

UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
LLB & DIPLOMA IN LAW IDE LEVEL II
SUPPLEMENTARY EXAMINATION PAPER – JULY 2019

PAPER TITLE : FAMILY LAW (LLB-IDE)

COURSE CODE : LAW 206

TIME ALLOWED: 3 HOURS

TOTAL MARKS : 100 MARKS

INSTRUCTIONS:

- 1. THE PAPER HAS FIVE (5) QUESTIONS IN ALL, ANSWER FOUR (4) QUESTIONS.**
- 2. MARKS ARE INDICATED IN THE BRACKETS AT THE END OF EACH QUESTION**
- 3. WRITE LEGIBLY**
- 4. START EACH QUESTION ON A NEW PAGE**

DO NOT OPEN THE PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.

Question 1

“...This judgement represents a search for that Guardian knot, the undoing or cutting which frees the woman from any relationship with her former husband, once for all...”

His Lordship MJ Dlamini JA. Discuss the procedures, if any, for the dissolution of a marriage under Swazi law and Custom? [25 Marks]

Question 2

(a) (a) Discuss the facts of the case of *Schnaar v Jansen* in relation to the legal requirement of an engagement which was in issue in this matter. What are the criticisms levelled against that judgement? [10 marks]

(b) Discuss the legal requirements for the conclusion of a valid marriage.

[15 marks]

Question 3

A is married to B in terms of Swazi law and custom. A suddenly gets a high paying job in Mbabane and decides to ‘re-marry’ according to civil rites. He does indeed conclude a civil rites marriage with B. The marriage between the parties develops some cracks and they no more stay together. A is advised by his law student friend that he must terminate the first leg of the marriage under Swazi law and custom and ‘all shall be over’. He is successful and goes as far as obtaining a High Court order dissolving the Swazi law and custom marriage. His friend above further advises him that there is no longer any marital relationship between the parties now.

(a) What is the legal status of both marriages between A and B? Can both marriages stand together, or they are mutually exclusive? [10 marks]

(b) The High Court order terminating the Swazi law and custom marriage above, does it also automatically terminate the latter civil rites marriage such that no marital relationship exists between the parties? Discuss fully with reference to authority. [15 marks]

Question 4

(a) Discuss the procedures and requirements for a valid adoption in the context of the Kingdom of Eswatini? [20 marks]

(b) What is the legal effect of an adoption? [5 marks]

Question 5

"It is high time that the law of divorce as it stands needs to be changed. Parliament is the only body that can help to solve this socio-legal ill". Per His Lordship Mamba J.
Discuss fully the law of divorce in our jurisdiction. [25 marks]