



**UNIVERSITY OF ESWATINI  
INSTITUTE OF DISTANCE EDUCATION  
BACHELOR OF LAWS/DIPLOMA IN LAW  
FINAL EXAMINATION PAPER NOVEMBER 2019**

TITLE OF PAPER: LEGAL SYSTEMS

COURSE CODE : IDE –LAW 101

TIME ALLOCATION: THREE (3) HOURS

**INSTRUCTION: ANSWER QUESTION 1 AND THREE OTHER  
QUESTIONS**

TOTAL MARKS: 100

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## QUESTION 1

Two accused persons were convicted under the fisheries Ordinance 30 of 1920 in that they had fished unlawfully for crayfish. In addition to the sentence, the magistrate had ordered that the boat in which they had conducted the fishing operations must be forfeited to the state in terms of section 25(b). This section stated that “the Court may, at its discretion order the forfeiture of any nets or implements used in connection with the offence, and, in the case of a second or subsequent conviction, may order the forfeiture of any boats or gear so used.”

The issue here was that the boat belonged to a third party who had not been a party to the fishing. The prosecutor had applied for the forfeiture of the boat and the accused argued that the section was never intended by the legislature to apply to punish individuals not otherwise involved in the illegal act.

Referring to decided cases regarding the Rules of Statutory Interpretation discuss how you would interpret section 25 (b) and decide the matter. [25 marks]

## QUESTION 2

The law is but one social control mechanism. It is considered the most effective social control mechanism. Discuss the principal differences between law and morals. [25 marks]

## QUESTION 3

- a) State the two (2) forms of proceedings under litigation. [4]
- b) State five (5) disadvantages of litigation. [10]
- c) What procedure may a litigant follow after the delivery of a judgment in court? [4]
- d) What are the two main branches of the law? [2]
- e) List five types of Statutes. [5]

[TOTAL 25 marks]

#### QUESTION 4

An ordinary bill will typically go through certain stages in Parliament. Discuss these stages.

[25 marks]

#### QUESTION 5

- a) The modern tendency is to move away from the literal approach to statutory interpretation. State three inherent weaknesses of the literal or plain meaning rule of statutory interpretation. [10]
- b) State three (3) reasons that have caused courts to interpret the meaning of words or phrases contained in a statute. [10]
- c) What do the following maxims mean:
- i) Statues *in pari materia*; [2]
  - ii) *Expressio unius est exclusion alterius*. [3]

[TOTAL MARKS 25]

#### QUESTION 6

- a) Distinguish between procedural law and substantive law. [5]
- b) Common law to a modern lawyer may also mean a body of legal rules that is not derived from statute or parliamentary legislation. Briefly elaborate what this means. [10]
- c) Using examples discuss that distinction between public law and private law. [10]

[TOTAL MARKS 25]