

Criminal Law A

2016

Course Outline

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1. OVERVIEW

Criminal Law is taught in the third year of the LLB degree, and consists of two semester courses: Criminal Law A and Criminal Law B. The purpose of Criminal Law A is to introduce students to the general principles of criminal liability, participants in crime and to the principles underlying incomplete (inchoate) crimes. By the end of the course students should be able to evaluate and discuss these elements, and solve problems based on factual scenarios.

Successful completion of Criminal Law A is a prerequisite for Criminal Law B.

2. CREDIT VALUE: 10

This works out as follows:

- 18 hours: 24 lectures (45 minutes per lecture)
- 0.75 hours: 1 written test
- 2 hours: 1 written examination
- 79.25 hours: Individual learning (pre- and post-lecture reading, preparation of written assignment, test and examination preparation)

Total: 100 hours work

3. ASSUMPTIONS OF PRIOR LEARNING

In order to successfully complete this course, students should:

- Be capable of communicating competently in written and spoken English;
- Be able to work/study independently by reading, extracting and analysing relevant information from various sources of law;
- Know how and where to access resources, and so be capable of using the library and electronic resources;
- Be capable of applying legal problem-solving techniques;
- Have the ability to follow appropriate legal referencing conventions in written work.

4. OUTCOMES

4.1 Critical Cross-Field Outcomes:

It is expected that this course should contribute to the following critical cross-field outcomes, in that by the end of the course students should be able to:

- organise and manage themselves
- collect, analyse and evaluate information
- communicate effectively
- recognise problem solving contexts
- identify and solve problems

4.2 Specific Intended Outcomes

It is intended that by the end of this course students will be able to:

- Understand the fundamental values underlying criminal justice in South Africa;
- Explain the functions and objectives of criminal law;
- Show an in-depth understanding of the general principles that underlie Criminal Law;
- Identify and apply the various defences that may exclude criminal liability;
- Define various forms of participation in criminal activities and their consequences;
- Understand and appreciate the influence of Constitutional principles on the Criminal Law, and how these have been harmonised with common law principles;
- Evaluate the laws governing Criminal Law;
- Apply the knowledge gained during the course to solve practical problems.

5. TEACHING METHOD

The course comprises two lectures per week, canvassing the law as contained in textbooks, case law and legislation. Notes will be provided but students are cautioned that this is not necessarily a comprehensive handout for the course, and that they are expected to take their own notes during lectures and to supplement these on their own after the lectures. Class discussions will be held, and students will have to participate actively in these; i.e. be able to explain case law and consider practical questions. Students must prepare for lectures by doing the prescribed readings before each lecture. It is expected that students assume responsibility for their own learning by independent study according to the guidance provided by the detailed course outline. Lectures are compulsory, and students are expected to familiarise themselves with the DP and Leave of Absence policies of the Faculty. In this respect please refer to the Law Students' Survival Guide 2016.

The onus is on students to keep track of how many lectures they have missed.

6. COURSE CONTENT

1) Introductory Material: The Conduct of a Criminal Trial

2) Unlawful Conduct (PART 1)

Human Conduct

Voluntary Conduct

- Automatism
- Culpable Prior Voluntary Conduct

Forms of Unlawful Conduct

- Unlawful Acts
- Unlawful Omissions
- State of Affairs Crimes
- Consequence Crimes
 - Factual Causation
 - Legal Causation

Defences Excluding Unlawfulness (Justification)

- Private Defence of Persons
- Private Defence of Property
- Necessity & Compulsion
- Impossibility
- Consent
- Obedience to Superior Orders
- Public Authority

3) Fault (PART 2):

Introduction to fault

Forms of Fault

Dolus

- *Dolus Directus*
- *Dolus Indirectus*
- *Dolus Eventualis*

Culpa

Contemporaneity of Fault and Conduct

Fault in Statutory Offences

Liability without Fault

- *Versari In Re Illicita*
- Vicarious Liability
- Corporate Entities

Defences Excluding Fault

- Mistake & Ignorance
 - Mistake and Ignorance of Fact
 - Mistake and Ignorance of Law
- *Aberratio Ictus*
- Mental Illness/Defect, Youth, Intoxication, Emotional Distress

4) Criminal Capacity (PART 3)

Introduction to Criminal Capacity

Defences Excluding Criminal Capacity

- Mental Illness or Defect
 - Requirements for the Defence
 - Diminished Responsibility

- Chapter 13 of the Criminal Procedure Act 51 of 1977

- Youth
- Intoxication

- Criminal Law Amendment Act 1 of 1988

- Emotional Distress and TNPCI

5) Degrees of Participation in Crime (PART 4)

Introduction

Perpetrators

- The Doctrine of Common Purpose
- Accomplices
- Accessories After the Fact

6) Inchoate Crimes (PART 6)

Introduction

Attempts

Incitement

Conspiracy

7. RESOURCES

In order to assist your preparation for lectures, a course outline listing the core readings is provided. However, it will be in your own interests to read more widely than the readings listed. You will find the leading judgments on aspects of Criminal Law in the relevant Law Reports, which may be accessed in the Law Library, both in paper and electronic form.

Prescribed Textbook:

J Burchell Principles of Criminal Law, 4th ed (2014) (Revised reprint)

Recommended Textbooks:

CR Snyman Criminal Law 6th ed (2014).

CR Snyman Criminal Law Casebook 4th ed (2008).

J Burchell and J Milton Cases and Materials on Criminal Law (1996).

Other texts may be referred to during the course and students may also be referred to Journal articles. Students are encouraged to utilise all the available library resources, and to familiarise themselves with the relevant Criminal Law texts by browsing through the shelves in the library.

8. STUDENT ASSESSMENT

Intended Specific Outcomes:

Upon successful completion this course, students will be able to:

Assessment Criteria:

Students must provide evidence that they can:

1. Understand the fundamental values underlying criminal justice in South Africa;

Identify and explain the meaning, origins and status of each of the identified values of our criminal justice.

2. Explain the functions and objectives of criminal law;

Identify the role of the Criminal Law, and explain its importance in everyday life.

3. Show an in-depth understanding of the general principles that underlie the Criminal Law;

Identify and explain, as well as critically analyse the basic principles of Criminal Law, including:

- a) principles of criminal liability: unlawful conduct, capacity, fault, causation;
- b) defences that exclude criminal liability;
- c) various forms of participation in criminal activities and their consequences;
- d) liability for incomplete crimes.

4. Apply the knowledge gained during the course to solve practical problems.

Synthesise and integrate the knowledge gained in order to propose practical solutions to problems associated with the Criminal Law, and to be able to advise accordingly.

5. Evaluate the laws governing Criminal Law.

- a) Identify and find relevant texts, judicial decisions, journal writings and other resources relevant to Criminal Law.
- b) Explain these laws and analyse their adequacy.
- c) Identify shortfalls and make suggestions for law reform.

6. Understand and appreciate the influence of Constitutional principles on the Criminal Law, and how these have been harmonised with common law principles;

- a) Identify the key constitutional provisions that affect the Criminal Law.
- b) Explain the implications and effects of these provisions
- c) Analyse current constitutional reforms in the Criminal Law.

Assessment Criteria:

The final mark for the course is comprised of the following components:

Class Work: **30** marks

Examination: **70** marks

Total: 100 marks

Assignment: **TBA**

There is one major assignment for this course. The assignment is compulsory and comprises half of the class mark (15%). No late assignments will be accepted for marking, unless the student has a valid Leave of Absence. Failure to submit an assignment by the due date will result in the removal of the student's DP certificate.

Test: **TBA**

There is one test for this course, which will make up the other half of the class mark (15%). The test will contain questions equivalent to those which will be found in the June examination. The test is compulsory and will be written during the relevant lecture period. The test will cover everything we have done in the course up until that date.

Examination

The June examination for this course will comprise a two-hour long paper. Students can expect both theory and problem-type questions in this exam. The mark obtained in the exam counts 70% towards the final mark. The examination is compulsory. An external examiner will assess the quality of both the examination paper and the students' answers.

9. EVALUATION

The course is evaluated on a three-year cycle. Students may be asked to evaluate the course by filling in a questionnaire containing specific questions about the course. The responses are processed by the Centre of Higher Education Research, Teaching and Learning, which compiles a report summarising the strengths and weaknesses of the course. The feedback and issues arising from the evaluation are conveyed to the lecturer, who will then take appropriate action. Feedback will be given by the lecturer to the students regarding the results of the evaluation as well as the action taken.