

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANTANCE EDUCATION
DIPLOMA IN LAW

MAIN EXAMINATION PAPER MAY 2017

TITLE OF PAPER : CRIMINAL PROCEDURE

COURSE CODE : DL014

TIME ALLOWED : THREE (3) HOURS

TOTAL MARKS : 100

**INSTRUCTIONS : ANSWER QUESTION 1 WHICH IS COMPULSORY AND
THREE ADDITIONAL QUESTIONS FROM QUESTION 2 TO 6.**

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

Question 1

Dlozi Nkomo and Dlalile Hlongwane are students and doing their final year (Form V) at Sonile High School. On the 12th June 2012 attacked their Head boy (Bheki Monale) accusing him that he was the cause of their suspension from school because he reported them to the Head teacher that they were smoking dagga. During the attack Dlozi took a stone and hit Bheki on the head and died while undergoing treatment at Manzini Clinic. They were arrested and charged with murder. During their first appearance at the Magistrate Court in Manzini the Magistrate simple remanded them into custody.

- (a) What was the Magistrate required to do under the circumstances? (10)
 - (b) Draft an indictment that you as a prosecuting counsel you will lodge with the Registrar of the High Court. (15)
- [25]**

Question 2

Mpho is arrested for the murder of Khosi. Mpho has a relative in the United Kingdom. Mpho wants to be released on bail as per the provisions of the Constitution of 2005.

- (a) What factors the court considers when one applies for bail? (20)
 - (b) Advise him as to which court he can approach for his release. (5)
- [25]**

Question 3

- (a) Outline the requirements of private prosecution. (10)
 - (b) What is meant by extradition? (15)
- [25]**

Question 4

Kate is charged with a traffic offence and when she appeared before a magistrate she pleaded guilty and the prosecutor accepted her plea and no evidence was led. The magistrate found her guilty as per her own plea and sentenced her to three years imprisonment without an option of a fine.

- (a) Advise Mpho considering Section 238 of the Criminal Procedure and Evidence Act No 67 of 1938. (15)

- (b) On the advice you gave to Mpho above, he appeals to the High Court and in the interim he wants to be release on bail. Advise him. (10)

[25]

Question 5

- (a) What is meant by criminal justice system (5)
- (b) Briefly outline the functions of the personnel involved in the criminal justice system (20)

[25]

Question 6

Briefly outline the criminal jurisdiction of the courts in Swaziland. (25)