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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)

DECEMBER 2008
DEFERRED/SUPPLEMENTARY

Year of study
(Art & Science leave blank)

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

BA/BCOM/LLB

Faculty/ies presenting candidates

COMMERCE, LAW AND
MANAGEMENT

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

MR JAMES GRANT (x78486)
PROF T MOSIKATSANA (x78485)
MS A STAROSTA

External examiner(s)

PROF S LÖTTER

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

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

- **STUDENTS WRITING THE SUPPLEMENTARY EXAM MUST ANSWER ONE (1) QUESTION FROM SECTION A + TWO (2) QUESTIONS FROM SECTION B.**
- **STUDENTS WRITING THE DEFERRED EXAM MUST ANSWER THREE (3) QUESTIONS FROM SECTION B.**

STUDENTS WRITING THE SUPPLEMENTARY EXAM MUST ANSWER ONE QUESTION FROM SECTION “A” AND TWO FROM SECTION “B”.

STUDENTS WRITING THE DEFERRED EXAM MUST ANSWER THREE QUESTIONS FROM SECTION “B”.

SECTION A

QUESTION 1

Terry and Mac live in the city of Johannesburg. One day Terry pays Mac a visit at his office, at the Braamfontein Centre, in order to ‘teach him a lesson or two’ for having an affair with his girlfriend, Jenny.

Jenny works in an office next to Mac’s office. While involved in an altercation with Mac in the latter’s office, Terry pulls out his loaded revolver with which he intends finishing Mac off. He is not aware that Mac’s office is partitioned with a soft board. He aims at Mac and pulls the trigger of the loaded revolver. The bullet misses him, passes through the partition and hits Jenny, who dies as a result of the injury caused by the shot.

Just after the shot is fired, someone enters Mac’s office to see what is going on and this happens to be Jenny’s identical twin sister, Nina. Thinking that it is Jenny, the woman who is two-timing him, Terry points his revolver at Nina. He shoots and kills her.

Applying the principles of criminal law as supported by relevant case law, fully discuss Terry’s criminal liability in respect of the two identical sisters, Jenny and Nina.

(20 marks)

SECTION B

QUESTION 1

Phalo has recently moved to Sin City. In an effort to win acceptance, he joins a gang of local youths which is known for its tough disciplinary code, which it enforces violently.

As an initiation into the gang, Phalo is ordered to break into Mohammed’s house, steal items of property and rape any female occupant of the house. He is threatened with serious violence to himself and his family if he does not comply with the gang’s orders.

Fearful for his life and his family’s safety, Phalo breaks into Mohammed’s house and seizes various items of property. On his way out of the house he is confronted by Mohammed’s daughter, Teshnee. He threatens her with violence and proceeds to rape her.

Mohammed, who had gone shopping, comes into the house to find Phalo holding a knife menacingly to Teshnee’s throat. Teshnee, who is terrified at this stage, screams

frantically. Mohammed also notices that valuable items of property belonging to him have been packed into boxes to be taken by Phalo.

Fearful for his daughter's life and concerned about losing his property, Mohammed quickly picks up a knife from the kitchen sink and stabs Phalo 4 times in the back, injuring him seriously.

Phalo is rushed to hospital and recovers from the injuries. He is subsequently charged with robbery and rape.

Mohammed is charged with assault with intent to do grievous bodily harm.

What possible grounds of justification and putative grounds of justification could Phalo and Mohammed raise to their respective charges?

(20 marks)

QUESTION 2

Brenda asks David to buy her some groceries. He has no money and she gives him R400 for the purchase. On his way to the supermarket he walks into a music shop and cannot resist using the R400 to buy a DVD film.

David then enters a clothing store and chooses a pair of shoes. He writes out a cheque knowing there are no funds in his cheque account, but hoping that he will be able to borrow money to put into his cheque account before the cheque is presented for payment.

David next goes into a sweets shop and hides chocolate in his jacket. As he is leaving the shop, the shop owner seizes him and grabs the chocolate. David pushes the owner aside. While he does this, the shopkeeper's cell phone falls out of his pocket onto the floor. David picks it up and runs off without the chocolate.

Consider David's criminal liability in respect of what occurs in each shop.

(20 marks)

QUESTION 3

Bob and Pete, who are both men, meet one night at a tavern. They fall instantly in love but since Bob is conservative and concerned about contracting HIV he refuses to engage in sexual intercourse with Pete until they have dated for at least 6 months, and before they have both been tested for HIV and can present the other with HIV negative certificates. Pete knows that he is HIV positive and conceals this from Bob. At seven months into their relationship Bob presents Pete with a certificate indicating that he is HIV negative and asks Pete to take the test. Pete goes to Dr Doyl, the doctor he used to see when he was a

student and he would provide Pete with false medical certificates with which Pete secured deferred exams.

Pete tells Dr Doyl that he is HIV positive, but needs a false certificate that he is negative to show to his boyfriend so that he would engage in sexual intercourse with him. Dr Doyl gives Pete the certificate for a price of R2000-00. Pete shows Bob the certificate in consequence of which Bob allows Pete to have anal sexual intercourse with him. From this intercourse Bob contracts HIV.

Excluding a discussion of attempted murder, and in separate answers, critically discuss the criminal liability of:

(a) Pete

(10 marks)

(b) Dr Doyl

(10 marks)

[TOTAL for this paper: 60 MARKS]

Criminal Law 2008:
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 ejection, 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 ...00-24)

(Room no LB 44; office tel: 011717-8486; e-mail: grantj@law.wits.ac.za)

Prof Tshepo Mosikatsana

(Class allocation: Student numbers ...25-49)

(Room no LB 111A; office tel: 011717-8475; e-mail: mosikatsanat1@law.wits.ac.za)

Alina Starosta

(Class allocation: Student numbers ...50-74)

(Law Clinic; office tel: 011717-8532)

Wandisile Mandlana

(Class allocation: Student numbers ...75-99)

(Office tel: 011 669 95 62; Email: w.Mandlana@bowman.co.za)

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).

Sources

Prescribed

1. Jonathan Burchell and John Milton *Principles of Criminal Law* revised 3 ed (2006)
(Note: please be careful to purchase the revised 3rd ed (2006); several copies of the unrevised 3rd ed (2005) are still for sale at book stores and look almost identical);

OR

2. C R Snyman *Criminal Law* 4 ed (2002) (in English)
(Note: the new 5th ed (2008) is due for release in March 2008)

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 II — Common-Law Crimes* 3 ed (1996) by J R L Milton;
4. J C de Wet and H L Swanepoel *Strafreg* 4 ed (1985)
5. P J Visser and M C Maré *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 I

B THE ACTUS REUS

B.1 Conduct

Burchell 178, 179 (section I), 185-208
or Snyman 51-54, 59-61

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 Chenjere 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 Govender 2004 (2) SACR 381 (SCA)

B.1.10 Silva's Fishing Corporation v Maweza 1957 (2) SA 256 (A)

B.2 Voluntariness

Burchell chap 9

Or Snyman 55-58

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 Mahlinza 1967 (1) SA 408 (A)

B.2.9 S v Trickett 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 Grotjohn 1970 (2) SA 355 (A)

B.3.2 **Minister of Police v Skosana** 1977 (1) SA 31 (A)

B.3.3 R v Blaue [1975] 3 All ER 446 (CA)

B.3.4 R v Loubser 1953 (2) PH H190 (W)

B.3.5 R v Mabile 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)

- B.3.8 S v Burger 1975 (4) SA 877 (A)
- B.3.9 S v Counter 2003 (1) SACR 143 (SCA)
- B.3.10 **S v Daniëls 1983 (3) SA 275 (A)**
- B.3.11 S v Hartman 1975 (3) SA 532 (C)
- B.3.12 S v Mbambo 1965 (2) SA 845 (A)
- B.3.13 S v Mokgethi 1990 (1) SA 32 (A)**
- B.3.14 S v Ramosunya 2000 (2) SACR 257 (T)
- B.3.15 S v Williams 1986 (4) SA 1188 (A)
- B.3.16 S v Tembani 2007 (1) SACR 355 (SCA)

C MENS REA

- C.1 General & Versari in Re Illicita
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 Matsepe 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 Kewelram 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 Shaik 1983 (4) SA 57 (A)
 - C.2.17 S v Sigwahla 1967 (4) SA 566 (A)
- 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 Ndlovu 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 Lennett 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 Mahlahela 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 Longone 1938 AD 532
 - C.5.4 S v Mavhungu 1981 (1) SA 56 (A)
 - C.5.5 S v Mkansi 2004 (1) SACR 281 (T)
 - C.5.6 S v Mtshiza 1970 (3) SA 747 (A)
 - C.5.7 S v Raisa 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 Claasens 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 Ruiters 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 Motleleni 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, 191-195

C.7.1 *R v Chiswibo* 1961 (2) SA 714 (FC)

C.7.2 *R v Thabo Meli* [1954] 1 All ER 373 (PC)

C.7.3 ***S v Goosen* 1989 (4) SA 1013 (A)**; Andrew Paizes "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 Masilela* 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 Jassat* 1965 (3) SA 423 (A)

C.8.10 *S v Melk* 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 Qumbella* 1966 (4) SA 356 (A)

C.8.14 *S v Unverdorben* 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 Tvl v Add Mag 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 Mohlobane* 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 Holliday 1924 AD 250

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 Kavim 1978 (2) SA 731 (W)

D.2.9 S v Mahlinza 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 Pethla 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 Paizes 'Intoxication through the looking-glass' (1988) 105 *SALJ* 776

E.1.6 S v Engelbrecht 1966 (1) SA 210 (C)

E.1.7 S v Hartyani 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 1990 (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 325 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)

E.2.5 S v Bailey 1982 (3) SA 772 (A)

Burchell chap 15 & p 517

Or Snyman 113-123

- F.3.1 Abbott v R [1976] 3 All ER 140 (PC)
- F.3.2 Lynch v DPP [1975] 1 All ER 913 (HL)
- F.3.3 R v Dudley & Stephens (1884) 14 QBD 273
- F.3.4 R v Canestra 1951 (2) SA 317 (A)
- F.3.5 R v Garnsworthy 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 Alfeus 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 (SWA)

F.4 Impossibility (Self-Study)

Burchell chap 16

Or Snyman 61-63

- F.4.1 Attorney-General v Grieve 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 Mafu 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 R 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 Stoffberg 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);
Andrew Paizes 1992 AS 511

- G.1.2 R v Bennett & Co (Pty) Ltd 1941 TPD 194
- G.1.3 R v Booth Road Trading Co (Pty) Ltd 1947 (1) PH K48 (N)
- G.1.4 R v Levy 1929 AD 312
- G.1.5 R v Markins Motors (Pty) Ltd 1959 (3) SA 508 (A)
- G.1.6 R v Van Heerden 1946 AD 168
- G.1.7 R v Wege 1959 (3) SA 268 (C)
- G.1.8 **S v Coetzee 1997 (3) SA 527 (CC)**
- G.1.9 S v Klopper 1975 (4) SA 773 (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 Jackelson 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 Shikuri 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 SALJ 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 Dladla 1962 (1) SA 307 (A)
- H.2.2 R v Du Randt 1954 (1) SA 313 (A)
- H.2.3 R v Mgxwiti 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 Khanye [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 Motaung 1990 (4) SA 485 (A)**
- H.2.15 S v Musingadi 2005 (1) SACR 395 (SCA)
- H.2.16 S v Ngobozi 1972 (3) SA 476 (A)
- H.2.17 S v Nhlapo 1981 (2) SA 744 (A)
- H.2.18 **S v Nkwenja 1985 (2) SA 560 (A)**

- H.2.19 S v Nzo 1990 (3) SA 1 (A)
- H.2.20 **S v Safatsa 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 Paizes 'Common purpose by active association: Some questions and difficult choices' (1995) 112 *SALJ* 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 Mlooi 1925 AD 131

H.3.5 R v Nkau 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 Velumurugen 1985 (2) SA 437 (D)

I INCHOATE OFFENCES

I.1 Attempts

Burchell chaps 43 & 44

Or Snyman 279-292

I.1.1 R v B 1958 (1) SA 199 (A)

I.1.2 **R v Davies 1956 (3) SA 52 (A)**

I.1.3 R v Hlatwayo 1933 TPD 441

I.1.4 R v Katz 1959 (3) SA 408 (C)

I.1.5 R v Nhlovo 1921 AD 485

I.1.6 **R v Schoombie 1945 AD 541**

I.1.7 R v Sharpe 1903 TS 868

I.1.8 S v du Plessis 1981 (3) SA 382 (A)

I.1.9 S v Laurence 1975 (4) SA 825 (A)

I.1.10 S v Pamos 1979 (2) SA 82 (A)

I.1.11 S v W 1976 (1) SA 1 (A)

I.2 Incitement (Self-Study)

Burchell chap 45

Or Snyman 295-298

I.2.1 R v Milne & Erleigh (7) 1951 (1) SA 791 (A)

I.2.2 R v Nhlovo 1921 AD 485

I.2.3 R v Wolff 1930 TPD 821

I.2.4 S v Nkosiya 1966 (4) SA 655 (A)

I.3 Conspiracy (Self-Study)

Burchell chap 46

Or Snyman 292-295

- I.3.1 R v Harris (1927) 48 NLR 330
- I.3.2 R v Kaplan (1893) 10 SC 259
- I.3.3 R v S 1959 (1) SA 680 (C)
- I.3.4 S v Alexander 1965 (2) SA 818 (C)
- I.3.5 S v Basson 2000 (1) SACR 1 (T)
- I.3.6 S v Du Toit (3) 2004 (1) SACR 66 (T)

SPECIFIC CRIMES

J Theft

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

J.1 Contrectatio

- J.1.1 R v Carelse and Kay 1920 CPD 471
- J.1.2 R v Makonie 1942 OPD 164
- J.1.3 R v Mapiza 1945 (1) PH H68 (C)
- J.1.4 R v Milne and Erleigh (7) 1951 (1) SA 791 (A)
- J.1.5 R v Mlooi 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 Nhleko 1920 TPD 231
- J.1.10 R v Shangase 1960 (1) PH H123 (N)
- J.1.11 R v Strydom 1952 (2) SA 397 (T)
- J.1.12 R v Tarusika 1959 (1) R & N 51 (SR)
- J.1.13 R v Taurusarira 1945 SR 12
- J.1.14 S v Bergh 1975 (3) SA 359 (O)
- J.1.15 **S v Dlamini 1984 (3) SA 196 (N)**
- J.1.16 S v Graham 1975 (3) SA 569 (A)
- J.1.17 S v Mani 2002 (2) SACR 393 (E)
- J.1.18 S v Tau 1996 (2) SACR 97 (T)
- J.1.19 S v Van Coller (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 Buffel Dikgat 1928 GWL 11
- J.3.2 R v De Kock 1951 (2) SA 342 (T)
- J.3.3 R v De Ruiters 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 Laforte 1922 CPD 487**
- J.3.9 R v Lahee 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 Mtshali 1960 (4) SA 252 (N)
- J.3.13 R v Ndhlela 1956 (2) SA 4 (N)
- J.3.14 R v Ndukiso 1945 EDL 119
- J.3.15 R v Nqwilis 1922 EDL 113
- J.3.16 **R v Sibiya 1955 (4) SA 247 (A)**
- J.3.17 R v Slabbett 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 Collier 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 Albasini 1967 (4) SA 605 (RA)
- J.4.3 R v Bruigom 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 Schoulides 1956 (2) SA 388 (A)
- J.4.16 R v Shandu 1927 TPD 786
- J.4.17 R v Von Elling 1945 AD 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 Mintoor 1996 (1) SACR 514 (C)

J.5 Continuing Offence

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

K Unauthorized Borrowing (contravening s 1 of General Law Amendment Act 50 of 1956)

Burchell 809-816

Or Snyman 500-506

- K.1 R v Dunyua 1961 (3) SA 644 (O)
- K.2 R v Maarman 1959 (2) PH H217 (GW)
- K.3 R v Mtshali 1960 (4) SA 252 (N)
- K.4 R v Seeiso 1958 (2) SA 231 (GW)
- K.5 **S v Rheeder 2000 (2) SACR 558 (A)**
- K.6 S v Terblance 2007 (1) SACR 545 (C)

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 Gesa; R v De Jongh 1959**
(1) SA 234 (A)
- M.2 **Ex parte Minister van Justisie: In re S v Seekoei 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 Magao 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 Malinga 1962 (3) SA 589 (T)
- M.10 S v Marais 1969 (4) SA 532 (NC)
- M.11 S v Mati 2002 (1) SACR 323 (C)
- M.12 S v Moerane 1962 (4) SA 105 (T)
- M.13 S v Mofokeng 1982 (4) SA 147 (T)
- M.14 S v Mogala 1978 (2) SA 412 (A)
- M.15 S v Pachai 1962 (4) SA 246 (T)
- M.16 S v Salmans 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)

N Fraud

Burchell chap 66

Or Snyman 521-529

- N.1 R v Bell 1963 (2) SA 335 (N)
- N.2 R v Deale 1960 (3) SA 846 (T)
- N.3 R v Deetlefs 1953 (1) SA 418 (A)

- N.4 R v Dyonta 1935 AD 52
- N.5 R v Frankfort Motors (Pty) Ltd 1946 OPD 255
- N.6 R v Henkes 1941 AD 143
- N.7 R v Heyne 1956 (3) SA 604 (A)
- N.8 R v Kruse 1946 AD 524
- N.9 R v Larkins 1934 AD 91
- N.10 R v Myers 1948 (1) SA 375 (A)
- N.11 R v Persotam 1938 AD 92
- N.12 R v Seabe 1927 AD 28
- N.13 R v Sole 2004 (2) SACR 599 (Les)
- N.14 R v Thabeta 1948 (3) SA 218 (T)
- N.15 Re London and Globe Finance Corp Ltd (1903) 1 Ch 728
- N.16 S v Boesak 2000 (1) SACR 633 (SCA)
- N.17 S v Coetzee 1997 (3) SA 527 (CC)
- N.18 S v Friedman (1) 1996 (1) SACR 181 (W)
- N.19 S v Harper 1981 (2) SA 638 (D)
- N.20 S v Heller (2) 1964 (1) SA 524 (W)
- N.21 S v Kruger 1961 (4) SA 816 (A)
- N.22 S v Moolman 2006 (1) SACR 432 (T)
- N.23 S v Ostilly 1977 (2) SA 104 (D)
- N.24 S v Schnittker 1964 (3) SA 10 (GW)
- N.25 S v Tshoba 1989 (3) SA 393 (A)
- N.26 S v Western Areas Ltd 2004 (1) SACR 429 (W)
- N.27 S v Yengeni 2006 (1) SACR 405 (T)
- N.28 S v Shaik 2007 (1) SACR 247 (SCA)

O

Rape

Burchell chap 51

Or Snyman 445-452

- O.1 DPP v Morgan [1976] AC 182
- O.2 R v B 1958 (1) SA 199 (A)
- O.3 R v C 1952 (4) SA 117 (O)
- O.4 R v Handcock 1925 OPD 147
- O.5 R v K 1958 (3) SA 420 (A)
- O.6 R v M 1949 (4) SA 831 (A)
- O.7 R v M 1950 (4) SA 101 (T)
- O.8 R v M 1953 (4) SA 393 (A)
- O.9 **R v Swiggelaar 1950 (1) PH H61 (A)**
- O.10 R v Williams 1931 (1) PH H38 (E)
- O.11 R v Williams [1923] 1 KB 340
- O.12 R v Z 1960 (1) SA 739 (A)
- O.13 S v Volschenk 1968 (2) PH H283 (D)
- O.14 S v W 2004 (1) SACR 460 (C)
- O.15 S v Zuma 2006 (2) SACR 191 (W)
- O.16 **S v Masiya 2006 (2) SACR 357 (T); Mayisa v Director of Public Prosecutions 2007 (2) SACR 435 (CC)**
- O.17 **Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007** (available at <http://www.info.gov.za/gazette/acts/2007/a32-07.pdf>)

P

Assault

Burchell 680-688

Or Snyman 430-434

- P.1 R v Dhlamini 1931 (1) PH H57 (T)
P.2 S v A 1993 (1) SACR 600 (A)
P.3 S v Marx 1962 (1) SA 848 (N)
P.4 S v Miya 1966 (4) SA 274 (N)

Q

Assault with Intent to do Grievous Bodily Harm

Burchell 688-691

Or Snyman 435

- Q.1 S v Bergh 2006 (2) SACR 225 (N)
Q.2 S v Erasmus 2005 (2) SACR 658 (SCA)
Q.3 S v Mbelu 1966 (1) PH H176 (N)
Q.4 S v Mdau 2001 (1) SACR 625 (W)
Q.5 S v Reabow 2007 (2) SACR 292 (E)

R

Other Assaults with Intent

Snyman 436 (no discussion in Burchell)

- R.1 R v B 1958 (1) SA 199 (A)
R.2 S v Ken 1966 (4) SA 514 (N)

S

Indecent Assault

Burchell 691-698

Or Snyman 436-439

- S.1 R v Abrahams 1918 CPD 590
S.2 R v Curtis 1926 CPD 385
S.3 S v A 1993 (1) SACR 600 (A)
S.4 S v F 1982 (2) SA 580 (T)