INSTRUCTIONS:
There are 2 Sections in this exam. Section (A) and Section (B)
Answer each section in a SEPARATE answer book.
Wherever appropriate, substantiate your arguments with case law and/or legislation.
It is in your own interests to write neatly.

SECTION (A) – 38 marks
All questions are compulsory.
There are THREE (3) questions.
You must answer all THREE (3) questions.

SECTION (B) – 37 marks
All questions are compulsory.
There are TWO (2) questions.
You must answer BOTH questions.
SECTION A – Ms S Bhamjee (38 marks)

QUESTION ONE

Chris is currently in custody following a series of incidents involving his ex-wife Mary. You are his attorney and are required to advise on the following scenarios:

1.1. Chris had sexual intercourse with Mary and her new husband consecutively, without their consent by threats that if they refused, he would also ‘do it’ with their teenage daughter;

1.2. When Chris tried to have intercourse with Mary again, he could not ejaculate and pushed an object into Mary’s vagina after intercourse so that she ‘remembers him’;

In discussing his criminal liability make reference to the possible crimes with which he could be charged in terms of The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007.

(8)

QUESTION TWO

Wendy has a Facebook account. She is an active user of her facebook page, and “posts” regularly. Recently, she received some insulting messages on her page. The messages were posted by her ex-boyfriend, Mark. One of the things he wrote on her ‘wall’ was that she was “a prostitute with breasts that were as big as watermelons.”

Wendy wants to lay a criminal charge against Mark. Advise Wendy of which crime she can rely on, and the factors that the court will consider when deciding the case.

(10)

QUESTION THREE

Critically discuss the crimes of kidnapping and abduction. Is it necessary for the law to retain both as offences?

(20)
QUESTION ONE

Phil’s girlfriend Bertha leaves him for Jeff. Phil is extremely angry at Jeff and wants to confront him. He goes to Jeff’s house to tell him how he feels. When Phil arrives he phones Jeff’s number, but there is no response. Phil believes that Jeff is avoiding him, and is in the house, since the lights are on. On finding the door to be locked, Phil walks around the house, and pushes a half-opened window further open, so that he can climb through. Jeff is not home however, and Phil leaves, after taking a love letter from Bertha to Jeff which he finds next to Jeff’s bed. Phil exits the house through the front door. He sets the love letter alight and watches it burn. He then throws the smouldering ashes of the letter through the window of Jeff’s house. Although the ashes continue to smoke for a while, there are no longer any flames, and nothing is set alight in Jeff’s house. When Jeff discovers what Phil has done he is furious and lays a number of charges against Phil at the local police station.

Evaluate each of the charges, and their chances of success, by examining each of the crimes in question and applying their elements to the facts.

(i) Housebreaking with intent
(ii) Arson
(iii) Malicious injury to property
(iv) Trespass
(v) Theft

(18)
QUESTION TWO

Fili is very upset about her Specific Offences examination mark. Having failed the course she no longer qualifies for a bursary which she was counting on to pay her fees. She confronts the lecturer Professor Absentmind outside the library one night, and angered by Absentmind’s insistence on discussing his passion for the crime of housebreaking rather than her problem, she threatens to break every bone in his body right there and then if he does not give her R1000 towards her fees. Absentmind is aware that Fili works as a bouncer at Goths and Vampires Nightclub in her spare time, and that she is able to carry out her threat. He hands over the money.

2.1

2.1.2 What crime has been committed? Explain.(8)

2.1.2 If Absentmind pleaded poverty, and Fili threatened to assault him if he did not pay her R1000 before the end of the month, what crime is envisaged?(8)

2.2 Explain the content and consequences of the continuing crime doctrine. (3)