

COURSE CODE: L101 (M) 2005

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

FINAL EXAMINATIONS, MAY 2005

TITLE OF PAPER : LEGAL SYSTEMS AND METHODS

COURSE CODE : L 101

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- A) THE PAPER CONSISTS OF SEVEN QUESTIONS.**
- B) ANSWER ANY FOUR (COMPLETE) QUESTIONS.**

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

QUESTION 1

- (a) Using illustrations, distinguish between personal rights and real rights. [10 marks]
- (b) Referring closely to authority and specific examples, assess the content/practice of fair process in Swaziland. [15 marks]

QUESTION 2

“Unless a deliberate attempt is made by society, acting through the agency of the law, to equate the sphere of crime with that of sin, there must remain a realm of private morality and immorality which is, in brief and crude terms, not the law’s business ...”

The Wolfenden Committee Report (1957)

Do you agree? Explain. [25 marks]

QUESTION 3

It has been said that judges do not make law, that the task of law-making is exclusively for Parliament. Do you agree? Explain, referring closely to Donoghue v Stevenson [1932] All ER 1. [25 marks]

QUESTION 4

It has been said that Legal Dualism in Swaziland leads to injustice. Referring closely to an area of law of your choice, critically assess the veracity of the statement. [25 marks]

QUESTION 5

Write notes on the following:

- (a) Civil law and common law. (6 marks)
- (b) Personality rights (7 marks)
- (c) Capacity and power (6 marks)
- (d) Appeal and Review (6 marks)

QUESTION 6

“The Roman-Dutch Common Law, save in so far as the same has been here before or may from time to time hereafter be modified by statute, shall be law in Swaziland”.

(Sec. 3(1) General Law and Administration Procl. 4, 1907).

Explain and critically discuss the provision.

[25 marks]