

**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DEPARTMENT OF LAW**  
**SUPPLEMENTARY EXAMINATION PAPER JULY 2018**

**TITLE OF PAPER : SWAZI LAW AND CUSTOM**  
**COURSE CODE : LAW 106 (IDE- LLB and 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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### **QUESTION ONE**

(a) Dlamini married LaShongwe in terms of Swazi Law and Custom in 2000. In 2008 Dlamini married LaSikhondze by civil rites. Discuss the validity of the marriage between Dlamini and LaShongwe and the validity of the later marriage between Dlamini and LaSikhondze.

**[15 Marks]**

(b) Khumalo decided to marry LaVilakati in 2009, by Swazi Law and Custom and again by civil rites in 2015. Is the civil rites marriage between Khumalo and LaVilakati valid?

**[10 Marks]**

**[25 Marks]**

### **QUESTION TWO**

Guca is a traditional Swazi man who married three wives LaNkhosi, LaMdluli and LaMagagula, in this order, and under Swazi law and custom. He passes on. LaNkhosi had no child at the time of her husband's death whilst the other two wives had four sons and four daughters each. Discuss the succession rights under Swazi law and custom of each of the wives and their children if any, in this scenario.

**[25 Marks]**

### **QUESTION THREE**

Mnotfo Khumalo is a very wealthy man with an estate valued at 10 million Emalangenzi at the time of his passing. He leaves behind 10 children and his wife from a second marriage. 5 of these children are his first wife's whom he divorced. His will directs that a bigger portion of his estate is to go to his children from his second marriage since they are still young. The older children are not happy with this and they challenge the validity of the will in court. As the presiding judge on this case, discuss the tools available at your disposal in trying to arrive at Mnotfo's (the testator) intention when he was drafting his will?

**[25 Marks]**

#### **QUESTION FOUR**

“It is clear to me that something must be done about section 16 (3) of the Deeds Registry Act. The Constitution was promulgated in July 2005 and there has been no overt move to bring this section into alignment with the Constitution by the Legislature. Section 151 (2) (a) of the Constitution states that the High Court has jurisdiction to enforce fundamental human rights and freedoms guaranteed by the Constitution. This includes the right to equality which is guaranteed by section 20 and 28 of the Constitution.”- **Mabuza J in Mary-Joyce Doo Aphane and the Registrar of Deeds and 2 others Civ Case 383/2009.**

Using decided cases and the applicable pieces of legislation discuss this statement in relation to the land ownership rights of women in Swaziland.

**[25 Marks]**

#### **QUESTION FIVE**

Part V of the Marriage Bill 2017 on “Preliminaries to a Customary Marriage” has been said to be a proposed codification of Swazi Law and Custom on marriage. Do you agree? Reason your answer.

**[25 Marks]**