

CRW2602

(471716)

October/November 2015

CRIMINAL LAW: SPECIFIC CRIMES

Duration 2 Hours

100 Marks

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SECOND

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 ONE 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. YOU MUST WRITE THE ANSWERS TO THESE QUESTIONS ON THE MARK READING SHEET. EACH QUESTION COUNTS THREE (3) MARKS, WHICH MEANS THAT THE QUESTIONS IN PART A COUNT A TOTAL OF THIRTY MARKS (30). IN PART B, THE ANSWERS TO THE QUESTIONS MUST BE WRITTEN IN THE EXAMINATION SCRIPT ITSELF. THE QUESTIONS IN PART B COUNT SEVENTY MARKS (70).

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 (3) 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 (3) statements are followed by five (5) 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.

[TURN OVER]

QUESTION 1

- (a) An act which is calculated to cause the serious disruption of a banking service is included in the definition of 'terrorist activities' as defined in section 1 by the *Protection of Constitutional Democracy against Terrorist and Related Activities Act* 33 of 2004
 - (b) *Dolus eventualis* is an insufficient form of intention in the crime of terrorism
 - (c) Compulsion is a ground of justification to the crime of terrorism
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (b) are correct
 - (4) Only statements (a) and (c) are correct
 - (5) All the statements are correct

QUESTION 2

- (a) The crime of public violence may also be committed in a private place
 - (b) No actual disturbance of the public peace and order, or no actual infringement of the rights of another is required for the crime of public violence to be committed
 - (c) The crime of public violence is committed by participants who **must act in concert**
- (1) Only statement (a) is correct.
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (a) and (c) are correct
 - (5) All the statements are correct

QUESTION 3

- (a) Because potential prejudice is *sufficient* to constitute fraud, it is not possible to be convicted of attempted fraud
 - (b) In the crime of fraud, the misrepresentation may only be done by a positive act
 - (c) Fair comment on the outcome of a case or on the administration of justice in general does not constitute contempt of court
- (1) None of the statements is correct
 - (2) Only statements (a) and (b) are correct
 - (3) Only statement (b) is correct
 - (4) Only statement (c) is correct
 - (5) Only statements (a) and (c) are correct

[TURN OVER]

QUESTION 4

- (a) Common law abduction can also be committed in respect of a minor male person
 - (b) In order to be convicted of common law abduction, the prosecution must prove that X in fact married the minor or had sexual intercourse with the person
 - (c) Murder is legally defined as the unlawful killing of another human being which includes the killing of a foetus
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (b) are correct
 - (4) Only statements (a) and (c) are correct
 - (5) All these statements are correct

QUESTION 5

- (a) X cleans his revolver but does not know that there is a bullet in one of the chambers. Thinking that there are no bullets in the revolver, he points the gun at Y and pulls the trigger. The gun goes off and Y is killed by the gunshot. **X will be convicted of murder because he was negligent.**
 - (b) The speed limit on a public road outside an urban area is 120km/h
 - (c) The crime of driving with excessive alcohol in the blood can also be committed if one is not driving but is **merely occupying the driver's seat** of a car whilst the engine is running, and whilst having a concentration of alcohol in the blood of 0.05 grams per 100 millilitres or more.
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statement (c) is correct
 - (4) Only statements (a) and (b) are correct
 - (5) All the statements are correct

[TURN OVER]

QUESTION 6

- (a) Reckless driving includes inconsiderate driving which might give rise to a risk of harm to others
 - (b) A police officer who responds to an emergency and causes a motor vehicle collision while crossing a red robot can **never** be convicted of negligent driving
 - (c) The crime of *inconsiderate* driving can be committed negligently or where there are no other road users present
- (1) Only statement (a) is correct.
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (b) are correct
 - (4) Only statements (a) and (c) are correct
 - (5) Only statements (b) and (c) are correct

QUESTION 7

- (a) In the case of *S v Nkosi* 2012 (1) SACR 87 (GNP) it was held that the mere assumption of control over property **which belongs to someone else** is **insufficient** for the crime of **attempted theft**.
 - (b) If X assists Y to commit suicide (mercy killing) he will not be convicted of the crime of murder under South African law
 - (c) The building or structure required in the crime of housebreaking with intent to commit a crime may only be an immovable structure which is or might ordinarily be used for human habitation
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (c) are correct.
 - (4) All these statements are correct
 - (5) None of the statements is correct

QUESTION 8

- (a) *Crimen iniuna* always involves at least three parties
 - (b) The uttering of words constituting vulgar abuse may constitute the crime of *crimen iniuna*
 - (c) Culpability in the form of negligence is sufficient for the crime of assault
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (b) are correct
 - (4) Only statements (a) and (c) are correct
 - (5) All the statements are correct

[TURN OVER]

QUESTION 9

- (a) For a conviction of assault with the intent to cause grievous bodily harm, it is not required that the victim had in actual fact suffered grievous bodily harm
 - (b) X can only be convicted for the crime of assault if the state proves that X applied force to Y's body directly
 - (c) It is a requirement for the crime of receiving stolen property that X must touch the property in order to qualify as an act of receiving
- (1) Only statement (a) is correct
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (b) are correct
 - (4) Only statements (a) and (c) are correct
 - (5) All the statements are correct

QUESTION 10

- (a) The threat of violence in the crime of robbery must always be expressly uttered to satisfy a conviction of robbery
 - (b) If X assaults Y and after Y falls to the ground, X sees Y's valuable watch and takes it for himself, X is guilty of robbery
 - (c) The crime of malicious injury to property cannot be committed in respect of immovable property
- (1) Only statement (a) is correct.
 - (2) Only statement (b) is correct
 - (3) Only statements (a) and (b) are correct
 - (4) All the statements are correct
 - (5) None of the statements is correct

Sub-total: [30]**[TURN OVER]**

PART B

THIS PART CONSISTS OF THREE (3) QUESTIONS. EACH QUESTION IS SUBDIVIDED INTO A NUMBER OF SUB-QUESTIONS. YOU MUST ANSWER ALL THREE (3) QUESTIONS. NOTE THAT SOME OF THE QUESTIONS CONTAIN A CHOICE BETWEEN TWO ALTERNATIVES. 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) NOTE THE CHOICE YOU HAVE IN THIS QUESTION**

- (i) Name the elements of the crime of robbery and discuss whether the grabbing of a cellphone from a person's hand amounts to robbery or merely to theft

OR

- (ii) Discuss the two components of intention required for the crime of terrorism (8)

- (b) X buys himself a brand new Porsche. While he drives away from the dealer's shop he smokes a joint of dagga. The police stop him and he (X) is arrested. He is charged with the crime of driving under the influence of intoxicating liquor or drugs with a narcotic effect. X raises the defence that dagga is not a narcotic drug. Explain whether X may be found guilty of this crime with specific reference to the requirement of the 'act' (7)

- (c) Discuss **ONE** of the following cases

S v Gardener and Another 2011 (1) SACR 570 (SCA)

OR

S v Sibya 1955 (4) SA 247 (A) (6)

- (d) Merely name four (4) additional offences created in the *Firearms Control Act* 60 of 2000, other than the unlawful possession of a firearm or ammunition (4)

[25]

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QUESTION 2

- (a) X works for Y who is a shop owner. Y is in possession of an electricity vending machine that issues pre-paid electricity vouchers on behalf of the ABC company. X provides vouchers for electricity to his friends free of charge. Y finds out and tells X that he will not report him to the ABC company if he (X) provides him (Y) with 20% of the proceeds of the vouchers sold. X agrees. ABC company finds out about the scheme when an audit is done of all the vouchers issued. X is charged with the crime of theft. It is alleged that he has unlawfully and intentionally stolen electricity. The state argues that electricity can be an object of the crime of theft as the crime of theft is no longer limited to movable corporeal property. X avers as his defence that electricity is not property that is capable of being stolen.

ANSWER ALL THREE QUESTIONS BELOW:

- (i) Fully discuss the property requirement for the crime of theft. In your answer you must also discuss the exceptions to the requirements. (7)
- (ii) Discuss whether X can be found guilty of the crime of theft for stealing electricity with reference to case law. (5)
- (iii) Can Y be found guilty of the crime of extortion? Discuss. (5)

(b) NOTE THE CHOICE YOU HAVE IN THIS QUESTION

- (i) Define the crime of contempt of court.

OR

- (ii) Define the crime of corruption. (4)

- (c) Merely state the legal interest(s) protected by each one of the following crimes without any discussion thereof.

- (i) Corruption (1)
- (ii) Pointing of a firearm (1)
- (iii) Kidnapping (2)

[25]**[TURN OVER]**

QUESTION 3

- (a) X kidnaps Y from his work at gunpoint X commands Y to climb into the boot of her car and she drives to a remote area X orders Y to drink some drugs which he (Y) does out of fear X also threatens to kill Y if he (Y), does not have sexual intercourse with her (X) He (Y) submits and has sexual intercourse with her. Discuss whether X is guilty of the following crimes
- (i) The crime of rape in terms of section 3 of the *Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007* (6)
 - (ii) *Crimen iniuria* and/ or assault (4)
- (b) Write down the missing words or phrases in your examination book
- (i) The two defences that may be raised by X in the crime of consensual penetration of children is that both X and Y are and that Y deceived X about his or her. (2)
 - (ii) Sexual assault is defined in s 5(1) as a person (X) who unlawfully and intentionally (2 words) a complainant (Y) without the of Y (2)
 - (iii) It is a sexual offence to engage persons years or older in sexual services for financial or other reward (1)
 - (iv) A person who engages the services of a child (with or without his or her consent) for sexual favours or any type of reward is guilty of the crime of (2 words) of a child (1)
 - (v) A person who influences or encourages a child to engage in a sexual act or who diminishes the child's resistance to such act commits the crime of (2 words) of children under the age of 18 years (1)
 - (vi) The two parties in the crime of corruption are known as the and the (2)
 - (vii) The crime of malicious injury to property also includes damaging one's own (1/2) property with the intention of claiming the value of the property from the (1/2) (1)

[20]**Sub-total: [70]****TOTAL: [100]**

PART 1 (GENERAL/ALGEMEEN) DEEL 1

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STUDIE-EENHEID by PSY100 X

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INITIALS AND SURNAME
VOORLETTERS EN VAN

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DATE OF EXAMINATION
DATUM VAN EKSAMEN

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

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For use by examination invigilator
Vir gebruik deur eksamenopsiener

IMPORTANT

1. USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET
2. MARK LIKE THIS
3. CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY
4. ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT
5. CHECK THAT YOUR STUDENT NUMBER HAS BEEN FILLED IN CORRECTLY
6. CHECK THAT THE UNIQUE NUMBER HAS BEEN FILLED IN CORRECTLY
7. CHECK THAT ONLY ONE ANSWER PER QUESTION HAS BEEN MARKED
8. DO NOT FOLD

BELANGRIK

1. GEBUIK SLEGS 'N HB POTLOOD OM HIERDIE BLAD TE VOLTOOI
2. MERK AS VOLG.
3. KONTROLEER DAT U VOORLETTERS EN VAN REG INGEVUL IS
4. VUL U STUDENTENOMMER VAN LINKS NA REGS IN
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7. MAAK SEKER DAT NET EEN ALTERNATIEF PER VRAAG GEMERK IS
8. MOENIE VOU NIE

PART 2 (ANSWERS/ANTWOORDE) DEEL 2

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