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CRW1501   (494292)   May/June 2014

INTRODUCTION TO THE GENERAL PRINCIPLES OF CRIMINAL LAW

Duration   2 Hours   100 Marks

EXAMINERS :
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Closed book examination.

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The paper consists of four (4) pages.

Read the instructions carefully before answering the questions

Answer all four (4) questions

QUESTION 1

Five questions marked 1 1 to 1 5 follow Each question contains three statements marked (a) to (c) Some of the statements are correct and some are incorrect. You must decide which of the statement(s) 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 on your answer sheet (either 1, 2, 3, 4 or 5) Please answer this question in your answer books!

1.1
(a)   The general rule in criminal matters is that the onus is on the state to prove the accused's guilt on a balance of probabilities

(b)   The state must prove that the accused's conduct and state of mind complied with at least two of the elements of the crime charged

(c)   It is the state (or prosecution) that has to prove beyond reasonable doubt that an accused is guilty

(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)

1.2

(a)   It must be beyond dispute that the accused's conduct is recognised as a crime in our law

(b)   Conduct can lead to liability only if it is voluntary

(c)   The element of culpability focuses on the act or conduct of the perpetrator

(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)**

1.3

(a)   Well-known grounds of justification are private defence, necessity and consent

(b)   Examples of people who lack criminal capacity are mentally ill persons and young children

(c)   In the case of a crime it is the private party who institutes action whereas in the case of a delict it is the State that prosecutes

(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)**

1.4

(a)   All rules of law, irrespective of whether they are contained in legislation or in common law, must be compatible with the Bill of Rights.

(b)   When determining criminal liability, the first issue to decide is whether the accused person acted with criminal capacity at the time of the act

(c)   The accused person's conduct must comply with the definitional elements of the crime he is charged with

(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) Some examples of involuntary conduct are a sleepwalker trampling on somebody or an epileptic hitting somebody in the face

(b) No legal duty to act positively is imposed by the common law

(c) Where a person accepts control for a dangerous or potentially dangerous object, a legal duty arises to control it properly

(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 and briefly discuss each of the four elements of criminal liability [8]

2 2 Name and discuss the points of difference between a crime and a delict [12]

2 3 List the rules that are contained in the principle of legality [5]

2 4 A legal duty to act positively may sometimes arise by virtue of the fact that a person holds a certain office. Discuss this statement with reference to case law [5]
[30]

QUESTION 3

3 1 *Read the scenario below and then answer the questions that follow*

X wishes to kill Y X shoots at Y but the bullet misses Y Y then runs into a building to escape X However, Y does not know that Z, who has nothing to do with X, has planted a bomb in the building. The bomb goes off and Y is killed

3 1 1 Explain whether X is the *factual cause* of Y's death [5]
3 1 2 Explain whether X is the *legal cause* of Y's death [10]

3 2 List some of the interests that could be protected when invoking private defence as a ground of justification [5]

3 3 Officials occupying a public office who commit acts which would otherwise be unlawful can rely as a defence on the fact that they are entitled to perform these acts because the acts were performed in the course of their official duties Discuss this statement critically [4]

3 4 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]

QUESTION 4

4 1   Explain the difference between the concepts of "criminal capacity" and "intention"   [4]

4 2   What are the two (2) components of the test used to determine whether a person is endowed with criminal capacity?   [4]

4 3   Name the two (2) elements of intention and explain briefly what each entails   [4]

4 4   Define each of the three (3) forms of intention and illustrate each by means of an example   [6]

4 5   "Where there is no direct proof of intention, a court may infer or find that an accused acted intentionally from indirect proof" 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 his enemy, Y, by throwing a javelin at him X throws the javelin at Y but just as the javelin leaves X's hand, Z runs out from behind a bush in front of Y and the javelin strikes and kills Z Can X be found guilty of murdering Z? What about X's criminal liability in relation to Y? Explain   [6]

[30]

TOTAL: 100 MARKS

UNIVERSITY OF SOUTH AFRICA UNISA UNIVERSITEIT VAN SUID-AFRIKA
EXAMINATION MARK READING SHEET EKSAMEN-MERKLEESBLAD

PART 1 (GENERAL/ALGEMEEN) DEEL 1

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

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INITIALS AND SURNAME **③**
VOORLETTERS EN VAN

DATE OF EXAMINATION **④**
DATUM VAN EKSAMEN

PAPER NUMBER **②**
VRAESTELNOMMER

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

STUDENT NUMBER
STUDENTENOMMER **⑥**

UNIQUE PAPER NO
UNIEKE VRAESTEL NR **⑧**

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For use by examination invigilator

Vir gebruik deur eksamenopsiener

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IMPORTANT	BELANGRIK
1 USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET	1 GEBRUIK SLEGS N HB-POTLOOD OM HIERDIE BLAD TE VOLTOOL
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
5. CHECK THAT YOUR STUDENT NUMBER HAS BEEN FILLED IN CORRECTLY	5. KONTROLEER DAT U DIE KORREKTE STUDENTENOMMER VERSTREK HET
6 CHECK THAT THE UNIQUE NUMBER HAS BEEN FILLED IN CORRECTLY	6. KONTROLEER DAT DIE UNIEKE NOMMER REG INGEVUL IS
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