

UNIVERSITY OF SWAZILAND

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INSTITUTE OF DISTANCE EDUCATION

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY, 2012.

TITLE OF PAPER : SWAZI LAW AND CUSTOM

COURSE CODE : DLO12

TIME ALLOWE : TWO (2) HOURS.

INSTRUCTIONS :

1. THERE ARE FIVE (5) QUESTIONS IN THIS EXAMINATION PAPER. ONLY THREE QUESTIONS MUST BE ANSWERED.
2. QUESTION ONE(1) IS COMPULSORY AND CARRIES 34 MARKS. ALL OTHER QUESTIONS CARRIES 33 MARKS
3. QUESTIONS MUST BE ANSWERED IN ADDITION TO ANY OTHER TWO QUESTIONS.

TOTAL MARKS : 100.

QUESTION 1

Mfanzile Dlamini is a staunch member of a community of people who embraces the belief that the birth of a child who has some deformities is bad luck, so the child must be abandoned in a secluded place immediately. They assert that this has been a customary practice which they have inherited from their forefathers.

It was on the basis of this belief that Mfanzile took his 3rd wife's child who was born with a cleft palate and left her in a forest. Mfanzile was convicted after Cinisile Hlongwane raised an alarm on discovering the child in the forest.

In mitigation, Mfanzile stated that this was a practice that the community in which he came from have always upheld and respected. They saw nothing illegal about it as their forefathers practiced it too.

You are assigned to convene a meeting with members of Mfanzile's community and explain to them, amongst other things, the recognition and application of customary law in Swaziland.

QUESTION 2

Describe how Swazi courts are constituted in the country, and the law that these courts are empowered to apply.

QUESTION 3

Describe the nature of the problems that are raised by Section 24 and 25 of the Marriage Act No. 47 of 1964, to a couple married under the Act. What are your suggestions for reform?

QUESTION 3

Marriage by Swazi Law and Custom has always been surrounded by the controversy around the subject of competency to marry. Advise on the formation of marriage and competency to marry under Swazi law and Custom.

(33 marks)

QUESTION 4

The Freedom of testation is a constitutional right. What are the formalities of exercising this constitutional right and who is eligible to exercise it.

(33 Marks)

QUESTION 5

The current land tenure system of the country is influenced by pre-colonial events that took place during the reign of King Mbandzeni and subsequently thereafter. Discuss how an individual can acquire land on Swazi Nation Land and on Private Land.

(33 marks)

Compliments of the season