

**UNIVERSITY OF SWAZILAND**

**INSTITUTE OF DISTANCE EDUCATION**

**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER JULY 2009**

**TITLE OF PAPER: SWAZI LAW AND CUSTOM**

**COURSE CODE: DL 012**

**TIME ALLOWED: 2 HOURS**

- INSTRUCTIONS:**
- 1. THERE ARE FIVE QUESTIONS IN THIS EXAMINATION PAPER. ONLY THREE QUESTIONS MUST BE ANSWERED.**
  - 2. QUESTION ONE (1) IS COMPULSORY AND CARRIES 34 MARKS. ALL OTHER QUESTIONS CARRY 33 MARKS.**
  - 3. QUESTION ONE (1) MUST BE ANSWERED IN ADDITION TO ANY OTHER TWO QUESTIONS.**

**TOTAL MARKS: 100**

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

### **Question 1**

Discuss the main stages of the co-option of customary law into the legal system in Swaziland.

**(33 Marks)**

### **Question 2**

Describe the constitution and jurisdiction of the Swazi Courts and the laws that they are authorized to apply.

**(33 Marks)**

### **Question 3**

(a) What are the major distinguishing factors between marriage by civil rites and marriage in terms of Swazi law and custom?

**(16 marks)**

(b) X marries Y in terms of Swazi law and custom in 1990. In 2008, X marries Z by civil rites. Discuss the validity of the marriage between X and Y and the validity of the later marriage between X and Z.

**(17 marks)**

### **Question 4**

The land tenure system of Swaziland is shaped by the historical events that took place during the reign of King Mbandzeni and subsequently thereafter. Discuss.

**(33 marks)**

### Question 5

What is the order of succession in the following situations, and what are the legal rights for the individuals involved?

- (a) X is a major spinster with 2 minor children. She dies intestate.

(7 marks)

- (b) Y is a polygamist with 3 wives. The first two wives were married to him by the dual marriage system. The last one was married by civil rites only. X dies intestate with property held both under Swazi Nation Land and under Private land tenure. All three wives have three children between themselves and all the children of the last wife are still minors.

(7 marks)

- (c) Z is married to Bongile by Civil rites in Community of Property. They have four children who are all minors. Z has three other minor children outside the marriage. Z dies intestate.

(7 marks)

- (d) Mandla is married by Civil rites in Community of Property to Sonto. He dies testate. He has bequeathed his entire estate to his secretary, with whom they have had an illicit love relationship for the past 10 years.

- (e) The deceased S dies intestate. He is not married and has no issue. His obituary only says that he leaves behind his mother and uncle.

(5 marks)