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**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DIPLOMA IN LAW**  
**MAIN EXAMINATION PAPER - DECEMBER 2013**

<b>TITLE OF PAPER</b>	:	<b>CRIMINAL LAW</b>
<b>COURSE CODE</b>	:	<b>IDE-DL022</b>
<b>TIME</b>	:	<b>THREE (3) HOURS</b>
<b>INSTRUCTIONS</b>	:	<b>1. <u>ANSWER QUESTION 1</u></b>  <b>(QUESTION 1 CARRIES 40 MARKS)</b>  <b><u>AND</u></b>  <b>2. ANY OTHER TWO QUESTIONS</b>  <b>(QUESTIONS 2-6 CARRY 30 MARKS EACH)</b>
<b>TOTAL MARKS</b>	:	<b>100</b>

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**QUESTION 1**

One evening, Manana went for a drink at a pub at Mbabane where he met Lungile, an attractive young woman. It was love at first sight, and the two love birds sat at a secluded corner of the bar to enjoy drinks. Unknown to Manana, Lungile had a steady boyfriend, Wandile, who incidentally, was also at the bar having drinks with his friends. On his way to the rest room, Wandile saw Manana with his girl. He was not amused. He approached Manana, waging his clenched fist and made a lunge at him. Wandile was restrained by other patrons at the bar. Before Manana could react, Wandile pulled out a sjambok from under his shirt and smacked him across the face, opening a huge gash on Manana's forehead. Wandile, in absolute fury, took a steel chair and threw it at Manana. The chair hit Manana's arm with great force, breaking the bones in the arm. Not satisfied, Wandile drew a revolver from his hip pocket and told Manana, "I am going to shoot you!" He pulled the trigger, but the gun failed to fire because it was unloaded.

Wandile then turned to Lungile and said, "You are coming with me". Lungile reluctantly followed him. He took her to a hut and locked the door. Then wielding a knife and threatening to kill her unless she obeyed him, he ordered her to lie down. She obeyed and he had sexual intercourse with her. Charged with rape, Wandile argues that he did not rape her because he did not penetrate her vagina, but her anus, with his finger only. Alternatively, he argues that even if he penetrated Lungile's vagina, the sexual intercourse was consensual because Lungile did not struggle or offer any resistance.

Discuss all legal issues arising.

[40 Marks]

**QUESTION 2**

Discuss the essential elements of *crimen injuria* and *defamation* and briefly explain the differences if any, between the two crimes.

[30 Marks]

**QUESTION 3**

Mubila inflicted a wound on the head of Tekane with a knobkerrie. Tekane's wife advised him to go to hospital, but he refused and administered some herbs on the wound. After a week, Tekane contracted tetanus. Realizing the seriousness of his condition, family members bundled him into a vehicle and sent him to the hospital where he was admitted. At the hospital he was attended to by a nurse who tied up the wound, gave him Panado tablets and put him to bed. Tekane would not lie down in his bed but kept walking all over the ward. Against medical advice, he left the hospital. Two days after leaving the hospital he suffered continuous bleeding and died.

Discuss Mubila's liability on a charge of the murder.

[30 Marks]

**QUESTION 4**

“No person already legally married may marry in terms of this Act during the subsistence of the marriage, irrespective of whether that previous marriage was in accordance with Swazi law and custom or civil rites and any person who purports to enter into such a marriage shall be deemed to have committed the offence of bigamy”. Section 7(1), the (Family) Marriage Act 47/1964.

Discuss.

[30 Marks]

**QUESTION 5**

Discuss the offence of abduction and differentiate between *common law abduction* and *statutory abduction* under S. 46 of the Crimes Act.

[30 Marks]

**QUESTION 6**

In the course of an argument between Bhembe and Dlamini, Bhembe threw a soft tomato at Dlamini. The tomato hit Dlamini's right eye. Dlamini started screaming in agony. Alarmed at this turn of events, Bhembe rushed to Dlamini's side to ascertain the extent of his injury. To his dismay, he discovered that Dlamini's eye was red and swollen. Bhembe quickly took Dlamini to an ophthalmologist and offered to pay the cost of treatment. Dlamini lost his right eye as a result of the injury inflicted by Bhembe, despite the specialised treatment.

What offence, if any, has Bhembe committed?

[30 Marks]