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UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER, DECEMBER, 2011.

TITLE OF PAPER : SWAZI LAW AND CUSTOM

COURSE CODE : DLO12

TIME ALLOWED : TWO (2) HOURS.

INSTRUCTIONS : 1. THERE ARE FIVE (5) QUESTIONS IN THIS EXAMINATION PAPER. ONLY THREE QUESTIONS MUST BE ANSWERED.

2. QUESTION ONE(1) IS COMPULSORY AND CARRIES 34 MARKS. ALL OTHER QUESTIONS CARRIES 33 MARKS

3. QUESTIONS MUST BE ANSWERED IN ADDITION TO ANY OTHER TWO QUESTIONS.

TOTAL MARKS : 100.

THIS PAPER SHOULD NOT BE OPENED UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR.

QUESTION ONE

Rajid Sayeed is an adult Swazi male of Indian Origin. He has lived in Swaziland for the past 25 years, during which period he applied for Swazi Citizenship. After following all the required channels, he was duly granted and even obtained land under the traditional land acquisition procedure under Chief Msolwa. He further obtained the Swaziland Personal Identification Number. During his stay under the chieftdom, he participated in all the traditional ceremonies and even joined the local community police watch group.

Whilst going about his duties one day, he got into a fight with one of his socialite friend, Simo Gina who had just been enrolled for a Diploma in Law Course at the University of Swaziland. Rajid was the first one to arrive at the Police Station where he laid a complaint of assault against Simo. The latter was apprehended and charged for common assault. On the 1st date of the hearing at the Swazi Court Simo raised an objection to the jurisdiction of the court in terms of Section 28 of the Swazi Court's Act No. 80 of 1950.

Advise the presiding officer, in detail, of the composition, jurisdiction, and the law that the Act empowers these courts to apply.

(34marks)

QUESTION 2

Due to the nature and character of Swazi Law and Custom, scholars have made various attempts to define what customary law is. With the aid of decided cases where necessary, outline the different definitions that you know . What are the sources of Customary Law?

(33 marks)

QUESTION 3

Marriage by Swazi Law and Custom has always been surrounded by the controversy around the subject of competency to marry. Advise on the formation of marriage and competency to marry under Swazi law and Custom.

(33 marks)

QUESTION 4

The Freedom of testation is a constitutional right. What are the formalities of exercising this constitutional right and who is eligible to exercise it.

(33 Marks)

QUESTION 5

The current land tenure system of the country is influenced by pre-colonial events that took place during the reign of King Mbandzeni and subsequently thereafter. Discuss how an individual can acquire land on Swazi Nation Land and on Private Land.

(33 marks)

Compliments of the season