

# **Tutorial letter 101/3/2018**

## **Criminal Law: Specific Crimes CRW2602**

**Semester 1 and 2**

**Criminal and Procedural Law**

**IMPORTANT INFORMATION:**

This tutorial letter contains important information  
about your module.

BAR CODE

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## 1 INTRODUCTION AND WELCOME

Welcome to the second module in Criminal Law. We hope you will find it interesting and rewarding.

You will receive a number of tutorial letters during the year. A tutorial letter is our way of communicating with you about teaching, learning and assessment. This tutorial letter contains important information about the scheme of work, resources and assignments for this module. We urge you to read it carefully and to keep it at hand 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 also include in this tutorial letter certain general and administrative information with regard to this module. Please study this section of the 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.

Please read Tutorial Letter 301 in combination with Tutorial letter 101 as it will give you an idea of generally important information when studying at a distance and within a particular college.

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

## 2 STRUCTURE, PURPOSE AND OUTCOMES

### 2.1 Structure of the module

The code for this module is CRW2602 and it is a semester module. This means that if you are registered for this module in the first semester of 2018, you will write the examination in May/June 2018; and if you are registered in the second semester, you will write the 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 examination in October/November 2018 but are granted a supplementary examination, you will write the supplementary examination in May/June 2019.

Criminal law is presented in **two** compulsory modules, namely **CRW2601** and **CRW2602**. Module **CRW2601** deals with the **general principles** of criminal law, **participation in crime and attempt to commit a crime**. Module **CRW2602** deals with **specific crimes**.

### 2.2 Purpose of the module

This module covers theoretical principles underlying specific topics of substantive criminal law and some of the most important crimes. The **purpose** of this module (CRW2602) is for you to gain the necessary knowledge, skills, attitudes and competencies to analyse and solve problems relating to selected topics of criminal law and specific offences. You must be able to demonstrate a clear understanding of these selected topics and the elements of

the most important specific offences, apply these principles to factual scenarios which occur in the real world, and solve problems related to criminal law in a work environment.

## 2.3 Outcomes of the module

By studying this module, you should develop the following **main outcomes** and competencies:

- **Knowledge and understanding.** This fundamental outcome requires you to gain sufficient knowledge, skills and competencies to critically analyse and evaluate legal material which include the Constitution, legislation, case law and academic opinion pertaining directly to specific topics of criminal law.
- **Application.** You also have to develop the competency to formulate legal arguments and apply your knowledge to practical problems. This outcome can be achieved by, *inter alia*, doing the “activities” and “test yourself” exercises included in the study material.

The outcomes and competencies mentioned above are also relevant for **assessment** purposes (by your lecturers and your assessment of yourself). In the examination, you will have to answer **theoretical questions** which will require you to demonstrate your knowledge of the study material. You will also have to answer a number of **problem-type questions** to assess your understanding and ability to apply your theoretical knowledge practically. Both types of questions will assess how you use certain competencies, for example, your 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 evaluate yourself. **Self-evaluation** is an important tool for assessing the extent to which you have achieved the study outcomes. Apart from the feedback on assignments which will provide specific guidance, you should take notice of the specific outcomes identified in each study unit 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 LECTURERS AND CONTACT DETAILS

### 3.1 Lecturers

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

Please address your letters to:

The Module Leader (**CRW2602**)  
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 us **by telephone** at the following numbers:

Prof N Mollema	(012) 429 8384
Prof L Jordaan	(012) 429 8425
Mr RD Ramosa	(012) 429 8403

When we are not available, phone calls will be forwarded to an answering machine. You can therefore leave voicemail messages for your lecturers at any time of the day or night. We will reply as soon as possible.

You are welcome to visit the lecturers to discuss any queries about or problems concerning the module. However, **please make an appointment beforehand**, otherwise you may run the risk of the lecturer not being available to see you. Our offices are on the 8<sup>th</sup> floor of the Cas van Vuuren Building, Main Campus, Muckleneuk Ridge, Pretoria. Our office numbers are as follows:

Prof N Mollema	Cas van Vuuren	8-94
Prof L Jordaan	Cas van Vuuren	8-88
Mr RD Ramosa	Cas van Vuuren	8-102

If you have access to the internet, you may contact the lecturers at the following **e-mail** addresses:

Prof N Mollema	<a href="mailto:mollen@unisa.ac.za">mollen@unisa.ac.za</a>
Prof L Jordaan	<a href="mailto:jordal@unisa.ac.za">jordal@unisa.ac.za</a>
Mr RD Ramosa	<a href="mailto:ramosrd@unisa.ac.za">ramosrd@unisa.ac.za</a>

### 3.2 Department

If you cannot get hold of any of your lecturers, you are also welcome to leave a message with the departmental secretary at either **(012) 429 2741/4995/8444**.

### 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).

## 4 MODULE-RELATED RESOURCES

### 4.1 Study material

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

- A study guide
- Tutorial Letters 101 and 301 at registration and others later during the course of the semester

Apart from Tutorial Letters 101 and 301, 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 despatched to you as soon as they are available or needed (for instance, for feedback on assignments).

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 the University's online campus, *myUnisa*, at: <http://my.unisa.ac.za>.

The study guide for CRW2602 consists of twelve (12) study units. The introduction contains a description of the literature for this course and the study method you should follow. Please read the introductory chapter of your study guide carefully, as it sets out what we expect of you in this module. Please give particular attention to point 4, namely "Method of study".

Bear in mind that it will not be sufficient to merely memorise the contents of the study guide. You must also consult your prescribed works. Certain parts of criminal law which you must study for the examination will not be discussed in the study guide but only in your textbook, *Criminal Law*. **You have to study these parts of the syllabus in the above-mentioned book.**

In the study guide we will refer you to those parts of the book which you must study. Furthermore, if the discussion of a certain topic in the study guide is not clear to you, it will probably become clear if you consult the discussion of that particular topic in the prescribed works.

#### 4.2 Prescribed material

The study material for CRW2602 consists of two prescribed texts:

**Snyman CR *Criminal Law* 6 ed (2014) LexisNexis  
Case Law Reader for CRW2602**

Please consult the list of official booksellers and their addresses listed in *my Studies @ Unisa*. If you have any difficulty obtaining Snyman's book from these bookshops, please contact the Prescribed Books Section at telephone 012 429 4152 or email [vospresc@unisa.ac.za](mailto:vospresc@unisa.ac.za). You can also order Snyman's book directly from the publishers.

#### 4.3 Prescribed cases

The following is a list of prescribed decided cases which you must study for the examination. It is **COMPULSORY** to study these cases in conjunction with the study guide and prescribed textbook. They will help you gain greater insight into the relevant principles and their application. All the cases appear in your **prescribed Case Law Reader**.

**For the purposes of this module, you need to study the prescribed cases as they appear in your prescribed Case Law Reader only.**

##### **Sexual Offences**

*S v Masiya* 2007 (2) SACR 435 (CC)

##### **Assault**

*S v A* 1993 (1) SACR 600 (A)

**Theft**

*S v Sibiya* 1955 (4) SA 247 (A)  
*S v Nkosi* 2012 (1) SACR 87 (GNP)  
*S v Ndebele and Others* 2012 (1) SACR 245 (GSJ)

**Robbery**

*Ex parte Minister of Justice: in re R v Gesa; R v De Jongh* 1959 (1) SA 234 (A)

**Murder**

*S v Mshumpa* 2008 (1) SACR 126 (E)

**Fraud**

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

**4.4 Library services and resources information**

For brief information go to: [www.unisa.ac.za/brochures/studies](http://www.unisa.ac.za/brochures/studies).

For more detailed information, go to the Unisa website: <http://www.unisa.ac.za/library>. For research support and services of Personal Librarians, click on "Research support".

The Library has compiled numerous library guides:

- find recommended reading in the print collection and e-reserves - <http://libguides.unisa.ac.za/request/undergrad>
- request material - <http://libguides.unisa.ac.za/request/request>
- postgraduate information services - <http://libguides.unisa.ac.za/request/postgrad>
- finding, obtaining and using library resources and tools to assist in doing research [http://libguides.unisa.ac.za/Research\\_Skills](http://libguides.unisa.ac.za/Research_Skills)
- how to contact the Library/find us on social media/frequently asked questions - <http://libguides.unisa.ac.za/ask>

**5 STUDENT-SUPPORT SERVICES****5.1 General**

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

**5.2 Contact with fellow students****5.2.1 Study groups**

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**

### **5.2.2 myUnisa**

If you have access to a computer that is linked to the internet, you can quickly access resources and information at the university. The *myUnisa* learner management system is Unisa's online campus that will help you to communicate with your lecturers, with other students and with the administrative departments of Unisa – all via the internet.

To go to the *myUnisa* web site, start at the main Unisa web site <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>.

**Please consult the publication, *my Studies @ Unisa*, which you received with your study material, for more information on *myUnisa*.**

### **5.3 Free computer and internet access**

Unisa has entered into partnerships with establishments (referred to as Telecentres) in various locations across South Africa to enable you (as a Unisa student) free access to computers and the Internet. This access enables you to conduct the following academic related activities: registration; online submission of assignments; engaging in e-tutoring activities and signature courses; etc. Please note that any other activities outside of these are for your own costing e.g. printing, photocopying, etc. For more information on the Telecentre nearest to you, please visit [www.unisa.ac.za/telecentres](http://www.unisa.ac.za/telecentres).

### **5.4 Discussion classes**

There will be no group discussions for this module.

### **5.5 Tutorials**

Unisa offers additional academic support to students to develop and enhance the learning experience and academic performance of its students. 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*.

Please note that e-tutors are now available for this module, CRW2602. The e-tutors will assist you with content-related enquiries and with general enquiries regarding the assignments and examination. The e-tutors are only available online via the *myUnisa* website for this module. You are not allowed to contact your e-tutor telephonically, per e-mail or via ordinary post. The e-tutors are appointed when the registration period for a particular semester has closed and the University will notify you once you have been allocated an e-tutor. Any updates or other important information will be conveyed to you on the forum for announcements on this module's *myUnisa* website.

Keep in mind that your e-tutors communicate regularly with lecturers. This means that they are able to convey to you all the important information on the content and administration of this module. However, we still encourage you to use the general *myUnisa* discussion forum to communicate with your fellow students and lecturers. Please treat your e-tutor with respect; failure to do so may lead to disciplinary action. Remember, your e-tutor is there to assist you and to guide you through the module. However, it is ultimately your responsibility



to pass this module. This means that you have to study hard and start preparing for the examination well in advance.

## 6 STUDY PLAN

*The specific study plan for CRW2602 below is based on the assumption that all academic activities for the 1<sup>st</sup> semester 2018 will commence in February and continue until the end of April 2018. For the 2<sup>nd</sup> semester 2018, studies will commence in July and continue until the end of September 2018. The examination period for the 1<sup>st</sup> semester commences early in May 2018 and runs till early June 2018, while the examination period for the 2<sup>nd</sup> semester commences early in October 2018 and runs till November 2018.*

<u>Study Plan</u>	<u>Week beginning on: 1<sup>st</sup> semester/2<sup>nd</sup> semester</u>	<u>Study unit(s) to be covered</u>
Study Unit 1	2018-01-29 / 2018-07-02	Introduction / Crimes against the state
Study Unit 2	2018-02-05 / 2018-07-09	Crimes against the administration of justice
Study Unit 3	2018-02-12 / 2018-07-16	Crimes against public welfare
Study Unit 4	2018-02-19 / 2018-07-23	Sexual Crimes
Study Unit 5	2018-02-26 / 2018-07-30	Crimes against life and potential life
Study Unit 6	2018-03-05 / 2018-08-06	Crimes against bodily integrity
Study Unit 7	2018-03-12 / 2018-08-13	Crimes against dignity, etc.
Study Unit 8	2018-03-19 / 2018-08-20	Theft
Study Unit 9	2018-03-26 / 2018-08-27	Robbery and receiving stolen property
Study Unit 10	2018-04-02 / 2018-09-03	Fraud and related crimes
Study Unit 11	2018-04-09 / 2018-09-10	Crimes related to damage to property
Study Unit 12	2018-04-16 / 2018-09-17	Housebreaking with intent to commit a crime
Revision	2018-04-23 / 2018-09-24	Revision of assignments/ commentaries
Revision	2018-04-30 / 2018-10-01	Revision of previous exam papers

## 7 ASSESSMENT

### 7.1 General

Assignments, like the activities in the study guide, form an extremely important part of the module. As you do the assignment, study the reading texts, consult other resources, discuss the work with fellow students or tutors 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** in the semester for which you are registered.

## **7.2 Commentaries and feedback on assignments**

We will send commentaries on the compulsory assignments in tutorial letters to all students who are registered for this module, and not only to those students who submitted the assignments. You will receive the correct answers for multiple-choice questions automatically. For written assignments, markers will comment constructively on your work. As soon as you receive the commentaries, please check your answers against them. The assignments and the commentaries thereof constitute an important part of your study material for the examination. In addition to the two compulsory assignments, we also include a self-assessment assignment, with model answers, in this tutorial letter.

## **7.3 Assignments and assessment criteria**

The assignments you have to do in this module will be assessed in terms of the following desired outcomes and assessment criteria:

### **7.3.1 The specific desired outcomes to be assessed in CRW2602**

#### **Outcome 1**

- The ability to apply knowledge, skills and competencies critically to solve problems relating to selected topics of criminal law and to specific offences

#### **Outcome 2**

- The ability to demonstrate a clear understanding of these topics and elements of specific offences, through the application to factual scenarios of their underlying principles.

### **7.3.2 The assessment criteria related to each specific outcome**

#### **Outcome 1**

- Legal problems and issues relating to selected topics and specific offences are identified in simulated factual scenarios.
- A sound understanding of concepts, rules, established principles and elements relating to specific offences is demonstrated.
- Legal material related to criminal law is critically analysed and synthesized.
- Views expressed in the text are reflected on, evaluated and debated critically.

#### **Outcome 2**

- Problems relating to criminal law are solved using the correct legal principles.
- Legal text is skilfully used to substantiate arguments and support solutions for specific criminal law issues.

You must ensure that your assignments meet the above outcomes and assessment criteria. The assessor will then be in a better position to determine whether you have achieved the necessary skills, knowledge and insight regarding the study material.

## **7.4 Warning against plagiarism**

Students often find it rewarding to work in a group when preparing an assignment and Unisa encourages students to work together. However, please note that you must give your own interpretation of what you have learnt in the group. Identical assignments handed in 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 assignment. More than one student may not hand in identical assignments merely because they worked together on them. This amounts to plagiarism, and such assignments will not be marked. In addition, these students may be penalised or subjected to the disciplinary proceedings of the University.

## 7.5 Unique assignment numbers

The unique assignment numbers for the two compulsory assignments are the following:

**Semester 01:**           **Assignment 01: 684719**  
                                  **Assignment 02: 811768**

**Semester 02:**           **Assignment 01: 814521**  
                                  **Assignment 02: 784822**

## 7.6 Submission dates for assignments

The closing dates for the submission of the two compulsory assignments are the following:

**Semester 01:**           **Assignment 01: 13 March 2018**  
                                  **Assignment 02: 3 April 2018**

**Semester 02:**           **Assignment 01: 21 August 2018**  
                                  **Assignment 02: 11 September 2018**

**Please note that the closing dates for assignments are the dates on which assignments must reach Unisa.**

## 7.7 Submission of assignments

Assignments should be addressed to:

The Registrar  
 PO Box 392  
 Unisa  
 0003

You may submit written assignments and assignments done on mark-reading sheets either by post or electronically via *myUnisa*. **You may not submit assignments by fax or e-mail.** For detailed information and requirements as far as assignments are concerned, see the brochure *my Studies @ Unisa*.

To submit an assignment via *myUnisa*:

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

## 7.8 Assignment queries

**PLEASE NOTE:** If you have any queries about assignments (e.g. whether or not the University has received your assignment or the date on which an assignment was returned to you), you should contact the University at 012 429 6166. You might also find information on *myUnisa*.

## 7.9 Assignments

### 7.9.1 Compulsory and self-assessment assignments

There are **TWO compulsory assignments** and **one self-evaluation assignment per semester** for this module. **WHILST BOTH COMPULSORY ASSIGNMENTS CONTRIBUTE TO YOUR SEMESTER MARK, YOU HAVE TO SUBMIT THE FIRST COMPULSORY ASSIGNMENT IN ORDER TO OBTAIN ADMISSION TO THE EXAMINATION** (see 7.1 above). We also include a self-evaluation assignment with model answers which you must do on your own in order to prepare for the examination. **You must not submit the self-assessment assignment for marking.**

### 7.9.2 Compulsory assignment 01 Closing date: 13 March 2018

**Semester 01**  
**Unique number: 684719**

**Please note that this assignment is compulsory if you are registered for CRW2602 in the FIRST SEMESTER.** 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.

This assignment consists of one problem-type question covering study units 1-6. Consult the brochure, *my Studies @ Unisa*, regarding the requirements for submitting the assignment.

Substantiate your answers and refer to decided cases where relevant. To determine the length of your answers, you should be guided by the marks allocated to each subdivision.

### QUESTION

**(THE ANSWER TO THIS QUESTION MAY NOT EXCEED ONE PAGE).**

X is a 22-year-old sports coach at a secondary school in Johannesburg. Y, a 16-year-old girl who excels at sports, becomes infatuated with X, and sends him sexy text messages. X replies by sending Y naked images of himself. He tells Y that she can trust him as he will help her with her future sports career. X invites Y to his flat where he shows Y a pornographic movie, where after he coaxes Y to masturbate him. X and Y begin a physical relationship. After a few months, Y tells X that she is pregnant. X does not want anybody to know about his relationship with Y, and definitely does not want a baby. X hires Z to physically assault Y with the goal to bring about the miscarriage of the unborn child. Z brutally punches and kicks Y in the stomach. Y narrowly escapes with her life, but suffers a miscarriage.

Answer the following questions:

- (a) **Name** the sexual offences with which X may be charged in respect of his conduct with Y and **give reasons** for your conclusions. (7)
- (b) Discuss whether X can be convicted of the murder of the unborn child. (3)

**Total: [10]**

**7.9.3 Compulsory assignment 02**  
**Closing date: 3 April 2018**

**Semester 01**  
**Unique number: 811768**

**Please note that this assignment is compulsory if you are registered for CRW2602 in the FIRST SEMESTER. It is the second compulsory assignment for the FIRST SEMESTER.**

This assignment consists of five multiple-choice questions covering **study units 7-12**.

You have to answer the questions in this assignment on the mark-reading sheet which you received with your tutorial material. As indicated above, you may also submit this assignment via *myUnisa*. Read the instructions on completing the mark-reading sheet carefully, as non-compliance will mean that the computer will not be able to mark your answers.

Five questions (marked 1-5) will 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 one of them alleges that a certain statement or combination of statements is/are correct. You must decide which allegation accurately reflects the conclusions you have reached.

**QUESTION 1**

- (a) One of the ways in which the crime of assault may be committed is if X applies indirect force to the person of another.
  - (b) In *A 1993 (1) SA 600 (A)*, X was convicted of the crime of assault where the application of force was indirect.
  - (c) For X to be convicted of assault with intent to do grievous bodily harm, the state must prove that the victim was seriously injured.
- (1) Only statement (a) is correct.
  - (2) Only statements (a) and (b) are correct.
  - (3) Only statements (a) and (c) are correct.
  - (4) All the statements are correct.
  - (5) None of the statements is correct.

**QUESTION 2**

- (a) If X tries to poison Y, but just before swallowing the poison Y spits it out, X's act will qualify as the crime known as "assault with the intent to murder".
  - (b) In order to secure a conviction for the offence of pointing a firearm, the state needs to prove that the firearm or article was loaded.
  - (c) For the crime of *crimen iniuria*, an infringement of Y's dignity is only punishable if Y was aware of X's insulting words or conduct.
- (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) Only statements (a) and (c) are correct.

### QUESTION 3

- (a) The crime of abduction punishes persons who entice unmarried minors to leave their parental homes, *inter alia*, to make them available for the purposes of engaging in indiscriminate sex.
  - (b) "Childstealing" is a species of kidnapping.
  - (c) For the crime of theft, Y commits an act of appropriation if she behaves as if she is the owner of, or person entitled to the property, whereas she is not, and, in so doing, exercises control over the property.
- (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 of the statements are correct.

### QUESTION 4

- (a) In *Mambo* 2006 (2) SACR 563 (SCA), the court approved of the ruling in *Salmons* 2006 (1) SACR 333 (C) that the grabbing of an item out of a complainant's hand represents a physical act against the person of another, which amounts to robbery.
  - (b) The crime of receiving stolen property, knowing it to have been stolen, overlaps with the crime of theft.
  - (c) In *Mngqibisa* 2008 (1) SACR 92 (SCA), X was convicted of fraud in that he had caused potential prejudice to the insurance company at the time of making the false representation.
- (1) Only statement (a) is correct.
  - (2) Only statements (a) and (b) are correct.
  - (3) Only statements (b) and (c) are correct.
  - (4) Only statements (a) and (c) are correct.
  - (5) All the statements are correct.

### QUESTION 5

- (a) For the crime of arson, intention to damage moveable property by setting fire to it, thereby causing patrimonial harm to somebody, is required.
  - (b) One commits the crime of housebreaking with intent to commit a crime if one steals a spade from someone else's enclosed backyard.
  - (c) If Y receives the proceeds of the sale of property stolen by X, while knowing that the property was stolen, Y will be guilty of the crime of receiving stolen property.
- (1) Only statements (a) and (b) are correct.
  - (2) Only statements (a) and (c) are correct.
  - (3) Only statements (b) and (c) are correct.
  - (4) None of the statements is correct.
  - (5) All the statements are correct.

**7.9.4 Compulsory assignment 01/2018**  
**Closing date: 21 August 2018**

**Semester 2**  
**Unique number: 814521**

**Please note that this assignment is compulsory if you are registered for CRW2602 in the SECOND SEMESTER.** 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.

This assignment consists of one problem-type question covering study units 1 - 6. Consult the brochure, *my Studies @ Unisa*, for the requirements for submission of the assignment.

Substantiate your answer and refer to decided cases where relevant. To determine the length of your answer, you should be guided by the marks allocated to each question.

**QUESTION**

**(THE ANSWER TO THIS QUESTION MAY NOT EXCEED ONE PAGE.)**

X and Y are best friends. One day they decide to take part in a drag race together with other vehicles in X's new Mini Cooper vehicle with X driving. The drag race is scheduled to take place in a suburban area close to shopping malls and a male hostel. Before the race, X and Y consume six bottles of beer each. After take-off X excels at a speed of 160 km/h. When the driver of another car, Z, tries to pass them, Y pulls out his unlicensed handgun and points it at Z. Z gets such a fright that he drives into a traffic light on the sidewalk. Y fires the gun a few times in the air to make sure that Z gets the message that his life is in danger. Whilst driving, X receives a sms message and whilst reading the message loses control of the vehicle causing it to roll over several times, finally landing on its roof.

Answer the following questions:

- (a) Name the offences of which X may be charged under the *National Road Traffic Act* 93 of 1996 and **give a brief reason** for each conclusion. (6)
- (b) **Name** the offences with which Y may be charged and **give reasons** for your conclusions. (4)

**Total: [10]**

**7.9.5 Compulsory assignment 02**  
**Closing date: 11 September 2018**

**Semester 02**  
**Unique number: 784822**

**Please note that this assignment is compulsory if you are registered for CRW2602 in the SECOND SEMESTER.** It is the second compulsory assignment for the second semester.

This assignment consists of five multiple-choice questions covering **study units 7-12**.

You have to answer the questions in this assignment on the mark-reading sheet which you received with your tutorial material. As indicated above, you may also submit this assignment via *myUnisa*. Read the instructions on completing the mark-reading sheet carefully, as non-compliance will mean that the computer will not be able to mark your answers.

Five questions (marked 1-5) 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 which you have reached.

### QUESTION 1

- (a) One of the ways in which the crime of assault may be committed is if X inspires fear in Y that force is immediately to be applied to her.
  - (b) In *Marx* 1962 (1) SA 848 (N), X infringed the physical integrity of his children by giving them three glasses of wine to drink.
  - (c) The “grievous bodily harm” in the crime of assault with intent to do grievous bodily harm must be of a serious or dangerous nature.
- (1) Only statement (a) is correct.
  - (2) Only statement (b) is correct.
  - (3) Only statement (c) is correct.
  - (4) All the statements are correct.
  - (5) Only statements (a) and (b) are correct.

### QUESTION 2

- (a) The offence of pointing of a firearm may overlap with the crime of assault in the form of inspiring fear of immediate personal violence.
  - (b) A violation of reputation as in the crime of criminal defamation always involves three parties.
  - (c) X’s act of sending a suggestive and explicit sexual WhatsApp message to Y (which Y reads) may constitute the crime of *crimen iniuria*.
- (1) Only statement (a) is correct.
  - (2) Only statements (a) and (b) are correct.
  - (3) Only statements (a) and (c) is correct.
  - (4) Only statements (b) and (c) are correct.
  - (5) All the statements are correct.



**QUESTION 3**

- (a) In the crime of abduction, the consent of the parents or guardian to both the removal of the minor as well as the purpose of the removal must be absent.
  - (b) The different forms of theft are common theft, embezzlement and arrogation of possession.
  - (c) In *Nkosi* 2012 (1) SACR 87 (GNP) the court held that the appellant was guilty of completed stock theft.
- (1) Only statement (a) is correct.
  - (2) Only statement (b) is correct.
  - (3) Only statement (c) is correct.
  - (4) Only statements (b) and (c) are correct.
  - (5) All the statements are correct.

**QUESTION 4**

- (a) In the crime of robbery there must be a causal link between the violence or threats of violence on the one hand and the acquisition of the property on the other.
  - (b) In *Mdantile* 2011 (2) SACR 142 (FB) X made a false representation that he had a valid train ticket whereas he did not, thus causing Transnet real prejudice.
  - (c) Carving one's initials onto the wall of a national monument constitutes the crime of malicious injury to property.
- (1) Only statement (a) is correct.
  - (2) Only statement (b) is correct.
  - (3) Only statement (c) is correct.
  - (4) Only statements (b) and (c) are correct.
  - (5) All the statements are correct.

**QUESTION 5**

- (a) For the crime housebreaking with intent to commit a crime, the requirement that an obstacle that forms part of the building must be removed to constitute "breaking", is complied with if X merely moved a curtain.
  - (b) In *Mavungu* 2009 (1) SACR 425 (T), X was not convicted of housebreaking with intent to commit a crime as he had broken into a caravan not used for human habitation and he did not steal anything.
  - (c) The property in the crime of receiving stolen property can only be moveable corporeal property *in commercio*.
- (1) Only statement (a) is correct.
  - (2) Only statement (b) is correct.
  - (3) Only statement (c) is correct.
  - (4) Only statements (b) and (c) are correct.
  - (5) All the statements are correct.

## 7.10 Self-assessment assignment

The following questions are typical questions which you may expect to find in the examination as well as in the assignments. Not only do these questions provide a useful exercise for revision and self-evaluation, but they may also give you an indication as to what we expect from you when answering the assignment questions.

The answers appear after each question. In order to benefit from the assignment, we suggest that you answer the questions yourself before looking at the answers.

**NOTE: DO NOT SUBMIT YOUR ANSWERS TO THIS ASSIGNMENT FOR MARKING.**

### Question 1

Smokers United, a group of cigarette smokers, is very upset about the rising price of cigarettes. They decide to march to the office of the Minister of Finance to hand over a petition from smokers all over South Africa complaining about the rising price of cigarettes and the manner in which smokers are being treated since the new legislation on smoking came into operation. They do not have permission to march, but decide to continue nevertheless. The police request them to disperse in a peaceful manner but they refuse. Some of the protesters throw stones at the police and some try to enter the office of the Minister by breaking down the door. The police throw teargas at them and the protestors run away. The police succeed in arresting five of the protesters. Can these five people be convicted of any crime?

### Answer

Yes, they can be convicted of the crime of public violence:

- (a) They participated in the protest.
- (b) They disturbed the public peace and order.
- (c) It was a joint action. A number of persons acting in concert disturbed the peace and order.

These people acted with a common purpose. Once it had been established that the accused knowingly participated with the aim of threatening public peace and order, it is not necessary for the police to prove the specific acts that were committed by each of the accused.

- (d) The acts had been accompanied by violence. Note, however, that the crime is committed even if there is no actual disturbance of the public peace and order or no actual infringement of the rights of another. It is sufficient if the action was aimed at these purposes.

### Question 2

Y, a married woman who teaches at a university, has a love affair with one of her students; X. X is an amateur photographer in possession of photographs which depict Y in various positions while naked. Y decides to save her marriage and ends the affair. X is shattered and threatens to show the photographs to her husband unless she gives him the examination paper. Y agrees and gives X the examination paper. Has X committed a crime?

**Answer**

X commits extortion. X acquired a benefit by unlawfully exerting pressure on Y. Pressure may take the form of threats, as in this instance. The benefit may be of a patrimonial or non-patrimonial nature. The benefit extorted in this instance is the questions in the examination paper, which is non-patrimonial. Before 1989 there were conflicting decisions on the question whether the benefit in extortion should be limited to patrimonial benefit. Since the promulgation of section 1 of the General Law Amendment Act 139 of 1992, any advantage or benefit can be extorted. Note that if Y had not yet handed over the benefit to X, it would amount to attempted extortion only.

**Question 3**

X, a horticulturist, is in serious financial trouble. Her friend, who regularly smokes cannabis, convinces her that there is a market for good quality cannabis. He also tells her that there is a movement towards the decriminalisation of the possession of cannabis. She decides to take her chances and grow and sell cannabis to solve her financial difficulties. It turns out that her cannabis is of an extremely high quality and that she would have to sell only one harvest to be financially solvent again. When the cannabis is harvested and ready for distribution, the police find 20kg cannabis in her garage while she is out looking for a buyer. Has X committed a crime?

**Answer**

X commits the crime of dealing in drugs. Cannabis qualifies as a dependence-producing substance. "Deal in" is defined in the Drugs and Drugs Trafficking Act 140 of 1992 as including the performance of any act in connection with the cultivation of drugs. X's acts comply with this definition. She grew the cannabis and harvested it. The fact that there is a large quantity of cannabis is a further indication that she intended to deal in cannabis.

X cannot rely on any ground of justification. The fact that she wanted to overcome her financial difficulties does not offer her a defence. She also fulfils the requirement of intention as she decided to continue with her plan despite the fact that she knew that the possession of cannabis has not yet been decriminalised.

**Question 4**

X is the treasurer of a golf club. Y pays his club fees, but X does not deposit the cheque into the club account. X is in financial difficulties and uses the cheque to pay his son's tuition fees. Has X committed a crime?

**Answer**

X commits theft. X does not handle any tangible coins or notes (i.e. corporeal things). He handles credit or an "abstract sum of money". X is nevertheless guilty of theft since he unlawfully and intentionally appropriated the credit. According to our courts this conduct constitutes theft.

**Question 5**

X, a well-known socialite, borrows a diamond brooch belonging to her friend Y to wear to a charity ball. At the ball, an impromptu raffle is held. X offers the brooch as a prize. She also buys a raffle ticket. Z wins the brooch. Y wants her brooch back but X tells her that Z won it in the raffle. Does X commit any crime?

### Answer

X commits the crime of theft in the form of embezzlement. X commits an act of appropriation in respect of property that she already has in her possession. X has the brooch in her possession when she offers it as a prize. She complies with the negative component of the act of appropriation. By offering the brooch as a prize in the raffle, she also complies with the positive component of the act. She exercises the rights of an owner in respect of the brooch. She has excluded Y from control of her property.

X also has the intention to appropriate Y's property. X has the intention to exercise the rights of an owner in respect of the property as well as the intention to deprive Y of the property. The fact that she buys a raffle ticket does not negate her intention to deprive Y of her property. The chances are slim that she would win the brooch back. She cannot argue that she had the intention to retrieve the brooch and return it to Y, because she knew or at least foresaw that her chances of retrieving the brooch were relatively small. X therefore commits theft in the form of embezzlement.

### Question 6

Indicate whether the following statements with regard to fraud are correct or incorrect:

- (a) The misrepresentation can be either express or implied.
- (b) The misrepresentation may be made by a positive act only.
- (c) If X misrepresents to her insurance company that her insured camera was stolen and the company reimburses her for the camera, the company will have suffered actual prejudice if the allegation that the camera had been stolen was false.
- (d) "Likely to prejudice" does not mean that there should merely be a possibility of prejudice; it means that there must be a probability of prejudice.
- (e) Prejudice must have been suffered by the representee only.
- (f) Laying a false charge with, or making a false statement to the police is an example of the causing of non-patrimonial prejudice.

### Answer

- (a) Correct
- (b) Incorrect
- (c) Correct
- (d) Incorrect
- (e) Incorrect
- (f) Correct

## 7.11 The examination

### 7.11.1 Admission to the examination

**You must submit two compulsory assignments during the semester in which you are registered.** If you have registered in the first semester, you must submit the first semester's assignments only. If you have registered for the second semester, you must submit the second semester's assignments only. Both assignments contribute to your semester 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. 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 receive admission to write the examination, irrespective of whether or not they submit the second compulsory assignment thereafter.**

**The marks you receive for the two compulsory assignments will comprise 20% of your final mark.**

### 7.11.2 Examination period

**This module will be offered in a semester period of fifteen weeks.** This means you will write the examination in May/June 2018 if you have registered for the first semester and in October/ November 2018 if you have registered for the second semester.

During the course of the year the Examination Section will provide you with further information on the examination in general, examination venues, examination dates and examination times.

### 7.11.3 Examination paper

At the end of the semester you will write **one two (2)-hour paper** in module CRW2602. The paper counts **100** marks.

**Please take note that, irrespective of the semester mark you obtained, you must obtain at least 40% in the examination (before any adjustments) in order for your semester mark to be taken into account for your final mark.**

### 7.11.4 Previous examination papers

**Previous examination papers will be made available to you via myUnisa.** The examination paper of the year preceding your registration will be sent to you in a tutorial letter. To help you in preparing for the examination, the answers to the questions in this examination paper will be provided to you.

### 7.11.5 Supplementary examination and the semester mark

Supplementary examinations may be granted provided you received a sub-minimum of 40% in the examination.

Please note that should the University grant you a **supplementary examination, your semester mark will count towards your final mark only if it benefits you.**

The position is the same for students who write the **aegrotat (sick) examination**. In other words, students who are unable to write the examination for health reasons and have a medical certificate to prove it and students who write a supplementary examination will be in the same position.

### 7.11.6 Suggestions on how to approach the examination

It is a good idea to read carefully through the paper first in order to note the maximum number of marks allotted to each question, and then to decide on the maximum amount of time that you should devote to each question.

When answering a problem-type question – that is a question setting out a hypothetical factual situation on which you have to answer certain questions - it is inadvisable to start writing the solution immediately. You should rather first ascertain the legal principles that are relevant to finding the solution. Describe these principles and then provide your ideas on a possible solution of the problem. Your explanation of the relevant legal principles will earn you valuable marks even if your final conclusion is not absolutely correct.

If a question requires you to **define** certain concepts or to **state** certain principles or criteria, your answers should be brief and to the point. It will then not be necessary to discuss or comment in detail, except if asked to do so.

Please structure your answers in **short paragraphs**. It is difficult for lecturers to read through pages of “unbroken” text. Start each new point or aspect with a new paragraph. **Subheadings, underlined**, will also facilitate marking. If you quote decided cases or the names of authors of books or articles, please **underline** these **names**. (Please note: we will never require you to know the reference of a case, e.g. 1957 (3) SA 710 (T).)

## 8 FREQUENTLY ASKED QUESTIONS

We receive many calls from students asking the same questions over and over again. We have therefore decided to include the answers to these frequently asked questions in this tutorial letter. Please read this section first before making an unnecessary telephone call about the following questions:

### 1. Are there assignments for CRW2602? Do I have to submit the assignments?

Yes, there are **three assignments**. The **first assignment is compulsory**, which means you **must submit it in order to obtain admission to the examination**. The **second assignment is also compulsory**, and counts towards your semester mark. The **third assignment** is the **self-evaluation assignment**, and **must not be submitted**.

### 2. What do I do if I experience problems with the contents of the tutorial material for CRW2602?

Please do not hesitate to contact one of your CRW2602 lecturers. You can **phone** any of the lecturers, **make an appointment to come and see us personally**, write a **letter** or send an **e-mail**.

### 3. Do I have to study the contents of the statutes and the court cases that are given in the CRW2602 study guide?

Yes, but only as they are discussed in the study guide and the prescribed textbooks. However, if it is indicated in this letter or in the study guide that you must read a court case in the *Reader*, then you must also study the case in the *Reader*.

### 4. I have not yet received a study guide or tutorial letter. Can you send me a copy of the study guide/tutorial letter?

No, unfortunately **we do not keep the tutorial material in our offices**. You must contact the administration at the telephone numbers provided in paragraph 3.3 of this tutorial letter or send an e-mail to [study-info@unisa.ac.za](mailto:study-info@unisa.ac.za).

**5. When do the classes at Unisa start?**

Unisa is a university which offers **distance learning**, and is **not a residential university**. Therefore, we do not offer classes to our students on a daily basis. However, we do offer tutorial classes on a weekly basis at Unisa Learning Centres throughout the country. Do yourself a favour and find out more about these tutorial classes! (See 5.5 of this tutorial letter for more information.)

**6. Do you have group discussions/visits for CRW2602?**

No, there are **no group discussion classes** which are conducted by the lecturers.

**7. Do I have admission to write the examination in CRW2602?**

**All students who submitted the first compulsory assignment in time (before or on the closing date), will automatically receive admission to the examination, regardless of the marks obtained for the assignment.**

Students, who have not submitted the first compulsory assignment in time, will not receive admission to the examination.

**8. What is the so-called “semester mark”, “examination mark” and “final mark”?**

Make sure that you understand these different concepts which are clearly explained in 8.1 - 8.5 above. Study these sections very carefully.

**9. Where do I find previous or old examination papers for CRW2602?**

Previous examination papers are made available to students on *myUnisa* under the “Official study material” link.

**Memoranda are not provided to students!**

However, we will also provide you with an example of a previous examination paper with comprehensive feedback in a tutorial letter.

**10. When and where am I writing the examination?**

Sorry, we do not have this information yet. **The university will inform you** of the relevant date, time and venue in due course.

**11. When will the examination results be released?**

Sorry, we do not have this information yet.

**12. Where do I find my examination results?**

On the day that the examination results are released, you will find the results

- (a) on **notice boards** at the main campus in Pretoria, as well as the regional offices/learning centres
- (b) on the **Internet** at <http://www.unisa.ac.za>
- (c) by calling the toll free number of the MTN Voice Response System: **083 1234**

A **hard copy** of your official results will also **be posted** to you.

Please note that examination results will not be made available via e-mail or telephone.

**13. What do I do if I am not happy with my results?**

Consult the information on the back of your official results sheet, which you will receive in the post, for the different options to pursue if you are not satisfied with your results. Also consult the brochure *my Studies @ Unisa* which you received as part of your study package.

**14. How do I apply for the remarking or rechecking of my examination script?**

You will find **all the information** on the remarking or rechecking of examination scripts on the **back** of the **official results sheet** that you will receive in the **post**. You will also find the information in the brochure *my Studies @ Unisa* which you received as part of your study package.

**15. I have passed CRW2602. For which modules do I have to register now?**

You must consult the brochure *my Studies @ Unisa*.

## **9 CONCLUSION**

Please note that you will receive a total of **FOUR** (4) tutorial letters this semester. Your first tutorial letter (101) is this one received on registration. In addition, you will also receive a second tutorial letter (102), a third tutorial letter (201) which will provide the answers to the first compulsory assignment and a final tutorial letter (202) which will provide commentary on the second compulsory assignment.

Please note that you can also access these tutorial letters electronically on *myUNISA* (<http://my.unisa.ac.za>) under the course code CRW2602 at the link "Official Study Material".

We look forward to working with you this semester and hope that you will enjoy this module. Please feel free to contact your lecturers if you require any further assistance. All the best with your studies!

Your lecturers,

**PROF N MOLLEMA  
PROF L JORDAAN  
MR RD RAMOSA**