

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER (MAIN), DECEMBER 2017

TITLE OF PAPER : CRIMINAL LAW- GENERAL PRINCIPLES

COURSE CODE : LAW 201

MARKS ALLOCATED : 100 MARKS

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

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BY THE INVIGILATOR

QUESTION ONE

“The principle of legality in Swaziland is more of an ideal than a reality.” By an LL.B II student at UNISWA.

Explain and critically discuss the quotation.

[25 marks]

QUESTION TWO

Professor Snyman suggests that retribution ought to form the backbone of “our approach to punishment.”

Referring to learned literature, critically consider this suggestion in the social and economic circumstances of Swaziland.

[25 marks]

QUESTION THREE

It has been said that for the defence/plea of provocation to succeed, intention must clearly be negated.

Do you agree? Explain, referring to authority.

[25 marks]

QUESTION FOUR

- (a) What, in your opinion are the crucial differences between the defences of insanity and automatism?

[10 marks]

- (b) A and B are brothers. A who hates B because the latter is the designated heir to the vast family sugar fortune decides to do away with B. On B's birthday, A sends him a bottle of brandy into which he has dumped a quantity of arsenic. At B's birthday party that night, B opens the bottle of brandy and pours for himself a glass of the poisoned drink. Before he could drink the brandy, C, his fiancée who does not like B to drink, snatches the glass from B's hand and pours the drink into the toilet. At that point, V, who is B's friend and the DJ at the party takes and drinks the brandy in celebration with his friend. V subsequently dies from the poisoned brandy. The police, who have all along been following A, step in and arrest him.

What crime(s) has A committed? Would it make any difference if it were A himself who had a change of heart and had snatched the glass of brandy from his brother when B was about to drink it (before V drank the brandy)?

[15 marks]

[25 marks]

QUESTION FIVE

- (a) With the aid of decided cases and/or illustrations, differentiate between *dolus indirectus* and *dolus eventualis*.

[10 marks]

- (b) A, who hates his neighbour B because he suspects that B has designs on his beautiful young wife, plans to kill him. One day the two neighbours go out hunting at night. When they got to the forest they separated to look for wild animals. A makes his way to a spring which he knows is a favourite haunt for warthogs. At the spring, he hears a splash and a grunt. He fires his gun at an object in the water, believing that he was shooting at a warthog. The object turns out to be B, who appears to be dead. A, who is happy that B is dead throws the body into the spring. B did not die from the bullet wound, but drowned.

What, if at all, is the criminal liability of A?

[15 marks]

[25 marks]

QUESTION SIX

Write short notes on the following:

- (a) The criminal liability of an accomplice,

[6 marks]

- (b) The criminal liability of an accessory after the fact,

[7 marks]

- (c) The doctrine of common purpose.

[12 marks]

[25 marks]