

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION

DIPLOMA IN LAW

SUPPLEMENTARY EXAMINATION PAPER - JULY 2014

TITLE OF PAPER	:	CRIMINAL LAW
COURSE CODE	:	IDE-DL022
TIME	:	THREE (3) HOURS
INSTRUCTIONS	:	1. <u>ANSWER QUESTION 1</u> (QUESTION 1 CARRIES 40 MARKS) <u>AND</u> 2. ANY OTHER TWO QUESTIONS. (QUESTIONS 2-6 CARRY 30 MARKS EACH)
TOTAL MARKS	:	100

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QUESTION 1

“The authorities are clear upon the point that though consent of a woman may be gathered from her conduct, apart from her words, it is fallacious to take the absence of resistance as per se proof of consent. Submission by itself is no grant of consent, and if a man so intimidates a woman as to induce her to abandon resistance and submit to intercourse to which she is unwilling, he commits the crime of rape”. Per Murray, A.J.A., in Rex v Swiggelaar 1950 (1) PH H61 (A) 110.

Discuss.

[40 Marks]

QUESTION 2

Dube a Swazi man married Fakazile a citizen of South Africa in 1987 in a civil marriage in South Africa. The following year, Dube returned to Swaziland. While the marriage between him and Fakazile was still subsisting, he met and fell in love with Nokuzola, a Swazi woman. He then went through what purported to be a lawful marriage ceremony with Nokuzola in Swaziland under Swazi Law and Custom. Charged with bigamy, Dube argues that the marriage under Swazi Law and Custom is not a valid form of marriage, and consequently, he did not enter into what purported to be a lawful ceremony of marriage.

Discuss the liability of Sandy on a charge of bigamy.

[30 Marks]

QUESTION 3

Briefly discuss the essential elements of the following offences:

(a) Abduction

[20 Marks]

(b) Abortion

[10 Marks]

[30 Marks]

QUESTION 4

Describe the offence of *defamation* and explain the defences available to a person charged with the offence.

[30 Marks]

QUESTION 5

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Lukhele and Nkambule had a dispute over a piece of land, with both of them claiming ownership. The dispute was referred to the local chief for arbitration, by both claimants of the land. While the arbitration was in progress, the chief directed that both Lukhele and Nkambule should desist from working on the land. The chief adjourned the proceedings for a few days because he was indisposed. Nkambule made a decision, that if he ever found Lukhele on the land during the adjournment of the arbitration proceedings, he will teach him a lesson. One day, Nkambule was passing by the land when he saw Lukhele, clearing a portion of it. Nkambule was furious. He sneaked behind Lukhele and hit him on the back of his neck with a huge knobkerrie. Lukhele fell down, unconscious. Believing that he was dead, and in order to cover up his deed, Nkambule dug a hole and buried Lukhele in it. The post-mortem report indicated that the blow from the knobkerrie did not kill Lukhele. He died as a result of being buried.

Discuss the liability of Nkambule on a charge of murder.

[30 Marks]

QUESTION 6

Discuss the distinction between common assault and assault with intent to do grievous bodily harm.

[30 Marks]