

EXAMS OFFICE
USE ONLY

University of the Witwatersrand, Johannesburg

Course or topic No(s)

LAWS2001

Course topic names(s)
Paper Number & title

CRIMINAL LAW

Examination / Test* to be
held during month(s) of (*delete
as applicable)

NOVEMBER 2010
SUPPLEMENTARY

Year of study
(Art & Science leave blank)

Degrees / Diplomas for which
this course is prescribed
(BSc (Eng) should indicate which branch)

LLB

Faculty/ies presenting candidates

COMMERCE, LAW AND
MANAGEMENT

Internal examiner(s)
and telephone extension
number(s)

MR J GRANT (78486)
MS A STAROSTA (78532)
MS A CHOTU NA

External examiner(s)

PROF J C W VAN ROOYEN

Special materials required (graph/music/drawing
paper maps, diagrams, tables, computer cards, etc)

COURSE OUTLINE ATTACHED

Time allowance

Course no: LAWS2001 Hours: 2

Instructions to candidates
Examiners may wish to use this space to indicate,
inter alia,
the contribution made by this
examination or test towards the year mark, if
appropriate

1. Write the name of your lecturer on your script.
2. Answer ALL questions.
3. Course outline attached.

**Internal Examiners or Heads of
Departments are requested to sign
the declaration overleaf**

CRIMINAL LAW NOVEMBER 2010 – Supplementary Exam

Special Instructions:

Answer each question and sub-question separately. Do not repeat the facts of the question or of any case. Please be concise and restrict your answers to the issues in question. Please note that where your discussion is irrelevant or off point, your mark may be compromised.

QUESTION 1

Abel has been charged with the murder of 2 youths which he crashed into whilst involved in an illegal drag race. Abel is ostracised by his community for his allegedly negligent actions, so much so that he cannot leave his house without a disguise for fear of what the community members might do to him. On the day in question, Abel is driving through a busy street to fetch his nephew from school. Sipho, whose brother was killed in the drag racing incident notices Abel entering the intersection. Enraged by the fact that Abel is allowed behind a wheel, Sipho picks up a large rock and throws it at Abel's moving vehicle. The rock hits Abel in the head and causes him to temporarily lose control over the vehicle. When Abel realises that he is being attacked, he does not stop the car, but rather accelerates to get away from the impending danger. As Abel speeds off, his vision becomes blurry and he blacks out due to the head injury. At this point, and at an extremely high speed, Abel crashes into a group of learners outside a school, killing 5 of them. Abel and Sipho are both charged with murder of the 5 learners outside the school.

- (a) Critically discuss whether Sipho caused the death of the 5 learners. (10 marks)
- (b) Critically discuss whether Abel can raise any defence/s to negate his liability? (10 marks)

QUESTION 2

John is a high school drop out with no career prospects. He is married with two children, but no means to support them. One night, John is walking through an affluent community and notices that someone has left his/her car unattended with its driver door wide open. John sees this as a perfect opportunity to steal the car and to sell it to a chop-shop for parts. As John approaches the car, he notices that the keys are lying on the passenger seat. John gets into the car, closes the door, takes the keys and puts them into the ignition.

Mike (who is a local security guard) has been watching John with suspicion. He confronts John by knocking on the driver's door window. John is armed with a small pocket knife. He points his small knife at Mike as he emerges from the vehicle. Once John is out of the car, Mike tackles him and a scuffle ensues. During the scuffle, John is knocked unconscious and

dispossessed of his pocket knife. Mike continues to kick John until the police arrive and intervene. John is rendered paralyzed due to the force of the kicks to his back.

Police charge John with theft and Mike with assault with intent to do grievous bodily harm.

(a) Critically discuss whether John is guilty of theft or attempted theft?

(10 marks)

(b) Critically discuss whether Mike may rely on private defence.

(10 marks)

QUESTION 3

Peter and Mary are unhappily married. Peter has discovered that Mary is having an affair. Peter decides to leave Mary, but wishes to teach her a nasty lesson first. He arranges for his best friend Jake to rape Mary, for which Peter will pay Jake R5000-00. Peter gives Jake a key to their matrimonial home and advises Jake of the best time of the day to attack Mary. Jake puts the plan into action.

Consider the following scenarios separately:

(a) Jake impersonates Peter. Late one night while Mary is sleeping, he puts on Peter's cologne and climbs into bed with Mary. Jake wakes Mary who mistakes him for Peter and she consents to intercourse. Critically discuss whether Jake and Peter are guilty on a charge of rape.

(10 marks)

(b) Unbeknown to Peter, Jake is Mary's lover and she happily consents to intercourse with Jake. Jake reports to Peter that all went well and collects his R5000-00. Jake and Mary spend the money on a weekend away. Peter subsequently discovers the deceit and lays a charge of fraud against Jake and Mary. However, the police are more interested in the plan that Peter admits to in his statement to the police and arrest him. Critically consider whether Peter is guilty of rape or attempted rape.

(10 marks)

**Criminal Law 2010:
Laws 2001**

Information and Outline

General

The course is taught in two double lecture periods per week for the entire academic year. Teaching is done through discussion as well as formal lecturing. Students are therefore expected to prepare for each class by reading the material indicated by the lecturer in advance. The basic material is to be found in the prescribed text book and in the law reports. Other material will be referred to from time to time throughout the year. Because we will not have enough time to cover all the topics on the course outline in class, certain topics are designated 'self-study'. This means that you will not be lectured on these topics, but are expected to study them by yourselves. You are free, and are encouraged, to consult your lecturer on these topics in her or his consultation hours. The self-study topics may be examined in the exams.

Lecturers and Class Allocation

Students have been divided into four groups according to surnames. You are **REQUIRED, without exception, to attend the class of the lecturer to whom you have been assigned**. No personal preferences will be accommodated. You are subject to election, at any time, from any class to which you have not been allocated. Furthermore, lecturers will mark only the exam scripts of students allocated to their respective classes.

The lecturers in the course are as follows:

- James Grant** (Course Coordinator)
(Class allocation: Student numbers: 60-33)
(Room no LB 44, office tel: 011717-8486, e-mail: grantj@law.wits.ac.za)
- Prof Tshapo Moshkatsana**
(Class allocation: Student numbers: 34-66)
(Room no LB 111A, office tel: 011717-8475, e-mail: moshkatshapo@law.wits.ac.za)
- Alina Starosta**
(Class allocation: Student numbers: 67-99)
(Law Clinic, office tel: 011717-8532, email: alina.starosta@wits.ac.za)

Lectures of term 2 are to be confirmed

Mark Allocation

The final mark for the course is calculated thus:
Two 50% exams (2 hours each, one mid-year and one end-of-year, closed-book exams)

Tutorials and reading

While the lectures will focus on the theory of criminal law, you will be required to read prescribed material and to attend tutorials to put this theory into practice. Do not

underestimate the importance of reading and of tutorials. Lectures may make criminal law seem easy because the requirements of criminal law are often discussed in great detail but in isolation from other requirements. It is only by reading and by practicing on complex questions that one may gain a proper understanding of criminal law. Your exams will take the form of complex problem type questions. You can only be prepared for these exams by having read to develop an integrated understanding of the theory you will be taught and by practicing to answer these types of questions.

Sources

Prescribed

1. Jonathan Burchell and John Milton *Principles of Criminal Law* revised 3 ed (2006) (Note: please be careful to acquire the revised 3rd ed (2006), the unrevised 3rd ed (2005) is almost identical).

OR

2. C R Snyman *Criminal Law* 5ed (2008) (in English)

Recommended

- 1 Jonathan Burchell *Cases and Materials on Criminal Law* 3 ed (2007).
- 2 E M Burchell and P M A Hunt *South African Criminal Law and Procedure* (Vol 1 - *General Principles of Criminal Law* 3 ed (1997) by J M Burchell.
- 3 P M A Hunt *South African Criminal Law and Procedure* (Vol 1 - *Crimes* 3 ed (1996) by J R L Milton.
- 4 J C de Wet and H L Swanepoel *Strafrecht* 4 ed (1985)
- 5 P J Visser and M C Mare *General Principles of Criminal Law Through the Cases* 3 ed (1990)

Outline and Reading List

The cases which appear in bold are important cases. Individual lecturers may state the importance of other cases in their classes

- A INTRODUCTION**
Burchell chaps 1-7
or Snyman chap 1
- B THE ACTUS REUS**
- B 1 Conduct**
Burchell 178, 179 (section 1), 185-208
or Snyman 51-54, 58-61
- B 1.1 Minister van Polisie v Ewels 1975 (3) SA 590 (A)**
B 1.2 R v Achterdam 1911 EDL 336
B 1.3 S v Brick 1973 (2) SA 571 (A)
B 1.4 R v Chengye 1960 (1) SA 473 (FC)
B 1.5 R v Eustace (2) 1948 (3) SA 859 (T)
B 1.6 S v A 1993 (1) SACR 600 (A)
B 1.7 S v Fernandez 1966 (2) SA 259 (A)
B 1.8 S v Gaba 1981 (3) SA 745 (O)
B 1.9 S v Goverder 2004 (2) SACR 381 (SCA)
B 1.10 Sitva's Fishing Corporation v Maweza 1957 (2) SA 256 (A)
- B 2 Voluntariness**
Burchell chap 9
Or Snyman 54-58
- B 2.1 R v Dhlamini 1955 (1) SA 120 (T)
B 2.2 R v Schoonwinkel 1953 (3) SA 136 (C)
B 2.3 R v Victor 1943 TPD 77
B 2.4 S v Chretien 1981 (1) SA 1097 (A)
B 2.5 S v Goliath 1972 (3) SA 1 (A)
B 2.6 S v Johnson 1969 (1) SA 201 (A)
B 2.7 S v Kok 2001 (2) SACR 106 (SCA)
B 2.8 S v Mahliza 1967 (1) SA 408 (A)
B 2.9 S v Treckert 1973 (3) SA 526 (T)
B 2.10 S v Van Rensburg 1987 (3) SA 35 (T)
- B 3 Causation**
Burchell chap 11
Or Snyman 73-91
- B 3.1 Ex parte Minister van Justisie: In re S v Grootjohn 1970 (2) SA 355 (A)
B 3.2 **Minister of Police v Skosana 1977 (1) SA 31 (A)**
B 3.3 R v Blauw [1975] 3 All ER 446 (CA)
B 3.4 R v Loubyer 1953 (2) PH 1190 (W)
B 3.5 R v Mabole 1968 (4) SA 811 (R)
B 3.6 S v Van As 1967 (4) SA 594 (A)
B 3.7 R v Van den Berg 1948 (2) SA 836 (C)
- C MENS REA**
- C 1 General & Vicarious Relevance**
Burchell chap 29, pp 544-545, chap 37
Or Snyman 143-158
- C 1.1 R v Churchill 1959 (2) SA 575 (A)
C 1.2 R v Matsape 1931 AD 150
C 1.3 R v Wallendorf 1920 AD 383
C 1.4 S v Bernardus 1965 (3) SA 287 (A)
C 1.5 S v Van der Mescht 1962 (1) SA 521 (A)
- C 2 Intention (Dolus)**
Burchell chaps 30 (leave out section (c) on pp 473-480) & 31
Or Snyman 179, 189 (up to section 13), 191 (section 17), 200 (section 20)
- C 2.1 R v Basson 1961 (3) SA 279 (T)
C 2.2 R v Horn 1958 (3) SA 457 (A)
C 2.3 R v Huebsch 1953 (2) SA 561 (A)
C 2.4 R v Jolly 1923 AD 176
C 2.5 R v Kewetram 1922 AD 213
C 2.6 R v Mzwakala 1957 (4) SA 273 (A)
C 2.7 R v Ndhlovu 1945 AD 369
C 2.8 R v Sutherland 1950 (4) SA 66 (T)
C 2.9 R v Z 1960 (1) SA 739 (A)
C 2.10 S v Beukes 1988 (1) SA 511 (A)
C 2.11 S v Campos 2002 (1) SACR 233 (SCA)
C 2.12 S v De Bruyn 1968 (4) SA 498 (A)
C 2.13 S v Kazi 1963 (4) SA 742 (W)
C 2.14 S v Mini 1963 (3) SA 188 (A)
C 2.15 S v Ngubane 1985 (3) SA 677 (A)
C 2.16 S v Shaki 1983 (4) SA 57 (A)
C 2.17 S v Sigwaha 1967 (4) SA 566 (A)
C 2.18 S v Van Aardt 2009 (1) SACR 648 (SCA) – *dolus eventualis*
- C 3 Negligence (Culpa)**
Burchell chap 35 (leave out sections XII, XIII and XVI)
Or Snyman 208-221
- C 3.1 A-G Natal v Ndllovu 1988 (1) SA 905 (A)
C 3.2 **Kruger v Coetzee 1966 (2) SA 428 (A)**
C 3.3 R v Hedley 1958 (1) SA 362 (N)
C 3.4 R v Lemmet 1917 CPD 444

- C 3 5 R v Mbombela 1933 AD 269
 C 3 6 R v Meiring 1927 AD 41
 C 3 7 S v Melk 1988 (4) SA 561 (A)
 C 3 8 S v Bernardus 1965 (3) SA 287 (A)
 C 3 9 S v Burger 1975 (4) SA 877 (A)
 C 3 10 S v Mahlabele 1966 (1) SA 226 (A)
 C 3 11 S v Ngubane 1985 (3) SA 677 (A)
 C 3 12 S v Southern 1965 (1) SA 860 (N)
 C 3 13 S v Van As 1967 (4) SA 594 (A)
 C 3 14 S v Van As 1976 (2) SA 921 (A)
 C 3 15 S v Van der Mescht 1962 (1) SA 521 (A)
 C 3 16 Balkwell v S [2007] 3 All SA 465 (SCA) – death from assault foreseeable

- C 4 Mistake of Fact
Burchell 502-503
 Or Snyman 189-191
 C 4 1 R v Mbombela 1933 AD 269
 C 4 2 S v De Blom 1977 (3) SA 513 (A)

- C 5 Aberratio Ictus
Burchell 507-511
 Or Snyman 195-200
 C 5 1 R v Koza 1949 (4) SA 555 (A)
 C 5 2 R v Kuzwayo 1949 (3) SA 761 (A)
 C 5 3 R v Longene 1938 AD 532
 C 5 4 S v Mavhungu 1981 (1) SA 56 (A)
 C 5 5 S v Mkandzi 2004 (1) SACR 281 (T)
 C 5 6 S v Mishiza 1970 (3) SA 747 (A)
 C 5 7 S v Rainsa 1979 (4) SA 541 (O)
 C 5 8 S v Tissen 1979 (4) SA 293 (T)

- C 6 Mens Rea in Relation to Unlawfulness & Mistake of Law
Burchell chap 32 & pp 502-507 & 541-543
 Or Snyman 200-208, 220-221
 C 6 1 R v Hele 1947 (1) SA 272 (E)
 C 6 2 R v Sachs 1953 (1) SA 392 (A)
 C 6 3 R v Werner 1947 (2) SA 828 (A)
 C 6 4 S v Classens 1992 (2) SACR 434 (T)
 C 6 5 S v De Blom 1977 (3) SA 513 (A); R C Whiting 'Changing the face of mens rea' (1978) 95 SALJ 1
 C 6 6 S v De Ruiter 2004 (1) SACR 332 (W)
 C 6 7 S v Du Toit 1981 (2) SA 33 (C)
 C 6 8 S v International Computer Broking and Leasing 1996 (3) SA 582 (W)
 C 6 9 S v Longdistance (Natal) (Pty) Ltd 1990 (2) SA 277 (A)
 C 6 10 S v Martin 2001 (2) SACR 271 (C)
 C 6 11 S v Motleteni 1976 (1) SA 405 (A)
 C 6 12 S v Ntuli 1975 (1) SA 429 (A)
 C 6 13 S v Rabson 1972 (4) SA 574 (T)

- C 6 14 S v Tshwape 1964 (4) SA 327 (C)
 C 6 15 S v Waglines (Pty) Ltd 1986 (4) SA 1135 (N)

- C 7 Qualification of the Contemporaneity Principle & Mistake as to the Causal Sequence
Burchell 473-480 & chap 37
 Or Snyman 147-8, 191-193
 C 7 1 R v Chiswibo 1961 (2) SA 714 (FC)
 C 7 2 R v Thabo Mehl (1954) 1 All ER 373 (PC)
 C 7 3 S v Goosen 1989 (4) SA 1013 (A); Andrew Patzes "Mistake as to the causal sequence" and "mistake as to the causal act": Exploring the relation between mens rea and the causal element of the actus reus" (1993) 110 SALJ 493
 C 7 4 S v Masfield 1968 (2) SA 558 (A)

- C 8 Mens Rea in Statutory Offences
Burchell chap 33, pp 537-540 & 545-551
 Or Snyman 242-247
 C 8 1 A-G Natal v Ndlovu 1988 (1) SA 905 (A)
 C 8 2 Amalgamated Beverage Industries Natal v Durban City Council 1994 (3) SA 170 (A); 1994 (3) SA 646 (A)
 C 8 3 R v H 1944 AD 121
 C 8 4 S v Arenstein 1964 (1) SA 361 (A)
 C 8 5 S v Coetzee 1997 (3) SA 527 (CC)
 C 8 6 S v De Blom 1977 (3) SA 513 (A)
 C 8 7 S v Du Toit 1981 (2) SA 33 (C)
 C 8 8 S v Gampel Bros & Barnett 1978 (3) SA 772 (A)
 C 8 9 S v Jassal 1965 (3) SA 423 (A)
 C 8 10 S v Kieck 1988 (4) SA 561 (A)
 C 8 11 S v Ngwenya 1979 (2) SA 96 (A)
 C 8 12 S v Oberholzer 1971 (4) SA 602 (A)
 C 8 13 S v Jumbella 1966 (4) SA 356 (A)
 C 8 14 S v Lunvordorben 1990 (2) SACR 30 (T)
 C 8 15 S v Waglines (Pty) Ltd 1986 (4) SA 1135 (N)

D CRIMINAL CAPACITY

- Burchell chap 24
 Or Snyman 158-163
 D 1 Youth (Self-Study)
Burchell chap 25 & pp 511-512
 Or Snyman 176-179
 D 1 1 A-G Tvi v Add Mae Jhb 1924 AD 421
 D 1 2 R v Albert (1895) 12 SC 272
 D 1 3 R v Dikant 1948 (1) SA 693 (O)
 D 1 4 R v K 1956 (3) SA 353 (A)
 D 1 5 S v Makete 1971 (4) SA 214 (T)
 D 1 6 S v Mhloabane 1969 (1) SA 561 (A)
 D 1 7 S v Ngobese 2002 (1) SACR 562 (W)

D 2 Insanity (Self-Study)

Burchell chap 26 & p 512

Or Snyman 167-176

- D 2.1 A-G for Northern Ireland v Bratty [1961] 3 All ER 523 (HL)
- D 2.2 R v Hay (1899) 16 SC 290
- D 2.3 R v Holland 1924 AD 350
- D 2.4 R v Kemp [1957] 1 QB 399
- D 2.5 R v Kennedy 1951 (4) SA 431 (A)
- D 2.6 R v Koortz 1953 (1) SA 371 (A)
- D 2.7 R v Kumalo 1956 (3) SA 238 (N)
- D 2.8 S v Kavin 1978 (2) SA 731 (W)
- D 2.9 S v Mahlinda 1967 (1) SA 408 (A)
- D 2.10 S v McBride 1979 (4) SA 313 (W)
- D 2.11 S v Mnyanda 1976 (2) SA 751 (A)

E SPECIAL FACTORS BEARING ON MENS REA OR CRIMINAL CAPACITY

E 1 Intoxication

Burchell chap 27 & pp 512-513

Or Snyman 221-234

- E 1.1 R v Bourke 1916 TPD 303
- E 1.2 R v Fowle 1906 TS 505
- E 1.3 R v Putha 1956 (4) SA 605 (A)
- E 1.4 R v Vermeulen 1953 (4) SA 231 (T)
- E 1.5 S v Chretien 1981 (1) SA 1097 (A); Criminal Law Amendment Act 1 of 1988; Andrew Patzies 'Intoxication through the looking-glass' (1988) 105 SA 776
- E 1.6 S v Engelbrecht 1966 (1) SA 210 (C)
- E 1.7 S v Harriman 1980 (3) SA 613 (T)
- E 1.8 S v Jassane 1973 (4) SA 658 (T)
- E 1.9 S v Johnson 1969 (1) SA 201 (A)
- E 1.10 S v Johnson 1970 (3) SA 535 (C)
- E 1.11 S v Lange 1960 (1) SACR 199 (W)
- E 1.12 S v Mbele 1991 (1) SA 307 (W)
- E 1.13 S v S 1961 (4) SA 792 (N)
- E 1.14 S v September 1996 (1) SACR 335 A
- E 1.15 S v V 1979 (2) SA 656 (A)
- E 1.16 S v Wilson 1968 (4) SA 477 (A)

E 2

Provocation, emotional stress and other forms of non-pathological incapacity

Burchell chap 28 & pp 513-514

Or Snyman 163-167, 235-240

- E 2.1 R v Butelezi 1925 AD 160
- E 2.2 R v Krull 1959 (3) SA 392 (A)
- E 2.3 R v Thibani 1949 (4) SA 720 (A)
- E 2.4 S v Arnold 1985 (3) SA 256 (C)

F FOUNDATIONS OF JUSTIFICATION

F 1 General

Burchell chap 12

Or Snyman 92-101

- F 1.1 Clarke v Hurst NO 1992 (4) SA 650 (D)
- F 1.2 R v Britz 1949 (3) SA 293 (A)
- F 1.3 R v Ndlovu 1945 AD 369
- F 1.4 S v Swaneepoel 1985 (1) SA 576 (A)

F 2

Private Defence

Burchell chaps 13 & 14 pp 514-516

Or Snyman 102-113

- F 2.1 Coetzee v Fourie 2005 (1) SACR 382 (SCA)
- F 2.2 *Ex parte Minister van Justisie: In re S v Van Wyk* 1967 (1) SA 488 (A)
- F 2.3 Mngwenya v Minister of Safety and Security [2006] 2 All SA 126 (SCA)
- F 2.4 R v Hele 1947 (1) SA 272 (E)
- F 2.5 R v Hope 1917 NPD 145
- F 2.6 R v Mathlau 1958 (1) SA 350 (A)
- F 2.7 R v Mhlongo 1960 (4) SA 574 (A)
- F 2.8 R v Patel 1959 (3) SA 121 (A)
- F 2.9 R v Stephen 1928 WLD 170
- F 2.10 R v Van Vuuren 1961 (3) SA 305 (E)
- F 2.11 R v Zikalala 1953 (2) SA 568 (A)
- F 2.12 S v Bailey 1982 (3) SA 772 (A)
- F 2.13 S v De Oliveira 1993 (2) SACR 59 (A)
- F 2.14 S v Engelbrecht 2005 (2) SACR 41 (W)
- F 2.15 S v Joshua 2003 (1) SACR 1 (SCA)
- F 2.16 S v Mogohwane 1982 (2) SA 587 (T)
- F 2.17 S v Mokonto 1971 (2) SA 319 (A)
- F 2.18 S v Ntuli 1975 (1) SA 429 (A)
- F 2.19 S v T 1986 (2) SA 112 (O)
- F 2.20 Govender v S [2007] 3 All SA 580 (SCA) ~ force only before attack ended

F 3 Necessity, Duress and Compulsion

- Burchell chap 15 & p 517
Or Snyman 113-123
- F 3.1 Abbot v R [1976] 3 All ER 140 (PC)
F 3.2 Lynch [1975] 1 All ER 913 (HL)
F 3.3 R v Dudley & Stephens (1884) 14 QBD 273
F 3.4 R v Carstairs 1951 (2) SA 317 (A)
F 3.5 R v Gammworthy 1923 WLD 17
F 3.6 R v Howe [1987] 1 All ER 771 (HL)
F 3.7 R v Mahomed 1938 AD 30
F 3.8 R v Werner 1947(2) SA 828 (A)
F 3.9 S v Adams: S v Werner 1981 (1) SA 187 (A)
F 3.10 S v Allous 1979 (3) SA 145 (A)
F 3.11 S v Bailey 1982 (3) SA 772 (A)
F 3.12 S v Bradbury 1967 (1) SA 387 (A)
F 3.13 S v Goliath 1972 (3) SA 1 (A)
F 3.14 S v Kibi 1978 (4) SA 173 (E)
F 3.15 S v Mandela 2001 (1) SACR 156 (C)
F 3.16 S v Peterson 1980 (1) 938 (A)
F 3.17 S v Pretorius 1975 (2) SA 85 (S.W.A)

F 4 Impossibility (Self-Study)

- Burchell chap 16
Or Snyman 61-65
- F 4.1 Attorney-General v Gneve 1934 TPD 187
F 4.2 R v Canestra 1951 (2) SA 317 (A)
F 4.3 R v Close Settlement Corporation 1922 AD 294
F 4.4 R v Jetha (1929) 50 NPD 91
F 4.5 R v Mostert 1915 CPD 266
F 4.6 S v Mulu 1966 (2) SA 240 (E)

F 5 Consent

- Burchell chap 20
Or Snyman 123-128
- F 5.1 Clarke v Hurst NO 1992 (4) SA 630 (D)
F 5.2 K v Brown [1993] 2 All ER 75
F 5.3 R v McCoy 1953 (2) SA 4 (SR)
F 5.4 S v Collett 1978 (3) SA 206 (RA)
F 5.5 S v Robinson 1968 (1) SA 666 (A)
F 5.6 S v Sikunyana 1961 (3) SA 549 (E)
F 5.7 South African Law Commission Report: Project 86: Euthanasia and the Artificial Preservation of Life (November 1998)
F 5.8 Stofberg v Elliot 1923 CPD 148

G CRIMINAL LIABILITY OF ARTIFICIAL PERSONS

G 1 Liability under s.332 of the Criminal Procedure Act
Burchell chap 39
Or Snyman 249-252

- G 1.1 Ex parte Minister van Justisie In re S v SAUK 1992 (4) SA 804 (A).

H

DEGREES OF PARTICIPATION IN CRIME

H 1

Principals and Accessories

- Burchell 572-574, 599-605
Or Snyman 253-259, 269-274
- H 1.1 R v Jackson 1920 AD 486
H 1.2 R v M 1950 (4) SA 101 (T)
H 1.3 R v Mbande 1933 AD 382
H 1.4 R v Megson 1931 TPD 371
H 1.5 R v Parry 1924 AD 401
H 1.6 R v Rasool 1924 AD 44
H 1.7 R v Shikur 1939 AD 225
H 1.8 R v White 1934 CPD 60
H 1.9 S v D 1969 (2) SA 591 (RAD)
H 1.10 S v Kellner 1963 (2) SA 435 (A)
H 1.11 S v Williams 1980 (1) SA 60 (A); R C Whiting - Principals and accessories in crime' (1980) 97 S.J.L./199
H 1.12 S v Wannenburg 2007 (1) SACR 27 (C)

H 2

Common Purpose

- Burchell 574-599
Or Snyman 259-268
- H 2.1 R v Diadla 1962 (1) SA 307 (A)
H 2.2 R v Du Randt 1954 (1) SA 313 (A)
H 2.3 R v Mgwilt 1954 (1) SA 370 (A)
H 2.4 R v Shezi 1948 (2) SA 119 (A)
H 2.5 S v Beahan 1992 (1) SACR 307 (ZS)
H 2.6 S v Dlamini 1984 (3) SA 360 (N)
H 2.7 S v Khanze [2004] 1 All SA 662 (T)
H 2.8 S v Khoza 1982 (3) SA 1019 (A)
H 2.9 S v Khoza [2006] 4 All SA 89 (N)
H 2.10 S v Madlala 1969 (1) SA 637 (A)
H 2.11 S v Malinga 1963 (1) SA 692 (A)
H 2.12 S v Mgedezi 1989 (1) SA 687 (A)
H 2.13 S v Molimi 2006 (2) SACR 8 (SCA)
H 2.14 S v Motlanaung 1990 (4) SA 485 (A)
H 2.15 S v Musingadi 2005 (1) SACR 395 (SCA)
H 2.16 S v Ngobozu 1972 (3) SA 476 (A)
H 2.17 S v Nhlalapo 1981 (2) SA 744 (A)

- H.2.18 S v Nkwenia 1985 (2) SA 560 (A)
- H.2.19 S v Nzo 1990 (3) SA 1 (A)
- H.2.20 S v Sifatsa 1988 (1) SA 868 (A)
- H.2.21 S v Sibeko 2004 (2) SACR 22 (SCA)
- H.2.22 S v Singo 1993 (2) SA 765 (A); Andrew Patzes 'Common purpose by active association: Some questions and difficult choices' (1995) 112 SALL 561
- H.2.23 S v Thomo 1969 (1) SA 385 (A)

H.3 Accessories after the Fact
Burchell chap 42

- Or Snyman 274-278
- H.3.1 Ex parte Minister of Justice In re R v Maserow 1942 AD 164
- H.3.2 R v Gani 1957 (2) SA 212 (AD)
- H.3.3 R v Jongani 1937 AD 401
- H.3.4 R v Mloto 1925 AD 131
- H.3.5 R v Nkai Majara 1954 AC 235 (PC)
- H.3.6 R v Pather 1927 TPD 800
- H.3.7 S v Jonathan 1987 (1) SA 633 (A)
- H.3.8 S v Rossi-Conti 1971 (2) SA 62 (RA)
- H.3.9 S v Velumungen 1985 (2) SA 437 (D)

INCHOATE OFFENCES

1.1 Attempts

- Burchell chaps 43 & 44
- Or Snyman 279-292
- 1.1.1 R v B 1958 (1) SA 199 (A)
- 1.1.2 R v Davies 1956 (3) SA 52 (A)
- 1.1.3 R v Hlatwayo 1933 TPD 441
- 1.1.4 R v Katz 1959 (3) SA 408 (C)
- 1.1.5 R v Nhlolo 1921 AD 485
- 1.1.6 R v Schoombie 1945 AD 541
- 1.1.7 R v Sharpe 1903 TS 868
- 1.1.8 S v du Plessis 1981 (3) SA 382 (A)
- 1.1.9 S v Laurence 1975 (4) SA 825 (A)
- 1.1.10 S v Palmos 1979 (2) SA 82 (A)
- 1.1.11 S v W 1976 (1) SA 1 (A)

1.2 Intention (Self-Study)
Burchell chap 45

- Or Snyman 295-298
- 1.2.1 R v Milne & Eriegh (7) 1951 (1) SA 791 (A)
- 1.2.2 R v Nhlolo 1921 AD 485
- 1.2.3 R v Wolff 1930 TPD 821
- 1.2.4 S v Nkosiyana 1966 (4) SA 655 (A)

1.3 Conspiracy (Self-Study)
Burchell chap 46

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SPECIFIC CRIMES

1. Theft

Burchell chaps 61 & 62, pp 798-805
Or Snyman 469-500

J.1

- Contracting
- J.1.1 R v Carelse and Kay 1920 CPD 471
- J.1.2 R v Makone 1942 OPD 164
- J.1.3 R v Mapiza 1945 (1) PH H68 (C)
- J.1.4 R v Milne and Eriegh (7) 1951 (1) SA 791 (A)
- J.1.5 R v Mloto 1925 AD 131
- J.1.6 R v Moodley (1914) 35 NLR 514
- J.1.7 R v Naidoo 1949 (4) SA 858 (A)
- J.1.8 R v Nerera 1939 SR 297
- J.1.9 R v Nhlolo 1920 TPD 231
- J.1.10 R v Shangase 1960 (1) PH H123 (N)
- J.1.11 R v Snydorn 1952 (2) SA 397 (T)
- J.1.12 R v Taruska 1959 (1) R & N 51 (SR)
- J.1.13 R v Taurasaria 1945 SR 12
- J.1.14 S v Beregh 1975 (3) SA 359 (O)
- J.1.15 S v Diamini 1984 (3) SA 196 (N)
- J.1.16 S v Graham 1975 (3) SA 569 (A)
- J.1.17 S v Mami 2002 (2) SACR 393 (E)
- J.1.18 S v Tau 1996 (2) SACR 97 (T)
- J.1.19 S v Van Colfer (1989) 15 Cape LJ 281
- J.1.20 S v Verwey 1968 (4) SA 682 (A)

J.2

Unlawful Taking

- J.2.1 Ex parte Minister of Justice: In re R v Gesa; R v de Jongh 1959 (1) SA 234 (A)
- J.2.2 Ex parte Minister of Justice: In re R v Maserow 1942 AD 164
- J.2.3 R v Jona 1961 (2) SA 301 (W)
- J.2.4 R v Lepheana 1955 (3) SA 334 (N)
- J.2.5 S v De Jager 1965 (2) SA 616 (A)
- J.2.6 S v Graham 1975 (3) SA 569 (A)

J.3

Intent to Steal

- J.3.1 R v Buffiel Dikgat 1928 GWL 11
- J.3.2 R v De Kock 1951 (2) SA 342 (T)
- J.3.3 R v De Ruiter 1957 (3) SA 361 (A)
- J.3.4 R v Geddes 1964 (4) SA 48 (SR,AD)

- J.3.5 R v Harlow 1955 (3) SA 259 (T)
- J.3.6 R v Hendricks 1938 CPD 456
- J.3.7 R v Kinsella 1961 (3) SA 519 (C)
- J.3.8 R v Laforet 1922 CPD 487
- J.3.9 R v Lahe 1941 EDL 215
- J.3.10 R v Markin's Motors 1959 (3) SA 508 (A)
- J.3.11 R v Maruba 1942 OPD 51
- J.3.12 R v Mishali 1960 (4) SA 252 (N)
- J.3.13 R v Ndhlala 1956 (2) SA 4 (N)
- J.3.14 R v Ndakiso 1945 EDL 119
- J.3.15 R v Ngwilis 1922 EDL 113
- J.3.16 R v Sibira 1955 (4) SA 247 (A)
- J.3.17 R v Slabbert 1941 EDL 109
- J.3.18 S v De Blom 1977 (3) SA 513 (A)
- J.3.19 S v Dreyer 1967 (4) SA 614 (E)
- J.3.20 S v Johnson 1977 (4) SA 116 (RA)
- J.3.21 S v Modise 1966 (4) SA 680 (GW)
- J.3.22 S v Rantsane 1973 (4) SA 380 (O)
- J.3.23 S v Van Coller 1970 (1) SA 417 (A)

J 4

Property Capable of Being Stolen

- J.4.1 Queen v Philander Jacobs (1876) 7 Buch 171
- J.4.2 R v Albasim 1967 (4) SA 605 (RA)
- J.4.3 R v Brington 1933 TPD 109
- J.4.4 R v Cheeseborough 1948 (3) SA 756 (T)
- J.4.5 R v Janoo 1959 (3) SA 107 (A)
- J.4.6 R v Judelman (1893) 10 SC 12
- J.4.7 R v Manuel 1953 (4) SA 523 (A)
- J.4.8 R v Matlare 1965 (3) SA 326 (C)
- J.4.9 R v Milne and Erleigh (7) 1951 (1) SA 791 (A)
- J.4.10 R v Mofohla 1958 (2) SA 373 (SR)
- J.4.11 R v Munango 1956 (1) SA 438 (SWA)
- J.4.12 R v Pretorius 1908 TS 272
- J.4.13 R v Renaud 1922 CPD 322
- J.4.14 R v Satsky 1915 CPD 574
- J.4.15 R v Schoultz 1956 (2) SA 388 (A)
- J.4.16 R v Shandu 1927 TPD 786
- J.4.17 R v Von Elling 1945 AID 234
- J.4.18 R v Weiss 1934 AD 41
- J.4.19 R v Wilson 1961 (1) SA 431 (FC)
- J.4.20 S v Graham 1975 (3) SA 569 (A)
- J.4.21 S v Johnson 1977 (4) SA 116 (RA)
- J.4.22 S v Kimmich 1996 (2) SACR 200 (C)
- J.4.23 S v Luther 1962 (3) SA 506 (A)
- J.4.24 S v Mmnoor 1996 (1) SACR 514 (C)

J 5

Continuing Offence

- J.5.1 S v Cassiem 2001 (1) SACR 489 (SCA)

Unauthorized Borrowing (contravening s.1 of General Law Amendment Act 13

L

Failure to Give Account of Possession of Goods Suspected of Being Stolen (contravening s.36 of the General Law Amendment Act 62 of 1955)

- Burchell 808 (section F)
- Or Snyman 513-517
- L.1 Osman v Attorney-General, Transvaal 1998 (4) SA 1224 (CC)
- L.2 R v Ismail 1958 (1) SA 206 (A)
- L.3 S v Mbele 2004 (2) SACR 537 (CK)
- L.4 S v Rubenstein 1964 (3) SA 480 (A)
- L.5 S v Aube 2007 (1) SACR 655 (W)

M

Robbery

- Burchell chap 64
- Or Snyman 506-510
- M.1 Ex parte Minister of Justice: In re R v Gesar; R v De Jongh 1959 (1) SA 234 (A)
- M.2 Ex parte Minister van Justisie: In re S v Seekoel 1984 (4) SA 690 (A)
- M.3 R v Edwards (1843) 1 Cox CC 32
- M.4 R v Kammusamy 1959 (1) SA 825 (N)
- M.5 R v Magoo 1959 (1) SA 489 (A)
- M.6 R v Matshaba 1961 (3) SA 78 (T)
- M.7 S v Dlamini 1975 (2) SA 524 (D)
- M.8 S v Hlatswayo 1964 (2) SA 123 (T)
- M.9 S v Malunga 1962 (3) SA 589 (T)
- M.10 S v Marais 1969 (4) SA 533 (NC)
- M.11 S v Mar 2002 (1) SACR 323 (C)
- M.12 S v Moerane 1962 (4) SA 105 (T)
- M.13 S v Motokeng 1982 (4) SA 147 (T)
- M.14 S v Mogala 1978 (2) SA 412 (A)
- M.15 S v Paofan 1962 (4) SA 246 (T)
- M.16 S v Sathans 2006 (1) SACR 333 (C)
- M.17 S v Sithole 1981 (1) SA 1186 (N)
- M.18 S v Witbooi 1984 (1) SA 242 (C)
- M.19 S v Yolelo 1981 (1) SA 1002 (A)
- M.20 Meneil v S [2008] 3 All SA 155 (SCA)

N

Fraud

- Burchell chap 66
- Or Snyman 521-529
- N.1 R v Bell 1963 (2) SA 335 (N)

v Geldenhuys 2009 (1) SACR 1 (SCA) – age of consent

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v Dhlamini 1931 (1) PH 557 (T)
v A 1993 (1) SACR 600 (A)
v Marx 1962 (1) SA 848 (N)
v Mitya 1966 (4) SA 274 (N)

Intention to do Grievous Bodily Harm

v Bergh 2006 (2) SACR 225 (N)
v Erasmus 2005 (2) SACR 658 (SCA)
v Mbele 1966 (1) PH 1176 (N)
v Mda 2001 (1) SACR 625 (W)
v Rebow 2007 (2) SACR 292 (E)

Acts with Intent

seduction in Burchell)
v B 1958 (1) SA 199 (A)
v Ken 1966 (4) SA 514 (N)

Rape

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v Strachans 1918 CPD 590
v Curtis 1926 CPD 385
v A 1993 (1) SACR 600 (A)
v F 1982 (2) SA 580 (T)
v Egglestone 2009 (1) SACR 244 (SCA) – intention paramount