

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

**RE-SIT EXAMINATION PAPER, JULY 2017**

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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)**

Dealing with the purpose and function of law Lord Justice Denning, as then he was, once wrote in 1954,

“The law as I see it has two great objects: to preserve order and to do justice; and the two do not always coincide. Those whose training lies towards order, put certainty before justice; whereas those whose training lies towards the redress of grievances, put justice before certainty. The right solution lies in keeping the proper balance between the two.”

Narrowing ourselves to order, for a moment, broadly discuss this object and how law goes about ensuring the maintenance of peace and order.

[25 marks]

### **QUESTION TWO**

Giving day-to-day examples, discuss the three ways in which morality manifests itself.

[25 marks]

### **QUESTION THREE**

In a famous passage, Sophocles makes Antigone express his belief in the eternal, unwritten law, as opposed to the written, mutable law of man. When Creon, King of Thebes, asks Antigone why she buried the corpse of her traitor brother, Polynices, in defiance of the order to expose it to the vultures and dogs, she replies:

‘Nor did I deem that thou, a mortal man,  
Could’st by a breath annul and override  
The immutable, unwritten laws of heaven.’

Emerging from the above passage, and given what you have learned about the law:

(a) Discuss what, in the passage, is represented by the two challengers, Antigone and King Creon?

[10 marks]

(b) Supporting your position, what do you consider should be legally done to Antigone for her defiance of the King’s order?

[15 marks]

[Total marks 25]

#### **QUESTION FOUR**

What do you understand the term, postulates of justice, to mean? Discuss fully, listing the required elements.

**[25marks]**

#### **QUESTION FIVE**

Discuss how Swazi law and custom, a source of law, relates to the Constitution in the arrangement of the legal system in Swaziland. In doing so, bear in mind the relevant provision in the Constitution.

**[25 marks]**

#### **QUESTION 6**

Write short explanatory notes on the following:

- a) A primary source of law. **[5 marks]**
- b) A codified legal system. **[5 marks]**
- c) A secondary source of law. **[5 marks]**
- d) *Lex fundamentalis*. **[5 marks]**
- e) Precedent. **[5 marks]**

**[Total marks:25]**