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UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER
YEAR 2013

TITLE OF PAPER : **JURISPRUDENCE**
COURSE CODE : **L 502**
TIME ALLOWED : **THREE (3) HOURS**

INSTRUCTIONS:

- (i) **ANSWER ANY FOUR (4) QUESTIONS.**
- (ii) **EACH QUESTION CARRIES 25 MARKS.**

THIS PAPER MUST NOT BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR(S).

QUESTION 1

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

(a) State, without discussing, this *volksgeist* theory. (5 Marks)

(b) Critically analyse the implications of the *volksgeist* theory. (20 Marks)

QUESTION 2

(a) Critically discuss the three principal assumptions that characterise the Marxist theory of law (15 Marks)

(b) Briefly, but critically, discuss the following aspects of Marxist jurisprudence:

(i) Marxist perception of the state and law; (5 Marks) and

(ii) Marxists' prediction for the state and law. (5 Marks)

QUESTION 3

The bases of the racial theory of law are highly offensive to the fundamental principles of the concept of human rights. It is no wonder then that the international community has, principally through the United Nations, emphasised that this theory of law has no place in the comity of civilised nations. Critically discuss this statement. (25 Marks)

QUESTION 4

The Constitution of the Kingdom of Swaziland Act, 2005 (Act No.1 of 2005), provides in its Sections 20(1) and 28(1), which appear under the Constitution's Chapter 3 (titled "Protection and Promotion of Fundamental Rights and Freedoms") as follows:

S.20 (1) All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.

S.28 (1) Women have the right to equal treatment with men and that right shall include equal opportunities in political, economic and social activities.

With the aid of locally decided cases, critically discuss whether through these provisions of the Constitution the Kingdom of Swaziland has responded adequately to the postulates or concerns of feminist jurisprudence within its jurisdiction. ²³⁴ (25 Marks)

QUESTION 5

The conception of the legally unlimited sovereign misrepresents the character of law in modern states.

- (a) Name the author of this statement. (3 Marks)
- (b) Critically analyse the jurisprudential underpinnings of this statement. (22 Marks)

QUESTION 6

Currency notes and coins are legal tender, i.e., they can be legally used to pay for things in a particular country. The following statements appear on currency notes in Swaziland and the United States of America.

- (a) Swaziland: "GOD IS OUR SOURCE";
(b) United States of America: "IN GOD WE TRUST".

Consider the above statements against the following questions:

- (i) State, without discussing, the school of jurisprudence to which these statements directly relate (2 Marks)
- (ii) Briefly discuss how the entity called GOD features in the postulates of this school of jurisprudence. (8 Marks)
- (iii) Critically discuss the main jurisprudential objections raised against the place of GOD in the postulates of this school by any two other schools of jurisprudence. (15 Marks)

END
