

**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DIPLOMA IN LAW**  
**MAIN EXAMINATION PAPER – DECEMBER 2010**

<b>TITLE OF PAPER</b>	<b>:</b>	<b>CRIMINAL LAW</b>
<b>COURSE CODE</b>	<b>:</b>	<b>DL022</b>
<b>TIME</b>	<b>:</b>	<b>THREE (3) HOURS</b>
<b>INSTRUCTIONS</b>	<b>:</b>	<b>1. <u>ANSWER QUESTION 1</u></b> <b>(QUESTION 1</b> <b>CARRIES 40 MARKS)</b>  <b><u>AND</u></b>  <b>2. ANY OTHER TWO</b> <b>QUESTIONS</b>  <b>(QUESTIONS 2 - 5</b> <b>CARRY 30 MARKS</b> <b>EACH)</b>
<b>TOTAL MARKS</b>	<b>:</b>	<b>100</b>

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**Question 1**

Mathenjwa and Fikile are Swazis. They met and fell in love in Pretoria, South Africa. They got married at the District Commissioner's Office in Pretoria, and were duly issued with a marriage certificate. They later returned home and settled down in Manzini. A few years later, Mathenjwa, met and fell in love with Regina at Manzini, and married her according to Swazi Law and Custom. Unknown to Mathenjwa and Fikile, they had the same father, who died while working in the mines in South Africa. They had different mothers. Mathenjwa's reason for marrying Regina's is that polygamy is part of Swazi culture and therefore he is entitled to have more than one wife. He argues further that his marriage to Fikile is invalid because it took place in South Africa. Fikile is unhappy with Mathenjwa's marriage to Regina and contends that the marriage is invalid because it was under Swazi Law and Custom or alternatively, because it is bigamous.

Discuss all the legal issues arising.

**[40 Marks]**

**Question 2**

Discuss the offence of abduction and differentiate between common law abduction and statutory abduction under S. 46 of the Crimes Act 6/1889.

**[30 Marks]**

**Question 3**

Mubila inflicted a wound on the head of Tekane with a knobkerrie. Tekane, a poor illiterate man living in a rural area in Swaziland, rejected his wife's advice to go to hospital. Instead, he administered some herbs on the wound and bound it up with grass. After a week, Tekane contracted tetanus. Realizing the seriousness of his condition, family members bundled him into a vehicle and sent him to the hospital where he was admitted. At the hospital he was attended to by a nurse who tied up the wound, gave him Panado tablets and put him to bed. Tekane would not lie down in his bed but kept walking all over the ward. Against medical advice, he left the hospital. Two days after leaving the hospital he suffered continuous bleeding and died.

Discuss Mubila's liability for the murder of Tekane.

**[30 Marks]**

**Question 4**

Briefly discuss the essential elements of the following:

- (a) Abortion

[10 Marks]

- (b) Defamation

[20 Marks]

**Total [30 Marks]**

**Question 5**

John assaulted William following an argument. William laid a charge at the local police station against John. The police charged him with assault and arraigned him before the magistrate's court. John pleaded guilty and he was fined E500.00 which he paid. One week later, John met William and demanded that he should refund to him the E500.00 fine. William refused to pay and John assaulted him. John then told William that he will continue to assault him until he paid the E500.00. As a result of fear of future violence, William paid. On the same day, John sneaked behind Rachel, who was taking a walk in town, and removed her purse from her handbag. When Rachel demanded her purse back, John assaulted her.

John has been charged with two counts of robbery. Advise him.

[30 Marks]