

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

RE-SIT EXAM PAPER

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

INSTRUCTIONS:

1. Answer Question 1 (Compulsory) plus any (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.

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QUESTION 1 (Compulsory)

The courts have attempted to use law to enforce morality, even in cases where there was no clear basis to do so. Critically analyse this statement and refer to case law.

[25 MARKS]

QUESTION 2

Describe the sources of law in Swaziland in order of hierarchy.

[25 MARKS]

QUESTION 3

According to Glanville Williams, the *ratio decidendi* of a case is not necessarily the rule of law stated by the Judge presiding over a case.

Do you agree? Explain, referring to the reasoning in *Donoghue v Stevenson*, [1932] All ER 1 and, in *Wilkinson v Downton*, [1987] 2QB57.

[25 MARKS]

QUESTION 4

- (a) Referring to authority, explain and critically discuss the law relating to independence of the Judiciary in Swaziland.

[15 marks]

- (b) Distinguish between formal justice and substantial justice.

[10 marks]

[25 MARKS]

QUESTION 5

Give a brief explanation of the following:

- (a) Preparing a case brief. [5 Marks]
(b) The distinction between primary and secondary sources of law. [5 Marks]
(c) *Stare decisis*. [5 Marks]
(d) Custom as a source of law. [10 Marks]

[25 MARKS]

END OF PAPER