

UNIVERSITY OF ESWATINI
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2019

TITLE OF PAPER : **THE GENERAL PRINCIPLES OF SWATI
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.**

**DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GIVEN BY THE
INVIGILATOR.**

QUESTION 1

Dube has been living with Thandi at his parental homestead for the past three years. Last year Dube sent four herd of cattle to Thandi's home which was part payment of Lobola and did nothing else. Thandi has since left him and has been smeared with red ochre by Sabelo with whom Thandi is now staying.

Dube is of the view that paying part of the Lobola cattle cemented Thandi's position as his wife.

Is he right? Illustrate your answer with decided cases. [25 MARKS]

QUESTION 2

Dlamini married his wife Dudu by civil rites and later followed this by performing the customary marriage ceremony. He has now purported to marry Hlobi through Swazi Law and Custom arguing that he is allowed to do so since his marriage to his first wife Dudu was in terms of customary law.

Is he right? Make reference to case law in your answer. [25 MARKS]

QUESTION 3

Succession in Swazi customary law is governed by male primogeniture. Meaning girl children could not inherit from their fathers estates.

This is obviously an unfair and discriminatory customary practice.

What authority would you use to persuade a court to rule against this custom. [25 MARKS]

QUESTION 4

Simelane has a long standing dispute with his neighbour Matse. When a severe storm destroyed all his crops and killed some of his livestock he fingered the hand of Matse in this calamity alleging that Matse bewitched him on the ground that as the storm clouds were gathering he saw Matse blowing some white stuff towards his homestead using a cow's tail which is usually used by traditional doctors.

Does Matse have a remedy? Illustrate your answer with decided cases.

QUESTION 5

Customary law recognizes the delict of seduction.

Discuss this delict illustrating your answer with decided cases. [25 MARKS]