

**UNIVERSITY OF SWAZILAND**

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**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION, JUNE 2017**

**TITLE OF PAPER : CRIMINAL LAW- SPECIFIC OFFENCES**

**COURSE CODE : LAW 202**

**MARKS ALLOCATED: 100 MARKS**

**INSTRUCTIONS : 1. THIS PAPER CONSISTS OF SIX (6) QUESTIONS.  
2. ANSWER ANY FOUR (4) QUESTIONS.**

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN  
GIVEN BY THE INVIGILATOR**

## QUESTION ONE

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With the aid of relevant decided cases and/or illustrations, critically differentiate between the three property offences of theft, fraud and theft by false pretences. To what extent is it correct to say that “all cases of theft by false pretences are cases of fraud, but not all cases of fraud are cases of theft by false pretences?”

[25 marks]

## QUESTION TWO

It has been said that Swaziland is in urgent need of a Penal Code.

Do you agree? Explain.

[25 marks]

## QUESTION THREE

“The content of the offence of rape in Swaziland is totally out-dated”, is a statement made by an LLB (II) student at UNISWA.

Critically discuss the quotation, and indicate the necessary reforms.

[25 marks]

## QUESTION FOUR

Explain and critically discuss the crime of abortion in the social and economic circumstances of Swaziland.

[25 marks]

## QUESTION FIVE

Although he is a UNISWA graduate, Mnisi lives a bizarre and confused life, maintaining a life-style far beyond his means. This has led him to many debts. One such debt amounted to E65, 000 which he owed to one Zakes. This debt was years overdue for payment. Threatened with court action, Mnisi invited Zakes to his home village and pointed to 15 head of cattle as payment. Unknown to Zakes, the cattle, in fact, belonged to Mnisi's brother, Martin, who is a miner in the Republic of South Africa.

Zakes said he would collect the cattle within a fortnight, but emphasised that they did not meet the whole debt. Thus, he continued to threaten Mnisi with court action.

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Out of desperation, Mnisi then got hold of an advance-pay, **CROSSED** cheque of E20 000, which he had received at his work place, very neatly deleted the **CROSSING**, and endorsed the cheque, at the back, to Zakes.

Mnisi, however, remained in desperate need of money. Thus a few days later, he arranged with a criminal gang led by one Ceko to visit the same Martin's farm. On the day in question, the said gang arrived at 1 a.m., opened the farm gate with a master key, bundled up the two security guards, took them to a neighbouring forest, kept them tied up there, while the 15 cows were being loaded onto Martin's trucks found on the premises. The trucks were later abandoned in the Siphofaneni area, after the cattle were disposed of.

Referring to authority, indicate the offences, if any, which have been committed, and by whom.

**[25 marks]**

### **QUESTION SIX**

- (a) D went into a self-service supermarket with no money on him. He picked a shirt which he hid under his jacket, securing it with his arm. He was apprehended by a security officer before he reached the till. What crime(s) has he committed?

**[5 marks]**

- (b) D broke into a store in which his neighbour had stored bags of dagga. He stole some dagga and also killed a beast belonging to his neighbour. He took the animal home to his wife who cooked it for the family. What crime(s) has D committed?

**[8 marks]**

- (c) While in Mbabane, Henry received a letter from D requesting him to purchase a suit for D, for which D would pay him a beast. Henry purchased the suit and sent it to D. Henry later went to the home of D in Big Bend and asked for the beast. D took him to the farm of one of his neighbours and pointed out a beast saying "this is the beast I promised you. Take it". Henry then took the beast away. The beast did not in fact belong to D but to his neighbour. Henry and D are charged with theft. Are they guilty?

**[12 marks]**

**[25 marks]**