



**UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
BACHELOR OF LAWS/DIPLOMA IN LAW
RESIT EXAMINATION PAPER SEPTEMBER 2021**

TITLE OF PAPER: LEGAL SYSTEMS

COURSE CODE : IDE -LAW101

TIME ALLOCATION: THREE (3) HOURS

**INSTRUCTION: ANSWER QUESTION 1 (COMPULSORY) AND THREE
OTHER QUESTIONS**

TOTAL MARKS: 100

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION IS GIVEN BY THE
INVIGILATOR.**

QUESTION 1

It has been said that judges do not make law; that the task of law making is exclusively for parliament. Do you agree? Explain referring closely to the case of *Donoghue v Stevenson*. [25 marks]

QUESTION 2

- a) With the aid of illustrations, fully distinguish between Public and Private law. [20 marks]
- b) Differentiate Procedural law from Substantive law. [5 marks]
- [25 marks]

QUESTION 3

- a) Discuss the facts, the principle and overall decision in the case of *Shaw v DPP* [1961] ALL ER 446 [15 marks]
- b) Given the social and cultural context of Eswatini can the principle in this case be positively applied in this country? [10 marks]
- [25 marks]

QUESTION 4

Give a full discussion of the sources of law in Eswatini. [25 marks]

QUESTION 5

The Wolfenden Committee Report and the Hart Devlin Debate read together with relevant case law (*Shaw v DPP* and *R v Brown*) all address the issue of the conflict between morality and the law. The moral code describes a set of rules, beliefs, values, principles, and standards of behaviour that a

particular social group observes. Whether behaviour is good or bad depends on the values ascribed to it by society or a particular social group. Should law enforce morals or should morals be punishable by law?

Referring to the cited authorities and also taking into cognisance the subject of victimless crimes, give a detailed discussion and conclude by rendering your opinion on the subject. [25 marks]