

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER (MAIN), MAY 2018

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.

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BY THE INVIGILATOR**

QUESTION ONE

“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 TWO

Thirteen-year old Phindile was a very big and tall girl who dropped out of school due to lack of funds. She stayed with her parents at Ezulwini. In January this year, she attended an interview at “Joyous Bar”, Ezulwini, for the position of waitress. The Manager, Bheki, told her plainly: “It’s simple. Spend the night with me at Tums George Hotel, you’d start work the following day!”

Phindile had not “known” a man before, and truly dreaded Bheki’s suggestion, but being desperate, she succumbed. Bheki kept his promise. She started work right away.

However, in February, she realised that she was pregnant. She accordingly informed Bheki, who said he would marry her under Swazi Law and Custom. Phindile’s parents were enthusiastic about it, and asked him for eight head of cattle as *lobola*, of which he had already given them two.

The trouble is that Bheki’s wife, Zodwa, whom he married in 2014, through civil rites at Abundant Life Ministries Church, Mbabane, has heard about it, and is very furious. She has hired two well-built men, who follow Phindile wherever she goes. The girl is very frightened.

Discuss the criminal liability of Bheki and Zodwa.

[25 marks]

QUESTION THREE

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, “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 FOUR

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

[25 marks]

QUESTION FIVE

Sipho, Matt and Zakes were joint owners of a ten-hectare farm in Manzini. Sipho wanted to use the farm as collateral for a loan of E3, 000 000 which he needed for his new business venture, but he knew Matt and Zakes would not agree.

His first hurdle was how to get hold of the title deeds which were in the custody of Matt. It was the rule among the three joint owners that none of them would make use of the title deeds without the express knowledge and consent of the others. However, in the circumstances it would have been madness to inform the others.

Sipho, therefore, decided that he would simply go to Matt's home in Matt's absence and somehow get the deeds. He easily executed his plan because Matt's servant allowed him into the house and left him alone for quite a while. Sipho used the time to search for the deeds. He found them, and then got an "expert" who neatly deleted the names of Matt and Zakes from the same. Thereafter, he successfully applied for the loan from Standard Bank, Manzini.

However, formal communication of the loan grant was delayed. Meanwhile, Sipho urgently needed the letter to show it to his suppliers so that the business could take off quickly. Thus, when he learnt that the letter was ready, and at the bank manager's desk, he opened the unlocked door of the bank manager's office and picked up the letter from the manager's desk. He then took and showed it to the various suppliers before returning it to the manager's desk.

Referring to authority, identify the offences, if any, which Sipho has committed.

[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]