

Course Code: L104 (S) 2011

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UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2011

TITLE OF PAPER : THE PRINCIPLES OF SWAZI LAW AND CUSTOM

COURSE CODE : L104

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- (1) ANSWER ANY FOUR (4) QUESTIONS.**
- (2) MARKS ARE INDICATED AT THE END OF EACH QUESTION.**
- (3) CANDIDATES ARE THEREFORE ADVISED TO ALLOCATE THEIR TIME ACCORDINGLY.**

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QUESTION 1

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Sipho married Thoko by civil rites in 1990. In 2010 Sipho took another wife, Thembi, by Swazi Law and Custom.

Who is the legal wife to Sipho?

QUESTION 2

Jele met Gcina when they were both working for Fridgemaster at the Matsapha Industrial Estate. When the company ceased operations thus rendering the workers jobless, Jele took Gcina and their two children to his parental home at Piggs Peak. Gcina diligently performed all the duties of a wife with the hope that Jele will make her his lawful wife. After 10 years of such cohabiting Gcina raised her concerns over the fact that Jele was doing nothing towards legalizing their relationship.

Whereupon Jele sent three cows to Gcina's parental homestead and did nothing more.

Gcina has now since returned to her parental home stating that she is not legally married to Jele and that she is free to marry any man of her choice.

Advise Jele supporting your answer with legislation and decided cases. [25 MARKS]

QUESTION 3

Why is the custom of levirate (kungenwa) seen as violating the rights of women? [25 MARKS]

QUESTION 4

Discuss one (1) real case scenario where Swazi Law and Custom was seen as undermining the rule of law. [25 MARKS]

QUESTION 5

What is the history of the repugnancy clause and what does it entail. [25 MARKS]