

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER, DECEMBER 2011

TITLE OF PAPER : **LEGAL SYSTEMS & METHODS**
COURSE CODE : **IDE-DL011**
TIME ALLOWED : **THREE (3) HOURS**
TOTAL MARKS : **100**

INSTRUCTIONS : **ANSWER ANY FOUR (4) QUESTIONS**

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

QUESTION 1

You have been approached by a client who is faced with a problem concerning the recognition of a certain customary practice within his community. He has instructed you to advise him concerning what factors are used by the courts of law in determining whether or not a customary practice should be recognised as law.

With the aid of decided cases advise your client. [25 marks]

QUESTION 2

With reference to legal authorities discuss the process of making a statute in Swaziland.

[25 marks]

QUESTION 3

- a) List the five primary sources of law in Swaziland. [10 marks]
 - b) What is meant by the principle of *stare decisis*? [5 marks]
 - c) How do our courts avoid judicial precedence? [10 marks]
- [25 marks]

QUESTION 4

- a) List three examples of normative systems or social control mechanisms. [6 marks]
 - b) List three qualities that a lawyer should possess. [3 marks]
 - c) Name two remedies that are available to a litigant who is not satisfied with a decision of a subordinate court. [2 marks]
 - d) Common law according to a lawyer may mean one of three things. Name the three meanings of common law. [6 marks]
 - e) Name the three postulates of justice and discuss one of them. [8 marks]
- [25 marks]

QUESTION 5

- a) List four disadvantages of litigation as a way of resolving conflict. [5 marks]
 - b) Discuss three alternative dispute resolution methods. [20 marks]
- [25 marks]

QUESTION 6

- a) What is meant by Roman-Dutch Law in relation to the Kingdom of Swaziland? [5 marks]
 - b) Briefly discuss three issues that may affect the independence of the judiciary. [15 marks]
 - c) When does a statute cease to exist? [5 marks]
- [25 marks]