Criminal Law

Wednesday 11 May 2011: 10.00 – 13.15

Candidates will have fifteen minutes during which they may read the paper and make rough notes ONLY in their answer books. They then have the remaining THREE HOURS in which to answer the questions.

Candidates should answer FOUR of the following EIGHT questions.

Candidates should answer all parts of a question unless otherwise stated.
1. Sarah visited her local lending library, hoping that she would get the chance to steal some books. While browsing there, she saw a book she had wanted for a long time and decided to steal it. She removed it from the shelf but, when she saw the librarian watching her, she changed her mind and put it back. She left the library.

On her way home she decided to do some shopping and went into a supermarket. When she got to the checkout with her purchases, she discovered that she had no money in her purse and so she used her credit card to pay for the goods, despite the fact that she had received a letter from the bank that morning telling her not to use the card as she had exceeded her credit limit.

She then, unsuccessfully, used a foreign coin to try to obtain some chocolate from a vending machine.

Feeling in need of a rest, she stopped at a café and ordered coffee and cake. She ate it, then waited until nobody was looking and ran out of the cafe without having paid.

Discuss Sarah’s criminal liability, if any.

2. How would you distinguish between the defences of diminished responsibility and insanity?

3. Sandra had just received her A level results and went to the pub with her boyfriend James to celebrate. James, who had drunk a lot of beer, was very jealous of Sandra’s success and when they got back to Sandra’s house began to insult her and then pushed her into the kitchen. Sandra hit him, he hit her back, spat at her and bit her thumb. He then grabbed hold of her and, as she was frightened by this, she grabbed a knife from an open drawer and, to try and make him stop, held it to his chest. As he was drunk, he fell against the knife which pierced an artery and he died within minutes.

Sandra has been charged with manslaughter. Advise her.

4. ‘Necessity in legal contexts involves the judgment that the evil of obeying the letter of the law is socially greater in the particular circumstances than the evil of breaking it.’ (Glanville Williams)

Discuss and explain the extent to which criminal law provides a general defence of necessity.
5. Susie was bored with her husband, Pete, and frequently told him so. She often said to him that she wished he would go and live somewhere else. One evening, just after they had eaten, she taunted him continuously about his lack of sexual prowess until he became very angry and came towards her with his fists raised. Susie, who thought he was going to punch her, lost control. She grabbed a knife which had been left on the table and, intending to cause Pete serious harm, stabbed him, killing him instantly. Susie has been charged with murder and wishes to plead the defence of loss of control.

Advise Susie. Do NOT consider the defence of self-defence.

Would your answer differ in the following circumstances:

Susie’s attack was not immediately fatal. Pete was treated, but, while in hospital, the wound became infected and did not respond to medication; Pete died of septicaemia?

6. James and his girlfriend, Rosie, were at a party. James, who had been drinking heavily all evening, became angry when he saw Simon flirting with Rosie. He pushed Simon rather roughly. Simon stumbled and fell, hitting his head on a table. He suffered a fractured skull.

Rosie was cross with James as she liked Simon and so she decided to leave the party. As she left, she noticed that it was raining and so she picked up an umbrella she saw lying in the hallway. She liked it and decided, there and then, to take it with her and to keep it for herself. Unknown to her, however, it was her own umbrella which she had left there last time she visited the house.

Later on at the party, Neesha, who was in love with Iqbal, had sexual intercourse with him. Iqbal knew that he was HIV positive but did not tell Neesha. Later that evening, when Neesha approached Iqbal again, he pushed her away.

Neesha subsequently discovered that she was HIV positive.

Discuss any issues of criminal liability that arise.
7. Zorro borrowed a car from Jinty telling her it was to be used for a 'job'. Jinty assumed this to mean a burglary whereas Zorro was, in fact, planning to set fire to Fred’s house.

Zorro’s friend, Donna, who used to work for Fred, reluctantantly agreed to help Zorro. Zorro had threatened to beat up Donna's elderly mother if Donna refused to help. Because she was familiar with the house Donna was able to tell Zorro how best to get close to the front door without being spotted and they did a successful practice run together.

A few days before they were going to carry out their plan, Donna changed her mind about helping Zorro. She sent her mother to stay with her brother and told Zorro that she wanted nothing more to do with the plan. She advised Zorro to abandon it.

Zorro, using Jinty’s car, went on her own to buy the materials to start the fire and then on to the house where she set fire to it. The fire caused serious damage to the house. Although the house was empty, the adjacent houses had to be evacuated because of the risk of the fire spreading.

Consider the possible criminal liability of the parties.

8. David, who bears a striking resemblance to a famous footballer, Shane Mooney, meets Jane, a student, at a party. Jane, who has always fancied Shane Mooney, walks up to him and begins to chat. David realises Jane has mistaken him for the footballer but does not inform her of her mistake. They go back to Jane’s hall of residence where she agrees to have sexual intercourse with him.

Afterwards, David goes to the bathroom where he encounters Penny who has just stepped out of the shower. He asks her if she fancies having sex with him. She tells him she thinks he is a menace to women and she would never let him touch her. David is incensed and shouts at her, ‘I’m going to teach you a lesson.’ He then picks up a bar of soap and forcibly penetrates her with it. Penny does not resist as he seems so angry that she fears she might provoke him further.

Advise David as to his possible criminal liability.

END OF PAPER