

CORRECTION SAMPLE – SECOND TERM EXAM

CRIMINAL LAW EXAM

SECTION A: DEFINITIONS

1. Criminal liability

Criminal liability is the legal responsibility of a person for committing a criminal offence. It exists when a prohibited act and a guilty mental state are established.

2. Self-defense

Self-defense is a legal justification allowing a person to protect themselves against an unjustified attack using necessary and proportionate force.

3. Complicity

Complicity is the participation of a person in a crime through aiding, assisting, or encouraging the principal offender.

4. Legal classification

Legal classification is the process of assigning a legal category to facts in order to determine the applicable criminal offence.

SECTION B: DIRECT QUESTIONS

Question 1

What are the two essential elements required for criminal liability?

The two essential elements are:

The material element: the physical act prohibited by law.

The moral element: the mental state of the offender such as intention, knowledge, or negligence.

Both elements must exist for criminal liability to be established.

Question 2

What is the difference between abolition and alteration of discernment?

Abolition of discernment means the person completely loses the ability to understand or control their actions. Criminal liability is excluded.

Alteration of discernment means the mental capacity is only partially impaired. The offender remains liable, but the punishment may be reduced.

Question 3

Explain the distinction between objective justifications and subjective excuses.

Objective justifications remove the unlawful nature of the act itself. The act becomes lawful.

Subjective excuses do not remove the illegality of the act but reduce or eliminate responsibility because of personal circumstances affecting the offender.

Question 4

What are the legal conditions required for self-defense?

The conditions are:

Existence of an unjustified attack

Necessity of the defensive response

Proportionality between the attack and the defense

If these conditions are not respected, self-defense may be rejected by the court.

Question 5

Explain the difference between attempt and mere preparation.

Attempt is the beginning of execution of a crime that is not completed because of circumstances independent of the offender's will.

Mere preparation consists of preparatory acts before execution begins and is generally not punishable.

Question 6

What are the two essential elements of complicity?

The two elements are:

Material element: aiding, assisting, or encouraging the crime.

Moral element: knowledge and intention to participate in the criminal act.

Question 7

Explain the difference between theft and breach of trust.

Theft is the fraudulent taking of property without prior lawful possession.

Breach of trust occurs when property is lawfully entrusted to someone who later misappropriates it.

The main difference concerns the origin of possession.

Question 8

What is the presumption of innocence?

The presumption of innocence means that every accused person is considered innocent until guilt is proven. The burden of proof belongs to the prosecution, and doubt benefits the accused.

Question 9

What is meant by the individualisation of punishment?

It means that punishment must be adapted to:

the gravity of the offence,
the personality of the offender,
and the circumstances of the case.

Judges consider aggravating and mitigating circumstances before deciding the sanction.

Question 10

What contemporary challenges does criminal procedure face?

Modern criminal procedure faces challenges such as:

cybercrime,
organized crime,
terrorism,
and technological developments.

Legal systems must balance effective investigation with the protection of fundamental rights and liberties.