

UNIVERSITY OF SWAZILAND

110

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION, JULY 2012

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.**

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR.

QUESTION 1

- (a) Describe and explain the operation of stare decisis in the common law countries, with specific reference to Swaziland. [10 marks]
- (b) How, if at all, is the functioning and content of stare decisis different in the Civil Law countries? [10 marks]
- (c) How and why should one distinguish between primary and secondary sources of law? [5 marks]
[25 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 so-called Roman-Dutch common law in Swaziland, is neither Roman nor Dutch; nay it is not really Roman-Dutch".

Per an LL.B. (I) student at UNISWA.

Do you agree? Explain. [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

- (a) Explain why litigation is not always the best way of resolving legal disputes, and highlight three alternative methods of resolving the same. [8 marks]

- (b) Briefly explain the purpose of the pleadings stage in action proceedings. [5 marks]
- (c) Outline the content of action proceedings. [12 marks]
[25 MARKS]

QUESTION 6

- (a) Explain the meaning of, and necessity for, delegated legislation, and state the pre-requisites for its validity. [10 marks]
- (b) It has been said that while real rights are absolute and in rem, personal rights are relative.

Do you agree? Explain, referring to at least 3 specific illustrations. [15 marks]
[25 MARKS]