

UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

FIRST SEMESTER FINAL EXAMINATION, DECEMBER 2009

TITLE OF PAPER : LEGAL SYSTEMS AND METHOD

COURSE CODE : L 101

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- 1. THE PAPER CONSISTS OF SIX QUESTIONS.**
- 2. ANSWER ANY FOUR QUESTIONS.**

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR

QUESTION 1

- (a) “There is absolutely no reason why prospective law practitioners should study legal theory extensively”.
(By an LL.B. (I) student at UNISWA)

Do you agree? Explain. DO NOT forget to explain the meaning of legal theory.
(15 marks)

- (b) Briefly highlight the history of legal education at UNISWA. (10 marks)

QUESTION 2

It has been suggested that courts in Swaziland have residual power to protect the moral integrity of society.

Referring to authority, critically consider the suggestion. (25 marks)

QUESTION 3

Referring closely to Donoghue v Stevenson, [1932] All ER 1, explain and critically examine the argument that courts do, in fact, make law.
(25 marks)

QUESTION 4

“The so-called Roman-Dutch common law in Swaziland, is neither Roman nor Dutch; nay, it is not really Roman-Dutch.”

Per an LLB (I) student at UNISWA.

Do you agree? Explain. (25 marks)

QUESTION 5

- (a) Describe and explain the operation of stare decisis in the common law countries, with specific reference to Swaziland. (10 marks)
- (b) How, if at all, is the functioning and content of stare decisis different in the civil law countries? (10 marks)
- (c) How and why should one distinguish between primary and secondary sources of law? (5 marks)

QUESTION 6

Distinguish between:

- | | | |
|-----|---|-----------|
| (a) | Personal rights and personality rights. | (5 marks) |
| (b) | Capacity and power. | (5 marks) |
| (c) | Attorney and Advocate | (5 marks) |
| (d) | Custom and trade usage | (5 marks) |
| (e) | Appeal and Review | (5 marks) |