

**INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
SUPPLEMENTARY PAPER JULY 2019**

TITLE OF PAPER : CRIMINAL LAW II
COURSE CODE : DL022
TIME ALLOWED : THREE HOURS
MARKS : 100
INSTRUCTIONS : a) QUESTION 1 IS COMPULSORY
: ANSWER ANY TWO (2) OTHER QUESTIONS

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THE INVIGILATOR**

QUESTION ONE

One evening, Manana went for a drink at a pub in Mbabane where he met Lungile, an attractive young woman. It was love at first sight, and the two love birds sat at a secluded corner of the bar to enjoy drinks. Unknown to Manana, Lungile had a steady boyfriend, Wandile, who incidentally, was also at the bar having drinks with his friends. On his way to the rest room, Wandile saw Manana with his girl. He was not amused. He approached Manana, wagging his clenched fist and made a lunge at him. Wandile was restrained by other patrons at the bar. Before Manana could react, Wandile pulled out a sjambok and hit him across the face, opening a huge gash on Manana's forehead. Wandile, in absolute fury, took a steel chair and threw it at Manana. The chair hit Manana's arm with great force, breaking the bones in the arm. Not satisfied, Wandile drew a revolver from his hip pocket and told Manana, "I am going to shoot you!" He pulled the trigger, but the gun failed to fire because it was unloaded.

Wandile then turned to Lungile and said, "You are coming with me". Lungile reluctantly followed him. He took her to a hut and locked the door. Then wielding a knife and threatening to kill her unless she obeyed him, he ordered her to lie down. She obeyed and he had sexual intercourse with her. Charged with rape, his argument is that the sexual intercourse was consensual because Lungile did not struggle or offer any resistance

Discuss all legal issues arising.

[40Marks]

QUESTION TWO

Explain the differences between *crimen injuria* and defamation, and discuss the defences available to a person charged with defamation.

[30 Marks]

QUESTION THREE

- (a) X attacked Y with a knife and inflicted severe injury on his right wrist. The doctor advised Y that unless the hand was amputated at the wrist he would die. Y would not accept the doctor's advice, because he did not want to go through life with one hand. As a result of his failure to listen to the doctor's advice, Y contracted tetanus and died.

Discuss the liability of X on a charge of murder.

[20 Marks]

- (b) The offence of theft continues for as long as the thief holds the property in question.

Explain the above statement

[10 Marks]

Total [30 Marks]

QUESTION FOUR

Discuss the offence of bigamy and state whether it serves any social function in Swaziland.

[30 Marks]

QUESTION FIVE

Fraud is defined as unlawfully making, with intent to defraud, a misrepresentation which causes prejudice or which is potentially prejudicial.

- (a) What is a misrepresentation? Illustrate your answer with examples.

[10 Marks]

- (b) In what situations may silence amount to a misrepresentation?

[20 Marks]

Total **[30 Marks]**