

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2006

TITLE OF PAPER : CONSTITUTIONAL LAW

COURSE CODE : L 103

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : 1. ANSWER FOUR (4) QUESTIONS

2. ALL QUESTIONS CARRY EQUAL
MARKS.

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INVIGILATOR.

QUESTION 1

Fundamental rights are written into modern constitutions ostensibly to safeguard the liberties of the individual from oppressive acts of government and its agencies. Discuss this statement. Can a country that does not have a written constitution adequately protect the liberties of its citizens?

[25 MARKS]

QUESTION 2

Mrs. Lolly Pop lived with her husband Mr. Sweaty Pop at the latter's parental home, Mafutseni. They were married under Swazi Law and Custom. They had five minor children. On the 14th February, 2006 Mr. Sweaty Pop took ill and died on the 16th February, 2006. He was buried at his parental home on the 20th February, 2006. As per Swazi custom, Ms. Lolly Pop was told by her inlaws to wear mourning gowns for a period of two years in honour of her husband. She refused and cited the fact that the new constitution protects her. Her inlaws subsequently expelled her from their home and dispossessed her of all she and her husband had worked for.

Does Mrs. Lolly Pop have a remedy under the new constitution? Discuss the pertinent sections of the constitution in this respect.

[25 MARKS]

QUESTION 3

The new constitution of Swaziland is the King's Proclamation of 1973 reincarnate. Discuss this statement citing relevant authorities.

[25 MARKS]

QUESTION 4

Parliamentary Supremacy means that the courts of the land cannot assail an Act of Parliament. Discuss this concept and show whether Parliamentary Supremacy can operate under a written constitution.

[25 MARKS]

QUESTION 5

The Westminster system places more emphasis on the independence of the judiciary than on the concept of separation of powers. As a former British Protectorate Swaziland followed the Westminster system of government. This is demonstrated by the provisions of the new constitution particularly the ones dealing with the Judicature. Do you agree? Citing relevant examples and authority discuss how independent, if at all, the judiciary is in Swaziland.

[25 MARKS]