

UNIVERSITY OF SWAZILAND

126

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION, JULY 2012

**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

Bongani and Sjabu married in accordance with Swazi Law and Custom in 1997. In 2000 at the insistence of Sjabu, who had converted to the Christian faith, they went through another ceremony of marriage in accordance with the Marriage Act No. 47 of 1964.

In 2011 Bongani married Nono in accordance with Swazi Law and Custom.

What is the status of the second marriage [25 MARKS]

QUESTION 2

Emissaries of Prince Mdabula approached Dube with the purpose of taking one of Dube's daughters, forcefully if need be, in order to make her the wife of Prince Mdabula. Dube together with his brothers put up a strong resistance to the emissaries who left without the daughter, they however, told Dube that this is not the end of the matter, they will surely return for the girl. They told Dube that his actions were against Swazi Law and Custom as under such, royalty and chiefs are allowed to take as wife any girl/woman that they fancy, even against the wishes of the girl herself or her parents.

Advise Dube. [25 MARKS]

QUESTION 3

Simelane, your client is involved in a dispute with Lukhele his neighbour over cattle. You need to decide which forum would afford your client the best justice. Which would you choose between the Swazi Customary Law courts and the Roman Dutch Law courts.

[25 MARKS]

QUESTION 4

Customary law is seen as a hindrance to the protection and realisation of human rights in Swaziland.

Discuss. [25 MARKS]

QUESTION 5

Discuss whether you see customary law as playing a meaningful role in modern day Swaziland. [25 MARKS]