

UNIVERSITY OF SWAZILAND  
INSTITUTE OF DISTANCE EDUCATION  
DEPARTMENT OF LAW  
SUPPLEMENTARY EXAMINATION PAPER 2006

TITLE OF PAPER : LAW OF EVIDENCE  
COURSE CODE : DL 031  
TIME ALLOWED : THREE (3) HOURS  
INSTRUCTIONS : 1. ANSWER 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**

The general rule is that evidence of bad character of the accused is not admissible before conviction.

Discuss with illustrations the exceptions to this general rule which enables the prosecution to cross examine the accused on or to lead evidence of the accused person's bad character. [25 MARKS]

**QUESTION 2.**

- (a) Define similar fact evidence [10 marks]
- (b) Discuss the exceptions to the rule against the admissibility of similar fact evidence. Illustrate with decided cases [15 marks]
- [25 MARKS]**

**QUESTION 3.**

Pillay was charged with and convicted of robbery by the Mbabane Magistrate's court.

Two years later Swazi Times Magazine published a report about Pillay, describing him as "a robber and exconvict". Pillay brought a civil suit against Swazi Times Magazine claiming damages for defamation. The attorney for the defendant (Magazine) sought to introduce into evidence the Magistrates Court criminal record wherein Pillay was convicted of robbery.

Discuss fully whether such evidence is admissible [25 MARKS]

**QUESTION 4.**

- (a) What is meant by hearsay evidence? [10 marks]
- (b) Discuss the common law exception to the hearsay rule with regard to dying declarations? [15 marks]
- [25 MARKS]**

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**QUESTION 5.**

- (a) What is "a trial within" a trial? (10 marks)
- (b) X confesses to the murder of Y. The Magistrate duly records X's confession. What are the requirements for the admissibility of X's confession into evidence. Discuss fully? [15 marks]

**[25 MARKS]**

**QUESTION 6.**

Distinguish between competency, compellability and privilege with regard to witnesses and give examples to illustrate. **[25 MARKS]**