

UNIVERSITY OF SWAZILAND

INSTITUTE OF DISTANCE EDUCATION

DEPARTMENT OF LAW

FINAL EXAMINATION MAY 2009

TITLE OF PAPER: SWAZI LAW AND CUSTOM

COURSE CODE: DL 012

TIME ALLOWED: 2 HOURS

- INSTRUCTIONS:**
- 1. THERE ARE FIVE QUESTIONS IN THIS EXAMINATION PAPER. ONLY THREE QUESTIONS MUST BE ANSWERED.**
 - 2. QUESTION ONE (1) IS COMPULSORY AND CARRIES 34 MARKS. ALL OTHER QUESTIONS CARRY 33 MARKS.**
 - 3. QUESTION ONE (1) MUST BE ANSWERED IN ADDITION TO ANY OTHER TWO QUESTIONS.**

TOTAL MARKS: 100

THIS PAPER SHOULD NOT BE OPENED UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR.

Question 1

Swaziland has a dual land tenure system. Discuss how land acquisition takes place under each land tenure system.

(33 Marks)

Question 2

Codification of Swazi Law and Custom has been proposed to be a long lasting solution towards the preservation of customary law. What are the advantages and disadvantages of codifying customary law? In your opinion, which specific areas of our customary law require codification and why?

(33 Marks)

Question 3

Customary law was co-opted into the Swaziland legal system with specific statutory conditions. What are these conditions? What is the position of our Constitution with regard to these conditions?

(33 marks)

Question 4

The dual legal system also imposed its remnants on the marriage institution in Swaziland. Discuss the proprietary consequences of marriage under both marriage regimes.

(33 marks)

Question 5

What is the order of succession in the following situations, and what are the legal rights for the individuals involved?

- (a) A case begins from the Swazi Court. What other structures does it pass through before it can reach the High Court?

(7 marks)

- (b) What is a will? What are the formalities for executing a soldier's will?

(7 marks)

- (c) What do you understand by testate and intestate succession?

(7 marks)

- (d) What do you think are the most reliable sources of customary law?

(7 marks)

- (e) In your opinion, what are the similarities and differences between marriage in community of property and customary law marriage?

(5 marks)

(Total Mark 33)