

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
MAIN EXAMINATION PAPER, MAY 2014

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TITLE OF PAPER:	THE LAW OF DELICT
COURSE CODE:	DL025
TIME:	THREE (3) HOURS
INSTRUCTIONS:	ANSWER ANY 4 QUESTIONS
TOTAL MARKS:	100

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QUESTION 1

Define the 3 forms of intention under the element of Fault.

[25 Marks]

QUESTION 2

It has been said that the purpose of the law of delict is not only to compensate but also to satisfy: Compensation and Satisfaction. Define these concepts and explain why the law of delict purports as such.

25 Marks

QUESTION 3

a) 'You take your victim as you find him'! What element of delict does this caption emanate and what do you understand by it.

(5 marks)

b) What are the five elements of consent under the *Volenti non fit injuria* defense?

(5 marks)

c) What is the utility of Legal causation in the law of Delict?

(5 marks)

d) Define the *Acquilian* action and its contribution to the law of Delict.

(5 marks)

e) Briefly describe how the Law of Delict is different from Criminal law.

(5 marks)

[25 Marks]

QUESTION 4

The 'but-for' test as a means by which causation may be established has been widely criticized. What criticism has been leveled against the 'but-for' test?

[25 Marks]

QUESTION 5

A person, who by a positive act creates a situation that is potentially dangerous to others unless certain precautions are taken, has a duty to take those precautions, and his omission to do so is wrongful. The doctrine is illustrated by a long line of so-called municipality cases in which it was held that a local authority was not obliged to exercise permissive powers to keep a road in repair unless, by previously building the road, it had introduced a 'new source of danger' that would not have otherwise existed. *Halliwell v. Johannesburg Municipal Council* and *Municipality of Bulawayo v Steward* are cases that illustrate the above caption. Briefly outline the facts of the case and give the decision that was given by the court.

[25 Marks]