

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION, JULY 2017

**TITLE OF PAPER : THE PRINCIPLES OF SWAZI LAW AND
CUSTOM**

COURSE CODE : LAW 106

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- 1. ANSWER ANY FOUR (4) QUESTIONS.**
- 2. MARKS ARE INDICATED AT THE
END OF EACH QUESTION.**
- 3. CANDIDATES ARE THEREFORE
ADVISED TO ALLOCATE THEIR
TIME ACCORDINGLY.**

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INVIGILATOR.**

QUESTION 1

Magagula and Carlota married by civil rites in 1990. Due to problems that befell the Marriage the couple separated and lived apart. Magagula started dating Patience and subsequently invited her to his parental home where he requested his relatives to smear Patience with red ochre. He further paid Lobola for her.

Magagula has now died and a legal battle has ensued between the two women each claiming to be legally married to Magagula and thus entitled to inherit the entire estate of the deceased.

Dissect the problem and give your legal opinion. (25 marks)

QUESTION 2

Fakudze marries Luyanda in 2000 in accordance with Swazi Law and Custom. In 2009 Luyanda deserted their matrimonial home and Fakudze married Mthandazo in accordance with the Marriage Act No. 47 of 1964.

Discuss the legal status of these marriages. (25 marks)

QUESTION 3

Gwebu is a large scale commercial farmer in the Shiselweni region. His herd of livestock was decimated by the recent drought, his crops were also similarly affected. He is almost on the brink of financial ruin. Jeje his friend makes a suggestion that if Gwebu gave him his 17 year old daughter as a wife, under the kwenzisa custom, he would extend him a soft loan of E300 000.

Gwebu is agreeable to this suggestion, however, his wife Tiphelile and daughter are vehemently against this, they have approached you for advice.

[25 marks)

QUESTION 4

Mkhonta does not see eye to eye with his neighbour Motsa. The two families have had a long standing suspicion that each is bewitching the other. One day Mkhonta observes Motsa blowing what seems to be a white powder towards his (Mkhonta's) compound whereupon he assaulted Motsa to "stop him from practising his evil witchcraft against him and his family".

Motsa says on the day in question he was merely dusting his jacket upon which his wife had accidentally poured self raising flour, and that there was absolutely nothing sinister in his actions.

He is desirous of suing Mkhona .

Advise him.

(25 marks)

QUESTION 5

The Customary law of Succession seems to be unjust to women married under Swazi Law and Custom.

Discuss.

(25 marks)