

QUESTION 1: 36 marks

1.1 2 marks

Criminal law defines 1) which conduct is a crime in terms of the common law and legislation and 2) the sentence that may be imposed.

1.2 2 marks

- 1) to protect the safety and security of society and
- 2) to protect feelings/emotions

1.3 4 marks

Open a DOCKET (1)

Give it a CRIME ADMINISTRATIVE NUMBER (CAS) (1)

J 88 (1) provides medical evidence (1)

1.4 3 marks

- 1. When the conduct complies with the 5 elements of a crime;
- 2. When the accused may be linked to the crime;
- 3. Where there is a reasonable possibility of success.

1.5 2 marks

Yes, may prosecute.

No prescription

1.6 5 marks

LEGALITY	Sexual Offences Act
CONDUCT	Penetration <u>without consent</u>
UNLAWFULNESS	Against boni mores/legal convictions of society and no ground of justification /defence
CRIMINAL CAPACITY	Distinguish between right and wrong and act in accordance

FAULT	Dolus/intent
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1.7 5 marks

No can still be charged and convicted (1)

Prins case (1) and facts (1)

Sentencing legality: even if not in specific legislation MIN SENTENCING ACT (1) **where rape is defined BUT EVEN IF NOT IN SPECIFIC OR MIN SENTENCING ACT** it can still be found in the CRIMINAL PROCEDURE ACT. (1)

1.8 1 mark

It is where A a) unlawfully and b) intentionally c) engage in conduct that d) defeats or obstructs e) the course of administration of justice.

1.9.1 7 marks

- **Prescribed sentence of 10 years (1) Minimum Sentencing Act (1)**
- **Regional court/Trial court:** imposed 7 years (1)
- In Seedat the **High Court** deviated from the and imposed compensation of R 100 00 (1)
- Court may deviated from prescribed sentence if THERE EXIST COMPELLING AND SUBSTANTIAL CIRCUMSTANCES (1) that warrant deviation.
- **Supreme Court of Appeal:** 4 years (1)
- The High court was NOT correct to deviate in the Seedat case from imprisonment as rape is serious (1)

1.9.3 2 marks

Should be NO (1) as here was NO conviction and therefore no restorative justice.

1.10 3 marks

ACQUIT (1)

Why? One can withdraw a charge before it goes on trial. (1) NOT IDEAL but the victim has a choice. You could argue part of decolonisation although one may withdraw a charge but the reason why the withdrew may be seen as decolonisation.

DECOLONISATION? (1) Do you see it as part of decolonisation?

QUESTION 2 24 MARKS

2.1 3 marks

Housebreaking with intent

Define (1) It is where A a) unlawfully and b) intentionally c) breaks into and d) enter e) a building or structure with the intention to commit a crime in it.

Not (1) housebreaking – no force (1)

2.2. 2 marks

Robbery

It consists of 2 unlawful acts. Theft with assault

- i. The taking of property (amounts to theft); and
- ii. Performing a violent act or threat of violence on a person.

2.3 2 marks

Robbery – use of force.

2.4 6 MARKS

Element: Conduct (1)

NO (1)

Tembani case (1) : facts (1)

causation not broken (1) ;

take victim as you find him (1)

2.5 1 MARK

There was a SUSPECT.

2.6 10 MARKS

Not murder but culpable homicide (1)

Murder: dolus:

REQUIREMENTS FOR DOLUS: 5 FACTS

knowledge of unlawfulness (1)

dolus directus (1) -define

dolus indirectus (1) -define

dolus eventualis (1) define

Subjective and not objective (1)

Did the accused have dolus eventualis or not?

Culpable homicide: culpa

TEST: 4 FACTS

Would the reasonable person have foreseen it(1)

Would the reasonable person have taken steps to prevent it (1)

Did the accused conduct deviate from the reasonable person (1)

objective (1)

QUESTION 3: 20 MARKS

3.1 8 marks

ELEMENT: UNLAWFULNESS (1)

PRIVATE DEFENCE (1)

3 REQUIREMENTS FOR ATTACK AND 3 REQUIRMENTS FOR THE DEFENCE (6)

Question: Give the 3 requirements that the ATTACK must comply with:

Answer:

There must be evidence that the

- i. There was a human attack against the accused (defender/attacked person) that was imminent or had commenced but not yet completed
- ii. The attack was be upon a legally protected interest such as one's life or another person's life (e.g. a spouse, parent of child, sibling)
- iii. The attack by the attacker (complainant) on the accused must have been unlawful;

Question: Give the 3 requirements that the DEFENCE must comply with:

Answer:

For private-defence: there must be evidence that

- i. The defensive act must have been directed against the attacker.
- ii. The defence was necessary to avert the attack.
- iii. There must be a REASONABLE balance between the attack and the defence (response to the attack).

3.2 2 mark

COMMON PURPOSE to commit robbery and foresaw that someone may be killed.

PERPETRATORS.

3.2 6 marks

DEFENCE: Mistake re causation/causal chain of events (1) can exclude INTENTION/DOLUS (1): difference between foreseen and actual course of events.

Goosen case (1) – facts of case (1): tried to steal a car
not guilty to murder but culpable homicide (1)

BURCHELL (1) says that the accused should have foreseen exactly how it would occur
and if it deviated substantially from how it should have occurred, then a defence.

3.3 3 marks

Lungile case (1): facts (1): policeman killed one of the employees in shoot out between
robbers and policeman. Has dolus eventualis (1)

3.4 1 marks

DOLUS EVENTUALIS (1) – HAD FAULT/DOLUS

QUESTION 4 20 MARKS

4.1 d

4.2 b

4.3 b

4.4 b

4.5 c

4.6 c

4.7 b

4.8 c

4.9 b

4.10 d

4.11 c

4.12 a

4.13 b

4.14 b

4.15 c

4.16 a

4.17 d

4.18 c

4.19 d

4.20 d