

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

The Colonial governments were in no position to impose western law on the African subjects and they were wary of antagonizing a potentially rebellious people by forcing alien institutions on them.

Critically discuss the above statement tracing in a well organized and summarized form, the historical recognition and application of customary law in Swaziland.

(25 MARKS)

### QUESTION 2

- a) Define marriage under swazi law and custom. (5 Marks)
- b) A case begins at the Chief's court. What other courts must it go through before it reaches the High Court? (5 Marks)
- c) Give two degrees of relationships within which persons may not marry under the Marriage Act No.47 of 1964. (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)

(TOTAL 25 MARKS)

### QUESTION 3

- a) What do you understand by inter state succession, and what are the two main sources of the law of succession in Swaziland?
- b) Describe the order of succession on intestacy in the following situations:
  - i.) When the deceased died intestate leaving a spouse and children
  - ii.) When the deceased who was married in community of property died testate having bequeathed half the estate to a distant cousin.

(25 MARKS)

### QUESTION 4

Describe the constitution and jurisdiction of the Swazi courts. What law is this court authorized to apply?

(25 MARKS)

### QUESTION 5

- a) Describe the powers and functions of a chief in terms of the Swazi Administration Order No. 6 of 1998.
- b) What is meant by the "repugnancy clause"? What is its statutory basis in Swaziland? (25 MARKS)