

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
MAIN EXAMINATION PAPER, DECEMBER 2009

TITLE OF PAPER	:	CRIMINAL LAW
COURSE CODE	:	IDE – DL013
TIME	:	THREE (3) HOURS
INSTRUCTIONS	:	<u>ANSWER QUESTION 1 (ONE)</u> AND ANY OTHER <u>THREE</u> (3) QUESTIONS
TOTAL MARKS	:	100

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BY THE INVIGILATOR

QUESTION 1

X caught his wife in bed with Y. Both the wife and Y managed to escape. X spent the whole night looking for his wife but could not find her. The following day, Y was passing in front of X's house. X stabbed Y to death, because he felt that Y's presence in front of his house so soon after the adultery was a sign of disrespect. After X had stabbed him but before he died, Y managed to hit X on the head with a knobkerrie which he was carrying. X is charged with murder. He is relying on the defences of provocation and private defence.

Analyze the facts, and explain whether the defences of provocation or private defence will avail X.

[25 Marks]

QUESTION 2

"The modern state has expanded its powers to such an extent that today, more than ever, it has become necessary to protect the freedom of the individual".

Discuss the role the Principle of Legality plays in this regard.

[25 Marks]

QUESTION 3

"The mere fact that a person has committed an unlawful act does not mean that he is criminally liable. It is also required that the person's conduct should be culpable. The unlawful act or actus reus and culpability or mens rea must be contemporaneous to convict the person".

Discuss this statement using references to decided cases to illustrate your answer.

[25 Marks]

Question 4

Write short notes on the following:

- a. Criminal Liability of Corporations [8 Marks]
- b. Vicarious Liability [8 Marks]
- c. Strict Liability [9 Marks]

[25 Marks]

QUESTION 5

“Every person is presumed to be sane and to possess a sufficient degree of reason to be responsible for his crimes until the contrary is proved”.

Discuss this statement, and explain the circumstances under which a plea of insanity may succeed, and the consequences.

[25 Marks]

QUESTION 6

- a. Critically consider the deterrence theory of punishment.

[15 Marks]

- a. “The sole aim of criminal law is to define and deal with certain types of socially intolerable human conduct as crimes”. Discuss this statement.

[10 Marks]

[25 Marks]