UNISA
university
of south africa

CRW2602 (470102) October/November 2014

CRIMINAL LAW: SPECIFIC CRIMES

Duration	2 Hours	100 Marks

EXAMINERS
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SECOND   PROF C VAN DER BIJL

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 PAPER CONSISTS OF EIGHT (8) PAGES PLUS INSTRUCTIONS FOR COMPLETION OF A MARK READING SHEET.

THE QUESTIONS IN THIS PAPER COUNT HUNDRED (100) MARKS. THE PAPER CONSISTS OF TWO PARTS, MARKED A AND B. YOU MUST ANSWER BOTH PARTS A AND B. PART A CONSISTS OF TEN (10) MULTIPLE CHOICE QUESTIONS. EACH QUESTION COUNTS THREE (3) MARKS, WHICH MEANS THAT THE QUESTIONS IN PART A COUNT A TOTAL OF THIRTY (30) MARKS. IN PART B, THE ANSWERS TO THE QUESTIONS MUST BE WRITTEN IN THE EXAMINATION ANSWER BOOK ITSELF. THE QUESTIONS IN PART B COUNT SEVENTY (70) MARKS.

PART A (MULTIPLE CHOICE QUESTIONS)

IMPORTANT NOTICE. THE QUESTIONS IN THIS PART HAVE TO BE ANSWERED ON THE MARK READING SHEET, WHICH WILL BE ISSUED WITH YOUR EXAMINATION ANSWER BOOK. YOU HAVE TO READ THE INSTRUCTIONS IN CONNECTION WITH THE USE OF THE MARK READING SHEET CAREFULLY. FAILURE TO DO SO MAY MEAN THAT YOUR ANSWERS CANNOT BE MARKED BY THE COMPUTER.

Ten questions (marked 1 - 10) follow. Each question contains three statements (marked (a)-(c)). Some of the statements are correct and some are incorrect. You must decide which of these statements is/are correct. The three statements are followed by five allegations (marked (1)-(5)). Each of them alleges that a certain statement or combination of statements is correct. You must decide which allegation accurately reflects the conclusions to which you have come.

Question 1

(a) A **participant** is anyone who does something, in whatever manner, whereby he **furthers** the commission of the crime

(b) The distinction between a principal offender and other perpetrators is not important for the purposes of liability but it is important in the assessment of punishment

(c) Where A enters a house and shoots and kills Y while B merely keeps guard outside the house, both can be regarded as co-perpetrators in the commission of the murder

(1) Only statements (a) and (b) are correct
(2) Only statements (b) and (c) are correct
(3) All the statements are correct
(4) Only statement (a) is correct
(5) None of the statements is correct

Question 2

(a) An accomplice is defined as somebody who does not commit the crime with his own hands

(b) The crucial requirement of the doctrine of common purpose is that the different accused should have had the same purpose

(c) If one approves of or ratifies another's criminal deed which has already been completed, one could be held criminally liable on the basis of active association

(1) None of the statements is correct
(2) Only statements (a) and (c) are correct
(3) Only statement (a) is correct
(4) Only statement (b) is correct
(5) Only statements (b) and (c) are correct

Question 3

(a) If Z assaults Y after Y has **already died** from the injuries inflicted by X or his associates, Z cannot be convicted of any offence

(b) Liability as an accomplice is known as accessory liability

(c) One may be an accessory after the fact on the ground of an omission

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

[TURN OVER]

Question 4

(a) If X is apprehended while trying to set alight his neighbour's house, he can be found guilty of attempted arson

(b) If two or more persons unite in an organisation with the declared purpose of committing a crime or crimes, they must be in direct communication with each other for the purpose of the crime of conspiracy

(c) A person may be convicted of incitement only if there is proof that he had persuaded the incitee to commit the crime

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

Question 5

(a) Public violence is a crime committed with common purpose

(b) The false declaration made under oath in the crime of common-law perjury must be subjectively false

(c) The crime of defeating or obstructing the course of justice may be committed even though there is no pending case

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

Question 6

(a) Mere criticism of the prosecution in a criminal case will be sufficient to establish contempt of court *ex facie curiae*

(b) If one loudly sings praise songs in a courtroom after being acquitted at the end of a trial, one cannot be convicted of contempt of court *in facie curiae*, as there was no intent to violate the dignity of the court

(c) For the crime of scandalising the court to be committed, it must be likely that the publication can bring the administration of justice through the courts into disrepute

(1) None of the statements is correct
(2) Only statements (a) and (b) are correct
(3) Only statement (a) is correct
(4) Only statements (b) and (c) are correct
(5) Only statement (c) is correct

Question 7

(a) A person used as police trap does not commit the crime of corruption if he agrees to receive gratification from another person in order to trap that person into committing corruption

(b) If someone corrupts a judicial officer, the conduct can be punished as both corruption and contempt of court

(c) Although section 91(1) of the *Firearms Control Act 60 of 2000* provides that the holder of a licence to possess a firearm may not possess more than 200 cartridges for each firearm in respect of which he holds a licence, it provides that a dedicated sports person may possess more cartridges than stipulated

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

Question 8

(a) If Y is misled by X that having sexual intercourse with him (X) will cure her (Y) of her infertility, X can be guilty of rape as there is no valid consent

(b) Common-law abduction protects the rights of parents to consent to the marriage of their minor children, as well as to exercise control over where they stay

(c) According to *Chretien* 1981 (1) SA 1097 (A), intoxication may lead to X's lacking the intention to assault, in which case X must be found not guilty of the crime of assault

(1) Only statement (b) is correct
(2) Only statements (b) and (c) are correct
(3) None of the statements is correct
(4) Only statement (a) is correct
(5) Only statements (a) and (b) are correct

[TURN OVER]

Question 9

(a)   If X attempts to assault Y but his blow misses Y, he (X) can be guilty of completed assault provided he intentionally inspired a belief in Y that force was immediately to be applied to him

(b)   Y's right to dignity can be infringed even without Y's being aware of the infringement (as where X watches Y undressing)

(c)   The violation of Y's dignity is more serious if she is insulted by a stranger, than when she is insulted by her husband or boyfriend during the course of a domestic argument

(1)   None of the statements is correct
(2)   Only statement (b) is correct
(3)   Only statements (a) and (c) are correct
(4)   Only statement (a) is correct
(5)   Only statement (c) is correct

Question 10

(a)   If X, intending to steal a chocolate in a self-service shop, conceals it in her handbag but is apprehended with the article before leaving the shop, she may be found guilty of attempted theft only as she is still in the shop

(b)   If X steals something from Y, and then uses violence to retain the property, X does not commit robbery but the crimes of theft and assault

(c)   In the crime of robbery where X threatens Y with violence if he does not hand over the property, it is not a requirement that there must be a causal link between the threats of violence and the acquisition of property

(1)   None of the statements is correct
(2)   Only statement (b) is correct
(3)   Only statement (a) is correct
(4)   Only statement (c) is correct
(5)   Only statements (a) and (b) are correct

SUB-TOTAL: [30]

[TURN OVER]

PART B

THIS PART CONSISTS OF THREE QUESTIONS EACH QUESTION IS SUBDIVIDED INTO A NUMBER OF SUB-QUESTIONS. YOU MUST ANSWER ALL THREE QUESTIONS SUBSTANTIATE YOUR ANSWERS AND REFER TO DECIDED CASES WHERE NECESSARY IN DECIDING UPON THE LENGTH OF YOUR ANSWERS YOU SHOULD BE GUIDED BY THE MARKS ALLOCATED TO EACH QUESTION.

Question 1

A, B, C and D are members of a rebel group trying to overthrow the government D pretends as if he supports the group's cause but is a police informant In an effort to make the government take notice of them, the group plan to take children from a rural school hostage They will only release the children if their demands are met One night, A, B, C and D break into the school and hold the children captive They force the school principal to open the school safe and take all the money in the safe A suggests that they kill the principal to show the government how serious they are C and D do not want to partake in the killing of the principal and decide to leave A and B then shoot and kill the principal They load all the children onto trucks and set the school building on fire At that moment, the police – who were informed by D about the plan - arrive A and B are arrested on the spot C and D are apprehended the next day

(a) Discuss whether A, B, C and D may all be convicted of **murder** in respect of the killing of the school principal In your answer, you must discuss the basis of their possible liability in detail and also refer to relevant case law (10)

(b) Can A, B, C and D be convicted of the following offences?

(i) **Robbery** or only **attempted robbery** In your answer you must set out the elements of the crime of robbery (5)

(ii) **Housebreaking with intent to commit a crime** Also give the definition of the crime (3)

(iii) **Common-law abduction** In your answer, also give the definition of the crime (3)

(iv) **Arson** Explain how the crime of arson differs from **malicious injury to property** (4)

(c) Discuss **ONE** of the following decisions

(i) *Motaung* 1990 (4) SA 485 (A)
(ii) *Hlatwayo* 1933 TPD 441 (5)

[30]

[TURN OVER]

Question 2

X is a pimp who operates from a seedy hotel in an unsavoury neighbourhood. He keeps the women who work for him locked up in their rooms by day, and follows their every move at night while they are selling their services. He also gives them drugs to keep them under his control. They receive no compensation for their services. X takes naked photos of the women in compromising positions, and threatens to send the photos to their families if they try to leave the premises or disobey him. To keep the women in line, X is assisted by Z, a police officer, who informs him ahead of time about planned raids on the hotel. X and Z have an agreement that Z will receive five percent (5%) of the money made from the brothel's services.

There is a demand for younger girls by X's clientele. As such, X places an advertisement in a newspaper for job opportunities for young girls as baby sitters. Y, a fourteen-year-old girl, sees the advertisement and applies for the job. X arranges to meet Y in the hotel, whereupon he overpowers her and locks her in a room. Y manages to climb through a broken window and runs away.

(a) In terms of section 71 of the *Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007*, with which offence may X be charged? Give a short description of the crime (4)

(b) Can X be charged with the use, possession or dealing of drugs in terms of the *Drugs and Drugs Trafficking Act 140 of 1992*? In your answer, you must provide the elements of the offence (4)

(c) Can X be charged with kidnapping or attempted kidnapping? Also give the definition of the crime of kidnapping in your answer (4)

(d) Can X be charged with the crime of extortion? In your answer, you must give the elements of the offence (4)

(e) Can X be charged with fraud? In your answer, you must give the elements of the offence (4)

(f) Discuss whether X may be charged with the general crime of corruption in terms of section 3 of the *Prevention and Combating of Corrupt Activities Act 12 of 2004*. In your answer you must set out the basic elements of the offence (5)

[25]

Question 3

(a)   The following statements refer to various crimes Indicate whether these statements are correct or incorrect Give a reason for your answer

(i)   A putative crime is an impossible attempt concerning a mistake regarding the presence of certain material facts

(ii)   Contempt *in facie curiae* is committed by publishing information or commentary calculated to influence the outcome of a case that is still *sub iudice*

(iii)   The offence of pointing a firearm consists of pointing the loaded firearm or article at somebody else

(iv)   A person's good name or reputation can be harmed only if the conduct or words complained of come to the notice of someone other than the victim, in other words, if publication takes place

(v)   A person who commits the crime of receiving stolen property renders himself, at the same time, guilty of being an accessory after the fact to theft   (10)

(b)   X's drill is out of order He takes his neighbour Y's drill without his (Y's) consent X drills holes in the walls of his house with Y's drill He plans to put it back in Y's garage the next day while Y is at work In the meantime, he stores the drill on the porch at the back of his (X's) house During the night, the drill is stolen from X's premises X is charged with theft At the trial his attorney argues that X cannot be convicted of theft because he did not have the intention to appropriate Explain whether this argument is correct   (5)

[15]

SUB-TOTAL: [70]
TOTAL   100

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EXAMINATION MARK READING SHEET   EKSAMEN-MERKLEESBLAD

PART 1 (GENERAL/ALGEMEEN) DEEL 1

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

①

PAPER NUMBER
VRAESTELNOMMER **②**

INITIALS AND SURNAME **③**
VOORLETTERS EN VAN

DATE OF EXAMINATION **④**
DATUM VAN EKSAMEN

EXAMINATION CENTRE (E G PRETORIA) **⑤**
EKSAMENSENTRUM (BV PRETORIA)

STUDENT NUMBER
STUDENTENOMMER **⑥**

UNIQUE PAPER NO
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For use by examination invigilator

Vir gebruik deur eksamenopsiener

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IMPORTANT	BELANGRIK
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2 MARK LIKE THIS	2 MERK AS VOLG
3 CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY	3 KONTROLEER DAT U VOORLETTERS EN VAN REG INGEVUL IS
4 ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT	4 VUL U STUDENTENOMMER VAN LINKS NA REGS IN
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7 CHECK THAT ONLY ONE ANSWER PER QUESTION HAS BEEN MARKED	7 MAAK SEKER DAT NET EEN ALTERNATIEF PER VRAAG GEMERK IS
8 DO NOT FOLD	8 MOENIE VOU NIE

PART 2 (ANSWERS/ANTWOORDE) DEEL 2

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Specimen only

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