UNIVERSITY OF SWAZILAND

INSTITUTE OF DISTANCE EDUCATION

DEPARTMENT OF LAW

MAIN EXAMINATION PAPER DECEMBER 2016

TITLE OF PAPER   :   SWAZI LAW AND CUSTOM

COURSE CODE   :   DL 012

TIME ALLOWED   :   THREE (3) HOURS

INSTRUCTIONS   :   1. ANSWER ANY FOUR (4) QUESTIONS

                                         2. ALL QUESTIONS CARRY EQUAL MARKS

TOTAL MARKS   :   100

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QUESTION ONE

Explain the rules for proving the existence of a custom as laid down by the decision in the locus classicus *Van Breda v Jacobs 1921 AD 330.*

[25 Marks]

QUESTION TWO

Discuss the reception of Roman Dutch common law into Swaziland and its consequences.

[25 Marks]

QUESTION THREE

Nkhani marries Ntsandvo in terms of civil rites and in community of property in 2003. In 2015 whilst his marriage still subsists, he meets and falls in love with Gugu. He marries her in terms of Swazi law and Custom in the same year. Unfortunately Nkhani passes on in early 2016. Using decided cases, discuss the validity of the marriage between Nkhani and Gugu as well her proprietary rights in relation to his estate if any.

[25 Marks]

QUESTION FOUR

How do courts determine with certainty the intentions of a testator in his will?

[25 Marks]

QUESTION FIVE

Our land tenure system was also shaped by the duality of the legal system in Swaziland.
Critically analyse this statement.   **[25 Marks]**