

CRW1501

May/June 2018

Introduction to the General Principles of Criminal Law

Duration 2 Hours

100 Marks

EXAMINERS

FIRST

SECOND

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Closed book examination

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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 to 5, follow. Each question contains three statements marked (a) to (c). Some of the statements are correct, while others 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 book (either 1, 2, 3, 4 or 5).

Question 1**1.1**

- (a) Most of the general principles of South African criminal law are codified or summarised in a code
- (b) The rules of South African criminal procedure that relate, for example, to how an accused must be brought to trial, are not codified
- (c) After the annexation of the Cape by the English, English law exerted a considerable influence on 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)

1.2

- (a) The principle of legality is expressed in the maxim "no crime will exist without law"
- (b) Conduct that is prohibited by law is always regarded as a crime
- (c) A court of law must interpret the wording in the definition of a crime as widely as possible

- (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)

1.3

- (a) An act in criminal law is sometimes referred to as negative conduct or commission, while an omission is referred to as positive conduct
- (b) An omission is only punishable when there is a legal duty upon X to act positively
- (c) Before there can be any question of criminal liability, X must have started converting his thoughts into actions

- (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]

1.4

- (a) X's act is the factual 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 one 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)

1.5

- (a) The requirements of the attack in private defence are that the attack must be unlawful, it must be against an interest which ought to be protected and it must be completed
- (b) X acts in private defence if he defends himself or another against an attack by an animal
- (c) If X is attacked by Y but in retaliating X exceeds the limits of private defence, he (X) acts unlawfully
- (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 the four elements of criminal liability NB You do not have to discuss or explain each element [4]
- 2.2 Do the following charges meet the requirements of the principle of legality? Explain your answers
- 2.2.1 A law prohibiting smoking in restaurants comes into effect on 1 February 2017. The next day X, the owner of a restaurant lays a charge against Y because Y smoked in his restaurant on 31 December 2016 [2]
- 2.2.2 Parliament enacts a new law which provides that it is a crime if a person does not conduct themselves properly in public [2]
- 2.3 Briefly explain the meaning of the requirement that "the act must be a human act" [3]
- 2.4 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 be regarded as automatism [4]
- 2.5 Read the scenario below then answer the questions that follow
- X wishes to kill Y. X shoots at Y but the bullet misses Y. Y then runs into an old, abandoned house to escape X. However, the ceiling in the house that Y entered collapses and Y is killed
- 2.5.1 Explain whether X is the *factual cause* of Y's death [5]
- 2.5.2 Explain whether X is the *legal cause* of Y's death [10]
- [30]

[TURN OVER]

Question 3

- 3 1 *Read the scenario below and then answer the question that follows*
X's child, Y, is seriously injured in a game and is bleeding profusely X decides that he has to rush Y to the nearest hospital X bundles Y into the car and ignores all the red robots that he encounters X is charged with reckless driving and exceeding the speed limit Which ground of justification can X rely on? Discuss in detail with reference to the requirements of this ground of justification [10]
- 3 2 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 3 Can X rely on consent as a ground of justification in the following example? Explain
X is a well-built young man He threatens to stab Y, a frail old woman, if she does not hand her cellphone over to him Y meekly hands the cellphone over to X [3]
- 3 4 X is a security officer at a building that is occupied by a government department She conducts a physical search on Y, a female visitor who wishes to enter the building Y complains that X had no right to touch her Which ground of justification can X rely on? Explain [3]
- 3 5 What are the three requirements of the ground of justification obedience to orders according to the case of *S v Mostert 2006 (1) SACR 560 (N)*? [3]
- 3 6 Explain putative private defence by means of a practical example [5]
[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? [4]
- 4 2 List two (2) defences that exclude criminal capacity [2]
- 4 3 List the possible orders that a court may make if X succeeds with his defence of mental illness [3]
- 4 4 Define each of the three (3) forms of intention and illustrate each by means of an example [9]
- 4 5 Where there is no direct proof of intention, a court may infer or find from indirect proof that an accused acted intentionally 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 Y Just as X is about to stab Y with a knife, Z steps between them and is stabbed and eventually dies from the stab wound Can X be found guilty of murdering Z? Explain [6]
[30]

TOTAL [100]