



**UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
BACHELOR OF LAWS/DIPLOMA IN LAW
FINAL EXAMINATION PAPER APRIL 2021**

TITLE OF PARER: PRINCIPLES OF SWAZI LAW AND CUSTOM 1
COURSE CODE: IDE-LAW105
TIME ALLOWED: THREE (3) HOURS
INSTRUCTIONS:
1. ANSWER ANY FOUR (4) QUESTIONS.
2. ALL QUESTIONS CARRY EQUAL MARKS
TOTAL MARKS: 100

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION IS GIVEN BY THE
INVIGILATOR.**

QUESTION ONE

“Elsewhere in Africa, a large portion of African customary law has been restated, recorded or codified. These restatements and codifications have...tended to restate or codify traditional law rather than the 'living' law of the people. They have created the impression that African customary law consists of immutable rules, and appear to have overlooked the fact that customary law also consists of processes, and is quite capable of adapting to changing socio-economic circumstances”. (Dlamini C.R.M.The future of customary law 1990:4).

Discuss the above observation with reference to the codification of Swazi Law and Custom. [25 Marks]

QUESTION TWO

“Prior to the colonization of the Kingdom of Swaziland, Swazi law and custom was the only law applicable in the Kingdom. With the issuing of the Swaziland Order-in-Council of 25 June 1903, the British formally colonized Swaziland. A new legal order was introduced by the General Law and Administration Act of 1905...”

Comment on the above statement by Mr F.P. Van Whelpton and trace the events leading to the current legal system of the Kingdom of Eswatini. [25 Marks]

QUESTION THREE

Describe the composition and jurisdiction of Swazi Courts and the laws that the Swazi Courts are authorized to apply. [25 Marks]

QUESTION FOUR

'In Swazi society the individual is moulded so that his behaviour in everyday life is determined by habits of mind and body, and certain dispositions and sentiments which are the result of his training. The individual is taught certain norms of conduct towards members of his family and to the people outside that family. In the same

way he acquires sentiments in regard to the economic pursuits of horticulture, tending cattle, hunting, domestic work, religion and every sphere of national life".
[Marwick, B.A. 1966. The Swazi. London: Frank Cass & Co.]

Comment on the above sentiment by the writer with reference to the characteristics of Swazi Law and Custom. [25 Marks]

QUESTION FIVE

"The Swazi courts are to apply the Swazi law and custom prevailing in Swaziland so far as it is not repugnant to natural justice, morality or inconsistent with the provisions of any law in force in Swaziland"- Section 11 of the Swazi Courts Act 80 of 1950.
State what this clause is called and discuss its three tenets. [25 Marks]