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UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DIPLOMA IN LAW
MAIN EXAMINATION PAPER-DECEMBER 2011

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| TITLE OF PAPER | CRIMINAL LAW |
| COURSE CODE | DL013 |
| TIME | THREE (3) HOURS |
| INSTRUCTIONS | 1. ANSWER QUESTION 1 (60 MARKS) AND 2. ANY OTHER TWO QUESTIONS (20 MARKS EACH) |
| TOTAL MARKS | 100 |

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION TO DO SO HAS BEEN GRANTED BY THE INVIGILATOR

QUESTION 1

- (a) What is criminal law and what is its purpose? [5 Marks]
- (b) Give the definition of punishment and write short notes on the various types of punishment in Swaziland? [7 Marks]
- (c) What law is applicable to the criminal law of Swaziland? [7 Marks]
- (d) Briefly discuss the central tenets of legality. [6 Marks]
- (e) What are the three different classes of conduct under the *actus reus* principle, give an example of a crime under each class? [5 Marks]
- (f) What is the meaning of *mens rea* and what are its elements? [4 Marks]
- (g) What is criminal capacity and what factors can influence criminal capacity? [5 Marks]
- (h) What are the defences negating *mens rea* in Swaziland? [5 Marks]
- (i) What are the defences negating unlawfulness? [4 Marks]
- (j) Write short notes on the burden of proof in criminal cases. [6 Marks]
- (k) Who are possible parties to an offence? [3 Marks]
- (l) What are the various classes of inchoate crimes? [3 Marks]
- [60 Marks]

QUESTION 2

Write short notes on the following;

- (a) Criminal liability of corporations in Swaziland [8 Marks]
- (b) Vicarious Liability [6 Marks]
- (c) Criminal liability of unincorporated associations [6 Marks]
- [20 Marks]

QUESTION 3

John is facing a charge of murder in that on the 28th December 20 Lobamba area in the District of Hhohho he struck Mike with the blunt side of an axe. The blow rendered Mike unconscious. John, believing that Mike was dead threw the body into a river. A post-mortem report revealed that the blow itself had not been fatal and that the death must have been caused by subsequent drowning in the river. With particular reference to *actus reus* and *mens rea* discuss the criminal liability of John for the murder of Mike.

[20 Marks]

QUESTION 4

(a) Intoxication can never be a defence to a crime. Do you agree? Give reasons for your answer
[10 Marks]

(b) Write short notes on the defence to crime of superior orders in relation to the security forces and the police

[10 Marks]

[20 Marks]