

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**SUPPLEMENTARY EXAMINATIONS, JULY 2007**

**TITLE OF PAPER** : **LEGAL SYSTEMS AND METHODS**

**COURSE CODE** : **L 101**

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

**INSTRUCTIONS** :  
a) **THE PAPER CONSISTS OF SIX QUESTIONS.**  
b) **ANSWER ANY FOUR QUESTIONS.**

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

**QUESTION 1**

Referring closely to the reasoning in *Donoghue v Stevenson* [1932] All ER 1, consider the proposition that courts make law.

[25 marks]

**QUESTION 2**

(a) Would you say that the new Constitution adequately guarantees fair process in Swaziland? Explain. [15 marks]

(b) Distinguish between Civil Law and Common Law. [10 marks]  
[25 marks]

**QUESTION 3**

It was argued by the late B. Khumalo that the Constitutional framework in Swaziland was the very basis of legal dualism. To what extent, if at all, is this still true under the new Constitution? N.B. You may wish to pay special attention to the position in criminal proceedings.

[25 marks]

**QUESTION 4**

a) Highlight the principal differences between civil and criminal proceedings. [10 marks]

b) It has been suggested that sometimes informal methods of resolving disputes might be preferable to litigation. Do you agree? Explain. [10 marks]

c) Should a lawyer represent a client who informs him that he did the act which is the basis of the client's alleged crime? Explain [5 marks]

**QUESTION 5**

a) What in your view is the basis of the general public's perception that lawyers are liars? How should the legal profession ensure that the perception is corrected. [5 marks]

(b) Referring to case law, highlight and critically discuss the major issues raised by S.3 of the General Law and Administration Proclamation 4, 1907. [10 marks]

(c) Distinguish between positivism and naturalism. [10 marks]

**QUESTION 6**

- (a) Highlight the content of motion proceedings. [10 marks]
- (b) Explain the meaning of, and necessity for, delegated legislation, and state the pre-requisites for its validity. [10 marks]
- (c) Referring to illustrations and or cases, explain the meaning and utility of an *obiter dictum*. [5 marks]

**QUESTION 6**

- (a) Highlight the content of motion proceedings. [10 marks]
- (b) Explain the meaning of, and necessity for, delegated legislation, and state the pre-requisites for its validity. [10 marks]
- (c) Referring to illustrations and or cases, explain the meaning and utility of an *obiter dictum*. [5 marks]