

University of Eswatini
Faculty of Education
Department of Adult Education
Diploma in Adult Education Level II
Main Examination

Paper Title: Introduction to Family Law

Course Code: LAW036

Time Allowed: 3 hours

Instructions

The paper has three (3) pages.

Write neatly.

The paper consists of five (5) questions.

Answer four (4) questions in all.

Each question carries 25 marks.

Reference to authority is highly recommended.

Do not open the paper until advised so by the invigilator.

Question 1

- (a) What is family law? [5 marks]
- (b) List the sources of family law. [5 marks]
- (b) The legal system of Swaziland is usually referred to as 'dual' in character.¹
Discuss fully. [15 marks]

Question 2

Mandla is engaged to Sipiwe and they desire to get married on the 25th April 2020. They engaged at Mandla's local church in Mbabane. They have already started preparing for the wedding. Sipiwe has even went as far as purchasing the wedding ring at Brown's Jewellers in Mauritius valued at E10 000.00 and was kept at Mandla's apartment. She has already paid all the necessary expenses for the wedding all totalling a sum of E40 000.00. On the 15th April 2020, by way of whatsapp message, Mandla advises Sipiwe that he would not be marrying Sipiwe anymore. The message reads "I no longer have the same feelings as before. Let us end our relationship. It has always been nice to be with you". She tried to engage Mandla on same but seemingly he is adamant of such a position. Sipiwe is so distraught by the message above such that she even took a long leave of absence at work because of 'hurt feelings' and disappointment. She comes and approaches you as she insists on claiming damages from Mandla for 'hurt feelings' and broken heart. Kindly advise Sipiwe with reference to authority.

[25 marks]

Question 3

- (a) Define a marriage. [5 marks]
- (b) Fully discuss the **formal** requirements of a valid legal marriage. [20 marks]

Question 4

- (a) Fully discuss the formation of a valid marriage according to Swazi Law and Custom. [5 Marks]
- (b) Critically discuss the notion of consent under Swazi Law and Custom marriages. [10 marks]
- (c) Discuss with reference to authority whether a Swazi Law and Custom marriage can stand together with a civil rites marriage? [10 marks]

¹ T Nhlapho *Marriage and Divorce in Swazi Law and Custom* Websters (Pty) (Ltd) page 6.

Question 5

“Among the traditional Swazi, divorce is very rare because of the complex ritual, legal and social implications of the marriage contract, the exchange of lobola etc. Even if it does occur, permission for the woman to marry a second time is extremely difficult to obtain”. - JS Malan 1985. Critically discuss the procedures for the dissolution of a Swazi Law and Custom marriage, if any. [25 marks]