

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
FINAL EXAMINATION, 2013.

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TITLE OF PAPER: SWAZI LAW AND CUSTOM
COURSE CODE : DL012
TIME ALLOWED: 2 HOURS
INSTRUCTIONS: 1. THERE ARE FIVE QUESTIONS IN
THIS PAPER AND THREE
QUESTIONS MUST BE ANSWERED.
2. QUESTION ONE IS COMPULSORY
AND CARRIES 34 MARKS.
TOTAL MARKS: 100

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

QUESTION 1

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Zonke Dlamini is a staunch member of the Tingaja regiment. In 2013, while doing his first year studies in Law at the University of Swaziland, he met Bongekile Ziyane, a 2nd year B Com student in the same institution, and they fell in love. When Bongekile visited at Zonke's homestead, Zonke quickly arranged with his family to marry Bongekile by Swazi law and custom. Bongekile was not pleased with this decision, saying that she had always wanted a white wedding. Seeing that his wife was happy with the customary marriage, the couple arranged for a civil rites marriage, which was then solemnised in a colourful event later on. Two years later Zonke's brother passed away and the family resolved that since the deceased children were still young, Zonke should care for them and the wife in the '*kungena*' custom. Bongekile complained bitterly about this decision. Zonke told her that since they were married by Swazi Law & Custom first, it was permissible for him to take other wives, including his brother's wife.

Advise Bongekile of her legal rights flowing from the consequences of their marriage. (34 Marks)

Question 2

Swazi courts are constituted in accordance with the dual nature of our legal system. Discuss this constitution and the powers vested in these courts. In your observation which of these courts is vested with more powers than the others.

(33 marks)

Question 3

There are two systems of Succession recognised in Swaziland. Discuss the rules that are applicable under each system.

Question 4

Land acquisition in Swaziland is influenced by the dual nature of our legal system. Discuss how an individual acquires land under each system.

(33 marks)

Question 5

Customary law is a dynamic system of law. Discuss these elements of the law which make it so.

(33 marks)