

**UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER (MAIN)
YEAR: 2016/2017**

TITLE OF PAPER : CRIMINAL LAW

COURSE CODE : L 202

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS:

- (i) ANSWER ANY FOUR (4) QUESTIONS.**
- (ii) EACH QUESTION CARRIES 25 MARKS.**

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INVIGILATOR**

Question 1

(a) Referring to authorities discuss the defence of provocation in Swaziland.

(10 Marks)

(b) Referring to authorities discuss the defence of intoxication in Swaziland.

(10 Marks)

(c) List five (5) offences that can be committed against property under criminal law.

(25 Marks)

Question 2

(a) With the aid of decided cases and/or illustrations, differentiate between the different types of intention **(10 Marks)**

(b) Self-defence is a common defence in cases of Murder. Under which instances can this defence be used successfully by an accused. **(15 Marks)**

(25 Marks)

Question 3

(a) Briefly outline the provision of the Homicide Act in Swaziland

(10 Marks)

(b) The Criminal Procedure & Evidence Act, 1938 (as amended) allows a court to pronounce a different verdict than that of the offence with which one is charged. Outline and briefly discuss using illustrations of such instances.

(15 Marks)

(25 Marks)

Question 4

Nkosinathi is a 48 year old bachelor who is from a well off family. He holds a Bachelor of Arts in Sciences and works in one of the leading scientific labs in the country. He has been unfortunate when it comes to matters of the love relationships. His his family of late has ridiculed him calling him names such as '*sigwadzi*'.

He has been secretly in love with Zinhle whom he has been scared to approach and declare his love for her. On 22nd of October 2016 at Zinhle's birthday party, in which he was also an invited guest, Nkosinathi having been under so much pressure from his family, decided to consume an alcoholic beverage in an effort to gain courage and approach Zinhle. As intended, within a few minutes he started showering praises of love to a very surprised Zinhle. He then attempted to grab and move her to a secluded room. Zinhle resisted and a fight ensued whereby her dress was torn as Nkosinathi attempted to fondle her breasts. However, in the course of the fight, Nkosinathi noticed bloody spots on Zinhle's panties, indicating that she was on her menstrual periods. He immediately stopped fighting. Shortly thereafter, he blacked out on the floor. When he came to, he was in the Manzini police cell.

In his statement to the police, he stated that he remembers being at Zinhle's birthday party but recalled nothing else.

(a) Referring to relevant authorities, consider possible charges against him.

(10 Marks)

(b) Briefly consider which defences, if any, might be raised on behalf of Nkosinathi, and state whether in your view, it is likely to succeed.

(15 Marks)

(25 Marks)

Question 5

Muzi and Sabelo are brothers. Sabelo hates Muzi because he (Muzi) stands to inherit the estate of Absalom, their father who has just passed away.

On the 27th July at a Muzi's birthday party Sabelo sends Muzi a bottle of Whiskey into which he had dumped some poison. Muzi opened the bottle of whiskey and poured himself a glass but before he could drink it, Thobile, Muzi's wife snatched the glass from Muzi and berated Muzi for his love for alcohol. She then poured the contents of the glass into the sink and proceeded to give the poisoned bottle of whiskey to Sihle, her sister. Sihle gladly downed the contents and hid the bottle safe in an effort to continue enjoying the drink later. Sihle subsequently died and according to the pathologist report she died because of Arsenic Acid. The remainder of the contents of the bottle of whiskey, given to Sihle by Thobile, also tested positive to the presence of Arsenic acid.

You are prosecuting counsel in a Murder charge that has been preferred against Sabelo and Thobile.

Discuss the offences which both have committed, based on the principles of criminal law, give reasons for your answer.

(25 Marks)

Question 6

“The cause of death is the determining factor to the liability or otherwise of an accused person in cases of Murder”. Do you agree with the statement? With the aid of decided cases and/or illustrations, discuss and explain the concept of causation and *novus actus interveniens*.

(25 Marks)