

**UNIVERSITY OF SWAZILAND**

**DEPARTMENT OF LAW**

**MAIN EXAM PAPER**

<b>Programme of Study</b>	<b>:</b>	<b>LLB (N/P) I &amp; JMC 1</b>
<b>Title of Paper</b>	<b>:</b>	<b>LEGAL SYSTEMS</b>
<b>Course Code</b>	<b>:</b>	<b>LAW 101</b>
<b>Time Allowed</b>	<b>:</b>	<b>3 Hours</b>

**INSTRUCTIONS:**

1. Answer Question 1 (Compulsory) plus any three (3) other Questions
2. Each question carries 25 Marks.
3. In answering any question make sure that you write legibly, your expression is clear, and that you refer to applicable case law.
4. Begin each question on a new page.

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

**QUESTION 1 (COMPULSORY)**

According to John Stuart Mill, socially deviant behaviour or generally unacceptable conduct should be criminalised or be regulated when it is calculated to cause harm to others.

Critically analyse this statement in light of the Wolfenden Committee Report as well the subsequent Hart-Devlin debate. In your analysis refer to case law.

**[25 MARKS]**

**QUESTION 2**

With reference to case law where applicable, differentiate between:

- |   |           |
|---|-----------|
| (A) Public and private law.                           | [5 Marks] |
| (B) Procedural and substantive law.                   | [5 Marks] |
| (C) Common law and civil law.                         | [5 Marks] |
| (D) International law and national law.               | [5 Marks] |
| (E) <i>Ratio decidendi</i> and <i>Obiter dictum</i> . | [5 Marks] |

**[TOTAL: 25 Marks]**

**QUESTION 3**

From your study of sections 2(1), section 252 (1)-(3) and section 268 of the Constitution of Swaziland, what do you understand to be the legal effect of the Constitution on the other primary sources of law in Swaziland?

**[TOTAL: 25 MARKS]**

**QUESTION 4**

Clearly outline and explain the five postulates of justice.

**[25 MARKS]**

**QUESTION 5**

Define judicial precedent and describe the circumstances that may lead to judge-made law.

**[25 MARKS]**

**END OF PAPER**