

**UNIVERSITY OF SWAZILAND  
FACULTY OF SOCIAL SCIENCE  
DEPARTMENT OF LAW  
SUPPLEMENTARY EXAMINATIONS  
YEAR 2007/2008**

**TITLE OF PAPER** : JURISPRUDENCE  
**COURSE CODE** : L 502  
**TIME ALLOWED** : THREE (3) HOURS

**INSTRUCTIONS:**

- (i) ANSWER ANY FOUR (4) QUESTIONS.
- (ii) EACH QUESTION CARRIES 25 MARKS.
- (iii) IN ANSWERING ANY QUESTION, NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.

**THIS PAPER MUST NOT BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR(S).**

### **QUESTION 1:**

The jurist Karl Llewellyn has stated that “Jurisprudence is as big as law and bigger.” [Quoted in Lloyd and Freedman, Introduction to Jurisprudence (London: Butterworth, 1980), p. 1].

Critically discuss this statement in the context of the following report:

#### **I do, but it is only for seven years my darling**

THE Seven Year Itch, argues Germany’s most glamorous politician, could be cured by making marriage vows valid for only seven years.

The proposal is from Gabriele Pauli, who is running to become head of Bavaria’s conservative Christian Social Union (CSU).

“Many marriages survive only because people think it gives them security”, Pauli told a news conference in Munich. “But only love should count”.

Her idea would apply only to civil marriages. Vows sworn on the altar would not be amended, but civil marriages would be regarded as a limited seven-year contract.

“After that initial period each partner would have to say ‘Yes’ again in order to prolong the marriage”, she said.

Pauli has been married twice. Her second marriage ended in divorce, after seven years.

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[Sunday Times (South Africa), September 23, 2007, p. 6.]

**[25 Marks]**

### **QUESTION 2:**

Critically analyse the following statement by the jurist Hans Kelsen:

The legal order is not a system of co-ordinated norms of equal level, but a hierarchy of different levels of legal norms. Its unity is brought about by... the fact that the validity of a norm, created according to another norm, rests on that other norm, whose creation in turn, is determined by a third one.

[Hans Kelsen, The Pure Theory of Law (trans. By M. Knight), 1967, p. 221 – p. 222.]

**[25 Marks]**

### **QUESTION 3:**

In his restatement of natural law, J. M. Finnis contends that there are certain basic goods for human beings, which are objective values. He lists seven of these goods though he concedes that there may be countless number of ways or combination of ways of pursuing any one of the seven basic goods. Critically discuss any FOUR of these goods as suggested by him in the context of their relevance to jurisprudence.

**[25 Marks]**

**QUESTION 4:**

The *Volkgeist* theory of the historical school of jurisprudence highlights or makes a valid observation of the broad principles of a legal system. However, it can be faulted for overgeneralisation in making this observation.

Critically discuss this statement.

**[25 Marks]**

**QUESTION 5:**

Critically discuss the statement that the essence or concerns of feminism or feminist jurisprudence underpin the general functions of law.

**[25 Marks]**

**QUESTION 6:**

Critically discuss the statement that though the Marxist theory of law can justly be criticised in some respects, it is clear that the postulates of this theory bear close relation to those kinds of questions that are usually asked as part and parcel of general speculations about the law, i.e., the general concerns of jurisprudence.

**[25 Marks]**

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**END**

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