

**UNIVERSITY OF SWAZILAND**

**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER, JULY 2011**

**TITLE OF PAPER: CONSTITUTIONAL LAW**

**COURSE CODE: L103**

**TIME ALLOWED: THREE HOURS**

**INSTRUCTIONS: 1) ANSWER FOUR (4) QUESTIONS**

**2) ALL QUESTIONS CARRY EQUAL MARKS**

**DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN  
GRANTED BY THE INVIGILATOR.**

QUESTION 1

105

The concept of separation of powers in the Constitution Act, 2005 is a muddled affair. Do you agree? Discuss this statement with reference to the relevant sections of the Constitution Act, 2005.

(25 Marks)

QUESTION 2

Fundamental rights are written into modern constitutions ostensibly to safeguard the liberties of the individual from the 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 citizen?

(25 Marks)

QUESTION 3

For a long time in Swaziland the King could legislate by Decree in terms of the King's Proclamation to the Nation, 1973; secondly by Order in Council and thirdly, in conjunction with Parliament in terms of the Establishment of the Parliament Order, 1992. Which of the King's legislative powers were readily acceptable within the democratic framework? Illustrate your answer by making reference to relevant authorities.

(25 Marks)

#### QUESTION 4

106

In a debate in the House of Assembly on the control of weed in the Lake of Nyala, Abnormal Smith refers to Rudolf Miasma, the Director of the Lake of Nyala Weed Control Board as "possibly the most noxious wee in the whole godforsaken lake". He accuses Miasma of taking bribes from the weed interests. The debate is being broadcast.

At this juncture, Cecil Footsy rises to his feet and points out that Miasma had been tried on similar charges 2 years previously and was acquitted. The Minister of Wax, Ralph Mildew, then explains that he never thought much of that court anyway. He thought that there were some weedy interests in that bench as well.

You have been retained by Miasma who wants to know who, if anyone, he can sue. Advise Miasma. Can anything be done to control members of Parliament in their debate and canvassing of issues within the House?

(25 Marks)

#### QUESTION 5

Compare and contrast the Parliamentary and the Presidential systems of constitutionalism. Which of the two systems would you prefer for the Kingdom of Swaziland? Give reasons for your answer.

(25 Marks)