

SEMESTER I EXAMINATION 2002/2003

BACHELOR OF ARTS - THIRD & FOURTH YEAR  
BACHELOR OF ARTS - PUBLIC & SOCIAL POLICY  
BACHELOR OF CIVIL LAW – SECOND YEARS  
ERASMUS/OCCASIONAL STUDENTS

CRIMINAL LAW (LW301)

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Mr C. Hanly

**THIS EXAMINATION WILL BE RUN ON AN OPEN BOOK FORMAT**

Time allowed: **TWO** Hours. Erasmus students **2½** Hours  
Students are permitted to refer to any materials  
Students **MUST** answer **BOTH** questions

1. The truth is that the maxim about *mens rea* means no more than the definition of all or nearly all crimes contains not only an outward and visible element, but a mental element varying according to the different nature of different crimes...Hence the only means of arriving at a full comprehension of the expression *mens rea* is by a detailed examination of the definitions of particular crimes, and therefore the expression itself is unmeaning" (from Stephen, *History of the Criminal Law of England*, Book II, 1883, pp.94-5).  
Consider the truth of this statement in the light of Irish law, and indicate in your answer whether you think it is acceptable to have different meanings attaching to the same concept in the context of different crimes.
  
2. Dan the Dancer went with his friend Thomas to Central Park last Friday night, a very cold night, determined to enjoy himself after a long and hard week. After dancing for some time, he bought himself a drink and sat on a chair at the side of the dance floor, legs outstretched, and admired Betty's dance moves. "I'm going to have her", he thought to himself, "but I need to get a few more drinks inside me". Just then, Barry passed carrying three pints, but he tripped over Dan's outstretched legs and fell. The pint glasses shattered, cutting Barry's face and also cutting Marie's leg. Séan, Marie's boyfriend, was outraged and blamed Dan for tripping Barry. Séan threw a punch at Dan but missed and struck John instead. A general *mélee* ensued which ended only when Dan, Séan, Marie, Barry, and John were thrown out of the premises by the bouncers. Dan wandered away, still thinking about Betty, upset that he did not get the chance to impress her with his moves. "Another wasted opportunity", he said to himself. To console himself, he walked towards a 24 hour off-licence to buy himself a bottle or two. On the way, he passed his friend Thomas who was lying on the pavement, completely intoxicated. Dan had often told Thomas that if he ever got really drunk, then he, Dan, would always make sure that Thomas got home safely. Indeed, on seven occasions in the last 6 weeks, Dan had kept his word. On this occasion, however, Dan was so consumed by Betty that he ignored his promise and walked straight past Thomas, who died later that night from exposure. At the off-licence, Dan purchased a large bottle of whiskey and a small bottle of vodka. He wandered away with his bottles, and sat down about a half mile from the Central Park where he proceeded to consume the contents of both bottles, all the while thinking of Betty. Betty passed Dan on her way home from Central Park. He followed her and raped her. While the rape was happening, Séan, Marie, and Barry all passed by and heard Betty screaming, but they laughed and kept going. When he was finished, Dan went home and passed out, awaking the following afternoon with no memory of what had happened.  
Discuss the legal issues involved from the perspective of Irish law, and indicate whether any of the parties might face any criminal liability. Give full reasons, supported by case law, for your answer. Note: the question should be answered from the perspective of the principles of criminal liability; you are not required to discuss the substantive law of rape, assault, etc.

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