

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DIPLOMA IN LAW
MAIN EXAMINATION PAPER DECEMBER 2015

TITLE OF PAPER : **LEGAL SYSTEMS AND METHODS**
COURSE CODE : **DL 011**
TIME ALLOWED : **THREE (3) HOURS**
INSTRUCTIONS : **1. ANSWER QUESTION ONE**
AND
ANY OTHER THREE QUESTIONS

TOTAL MARKS : **100**

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GRANTED BY THE INVIGILATOR**

QUESTION 1

The Zwane family from Malindza have a customary practice that they want to practice in the community that they live in. According to the Zwane family this custom has been practiced all over Swaziland and involves the smearing of a woman whom they intend to be a wife of a member of their family with red mud. There is protest and an outrage within the Malindza community concerning this alleged customary practice. This has necessitated the Zwane family to approach the High Court of Swaziland for redress as they urgently need to perform the alleged customary practice. The Zwane family has approached you for advice concerning how they can prove that this customary practice is indeed a custom that is valid in law. They have asked you to advise them on what factors they need to establish in court to prove that this customary practise is valid.

Using the relevant legal authorities advice the Zwane family. [25 marks]

QUESTION 2

Should our Courts enforce morals? Answer this question using decided cases.

[25 marks]

QUESTION 3

- a) List three examples of alternative dispute resolution methods. [5 marks]
- b) What are the advantages of alternative dispute resolutions methods when compared to litigation? [20 marks]

QUESTION 4

- a) What is the distinction between the doctrines of judicial precedent and *stare decisis*? [5 marks]
- b) Name the two Superior Courts in Swaziland. [2 marks]
- c) What is meant by *ratio decidendi*? [5 marks]
- d) List five personal qualities that a lawyer must possess. [5 marks]

- e) When does a statute ordinarily cease to exist? [3 marks]
- f) What are the two main branches of the law? [5 marks]

[TOTAL MARKS 25]

QUESTION 5

Citing relevant legal authorities discuss how a statute is promulgated in Swaziland.

[25 marks]

QUESTION 6

- 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]

[TOTAL MARKS 25]