

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION, JULY 2006

TITLE OF PAPER : CRIMINAL LAW

COURSE CODE : DL 022

TIME ALLOWED : THREE (2) HOURS

INSTRUCTIONS :

- 1. QUESTION (1) COMPULSORY**
- 2. AFTER ANSWERING QUESTION ONE CHOOSE ANY OTHER TWO (2) NUMBER OF QUESTIONS ANSWERED TO THREE**
- 3. EACH QUESTION CARRIES A TOTAL OF (25 MARKS)**

THIS PAPER SHOULD NOT BE OPENED UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR

QUESTION 1

Illustrate the difference between murder and culpable homicide. Use legal authorities to support your answer. (25 marks)

QUESTION 2

- a) Discuss theft as a continuing offence. Use legal authorities to support your answer. (15 marks)
- b) Differentiate between offence of theft and the offence of unlawful borrowing. Use legal authorities to support your answer. (10 marks)

QUESTION 3

Prepare indictments for the following offences

- a) Sedition (10 marks)
- b) High Treason (15 Marks)

QUESTION 4

ZWANE a Senior Accounts Clerk at Manzini Paper Mills Ltd was responsible for paying casual labourers at the factory, using cheques already signed by the Managing Director. All that Zwane had to do in order to effect a payment was to insert on the cheque the name of the relevant labourer as well as the correct amount owed.. He would then prepare an accompanying voucher to be counter signed by the Chief Accountant before the cheque was handed over to the payee.

However, on one occasion when he needed money badly to pay for his son's school fees, he filled in his name as a payee on two cheques of E250.00 each, which he subsequently cashed. But he had not sent any accompanying voucher to the Chief accountant for counter signing. He nevertheless regarded the whole transaction as "Straight" because the company still owed him E700.00 for overtime, part of which could be used to offset the E500.00 he had received. Infact a month earlier, the company had tried to pay him E350.00 but before the cheque was written out, Zwane had seen the relevant cheque.

Noticing that the figure of E350.00 was wrong, Zwane had modified it on the voucher to read E700.00 unknown to him, the modified voucher had been sent to the police.

What offences if any has Zwane Committed? Cite relevant authorities in support of your answer. (25 marks)

QUESTION 5

- a) Compare and contrast statutory rape and common law rape and highlight the legal authorities applicable to each. (18 marks)
- b) In what circumstances does fraud vitiate the defence of consent in rape cases and in what circumstances does it not? Use legal authorities to support your answer. (7 marks)