

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER, DECEMBER, 2009.

TITLE OF PAPER : SWAZI LAW AND CUSTOM.

COURSE CODE : DL012

TIME ALLOWED : TWO HOURS

INSTRUCTIONS :

1. THERE ARE FIVE QUESTIONS IN THIS PAPER. QUESTION 1(ONE) IS COMPULSORY AND CARRIES 34 MARKS. ALL OTHER QUESTIONS CARRY 33 MARKS.
2. QUESTION ONE MUST BE ANSWERED IN ADDITION TO ANY OTHER TWO QUESTION.
3. THE TOTAL NUMBER OF ALL QUESTIONS TO BE ANSWERED IS THREE.

TOTAL MARKS : 100.

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

QUESTION 1

Marriage is one of the institutions which were placed under statutory regulation after the inception of the dual legal system in Swaziland. Critically discuss the personal and proprietary consequences of marriage under the Marriage Act No. 47/1964.

Do you think the constitution of Swaziland has modified the civil rites marriage consequences? (34 marks)

QUESTION 2

Discuss the jurisdiction of Swazi Courts and how courts ascertain Customary Law. (33)

Question 3

The law imposes specific limitations to inherit under a testator's will even when the testator has bequeathed property to that beneficiary. What are these disqualifying conditions? (33)

Question 4

The current land tenure system in Swaziland is shaped by the historical events that occurred during the reign of King Mbandzeni and subsequently thereafter. Discuss. (33)

Question 5

One of the most distinct characteristics of customary law is that it is subject to different interpretations as it is not documented. Its survival is ensured through oral tradition. Do you think codifying the law could be the solution? Why? (33)