

**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION, MAY 2007**

**TITLE OF PAPER : SWAZI LAW AND CUSTOM**

**COURSE CODE : DL 012**

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

**INSTRUCTIONS :**

- 1. THERE ARE FIVE QUESTIONS IN THIS PAPER. EACH QUESTION CARRIES 25 MARKS.**
- 2. QUESTION ONE IS COMPULSORY AND MUST BE ANSWERED IN ADDITION TO ANY OTHER THREE QUESTIONS. THE TOTAL NUMBER OF QUESTIONS TO BE ANSWERED IS FOUR.**

**TOTAL MARKS : 100.**

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

### QUESTION 1

Swazi law and custom by its very nature is dynamic and flexible. It has been argued by some scholars that Swazi law be codified to be easily ascertainable. What are the advantages and disadvantages of codifying Swazi customary law?

(25 MARKS)

### QUESTION 2

Swaziland is in the unhappy position of having no comprehensive texts concerned with customary law and very little in the way of precedent.

Critically discuss the above statement, tracing in a well organized and summarized form, how Swazi law and custom is ascertained.

(25 MARKS)

### QUESTION 3

Titi and Sam are young professionals who have just finished their post graduate degree in commerce at the University of Swaziland. They are planning to get married. They come to you for advice as they intend to get married under the Marriage Act No.47 of 1964.

Advice them of:

- a) The personal and proprietary consequences of marriage under the Act.
- b) The grounds upon which their marriage can be terminated.

(25 MARKS)

### QUESTION 4

- a) What is a will? (5 Marks)
- b) Identify three ways in which a will can be validly altered (5 Marks)
- c) Who can execute a valid will in terms of the law? (5 Marks)
- d) Give three instances in which a codicil may be valid even though executed without witnesses. (5 Marks)
- e) What is a soldier's will? (5 Marks)

(TOTAL 25 MARKS)

### QUESTION 5

- a) What is meant by a dual legal system? (5 Marks)
- b) What do you understand by the repugnancy clause and what is its statutory basis in Swaziland? (10 Marks)
- c) What do you understand by intestate succession and what are the two main sources of the Swazi law of succession? (10 Marks)

(TOTAL 25 MARKS)