfulness  
 (c) In determining unlawfulness, the court will have regard to whether X thought that his conduct was unlawful
- (1) Only statement (a) is correct  
 (2) Only statement (b) is correct  
 (3) Only statements (a) and (b) are correct  
 (4) Only statement (c) is correct  
 (5) Only statements (a) and (c) are correct (2)  
 [10]

**Question 2**

- 2.1 Name and discuss the points of difference between a crime and a delict (12)  
 2.2 List the rules that are contained in the principle of legality (5)  
 2.3 Briefly explain the meaning of the requirement that "the act must be a human act" (3)  
 2.4 A legal duty to act positively may sometimes arise by virtue of the fact that a person holds a certain office. Discuss this statement with reference to case law (5)  
 2.5 Read the scenario below and then answer the question that follows  
 X wishes to kill Y. He stabs Y with a knife and inflicts a small wound to Y's arm. Y tries to escape from X and runs into the street where he is run over by a car driven by Z and killed.  
 Explain whether X is the *factual cause* of Y's death (5)  
 [30]

[TURN OVER]

**Question 3**

- 3 1 X is walking home one evening when he notices smoke coming out from under the door of a house. X knows that an elderly couple live in the house. X breaks open the front door of the house and rescues the couple. A few days later, the owner of the house lays a charge of damage to property against X. Which ground of justification can X rely on? Discuss in detail with reference to the requirements of this ground of justification (10)
- 3 2 Distinguish putative private defence from actual private defence (4)
- 3 3 In cases where consent is raised as a ground of justification, it must comply with a number of requirements. List these requirements. (NB You do not have to discuss each requirement) (6)
- 3 4 In the case of *S v Mostert* 2006 (1) SACR 560 (N), the court applied the principle in section 199(6) of the Constitution of the Republic of South Africa, 1996, that the defence of obedience to orders will be successful provided that the orders were not manifestly unlawful. Discuss with reference to the requirements of this defence (6)
- 3 5 Give two examples of conduct that would not be regarded as unlawful since it is justified by the ground of justification *official capacity* (4)
- [30]**

**Question 4**

- 4 1 What are the two (2) components of the test used to determine whether a person is endowed with criminal capacity? (5)
- 4 2 List two (2) defences that exclude criminal capacity (2)
- 4 3 What are the two (2) forms of culpability? (4)
- 4 4 Name the two (2) elements of intention and explain briefly what each entails (4)
- 4 5 Define each of the three (3) forms of intention and illustrate each by means of an example (6)
- 4 6 Discuss fully whether X's mistake in the two scenarios below can exclude the intention to commit murder (3)
- X wants to kill Y. He aims his gun and pulls the trigger. However, it later appears that the person that X shot and killed was not Y but Z.
- 4 7 The test for negligence is described as objective, whereas the test for intention is described as subjective. Discuss the main differences between the two tests (6)
- [30]**

**TOTAL [100]**