CRIMINAL LAW B

Specific Crimes

Course Outline & Reading List

2013

Lecturer: Adv J C McConnachie
1. PURPOSE OF THE COURSE:
Criminal Law at Rhodes University is a two-semester course offered in the Penultimate year of the LLB degree. Successful completion of Criminal Law A (which concentrated on the general principles of criminal liability) is a prerequisite for Criminal Law B. The purpose of Criminal Law B is to build onto the knowledge and skills that students acquired from Criminal Law A, by applying the principles of criminal liability to selected specific crimes/offences. The course thus focuses on the classification of crimes, and the characteristics of specific crimes in the South African legal system, including the essential elements, contentious issues and reforms in selected common law and statutory crimes. By the end of the course, students should be able to identify, discuss and evaluate these specific crimes, and solve problems when presented with a factual scenario.

2. CREDIT VALUE: 10
This works out as follows:
- 18 hours 24 lectures @ 45 mins each
- 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:
- Have a sound knowledge of the general principles of criminal liability, and the general defences to specific elements of criminal liability;
- Be capable of communicating competently in both 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:
   a) work in a team
   b) organise and manage themselves
   c) collect, analyse and evaluate information
d) communicate effectively  
e) recognise problem solving contexts  
f) identify and solve problems

4.2 Specific Intended Outcomes  
It is intended that by the end of this course students will be able to:  
a) Identify and define the requirements of different common-law and statutory crimes  
b) Apply the knowledge and skills gained during the course to solve practical problems.  
c) Evaluate the adequacy of South African specific crimes and suggest law reform where necessary; alternatively, evaluate reforms in existing laws.  
d) Understand, analyse and explain the influence of Constitutional principles on specific crimes, and how these have been harmonised with common-law principles.

5. TEACHING METHODS  
There are two lectures per week. The course is taught by means of viva voce lectures and class discussions of the law as contained in textbooks, case law and legislation. There is no comprehensive handout for the course. Students 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 are expected to 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. Students are welcome to discuss problems with the lecturer.

6. COURSE CONTENT  
6.1 Introduction  
Classification of Crimes  
Origins of Common Law Crimes  
6.2 Selected Common Law Crimes  
6.2.1 Crimes Against the State  
6.2.2 Crimes Against the Administration of Justice  
6.2.3 Crimes Against the Person: Life and Bodily Injury  
6.2.4 Crimes against the Person: Sexual Offences  
6.2.5 Crimes Against Property  
6.3 Selected Statutory Offences  
6.4 Conclusion
7. RESOURCES
In order to assist preparation for lectures, a course outline listing the core readings is provided. However, it will be in students’ own interests to read more widely than the readings listed. The leading judgments on aspects of the Specific Crimes covered may be found in the relevant Law Reports, which may be accessed in the Law Library, both in paper and electronic form.

**Prescribed Textbook:**

**Recommended Textbooks:**

Other texts may be referred to during the course. Students will also be referred to Journal articles on aspects of the course content. 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

<table>
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<tr>
<th>INTENDED SPECIFIC OUTCOMES:</th>
<th>ASSESSMENT CRITERIA:</th>
<th>ASSESSMENT TASKS:</th>
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<td>Upon successful completion of the course, students should be able to:</td>
<td>Students must provide evidence that they are able to:</td>
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</table>
| 1. Identify and define the requirements of different common-law and statutory crimes | 1.1 Distinguish common-law crimes from statutory crimes.  
1.2 Clearly identify and define common-law or statutory crimes, with reasons.  
1.3 Critically explain the elements of the crime in question.  
1.4 Distinguish between similar crimes, with reasons. | **Formative Assessment:**  
- Class discussions: responding to questions posed by the lecturer, based upon readings &/or own opinion.  
**Summative Assessment:**  
- Written test: theory-based questions, and factual problem requiring solution.  
- Written assignment: analytical case note or factual problem requiring solution. |
| 2. Apply the knowledge and skills gained during the course to solve practical problems. | 2.1 Synthesise and integrate the knowledge and skills gained in order to propose practical solutions to problems associated with specific crimes, and to be able to advise accordingly.  
2.2 Critically evaluate which crime/s an accused would be charged with in given circumstances, and determine how charges would be structured. | **Formative Assessment:**  
- Class discussions: responding to questions posed by the lecturer, based upon readings &/or own opinion.  
**Summative Assessment:**  
- Written test: factual problem requiring solution.  
- Written assignment: factual problem requiring solution and/or drafting of charge sheet.  
- Final examination: factual problem requiring solution. |
|---|---|---|
| 3. Evaluate the adequacy of South African specific crimes and suggest law reform where necessary; alternatively, evaluate reforms in existing laws. | 3.1 Evaluate the adequacy of specific crimes, critically explain the shortfalls and make informed suggestions for law reform, based on relevant law / legal commentary.  
3.2 Where law reform has occurred, evaluate these, and critically discuss the implications thereof. | **Formative Assessment:**  
- Class discussions: sourcing cases &/or legislation before lectures and preparing to discuss the issues during the lecture.  
**Summative Assessment:**  
- Written test and final examination: analysis of case law and/or legislation in light of legal commentary and/or own opinion.  
- Written assignment: theory-based questions and/or factual problem requiring solution with analysis of case law / legislation. |
Assessment Breakdown:
The final mark for the course is comprised of the following components:
Class Work: 30 marks
Examination: 70 marks
Total: 100 marks

Assignment
There is one major assignment for this course. The assignment is compulsory and comprises half of the class mark (15%). Late assignments will only be accepted subject to compliance with Leave of Absence requirements.

Test
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 November examination. The test is compulsory and will cover everything we have done in the course up until that date.

Examination
The November examination for this course will comprise a two-hour paper counting 70% towards the final mark. The examination is compulsory.

9. EVALUATION
The course is evaluated on a three-year cycle. Students 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. This is a more formal type of evaluation, administered by an outside body and covering a broader range of issues.

In addition or alternatively, a further evaluation may also be administered by the lecturer to be used for further improvement of the course or of teaching. Results will be reported back to students as soon as possible, along with the actions the lecturer wishes to take to address any problems. This is a more informal type of evaluation, allowing for more specific questions, and more specific feedback from students.
1 INTRODUCTION
1.1 Classification of Crimes
1.2 Origins of Common Law Crimes
1.3 Codification of Common Law Crimes

2 SELECTED COMMON LAW CRIMES

2.1 CRIMES AGAINST THE STATE
               Burchell: Chapters 72; 80-82.

2.1.1 Treason
• S v Banda 1990 (3) SA 466 (B)
• S v Mayekiso 1988 (4) SA 738 (A)

2.1.2 Sedition
• S v Mayekiso 1988 (4) SA 738 (A)

2.1.3 Public Violence
• S v Le Roux 2010 (2) SACR 11 (SCA)

2.2 CRIMES AGAINST THE ADMINISTRATION OF JUSTICE
General Reading: Snyman: 325-349.
               Burchell: Chapters 83-86.
               Bill of Rights Compendium at 2A -33.

2.2.1 Defeating or Obstructing the Course of Justice
• S v Binta 1993 (2) SACR 553 (C)
• S v Bazzard 1992 (1) SACR 302 (NC)
• S v Cassimjee 1989 (3) SA 729 (N)
• S v Pakane & Others 2008 (1) SACR 518 (SCA)

• CR Snyman “Laying a false criminal charge.” (1978) 95 SALJ 454.
• B Clarke “Attempting to defeat the ends of justice.” (1989) 106 SALJ 33.
• GE Devenish “Defeating the ends of justice.” (1979) 96 SALJ 30.

2.2.2 Perjury

2.2.3 Contempt of Court
• Midi Television (Pty) Ltd v Director of Public Prosecutions (WC) 2007 (9)
  BCLR 958 (SCA)
- *S v Mamabolo* 2001 (1) SACR 686 (CC)
- *S v Moila* 2005 (2) SACR 517 (T) / 2006 (1) SA 330 (T)
- *Uncedo Taxi Service Association v Maninjwa* 1998 (2) SACR 166 (E)
- *Fakie NO CCII Systems (Pty) Ltd* 2006 (4) SA 326 (SCA)
- *S v Moshoeu* 2007 (1) SACR 38 (T)
- *H v M* 2009 (1) SA 329 (W)

### 2.3 CRIMES AGAINST THE PERSON: LIFE AND BODILY INJURY

**General Reading:**
- Snyman: 447-453; 455-463
- Burchell: Chapters 48-50.

#### 2.3.1 Murder

#### 2.3.2 Culpable Homicide

**Cases:**
- *S v Mshumpa & Another* 2008 (1) SACR 126 (E)
- *Van Aardt v S* [2009] 2 All SA 184 (SCA)
- *S v Raath* 2009 (2) SACR 46 (C)
- *S v Van Heerden* 2010 (1) SACR 529 (ECP)
- *S v Crossberg* 2008 (2) SACR 317 (SCA)
- *S v Jara* 2003 (2) SACR 216 (Tk)
- *S v Naidoo* 2003 (1) SACR 347 (SCA)
- *S v Mavuso* 1989 (4) SA 800 (T)
- *S v Mampa* 1985 (4) SA 633 (C)

#### 2.3.3 Common Assault

#### 2.3.4 Assault with Intent to do Grievous Bodily Harm (Assault GBH)

**Cases:**
- *S v Marx* 1962 (1) SA 848 (N)
- *S v B* 1994 (2) SACR 237 (E)
- *S v Miya* 1966 (4) SA 274 (N)
- *S v Reabow* 2007 (2) SACR 292 (E)
- *S v R* 1998 (1) SACR 166 (W)
- *S v Mbelu* 1966 (1) PH H 176 (N)
- *S v Mdau* 2001 (1) SACR 625 (W) at 626i-j
- *S v Smith* 2003 (2) SACR 135 (SCA)
2.4 CRIMES AGAINST PROPERTY

2.4.1 Theft
2.4.2 Robbery
2.4.3 Housebreaking
2.4.4 Fraud

Readings:

**General Reading:** Snyman: 483-511; 517-521; 531-540; 549-555.
Burchell: Chapters 61-64, 66, 70.

**Articles**
- S Nanoo “In defence of housebreaking with intent to commit a crime unknown.” (1997) 10 SACJ 254.

**Cases**

**Theft:**
- S v Boesak 2000 (1) SACR 633 (SCA)
- S v Mekula 2012 (2) SACR 521 (ECG)
- S v Mintoor 1996 (1) SACR 514 (C)
- S v Mdaba 2002 (1) SACR 556 (E)
- S v Mostert and Another 2010 (1) SACR 223 (SCA)
- S v M 1982 (1) SA 309 (O)
- S v Graham 1975 (3) SA 569 (A)
- S v Visagie 1991 (1) SA 177 (A)
- S v Cassiem 2001 (1) SACR 489 (SCA)
- Riba v S [2010] 1 All SA 331 (SCA)

**Robbery:**
- S v Mohamed 1999 (1) SACR 287 (O)
- S v Mati 2002 (1) SACR 323 (C)
- S v Mogala 1978 (2) SA 412 (A)
- S v Sithole 1981 (1) SA 1186 (N)
- S v Mofokeng 1982 (4) SA 147 (T)
- S v Witbooi 1984 (1) SA 242 (C)
- S v Salmans 2006 (1) SACR 333 (C)
Housebreaking:
- *S v Mososa* 1931 CPD 348
- *S v Small* 2005 (2) SACR 300 (C)
- *S v Mavela* 2008 (2) SACR 608 (Ck)
- *S v Temmers* 1994 (1) SACR 357 (C)
- *S v Maseko* 2004 (1) SACR 22 (T)
- *S v Slabb* 2007 (1) SACR 77 (C)

Fraud:
- *S v Friedman (1)* 1996 (1) SACR 181 (W)
- *S v Mostert and Another* 2010 (1) SACR 223 (SCA)
- *S v Gardener and another* 2011 (1) SACR 570 (SCA).

SELECTED STATUTORY OFFENCES

3.1 CRIMES AGAINST THE PERSON: SEXUAL OFFENCES

3.1.1 Rape: Common Law and Statutory Reforms.
3.1.2 Indecent Assault and Statutory Reforms.
3.1.3 Other Sexual Offences.

General Reading: Snyman: 353-381; 392-398.

Articles:

Cases:
- *B v S* [2011] JOL 27188 (SCA)
- *S v Acting Regional Magistrate, Boksburg* 2011 (1) SACR 256 (GSJ)
- *DPP v Prins (Minister of Justice and Constitutional Development & two amici curiae intervening)* (369/12) [2012] 106 ZASCA (15 June 2012)
- *Masiya v Director of Public Prosecutions (Pretoria) & Others* 2007 (8) BCLR 827 (CC)
- *R v Siggelaar* 1950 (1) PH H61 (A) at 110-111
- *S v Volschenk* 1968 (2) PH H283(D)
3.2 CRIMES AGAINST PUBLIC WELFARE

3.2.1 Drug Offences: Drugs & Drug Trafficking Act 140 of 1992
3.2.2 Road Traffic Offences: National Road Traffic Act 93 of 1996 read with: National Road Traffic Amendment Act 64 of 2008


Articles:

Cases:
Drug Offences:
- S v Mello 1999 (2) SACR 255 (CC)
- Moloi v Min for Justice & Constitutional Development 2010 (2) SACR 78
- S v Smith 1965 (4) SA 166 (C)
- S v Quinta 1984 (3) SA 334 (C) at 338
- Prince v President, Cape Law Society, and Others 2002 SA 794 (CC)
- S v Solomon 1986 (3) SA 705 (A)
- S v Tshali 2007 (2) SACR 23 (C)
- Muholi v State [2006] SCA 44 (RSA)
Traffic Offences:
• S v Van Rooyen 1968 (1) SA 641 (T) at 643-644
• S v Kriel 1968 (3) SA 451 (T) 456-457
• S v Van Zyl 1969 (1) SA 553 (A)
• DPP, Eastern Cape v Klue 2003 (1) SACR 389 (E)
• S v Bagadi 2008 (2) SACR 400 (T)
• S v Tentelil 2003 (1) SACR 48 (C)
• Price v Mutual & Federal Insurance Co Ltd 2007 (4) SA 501 (SE)
• S v Zerky 2010 (1) SACR 460 (KZP)

Organised Crime:
• Eyssen v S [2009] 1 All SA 32 (SCA)
• S v De Vries 2009 (1) SACR 613 (C)
• S v Dos Santos 2010 (2) SACR 382 (SCA)

NB. The above will be supplemented as the course progresses having regard to current developments.

4 CONCLUSION
4.1 Summary of the Course
4.2 Exams.