

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

FINAL EXAMINATION PAPER, DECEMBER 2016

TITLE OF PAPER: LEGAL METHODS

COURSE CODE: LAW 101

TIME ALLOWED: THREE (3) HOURS

INSTRUCTIONS: ANSWER QUESTION 1, (WHICH IS COMPULSORY), AND ANY
THREE (3) OTHER QUESTIONS OF YOUR CHOICE.

TOTAL NUMBER OF QUESTIONS TO BE ANSWERED ARE FOUR.

DO NOT BE OPEN THE QUESTION PAPER UNTIL PERMISSION HAS BEEN GIVEN
BY THE CHIEF INVIGILATOR.

QUESTION ONE (COMPULSORY)

An unending debate, in the study of the law, is whether it (law) should be used to enforce morality. This is at the centre of the Hart-Devlin debate. In this regard, reference is being made to the local case of *R v Betty Motsa, 1970-1976 SLR 200 (HC)*. It is assumed you have read it and are familiar with its facts, and conclusion.

Discuss how in that case the debate was resolved, pointing out, as well, what had presented itself in the case, as competing with the law. Avoid a repetition of the facts of the case.

[25 marks]

QUESTION TWO

Besides law, in the strict sense, there are other normative systems by which society regulates the conduct of human beings.

- a) State what these other normative systems are. [5 marks]
- b) What do they share (in common) with law? [10 marks]
- c) What distinguishes them or sets them apart from law? [10 marks]

[25 marks]

QUESTION THREE

The 2005 Constitution of the Kingdom of Swaziland declares itself as supreme in the hierarchy or order of laws in the country. Discuss what this supremacy means and how the Constitution relates to the other laws.

[25 marks]

QUESTION FOUR

Write short explanatory notes on the following:

- a) An uncodified legal system. [5 marks]
- b) Positive law. [5 marks]
- c) A source of law. [5 marks]
- d) Justice. [5 marks]
- e) Natural law. [5 marks]

[Total marks:25]

QUESTION FIVE

Dealing with the necessity of law in society, different authors have pointed out that it is “the warp and woof of social life” or, “the cement/glue that binds society.” Continuing on this, one author has said: “Far from being concerned with with a narrowly circumscribed area, it is all-pervasive. It is not only concerned with the pathology of society, but with its physiology as well.”

Broadly building up on this, discuss what the necessity of law in society is, and how it achieves that necessity.

[25 marks]

QUESTION SIX

In *Donoghue v Stevenson*, [1932] A.C. 562 there is illustrated how simple things may lead to results of importance in the law. Crucial in that case was the legal concept of negligence and how it arises, at least in a legal sense, in given legal relations.

Concerning the case, discuss how Lord Atkin, in his speech, expressed himself on how a legal duty (also called a legal duty of care) arises in human relations.

[25 marks]