

UNIVERSITY OF SWAZILAND  
INSTITUTE OF DISTANCE EDUCATION  
DEPARTMENT OF LAW  
SUPPLEMENTARY EXAMINATION JULY, 2013.

TITLE OF PAPER: SWAZI LAW AND CUSTOM  
COURSE CODE : DL012  
TIME ALLOWED : 2 HOURS  
INSTRUCTIONS :  
1. THERE ARE FIVE QUESTIONS IN THIS PAPER AND THREE QUESTIONS MUST BE ANSWERED  
2. QUESTION ONE IS COMPULSORY AND CARRIES 34 MARKS.  
TOTAL MARKS: 100

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

### **QUESTION ONE**

Siphesihle is a staunch member of the a community of people who the belief that the birth of a child who has some deformities is bad luck. So the child must be abandoned in a secluded place immediately. They assert that this has their customary practice which they inherited from their forefathers.

It was on the basis of this customary practice and belief that Siphesihle took his third wife's child who was born with a left palate and left her in a forest.

Siphesihle was convicted after Phumlile Xaba raised an alarm on discovering the child in the forest. In mitigation, Siphesihle stated that this as a practice that the community. In which he came from from have always upheld and respected. They saw nothing illegal about it as their forefathers practiced it too.

You are assigned to convene a meeting with memebbers of Siphesihle's community and explain to them amongst other things, the recognition and Application of customary law in Swaziland.

(34 marks)

### **QUESTION 2**

Discuss in details the most distinguishable features between the two marriage regimes of Swaziland.

(33marks)

### **QUESTION 3**

3.1 Sandile Mkhonta dies intestate and leaves behind two wives. He had married the first wife by civil rites, in community of property. The second wife was married to him by Swazi Law and Custom. Both wives have three minor children between themselves. State how each wife and her

children will benefit from the inheritance property of Sandile.

(8 marks)

3.2 Nhlanhla Phiri a Swazi traditionalist, is a staunch believer in, and practitioner of polygamy is married to 5(five) wives. All five wives are professionals and businesswomen. Wife number three passes way leaving behind two minor children. Nhlanhla Phiri had built each one of his wives her own separate homestead. He is now embroiled in a serious conflict with his in-laws after taking another wife to look after the minor children of the deceased wife. Nhlanhla's request for an inhlanti from his deceased wife's family had been unsuccessful after the girl identified for the position had refused.

Advise on the position of the law in this scenario and state the applicable law.

(8 marks)

3.3 What are the major distinguishing features between marriage by civil rites and marriage by Swazi Law and Custom.

(10 marks)

3.4 What is a will? What are the formalities of executing a soldier's will.

(7 marks)

#### **QUESTION 4**

The testation laws of the country prohibits some individuals from benefiting in a testator's will. Who are these individuals, and what is the justification behind their prohibition.

(33marks)

#### **QUESTION 5**

Critically discuss the two systems of land acquisition in Swaziland.

(33 marks)