

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATIONS, JULY 2009

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

COURSE CODE : **L 101**

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

INSTRUCTIONS : **1. THE PAPER CONSISTS OF SIX QUESTIONS.**
2. ANSWER ANY FOUR QUESTIONS.

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

QUESTION 1

- (a) Explain what is meant by legal theory, and consider its general relevance to professional/practical legal training in Swaziland. [10 marks]
- (b) Highlight the history of University legal education in Swaziland, and critically assess the utility of the new Strengthened Law Programme at the University of Swaziland. [15 marks]

QUESTION 2

According to Patrick Devlin J., any conduct violating society's basic morality is similar to treason. The law must, therefore, punish such conduct.

Do you agree? Explain, referring to learned literature and authority, in the social and economic context of Swaziland. [25 marks]

QUESTION 3

"The new Constitution of Swaziland has transformed fair process from being a mere ideal to a true reality."

Per a first-year LL.B. Student at UNISWA.

Do you agree? Explain, and critically discuss the quotation, referring to relevant literature and authority. [25 marks]

QUESTION 4

Explain and comment critically on the process of legal reasoning in *Donoghue v Stevenson*, [1932] All ER 1, which led to the enunciation of the modern law of negligence. [25 marks]

QUESTION 5

It was argued by the late B. Khumalo that the Constitutional framework of Swaziland is the very basis of legal dualism. To what extent, if at all, is this still true under the new Constitution?

You may wish to pay special attention to the position in criminal proceedings. [25 marks]

QUESTION 6

- (a) What is *stare decisis* and how does it operate in Swaziland? [10 marks]
- (b) Highlight the major differences between Criminal and Civil Proceedings. [8 marks]
- (c) Distinguish between:
- (i) Capacity and power (2)
 - (ii) Civil law and common law (3)
 - (iii) Personal rights and personality rights (2)
- [25 marks]