

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER, DECEMBER 2013

TITLE OF PAPER	:	LEGAL SYSTEMS AND METHODS
COURSE CODE	:	IDE – DL011
TIME ALLOCATION	:	THREE (3) HOURS
INSTRUCTIONS	:	ANSWER ANY FOUR QUESTIONS
TOTAL MARKS	:	100

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY
THE INVIGILATOR**

QUESTION 1

2

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]

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) List the three postulates of justice and briefly discuss one of them. [8 marks]

QUESTION 5

3

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