

UNIVERSITY OF SWAZILAND  
INSTITUTE OF DISTANCE EDUCATION  
DEPARTMENT OF LAW  
FINAL EXAMINATION, 2012.

TITLE OF PAPER: SWAZI LAW AND CUSTOM

COURSE CODE : DL012

TIME ALLOWED: 2 HOURS

INSTRUCTIONS : 1. ANSWER QUESTION ONE.  
QUESTION ONE CARRIES 34.  
MARKS.

AND

2. IN ADDITION TO QUESTION 1  
ANSWER TWO MORE QUESTIONS.

TOTAL MARKS: 100.

THIS PAPER SHOULD NOT BE OPENED UNTILL PERMISSION HAS  
BEEN GIVEN BY THE INVIGILATOR.

### **QUESTION 3**

Describe the nature of the problems that are raised by Section 24 and 25 of the Marriage Act No.47 of 1964. What are your suggestions for reform.

(33marks)

### **QUESTION 4**

Marriage by Swazi Law and Custom has always been surrounded by the controversy around the subject of competency to marry. You are required to advise on the formation of marriage and the competency to marry under the laws of Swaziland.

(33marks)

### **QUESTION 5**

Every person has a right to make a testamentary document. In terms of the laws of Swaziland however, specific individuals are eligible to make a valid will. Who are these people and what are the formalities of making this document in Swaziland?

(33 marks)

### **QUESTION ONE**

Siphesihle is a staunch member of the a community of people who 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 their customary practice which they inherited from their forefathers.

It was on the basis of this customary practice and belief that Siphesihle took his third wife's child who was born with a left palate and left her in a forest.

Siphesihle was convicted after PhumlileXaba raised an alarm on discovering the child in the forest. In mitigation, Siphesihle stated that this as a practice that the community. In which he came from from have always upheld and respected. They sawnothing illegal about it as their forefathers practiced it too.

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

(34 marks)

### **QUESTION 2**

Describe how Swazi Courts are constituted in the country, and the law that these courts are empowered to apply. Do you think Swazi Courts are accorded the necessary status and powers for them to resolve cases between parties in the country? State your reasons.

(33marks)