

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**

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**FIRST SEMESTER FINAL EXAMINATION, DECEMBER 2010**

**TITLE OF PAPER : LEGAL SYSTEMS AND METHOD**  
**COURSE CODE : L 101**  
**TIME ALLOWED : THREE HOURS**  
**INSTRUCTIONS : 1. THE PAPER CONSISTS OF SIX QUESTIONS.**  
**2. ANSWER ANY FOUR QUESTIONS.**

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**QUESTION 1**

- (a) Referring to specific examples and or illustrations, explain the meaning and usefulness of legal theory.

**(10 marks)**

- (b) Against a background of the history of legal education in Swaziland, briefly examine the content of the Strengthened Law Programme of the University of Swaziland.

**(15 marks)**

**QUESTION 2**

Professor Glanville Williams argues that there is no single fixed *ratio decidendi* in a case; that, indeed, a case may have more than one *ratio decidendi*.

Do you agree? Explain, referring to illustrations and at least one case.

**(25 marks)**

**QUESTION 3**

- (a) It has been suggested that the so-called Roman-Dutch law in Swaziland is neither Roman, nor Dutch, nor Roman-Dutch.

Referring to relevant authority, explain and critically discuss the suggestion.

**(15 marks)**

- (c) W. N. Hohfeld explains that the traditional legal pattern of rights and duties conceals a number of differing situations which need to be carefully distinguished for the purpose of legal analysis.

Do you agree? Explain, referring to specific examples and illustrations.

**(10 marks)**

**QUESTION 4**

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“Courts in Swaziland have residual power to protect the moral integrity of society.”  
*Per* a first-year LL.B student at UNISWA.

Referring to authority, critically discuss the quotation.

**(25 marks)**

**QUESTION 5**

- (a) Describe and explain the operation of the doctrine of *stare decisis* in the common law countries, with specific reference to Swaziland.

**(10 marks)**

- (b) How, if at all, is the functioning of precedent/ *stare decisis* different in the civil law countries?

**(10 marks)**

- (c) When, if at all, can a non-legal source be of use to a lawyer *qua* lawyer?

**(5 marks)**

**QUESTION 6**

Distinguish between:

- (a) positivism and naturalism.

**(10 marks)**

- (b) capacity and power.

**(5 marks)**

- (c) personal rights and personality rights.

**(5 marks)**

- (d) Advocate and Attorney.

**(5 marks)**

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