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UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
MAIN EXAMINATION PAPER DECEMBER 2010

COURSE NAME : **CONSTITUTIONAL LAW**

COURSE CODE : **DL 027**

TIME ALLOWED : **THREE (3) HOURS**

INSTRUCTIONS ANSWER ANY FOUR (4) QUESTIONS
INCLUDING QUESTION ONE.
QUESTION ONE IS COMPULSORY.

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED
BY THE INVIGILATOR.

QUESTION 1

Constitutional Law is concerned with the role and powers of institutions within the state relationship between the citizens and the state. The scope of Constitutional Law depends on factors which change with the passage of time and vary from country to country. (Boulle).

Discuss the above statement in the light of post-independence constitutional developments in Swaziland. (25 marks).

QUESTION 2

Discuss the following concepts and say whether they exist in Swaziland:

- a) Supremacy of Constitution. (15 marks)
- b) Sovereignty of Parliament. (10 marks).

QUESTION 3

“An independent judiciary is an indispensable requisite of a free society under the Rule of Law”. (Declaration of Delhi, 1959).

Discuss the core elements of the rule of law and whether the Rule of Law exists in Swaziland. (25 marks)

QUESTION 4

Briefly discuss the following classifications of Constitutions:

- a) Federal and Unitary. (5 marks)
- b) Parliamentary and Presidential. (5 marks)
- c) Monarchical and Republican. (5 marks)
- d) Written and Unwritten. (5 marks)
- e) Flexible and Fixed. (5 marks)

QUESTION 5

(a). What are fundamental rights and discuss four methods of protecting fundamental rights. (15 marks).

(b). Illustrate with support of decided cases how fundamental rights can be enforced.

(10marks).

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QUESTION 6

In terms of the Constitutional Commission Decree No.1 of 1995, you have been appointed together with two lawyers and a judge of the High Court to serve as commissioner for the purpose of drawing up a new constitution for the kingdom of Swaziland. The chairman of the Commission has asked you to comment on the contents of the constitution. You have also been asked to state the authority of the proposed constitution.

(25 marks).

QUESTION 7

“The concept of *separation of powers* may mean at least three (3) different things”. (Wade & Phillips). What does the doctrine of separation of powers entail? Has the doctrine been achieved in Swaziland?

(25 marks)

QUESTION 8

(a). What is democracy and what are the major components of a democratic society.

(13marks)

(b). Discuss how do minority groups ensure the protection of their rights in a democratic society. Illustrate which form of democracy (if any) is practiced in Swaziland.

(12 marks).