

UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, MAY 2008

TITLE OF PAPER: THE PRINCIPLES OF SWAZI LAW & CUSTOM

COURSE CODE: L104

TIME ALLOWED: 3 HOURS

**INSTRUCTIONS: (1) ANSWER QUESTION ONE (1) WHICH IS
COMPULSORY AND ANY OTHER
THREE (3) QUESTIONS OF YOUR
CHOICE**

**(2) MARKS FOR QUESTIONS OR PARTS OF A
QUESTION ARE SHOWN IN BRACKETS**

**THIS PAPER MAY NOT BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE INVIGILATOR**

QUESTION 1

In a chronological order discuss the significance of S. 252 of the Constitution of the Kingdom of Swaziland Act No. 1 of 2005 in as far as it relates to the legal system and history of this country.

[25 marks]

QUESTION 2

What is the legal status of the following marriage ceremonies?

- (i) Simanga and Nonto married by civil rites in 1999 and in 2005 Simanga married Welile by customary rites. [5 marks]
- (ii) Zwelibanzi and Charity married in accordance with Swazi Law and Custom in 1997. In 2000, at the insistence of their parents they went through another ceremony of marriage in accordance with the Marriage Act No. 47 of 1964. [5 marks]
- (iii) Mbuyazwe got married to Sibongile in 1990 in accordance with Swazi law & custom. In 2001 his wife deserted their matrimonial home and Mbuyazwe tekaed Ncami in 2003. What is the status of the second marriage? [15 marks]

[Total: 25 marks]

QUESTION 3

The government of Swaziland has just been granted funding by International donors to engage in the exercise of codifying customary law. Before engaging in this exercise, the government has found it imperative that experts in Swazi law and custom are consulted, especially to justify the need for such an exercise.

Advise the government on whether codifying customary law is viable or not.

[25 marks]

QUESTION 4

What is meant by the phrase “Freedom of Testation”? In light of the provisions of the new constitution of Swaziland, does the doctrine still exist in our law? Your answer must be supported by relevant authority.

[25 marks]

QUESTION 5

Discuss the characteristic features that distinguish customary law from the received Roman- Dutch Common law.

[25 marks]

QUESTION 6

Discuss the requirements one has to fulfil to execute a valid will.

[25 marks]