

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

TITLE OF PAPER : LEGAL SYSTEM AND METHOD

COURSE CODE : DL-011

TIME ALLOCATION : THREE (3) HOURS

INSTRUCTIONS :

- 1. ANSWER QUESTION ONE, WHICH IS COMPULSORY & ANY OTHER THREE (3) OF YOUR CHOICE.**
- 2. MARKS FOR QUESTIONS & PARTS OF A QUESTION ARE SHOWN IN BRACKETS.**

THIS PAPER MUST NOT BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE PROCTOR

Question 1

Your friend, Siphon Zane, was involved in a near-fatal motor vehicle accident along the Mbabane-Manzini highway. As a result, he was taken into the emergency room of the Raleigh Fitkin Memorial Hospital to undergo a life-saving operation due to severe loss of blood, and he had lapsed into a coma. To compound matters, the surgeon advises that if Siphon does not receive a kidney transplant within the next three (3) months, he would certainly die.

But there are no precise donors in the country who match Siphon's profile. Distraught and yet eager to assist, you learn through the internet that there are hundreds of human kidneys for sale in India through agents. Two weeks later you are able to locate an agent who processes your "order", and the kidney is delivered by your agent to the hospital under the pretext that it was sourced in South Africa through the relevant channels. The transplant is performed and it is successful to revive Siphon who is eternally grateful for all your efforts, and leads to his full recovery.

Meanwhile, however, the whole transaction had been closely monitored by the International Police (Interpol), tasked with the duty of preventing the illegal trading in human body parts. You and Siphon are accordingly arrested two years later for violating the law, and you both engage an attorney against what you believe is an unjust and immoral law.

Referring closely to case authorities, illustrations as well as the differences and similarities between law and morals, discuss the potential liability of Siphon Zwane and yourself.

(25 Marks)

Question 2

What is meant by delegated legislation? Why is it necessary? What important requirements must delegated legislation comply with in order to be valid?

(25 Marks)

Question 3

Discuss the Postulates of Justice. Which of these do you consider to be critically lacking in Swaziland?

(25 Marks)

Question 4

Write short notes on the following:

- (a) *Stare decisis*
- (b) Independence of the Judiciary
- (c) Independence of the Bar
- (d) Difference between application/motion and action proceedings
- (e) When a bill becomes law

(25 Marks)

Question 5

Nomthandazo Ngwenya has been in an unhappy marriage to Bricks Ngwenya for five(5) years and desires to permanently end the relationship. The marriage has borne three minor children. She, however, has a deep resentment towards litigation and its negative effects on the children.

She has approached you as an attorney to advise her on the desirability of obtaining a divorce through the courts, and whether there are any alternatives. Advise her.

(25 Marks)

Question 6

Discuss the four primary sources of law in Swaziland.

(25 Marks)

Question 7

Highlight and critically discuss the content of the Literal meaning, Golden as well as the Mischief "Rules" of statutory interpretation.

(25 Marks)