

**UNIVERSITY OF SWAZILAND**

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**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER, JULY 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

Instead of enshrining the fundamental rights of the people, the Constitution of Swaziland reinforces the *status quo ante* and is a far cry from a democratic constitution. Do you agree? Discuss fully, citing relevant authorities.

(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

In the year 2001, the state of Mildew gained independence from Great Britain. Like all newly independent States, the people of Mildew wanted to have a written constitution reflective of their history, and their aspirations as a nation. After thorough consultation, the people of Mildew were still not agreed about the nature and system of government they wanted for the new State. Constitutional law experts were consulted and they gave very conflicting responses. When the Committee entrusted with the work of drafting the constitution was at the end of its tether, they approached you, an expert of constitutional law. They sought your advice on the nature of the constitutions and the pros and cons of same and the systems of government that would be most suitable for a State that wanted to uphold democratic ideals and the well respected principle of constitutionalism. Advise the State of Mildew. In your brief, state what model of constitutionalism would be suitable for this new State. Give reasons for your answer.

(25 Marks)

#### **QUESTION 4**

The attack on the judiciary and its independence in the year 2011 in Swaziland was unprecedented in so far as it reduced a well respected and towering institution into a rubble. What lessons can be learnt from Swaziland's experience concerning the events of the recent past?

(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)