Criminal Law

Tuesday 7 May 2013: 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. Compare and contrast murder, constructive manslaughter and gross negligence manslaughter.

2. ‘The law relating to accessories is in general need of reform and the most urgent reform necessary is that of joint enterprise liability, which is unprincipled, illogical and incoherent.’

Discuss.

3. Clause 17 of the Draft Criminal Code Bill (1989) reads as follows:

17(1) A person causes a result when he/she

   a. does an act which makes a more than merely negligible contribution to its occurrence or,

   b. omits to do an act which might have prevented its occurrence and which she/he is under a duty to do according to the law relating to the offence.

A person does not cause a result where, after he does such an act or makes such an omission, an act or event occurs which

   a. is the immediate and sufficient cause of the result;

   b. he did not foresee, and

   c. could not in the circumstances reasonably have been foreseen.

How far does this restatement accord with the present law of causation?

4. ‘The defence of duress is essential but, in its present form, unsatisfactory.’

Discuss.
5. Rav suffers from diabetes. He takes insulin three times per day. On the rare occasion he has not taken it, the failure resulted in hyperglycaemia which has caused him to black out. One morning he is attacked and robbed in the street outside his home. So upset is he that he forgets to take his insulin for a whole day. During the evening while driving, he drives his car to a petrol station where he fills up with petrol, and drives the car away without paying. Back in the car he drives through a red traffic light without noticing, nearly causing an accident. He is stopped by a police officer, Amir, who asks him to step outside the car for a breathalyser test. Rav punches Amir. He then gets back in his car and drives off at speed, not noticing Jimmi, who is crossing the road. Jimmi is killed in the resulting crash. Rav is arrested. He can remember nothing of what has happened.

Discuss Rav’s potential liability.

Would it make any difference to your answer if the reason for Rav’s mental condition was that he was voluntarily intoxicated?

6. Sue left home in 2012, aged 16, fleeing from abusive parents. She is now living with Bill, aged 25, who has introduced her to drugs and prostitution. Bill regularly forces Sue to give him her earnings. He is jealous and possessive and has beaten her on a number of occasions. Sue, a vulnerable girl, has often harmed herself as a means of coping. One night, fearing that Bill will beat her up as she has spent her daily earnings, Sue cuts her wrists. When Bill comes into the bedroom and sees what she has done, he taunts her saying she has made a pathetic job of slashing her wrists. Sue goes to the kitchen, gets a carving knife and returns to the bedroom, where she throws it at Bill. It strikes him in the eye and penetrates the brain, killing him instantly.

Discuss Sue’s potential liability for the death of Bill together with any defences she may raise.
7. Sunita and Barbara share a flat. One night Sunita finds Barbara kissing her boyfriend, Yuri. Sunita picks up a paperweight, raises it in the air and shouts at Barbara, "I'm going to kill you, you whore!" She then throws the paperweight at Barbara who ducks to avoid being hit. Barbara hits her head on a cupboard door, cutting her forehead.

Yuri is so angry that he pushes Sunita who falls backwards over a stool onto the floor and is knocked unconscious for a few seconds. When Sunita recovers consciousness, she is still dizzy and stumbles towards Barbara, knocking her onto the floor. Barbara suffers a fractured arm.

Later that evening, when Sunita is sleeping, Barbara takes a pair of scissors and cuts off Sunita's hair.

Discuss the potential criminal liability of Sunita, Yuri and Barbara for the above incidents.

8. Alex has been drinking heavily all evening and, on returning home, finds that he has been locked out by his wife. He cannot rouse her and so he goes to his parents' house in the next road, for which he has a key. He mistakes his parents' house for the house next door, whose owner is out. When the key fails to open the door Alex breaks a window and lets himself in. Only then does he realise that he is in the wrong house. Whilst trying to find the light switch Alex knocks over a cheap ornament of no value which shatters on the floor.

Alex goes to the kitchen and makes himself a cup of tea and some toast. He leaves a written note on the table saying "Sorry about the breakages. I mistook your house for mine. I'll pay for the damage. By the way, I've had some tea and toast. I hope you don't mind". Alex then signs the note with a false name and address, hoping that the friendly note will discourage the owner from calling the police.

Discuss Alex's criminal liability.

END OF PAPER