

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
FINAL EXAMINATION

TITLE OF PAPER : SWAZI LAW AND CUSTOM

COURSE CODE : DL012

TIME ALLOWED : 2 HOURS

- INSTRUCTIONS :**
1. THERE ARE 5 QUESTIONS IN THIS PAPER. EACH QUESTION CARRIES 33 MARKS.
 2. QUESTION ONE (1) IS COMPULSORY AND CARRIES 34 MARKS.
 3. QUESTION ONE MUST BE ANSWERED IN ADDITION TO ANY OTHER TWO QUESTIONS.
 4. THE TOTAL NUMBER OF QUESTIONS TO BE ANSWERED IS THREE (3).

TOTAL MARKS :100.

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

QUESTION ONE

“The colonial government initially co-opted customary law and indigenous courts into the state legal system to allay potential unrest and to preserve the indigenous social formation.”

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

(34 marks)

QUESTION TWO

Legal scholars have advanced different arguments on the advantages and disadvantages of codifying Swazi law and custom. Do you think it could work to the advantage of the Swazis to have Swazi Law and Custom codified? Give reasons for your answer.

(33 marks)

QUESTION THREE

Marriage by Swazi Law and Custom is basically a union between the two families of the couple. This is not so with marriage by civil rites. Discuss the personal and proprietary consequences of marriage by civil rites in Swaziland.

(33 marks)

QUESTION FOUR

What is meant by the following phrases in customary law?

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|-----|----------------------------------|------------|
| 4.1 | Vesting. | (5 marks) |
| 4.2 | Privileged will. | (8 marks) |
| 4.3 | The repugnancy clause | (10 marks) |
| 4.4 | Testate and intestate succession | (10 marks) |

QUESTION FIVE

What is a will? What are the formalities for executing a valid will in Swaziland?

(33 marks)