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UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW

MAIN EXAMINATION PAPER DECEMBER, 2010.

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| TITLE OF PAPER | : | SWAZI LAW AND CUSTOM |
| COURSE CODE | : | DL012 |
| TIME ALLOWED | : | TWO (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 MUST BE ANSWERED IN ADDITION TO ANY OTHER TWO QUESTIONS. |
| TOTAL MARKS | : | 100 |

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QUESTION 1

African Customary Law Scholars have argued that one of the distinguishable characteristics of Customary Law is that it is not easily ascertainable. Some have even advocated for the codification of Customary Law as a solution to the problem of uncertainty. In your opinion do you think codification of customary law can be a solution? Give detailed reasons for your response.

(34 marks)

QUESTION 2

Discuss the main stages through which Customary Law was co-opted into the legal system of Swaziland.

(33marks)

QUESTION 3.

What are the major distinguishing features between marriage by civil rights and marriage by Swazi Law and Custom?

(33 marks)

QUESTION 4

Clearly state the order of succession in the following scenarios:

- 4.1 The deceased, S, dies intestate. He was not married and had no issue. His obituary only stated that he left behind his mother and his mother's brother (uncle).

(7 marks)

- 4.2 Seluliwe Bhembe is married to Mrena Dlodlu by civil rites and in community of property. They have five children who are all minors at the death of Dlodlu. During his lifetime, Dlodlu had three other children outside wedlock with Nelisiwe Dube. Dlodlu died intestate.

(7 marks)

4.3 Thokozani Gamedze, a prosperous Attorney, having immovable properties in the major cities in the Kingdom died testate. He is married to his high school sweetheart, Minenhle Dlamini by Swazi Law and Custom. During his lifetime, he had survived an almost fatal shootout accident in which his pet dog, Bobby had played a major role in rescuing him. In his will, Gamedze bequeathed all his property to Bobby. **(7marks)**

4.4 Banele Zuluwas a staunch polygamist who had three wives during his lifetime, died intestate. He had married his first two wives by Swazi Law and Custom. Seeing that his third wife Seitebatso was educated and an aspiring attorney, he decided to marry her by Civil Rites and in community of property. All three wives have three children each who are all majors, save for Seitebatso's children, who are all still minors. **(7marks)**

4.5 Lungile Zabala has been working in the United States of America after completing his degree in Law at the University of Swaziland. She accumulated a lot of wealth locally and internationally. She died partially testate and left behind her two daughters who are both majors. **(5marks)**

QUESTION 5

Customary law was co-opted into the legal system with specific statutory imposed conditions. What are these conditions, and what is the position of our constitution regarding those imposed conditions?

(33 marks)