

**UNIVERSITY OF SWAZILAND  
INSTITUTE OF DISTANCE EDUCATION  
DEPARTMENT OF LAW**

**FINAL EXAMINATION PAPER (2009)**

- TITLE OF PAPER : LEGAL SYSTEM & METHODS**
- COURSE CODE : DL-011**
- TIME ALLOCATION : THREE (3) HOURS**
- INSTRUCTIONS :**
- 1. ANSWER QUESTION ONE, WHICH IS COMPULSORY & ANY OTHER THREE (3) OF YOUR CHOICE.**
  - 2. MARKS FOR QUESTIONS ARE INDICATED IN BRACKETS.**

**THIS PAPER MUST NOT BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE PROCTOR.**

### **QUESTION 1**

Mr. Zwane, a Swazi national and political activist, left Swaziland in 1999 and settled in California, USA with the intention of staying there “until the Monarchy is abolished in Swaziland.” In 2003, he died of a massive cerebral tumour. At the time of his death, his estate consisted in the main of movables in Swaziland and thus the High Court of Swaziland is seized of the task of directing how his estate is to be distributed among his heirs. The Swazi conflict rule on the matter points to the *lex ultimi domicilii*, while US law relies on the *lex patriae*

Discuss the legal problem(s) involved and how it (they) could be resolved.

(25 Marks)

### **QUESTION 2**

Critically discuss the postulates of justice. In terms of the new constitutional dispensation in Swaziland, which of these do you consider to be indispensable, and why?

(25 Marks)

### **QUESTION 3**

Write short notes on the following:

- (a) *Satre decisis*
- (b) Independence of the Judiciary
- (c) Independence of the Bar
- (d) Difference between application/motion and action proceedings
- (e) When a bill becomes law

(25 Marks)

**QUESTION 4**

- (a) What do you understand to be the principle of legality? To what extent is it protected under the criminal law of Swaziland? (15 Marks)
- (b) With the aid of a sterling judicial precedent on the point, examine the constitutional implications of the principle. (10 Marks)
- (25 Marks)

**QUESTION 5**

Highlight and critically discuss the content of the Literal meaning, Golden as well as the Mischief "Rules" of statutory interpretation. (25 Marks)

**QUESTION 6**

Discuss the four primary sources of law in Swaziland. (25 Marks)