

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION
YEAR:2011

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

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INSTRUCTIONS:

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

YOU MUST NOT OPEN THIS PAPER UNTIL YOU ARE GIVEN PERMISSION TO DO SO BY THE INVIGILATOR(S).

QUESTION 1:

Critically discuss the statement that the international community, acting through the General Assembly of the United Nations has, to a very large extent, responded to the postulates of feminist jurisprudence or the feminist school of jurisprudence through the adoption of the UN Convention on the Elimination of All Forms of Discrimination against Women, 1979, popularly referred to as the Women's Bill of Rights.

[25 Marks]

QUESTION 2

Critically analyse the following statements:

- (a) "Like a harlot, natural law is at the disposal of everyone". [Alf Ross, *On Law and Justice*, 1958, at p.234]

[15 Marks]

- (b) "Jurisprudence is as big as law and bigger". [Quoted in Lloyd and Freedman, *Introduction to Jurisprudence*, 1980, at p.1]

[10 Marks]

QUESTION 3:

Arguably, the precepts or guiding rules of natural law as given by St. Thomas Aquinas are worthy of appreciation. However, they do not, *per se*, offer specific solutions to most problems of day-to-day life in society. Critically discuss this statement.

[25 Marks]

QUESTION 4:

The *Volksgeist* 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 overgeneralization in making this observation. Critically discuss this statement.

[25 Marks]

QUESTION 5:

260

John Dugard has made the following observation in respect of apartheid South Africa:

In May 1948 the National Party came to power. It repudiated any suggestion that law was an autonomous institution committed to the advancement of human rights and principles of fairness. Instead, law became the weapon in the hands of the National Party to achieve a legal order premised on white racial superiority and political repression. Natural law and the rule of law were discarded. Law was simply the will of the National Party.

[Dugard, J., "The Preamble of the Universal Declaration of Human Rights", in Robertson, M. (Ed.), *Human Rights for South Africans*, 1990, at p.16]

With this observation in mind, undertake a critical analysis of the consensus model of society as put forward by Roscoe Pound.

[25 Marks]

QUESTION 6:

Critically analyse the following statement in the context of both the postulates of the Critical Legal Studies' School of jurisprudence and any THREE of the kind of questions that are usually asked as part and parcel of general speculations about the law, i.e., the general concerns of jurisprudence, as set out by Professor J. W. Harris:

White people held (and hold) land, economic and political power in this country and legal education at South African Universities has been generally aimed at satisfying the needs of the white society... The curricula and syllabuses were drawn up by white academics. There have been relatively few black legal academics, and those few could not have influenced the course of legal education... Law in South Africa has been taught in the abstract, divorced from its social context.

[Dlamini, C. R. M., "The Law Teacher, the Law Student and Legal Education in South Africa", 1992 (109) SALJ, at p.595]

[25 Marks]

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