

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION PAPER
JULY 2013

TITLE OF PAPER	:	LEGAL SYSTEMS AND METHODS
COURSE CODE	:	L101
TIME ALLOWED	:	THREE (3) HOURS

INSTRUCTIONS:

- i. ANSWER ANY FOUR (4) QUESTIONS.**
- ii. EACH QUESTION CARRIES A MARK OF TWENTY-FIVE (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 GRANTED PERMISSION TO DO SO BY THE EXAMINATION INVIGILATOR(S).

QUESTION 1:

(a) State, without discussing or analysing, any FIVE of the types of questions that are usually asked as part and parcel of the general speculations about the law, i.e., the general concerns of the philosophy of law, as set out by Professor J. W. Harris. [5 Marks]

(b) Paragraph 4 of the Preamble of the Constitution of the Kingdom of Swaziland Act No. 1 of 2005 states:

Whereas it has become necessary to review the various constitutional documents, decrees, laws, customs and practices so as to promote good governance, the rule of law, respect for our institutions and the progressive development of the Swazi society.

Critically analyse this objective of the Constitution in the context of the criticisms levelled at Formalism-in-Law or the Formalist theory of law by jurists, in general, and advocates of Legal Realism or the Realist-Movement-in-Law, in particular. [20 Marks]

[25 MARKS]

QUESTION 2:

(a) Distinguish legal sources of law from non-legal sources of law and indicate the relevance of non-legal sources of law in the solution of legal problems. [9 Marks]

(b) Compare and contrast a Consolidating Statute and a Codifying Statute. [8 Marks]

(c) Briefly explain authentic interpretation of statutes. [4 Marks]

(d) State, without discussing or analysing, any TWO forms or types of authentic interpretation of statutes. [4 Marks]

[25 MARKS]

QUESTION 3:

(a) Briefly discuss any THREE of the general criticisms levelled at traditional legal language and legal writing or drafting. [9 Marks]

(b) Discuss the essentials of good bill drafting as advocated by Plain Language Movement advocates. [16 Marks]

[25 MARKS]

QUESTION 4:

(a) Explain how the Golden Rule of statutory interpretation is related to the Literal Rule of statutory interpretation. [9 Marks]

(b) Critically discuss the statement that the legally binding effect of a precedent can be avoided by a Court otherwise bound to follow such precedent through the mechanism of distinguishing of cases. [8 Marks]

(c) Distinguish between international law and domestic law. [8 Marks]

[25 MARKS]

QUESTION 5:

(a) Critically discuss the view held by some jurists, legislators, cabinet members and some members of the general public that case law is a blatant usurpation by the judiciary of the legislative powers of legislatures or law-making bodies. [9 Marks]

(b) Critically discuss the statement that the very heated public disagreements on issues of governance between Swaziland's Prime Minister, Head of His Majesty's Government and the Chairman of Ligoqo, His Majesty's advisory body, in the latter half of the year 2012 were clear manifestations of the inherent frictions in the constitutional dimensions of legal dualism in Swaziland. [16 Marks]

[25 MARKS]

QUESTION 6:

(a) Discuss the concept of equality as a general underpinning of law. [8 Marks]

(b) Discuss the traditional distinction that is drawn or made between kinds of legal objects, that is, entities to which legal subjects can acquire subjective rights. [8 Marks]

(c) Critically discuss negotiation, mediation and arbitration as alternative dispute resolution methods, which lawyers, courts of law and the general public are increasingly favouring over litigation in the settlement of legal disputes. [9 Marks]

[25 MARKS]

=====END=====