

**UNIVERSITY OF SWAZILAND  
INSTITUTE OF DISTANCE EDUCATION  
DEPARTMENT OF LAW  
FINAL EXAMINATION PAPER, MAY 2006.**

**TITLE OF PAPER : LAW OF EVIDENCE**

**COURSE CODE : DL 031**

**TIME ALLOWED : THREE (3) HOURS**

- INSTRUCTIONS**
1. ANSWER ANY FOUR (4) QUESTIONS OF YOUR CHOICE
  2. READ AND UNDERSTAND WHAT THE QUESTIONS REQUIRE OF YOU
  3. YOUR ANSWER SHOULD BE WELL ORGANIZED
  4. ALL QUESTIONS CARRY EQUAL MARKS

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

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**QUESTION 1**

W is charged with theft in that he snatched a wallet from R who had just withdrawn money from a bank. W is remorseful before the court. He says he did not mean to steal, but he was forced by circumstances because recently his girlfriend had their baby and he is not employed.

- (a) Is W permitted to give evidence of good character? [15 marks]
- (b) If he is may the prosecution rebut such evidence? [10 marks]
- [25 MARKS]**

**QUESTION 2**

The common law general rule excludes admission of a witness's previous consistent statement in evidence.

Discuss recognised exceptions to this rule [25 MARKS]

**QUESTION 3.**

- (a) What is the rule laid down in *Hollington v Hewthorne* and CO 1943 2 ACC. ER 35? [20 marks]
- (b) Should Swaziland retain the rule [5 marks] [25 MARKS]

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**QUESTION 4.**

Themba X was charged with culpable homicide. He was alleged to have beaten his wife so severely that it resulted in her death.

Neighbours were called as witnesses. They were permitted to state that on the night of the alleged offence they heard noises in X's house and that they heard X screaming and heard her yell.

"No, don't hit me again, You are killing me".

One prosecution witness was allowed to state that several weeks before the death of X's wife, she had told the witness. "Themba has a terrible temper. Someday he will kill me". Is the evidence of these witnesses admissible?

Discuss fully.

**[25 MARKS]**

**QUESTION 5.**

Discuss the following.

- (a) The requirements of professional privilege [5 marks]
- (b) Judicial Notice [5 marks]
- (c) Presumption of Fact [5 marks]
- (d) Presumption of Law [5 marks]
- (e) The burden of proof [5 marks]

**[25 MARKS]**

**QUESTION 6**

- (a) Define "admission" and "confession" [10 marks]
- (b) What are the requirements for the admissibility of admissions, and confessions. [15 marks]

**[25 MARKS]**