

**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION PAPER, MAY 2005**

**TITLE OF PAPER : LEGAL SYSTEM AND METHOD**

**COURSE CODE : DL011**

**TIME ALLOWED : THREE (3) HOURS**

**INSTRUCTIONS :**

- 1. ANSWER QUESTION ONE WHICH IS COMPULSORY AND ANY OTHER THREE QUESTIONS OF YOUR CHOICE.**
- 2. MARKS FOR QUESTIONS OR PARTS OF A QUESTION ARE SHOWN IN BRACKETS.**

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**QUESTION 1**

“We clearly recognize that the Laws of Society must be acceptable to the general moral sense of the community if they are to be respected and enforced. But we are not charged to enter into matters of private moral conduct except in so far as they directly effect public good ...”

- Wolfenden committee report (1957)

- (a) Discuss the full implications of the above statement. [10 marks]
- (b) Discuss the Hart-Devlin debate on the legal enforcement of morals. [15 marks]  
[TOTAL MARKS = 25]

**QUESTION 2**

- (a) Litigation is one mechanism that is commonly used in society for resolving disputes between members of society.

State the disadvantages of using litigation in resolving disputes. [15 marks]

- (b) Briefly discuss two other mechanisms that may be used in resolving disputes. [10 marks]  
[TOTAL MARKS = 25]

**QUESTION 3**

Write short notes on the following:

- (a) The difference between onus of proof and standard of proof. [5 marks]
- (b) The difference between action proceedings and application proceedings. [5 marks]
- (c) The difference between criminal cases and civil cases. [5 marks]
- (d) The advantages and disadvantages in the doctrine of judicial precedent. [5 marks]
- (e) The meaning of the phrase “*a prima facie case*”. [5 marks]
- [TOTAL MARKS = 25]

**QUESTION 4**

Clearly outline and explain the four postulates of justice. [25 MARKS]

**QUESTION 5**

Discuss the main sources of law in Swaziland. [25 MARKS]