

**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION PAPER, MAY 2005**

**TITLE OF PAPER** : **PRINCIPLES OF CUSTOMARY LAW**

**COURSE CODE** : **DL 012**

**TIME ALLOWED** : **THREE (3) HOURS**

**INSTRUCTIONS** :

1. **THERE ARE FIVE (5) QUESTIONS IN THIS PAPER EACH QUESTION CARRIES 25 MARKS.**
2. **QUESTION ONE (1) IS COMPULSORY AND MUST BE ANSWERED. IN ADDITION ANSWER ANY OTHER THREE (3) QUESTIONS.**

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

**QUESTION 1**

Critically evaluate the Swazi Administration Order of 1998 and state whether in your opinion all the criticism raised against it is justified (you may suggest possible amendments where appropriate).  
[25 MARKS]

**QUESTION 2**

(a) Describe the functions and powers of a Chief in terms of the Swazi Administration Order No. 6 of 1998. (15 marks)

(b) What laws is the Chief's court empowered to administer in terms of the Swazi Administration Order No.6 of 1998. (10 marks)

[25 MARKS]

**QUESTION 3**

(a) Define marriage under Swazi Law and Custom. (5 marks)

(b) Give two (2) degrees of relationships within which persons may not marry under the Marriage Act of 1964. (5 marks)

(c) What is the meaning of the word collation in the law of succession. (5 marks)

(d) What are the grounds of divorce under the common law. (5 marks)

(e) Distinguish between customary law and Swazi Law and Custom. (5 marks)

[25 MARKS]

**QUESTION 4**

(a) What is meant by dual legal system? (4 marks)

(b) What is meant by the "repugnancy clause" and what is its statutory basis in Swaziland? (9 marks)

(c) A case begins at the Chief's court. What other courts must it go through before it reaches the High Court. (12 marks)

[25 MARKS]

**QUESTION 5**

- (a) What do you understand by intestate succession and what are the two main sources of the Swazi Law of Succession? (7 marks)
- (b) Describe the order of succession on intestacy in the following situations:-
- i. When the deceased leaves descendants but no surviving spouse. (7 marks)
  - ii. Where the deceased leaves no blood relatives and no surviving spouse. (4 marks)
  - iii. Where the deceased leaves descendants and a surviving spouse. (7 marks)
- [25 MARKS]**