



UNIVERSITY OF ESWATINI

FIRST SEMESTER MAIN EXAMINATION PAPER, NOVEMBER 2019

FACULTY OF SOCIAL SCIENCES

DEPARTMENT OF LAW

COURSE CODE: LAW509

TITLE OF PAPER: JURISPRUDENCE I

TIME ALLOWED: 3 HOURS

Instructions

1. Answer any four (4) questions.
2. Each question carries a total of 25 marks.
3. In answering any question, note that the quality of the content, clarity of expression and legibility of handwriting are absolutely essential.
4. Refer to legal authority to support your answers.

*Candidates may complete the front cover of their answer book when instructed by the Chief Invigilator and sign their examination attendance cards but must **NOT** write anything else until the start of the examination period is announced.*

No electronic devices capable of storing and retrieving text, including electronic dictionaries and any form of foreign material may be used while in the examination room.

DO NOT turn examination paper over until instructed to do so.

QUESTION ONE

Critically discuss the statement that the legal philosophy of St. Thomas Aquinas in some respects bear close relation to the kind of questions that are usually asked as part and parcel of general speculations about the law, i.e., the general concerns of jurisprudence set out by Professor J.W Harris.

[25MARKS]

QUESTION TWO

In 1857, the United States Supreme Court led by Chief Justice Roger B. Taney declared in *Dred Scott v Sanford* that blacks had no rights which the white man was bound to respect. According to the Court, this decision was universal and axiomatic.

In the light of this statement, undertake a critical analysis of the consensus model of society as put forward by Roscoe Pound.

[25MARKS]

QUESTION THREE

Discuss the statement by Professor Hart that 'law may most illuminatingly be characterised as a union of primary rules of obligation ... with secondary rules.'

[25MARKS]

QUESTION FOUR

A famous American judge, Oliver Wendell Holmes, remarked that law is not logic, but is based on experience – 'the felt necessities of the time,' dominant moral and political conditions, intuitions and 'even the prejudices which judges share with their fellow-men' have much more to do with how a case is determined.

Critically discuss this statement in the context of the postulates of formalism in law.

[25 MARKS]

QUESTION FIVE

With reference to locally decided cases, discuss how the new constitutional dispensation of eSwatini has discredited the essence of maleness which is revealed in African Jurisprudence.

[25 MARKS]