This tutorial letter contains important information about your module.
Dear Student

This tutorial letter contains feedback on the first compulsory assignment for CRW2601 which was due on 14 March 2018.

Please take note: The following abbreviations are used in the discussion below:

SG - Study Guide for CRW2601
Case Law Reader for CRW2601 (2016)

Important advice for answering problem-type questions:

The purpose of asking problem-type questions in this module is to test your understanding of the general principles of criminal liability; primarily (but not exclusively) the four elements of criminal liability: the act, compliance with definitional elements, unlawfulness and culpability (See SG 1.5). You must be able to, firstly, identify the element that is called into question in the factual scenario. This requires knowledge and understanding of the definitions of concepts such as the requirement of a voluntary act (SG 3.3.4.1) or dolus eventualis (SG 9.4.3), which are provided in grey blocks. You have also been provided with a sequence of investigation into the presence of the elements (SG 1.5.3) to enable you to identify the element correctly and speedily, and to focus on discussing the legal principles that are relevant to the question.

The second step in answering a problem-type question is to discuss the legal principles that are relevant to providing the answer to the problem. Most of the legal principles discussed in this module come from court decisions (case law). You must therefore refer to (a) decided case(s) whenever a legal principle is stated. You are reminded that even if you fail to remember the name of a case, you can simply state: “It has been decided” or “According to a decision”, when stating the principle. Please note, however, that the discussion of an incorrect principle will not be credited, irrespective of whether the case reference (name) is appropriate. In other words, referring to the correct case name will not award you a mark if it is done to support an inappropriate legal principle. Students who do this indicate to the lecturer that they do not understand what the cited case actually decided.

The third step in answering a problem-type question is to apply the relevant legal principles to the facts of the problem. Students often combine the second and third steps when answering problem-type questions. In other words, they discuss the principle(s) while applying it (them) to the facts. Doing this is not wrong, but the chances of omitting a relevant principle (if there is more than one) are greater when adopting this approach. To minimise this possibility we would advise you to separate the second and third step. Another advantage of discussing the legal principle(s) before applying it (them) to the facts is that you can more easily identify the relevant facts at the stage of discussing the
principle(s). This will enable you to address as many relevant facts as possible and prepare you for a more in-depth analysis at the stage of application.

The final step in answering a problem-type question is to **provide a conclusion** to the problem. Please ensure that you have addressed the question(s) that has (have) been asked. If, for example, the question requires you to determine the criminal liability of X on a charge of murder, then your conclusion should state either “X is criminally liable of murder”, or “X is not criminally liable on a charge of murder”. If the question requires you to determine whether X caused Y’s death, then your conclusion should state either “X caused Y’s death”, or “X did not cause Y’s death”, etc. Please also note that in order for your conclusion to have any basis it must be a deduction of your reasoning.

Please take note of the answers in this feedback as an illustration of the above:

**ANSWER**

(i) As indicated on the website under “Announcements" “X” should have been denoted as “A”. If students got confused, we did take this into consideration although it is quite clear that the question refers to the owner of the dog.

The answer is “yes”. An act in the legal sense of the word means a **voluntary, human act**. A human being can, however, be punished if he or she commits a crime **through the agency of an animal**, for example where a human being commands his dog to attack somebody (see SG 3.3.3 and the cases of Fernandez and Eustace).

(ii) C may rely on the **private defence**. There was an **unlawful attack** against the interests of B which, in the eyes of the law, deserve protection. In this instance, B’s life was in danger. **The attack need not be against the defender.** Therefore, C could act in **private defence to protect B**, even if there was no family or protective relationship between C and B (See Patel 1959 (3) SA 121 (A). The attack was **threatening and not yet completed**. C’s defensive act was **directed against the attacker (Y)**; it was **necessary** and stood in a **reasonable relationship** to the attack since B’s life was in danger (Steyn 2010 (1) SACR 411 (SCA). C was also clearly **aware** that he was acting in private defence of B’s interests.

Marks were awarded for mentioning the requirements of private defence and applying these to the facts. Students also earned marks for discussing the Patel case.

This brings us to the end of this tutorial letter. We would like to remind you that the format of the examination is discussed in Tutorial Letter 102. Please do not hesitate to contact us if you experience any problems with the study material.

Kind regards

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