

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2018

PAPER TITLE: FAMILY LAW

COURSE CODE: LAW 206

TIME ALLOWED: THREE (3) HOURS ONLY

TOTAL MARKS: [100]

INSTRUCTIONS:

- 1. ANSWER ANY FOUR QUESTIONS.**
- 2. ALL QUESTIONS CARRY EQUAL MARKS.**
- 3. THIS QUESTION PAPER CONTAINS THREE PAGES. PLEASE ENSURE THAT YOU HAVE THEM ALL.**

UNLESS PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR, DO NOT OPEN THIS PAPER.

Question 1

With reference to legal authorities, discuss the jurisdiction of the courts in Swaziland in divorce proceedings. **(25 Marks)**

Question 2

Section 200 (3) of the Children's Protection and Welfare Act No. 6/2012 provides that:

"(3) The Children's Court shall consider the best interests of the child and the importance of the child being with his mother when making an order for custody or access."

Critically examine the above section and the factors to be considered by the Court when dealing with such cases. **(25 Marks)**

Question 3

Write short notes on the following concepts and their relevance in family law:

- (a) *Stuprum*. **(5 Marks)**
- (b) Sterility. **(5 Marks)**
- (c) *Consortium omnis vitae*. **(5 Marks)**
- (d) Putative marriage. **(5 Marks)**
- (e) Restoration of conjugal rights. **(5 Marks)**

Question 4

Compare and contrast the decision in *Venter v Venter (1949 (4) SA 123 (W)* with that of *Van Niekerk v Van Niekerk 1959 (4) SA 658 (GWLD)* and give an opinion as to which one should be preferred over the other.

(25 marks)

Question 5

In the case of *Nonhlanhla Virginia Sacolo v Christopher Sacolo & Others Civil Case No. 4095/08* (Unreported High Court judgment delivered in July 2010) His Lordship, Mamba J. drew a distinction between the grounds for divorce recognised under the laws of Swaziland and the grounds for divorce under South African law. Critically discuss the legal position obtaining in Swaziland on divorce vis-à-vis the South African position and suggest reforms where possible.

(25 marks)