UNIVERSITY OF SWAZILAND

INSTITUTE OF DISTANCE EDUCATION

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER JULY 2005

TITLE OF PAPER : LAW OF EVIDENCE

COURSE CODE : DL 031

TIME ALLOWED : THREE (3) HOURS

1. ANSWER ANY FOUR (4) QUESTIONS OF YOUR CHOICE

2. READ AND UNDERSTAND WHAT THE QUESTIONS REQUIRES OF YOU.

3. YOUR ANSWER SHOULD BE WELL ORGANIZED

4. ALL QUESTIONS CARRY EQUAL MARKS

THIS PAPER SHOULD NOT BE OPENED UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR

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QUESTION 1.

What do you understand by "real evidence?" Give examples and discuss the rules regulating the admissibility of this form of evidence   [25 MARKS]

QUESTION 2.

What is judicial notice? Discuss fully and give illustrations   [25 MARKS]

QUESTION 3

The general rule is that evidence of bad character of the accused is not admissible before conviction. Discuss with illustrations the exception to this general rule.   [25 MARKS]

QUESTION 4.

Critically discuss the principles laid down by Lord Herschell in Makin V Attorney General of new South Wales (1894) AC 57 in respect of the circumstances in which:-

(a)   similar fact evidence will be excluded, and
(b)   similar fact evidence will be admissible

[25 MARKS]

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QUESTION 5.

Anne an adult female was raped at Zakhele, Manzini. The Manzini Police took her to the hospital where Dr Ben Gama examined her. The Prosecution called Dr Ben Gama to give evidence on behalf of the State. How should the court treat the doctor's evidence? Discuss fully and give reasons for your answer.

[25 MARKS]

QUESTION 6.

The common law general rule excludes admission of a witness's previous consistent statement in evidence.

Discuss recognized exceptions to this general rule

[25 MARKS]

QUESTION 7.

Discuss the following:-

(a)   an admission   [5 MARKS]

(b)   marital privilege   [10 MARKS]

(c)   absolution from the instance   [10 MARKS]

[25 MARKS]