

**UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION
ACADEMIC YEAR 2009/2010**

TITLE OF PAPER	:	JURISPRUDENCE
COURSE CODE	:	L502
TIME ALLOWED	:	THREE (3) HOURS

INSTRUCTIONS:

- i. ANSWER QUESTION 1, IN SECTION A, WHICH IS COMPULSORY AND ANY THREE QUESTIONS FROM SECTION B.**
- ii. QUESTION 1 CARRIES A MARK OF 28; ALL OTHER QUESTIONS CARRY 24 MARKS EACH.**
- iii. IN ANSWERING ANY QUESTION, NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.**

YOU ARE NOT ALLOWED TO OPEN THIS PAPER UNTIL PERMISSION TO DO SO HAS BEEN GRANTED BY THE INVIGILATOR(S).

SECTION A

[COMPULSORY QUESTION; YOU MUST ANSWER IT]

QUESTION 1:

“Jurisprudence is a ragbag; into it are cast all kinds of general speculations about the law.... It is a scavenger as well as a ragbag, having no perimeter of its field of inquiry, save that what is studied must have a bearing on some general speculation about law.”
[Harris, J. W., Legal Philosophies, London: Butterworths & Co., 1980, 1]

Critically discuss this statement in the context of any four of the kinds of questions that are usually asked as part of the general speculations about the law and how they relate to the impersonal rational authority of the law.

[28 MARKS]

SECTION B

[ANSWER ANY THREE QUESTIONS FROM THIS SECTION]

QUESTION 2:

On the basis of John Austin’s notion of sovereignty, critically analyse the statement that the conception of the legally unlimited sovereign misrepresents the character of law in modern states, especially democratic ones.

[24 MARKS]

QUESTION 3:

In the context of the Historical School of jurisprudence, F. K. von Savigny developed the *volksgeist* theory.

i. State, without discussing, this *volksgeist* theory.

[6 MARKS]

ii. Critically analyse the implications of the *volksgeist* theory.

[18 MARKS]

QUESTION 4:

In terms of African jurisprudence, and particularly from the Southern African perspective, the concept of *ubuntu* is highly regarded regardless of the view held by some jurists that very little substance has been added to it by jurists and academics. Critically discuss.

[24 MARKS]

QUESTION 5:

From the perspectives of both the natural law school of jurisprudence and the positivist school of jurisprudence, critically analyse the following statement made by Lord Cross in the famous English case of *Oppenheimer v. Cattermole* [1976] A.C. 249: "A law of this sort constitutes so grave an infringement of human rights that the courts of this country ought to refuse to recognise it as a law at all."

[24 MARKS]

QUESTION 6:

The international community has, principally through the United Nations, emphasised that the racial theory of law has no place in the comity of civilised legal principles that underpin the basic dignity and worth of all human beings. Critically discuss.

[24 MARKS]

END

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, 2010 (MAIN)

TITLE OF PAPER : INTERNATIONAL AND REGIONAL ORGANISATIONS

COURSE CODE : L503

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : ANSWER FOUR (4) QUESTIONS
ALL QUESTIONS CARRY EQUAL MARKS

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

QUESTION ONE

It has been said that the drafters of the African Union modelled it on the European Union. Discuss the accuracy of this statement.

(25 Marks)

QUESTION TWO

“The ECJ is no longer alone in establishing a broad jurisdiction over a wide range of economic and related matters. Regional courts or related procedures have begun to spring up in Africa and the Americas” Sands P., and Klein P., *Bowett’s law of International Institutions* 5th ed, Sweet and Maxwell, 2001.

Critically analyse the ECJ and other similar Regional Courts, comparing one to the other.

(25 Marks)

QUESTION THREE

Critically analyse the functionalist and realists theories of international organisations, comparing one to the other.

(25 Marks)

QUESTION FOUR

Critically analyse the effectiveness of the Southern African Customs Union in performing its mandate, making reference to any advantages and/or disadvantages that accrue to Swaziland as a result of its membership in this organisation.

(25 Marks)

QUESTION FIVE

The Bretton Woods Institutions, i.e., the International Monetary Fund and the World Bank, were created to perform particular tasks. In your opinion, have these institutions succeeded in carrying out their mandate? Suggest some ways in which you think these institutions can improve their delivery in terms of their mandate.

(25 Marks)