

UNIVERSITY OF SWAZILAND  
FACULTY OF SOCIAL SCIENCE  
DEPARTMENT OF LAW

RE-SIT EXAMINATION PAPER, JANUARY 2019

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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)**

*Donoghue v Stevenson*, [1932] A.C. 562 brilliantly illustrates to the beginner of legal study how simple things may lead to results of importance in the law. Crucial in that case was the development of the legal rule or principle on wrongdoing (tort or delict) and how it arises – at least in a legal sense – in given legal relations.

Discuss what had happened in that case and how the House of Lords, particularly through the speech of Lord Atkin, expressed itself on how a legal duty (also called a legal duty of care) arises in the affairs of human relations/human beings.

**[25 marks]**

### **QUESTION TWO**

The Kingdom of Eswatini's legal system is an array of sources of law some of which do not always 'agree' (actually clash) with one another. This is prominently the case as between Swazi law and custom, on the one hand, and the Constitution, statute law and Roman-Dutch common law, on the other. In that given scheme of things the Constitution, which stands as the supreme law, offers some way out of this difficulty.

With a mention of the relevant provisions, discuss how the Constitution has determined to resolve the practical legal dilemmas that, now and again, show up.

**[25 marks]**

### **QUESTION THREE**

In *Jooste v Botha* [2000] JOL 5943 (T), the case that was reported in one online newspaper with the headline: 'Naas doesn't have to love on - Judge', the difficulty encountered when a court is confronted with a problem for which there is no legal solution is laid bare.

- a) With an introduction of what the story (facts) behind the problem was, explain why the judge came to the conclusion that the court was unable to 'solve the problem' in that case.

**[12.5 marks]**

- b) Explain whether you agree with the judge's approach and his reasons for dismissing the claim.

**[12.5 marks]**

**[Total marks: 25]**

**QUESTION FOUR**

Write short explanatory notes on the following:

- a) A primary source of law. **[5 marks]**
- b) Equality. **[5 marks]**
- c) Non-legal law source. **[5 marks]**
- d) Legislation. **[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]**