

**UNIVERSITY OF SWAZILAND**

**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER, JULY 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**

**(3) 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**

Simanga and Nonto married by civil rites in 1990. Due to problems that befell the marriage, the couple separated and lived apart. Simanga started dating Welile and subsequently invited her to his parental home where he requested his relatives to smear Welile with red ochre. Subsequently he paid lobola and purported to register this marriage as a customary marriage.

Simanga has now died and a legal battle has ensued between the two women each claiming to be legally married to Simanga and thus entitled to inherit the entire estate of the deceased.

Dissect the problem and give your legal opinion.

[25 marks]

### **QUESTION 2**

How has the application of Customary law been restricted as a result of the reception of Roman Dutch Common law into Swaziland?

[25 marks]

### **QUESTION 3**

Describe the jurisdiction of the Swazi courts in respect of the following:

(i) Persons [10 marks]

(ii) Offences [23 marks]

**Total** [25 marks]

### **QUESTION 4**

Does a woman married by customary rites have the legal capacity to own property of any nature during the subsistence of the marriage in the Swazi setting? [25 marks]