

**UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER MAY 2018**

TITLE OF PAPER : SWAZI LAW AND CUSTOM
COURSE CODE : L106 (IDE- LLB & Dip law)
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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INVIGILATOR**

QUESTION ONE

In 2010 Dlamini married La Maziya in terms of Swazi Law and Custom and they have 3 children. In 2015, the marriage sours and LaMaziya packs her bags and goes back to her parental home. In 2017, Dlamini marries LaSimelane under civil rites. Using relevant authority discuss the validity of the marriage between Dlamini and LaMaziya and also the one between Dlamini and LaSimelane.

[25 Marks]

QUESTION TWO

The Marriage Bill of 2015, seeks to address some of the weaknesses, injustices and gaps that can be seen in the Marriage Act 7 of 1947. Discuss.

[25 Marks]

QUESTION THREE

Mbanjwa, a Swazi soldier was one of those conscripted as part of the UN peacekeeping forces deployed in Afghanistan in 2009. He quickly drafted a soldier's will and left it with his wife. He came back home in 2012 and has never done anything to change this status quo. He has since died leaving behind a considerable estate and the only will is the soldier's will he executed back in 2009. Discuss whether this will is valid in terms of the Wills Act No 7 of 1955.

[25 Marks]

QUESTION FOUR

Mlokotfo Nxumalo is a staunch traditionalist, and a Chief in one of the Shiselweni Chiefdoms. He is married to five wives under customary law, respectively; LaNkhosi, LaSimelane, LaNdlovu, LaSiwela and the youngest LaMaziya. All have 5 children each including sons except for La Siwela who only has 5 daughters. In 2008 LaNkhosi passed on followed by LaSimelane in 2013, leaving behind the three younger wives. In 2015 Mlokotfo passed on as well after a short illness, leaving behind the three remaining wives and 27 children in total. 25 of these children were those born from each of the 5 wives married to Mlokotfo, and the two additional children, a son and a daughter were born from a previous relationship he had before his first marriage. He never married this woman and she subsequently went on to marry another man. The son, named Mgcabho, is the Chief's eldest child and the daughter is named Kholiwe.

You have been approached by the three executrix (the surviving wives) of Mlokotfo's estate. Taking into account all the relevant facts above, decided cases, applicable statutes and relevant legal authority;

1. Advise them of the legal position that would obtain in the devolution of their late husband's estate prior to the Supreme Court Judgment in the case of **The Attorney General vs The Master of the High Court Civil Appeal Case No.55/2014. (15 Marks)**

2. Advise them of the legal position of how the estate should be devolved after the passing of the above judgment (10 Marks)

[25 Marks]

QUESTION FIVE

The Constitution of Swaziland Act No.1 of 2005 has drastically modified the nature of land ownership rights in Swaziland. Using decided cases, critically discuss this statement.

[25 Marks]