

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2012

124

- TITLE OF PAPER** : **THE PRINCIPLES OF SWAZI LAW AND CUSTOM**
- COURSE CODE** : **L 104**
- TIME ALLOWED** : **THREE (3) HOURS**
- INSTRUCTIONS** :
- 1. ANSWER ANY FOUR (4) QUESTIONS**
 - 2. MARKS ARE INDICATED AT THE END OF EACH QUESTION.**
 - 3. CANDIDATES ARE THEREFORE ADVISED TO ALLOCATE THEIR TIME ACCORDINGLY.**

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR.

QUESTION 1

Gule married his wife laSithole through Swazi Law and Custom in 1990. Three children were born out of the union. Gule an enterprising businessman owned ten mini buses, five taxis and three supermarkets. He passed away last year and the family counsel decreed that laSithole should be inherited by one of Gule's brothers. LaSithole is vehemently opposed to this.

She seeks your advise on the matter.

[25 MARKS]

QUESTION 2

Mabaso an old man of sixty-five years is a very rich man in his village. He owns a herd of three hundred cattle, two hundred sheep, an equal number of goats, and three village grocery stores. Dlamini an impoverished farmer sees a way out of his poverty by giving his daughter who is seventeen years old to Mabaso. Dlamini's relatives including the mother of the child and the child are against this. They try to persuade Dlamini against this course of action on the ground that this is not only an archaic, repugnant, inhumane, and degrading custom but that it is also against the human rights of the child and the constitution.

Are they right? Discuss.

[25 MARKS]

QUESTION 3

Often times it has been said that when the government of Swaziland violates the rights of the people it will justify its actions as being sanctioned under customary law. Is this statement true? Discuss citing examples.

[25 MARKS]

QUESTION 4

The repugnancy clause is seen in some quarters as nothing else but a tool to curtail the application of customary law.

Discuss illustrating your answer with examples.

[25 MARKS]

QUESTION 5

Jele married Thandi in 1990 in accordance with Swazi Law and Custom. In 2009 Thandi deserted their matrimonial home and Jele married Sindi in accordance with the Marriage Act No. 47 of 1964, in 2010.

Discuss the legal status of these marriages.

[25 MARKS]