

**UNIVERSITY OF SWAZILAND**

118

**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**FINAL EXAMINATION, MAY 2012**

**TITLE OF PAPER: CONSTITUTIONAL LAW**

**COURSE CODE: L103**

**TIME ALLOWED: THREE HOURS**

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

**2) ALL QUESTIONS CARRY EQUAL MARKS**

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### **QUESTION 1.**

The Constitution of Swaziland provides that “a judge of a superior court or any person exercising judicial power, is not liable to any action or suit for any act or omission by that judge or person in the exercise of the judicial power”. Critically evaluate the validity of this provision in light of recent developments impacting on the concept of an independent judiciary in Swaziland, support your answer with relevant authorities.

(25 Marks)

### **QUESTION 2.**

In Swaziland the rule of law is a mantra that is recited in the Constitution, in political speeches as well in all auspicious occasions-this, however, does not mean the country subscribes to all that the rule of law stands for if the events of the year 2002 culminating with the boycott of courts by the legal profession in 2011 is anything to go by. Critically evaluate the validity of this statement making reference to authorities.

(25 Marks)

### **QUESTION 3.**

The Supreme court has ruled that the protection of the freedom of assembly and association is subject to the *tinkhundla* system of government and that where a government is formed by people who were elected into office on the basis of individual merit as opposed to plural political participation, that is democracy at its best since democracy, “like beauty, lies in the eyes of the beholder”. Does this decision accord with the dictates of constitutionalism and democratic ideals in the twenty-first century? Give reasons for your answer citing authorities.

(25 Marks)

#### **QUESTION 4.**

The Constitution Act, 2005 is the King's Proclamation, 1973 reincarnate. Do you agree? Discuss the similarities and dissimilarities of the Constitution Act and the King's Proclamation making specific reference to the points where the two legislation converge.

(25 Marks)

#### **QUESTION 5.**

In the year 2011, certain Ministers of the Crown were alleged to have allocated themselves Crown land at hugely discounted rates much to the consternation of the Legislature. The Legislature formed a Committee which was to investigate how certain members of the Cabinet got to apportion themselves the land in question. The High court was approached under a certificate of urgency by the Prime Minister who wanted the land to be registered in his name. The Chief Justice granted the Prime Minister the temporary relief of calling upon the Minister of Housing to show cause, within a specific period, why the said land should not be transferred to the name of the Prime Minister. This scenario, spells out how the doctrine of separation of powers is alive and well in Swaziland. Do you agree? Give reasons for your answer.

(25 Marks)