

UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION PAPER, JULY, 2019.

TITLE: CONSTITUTIONAL LAW 11
COURSE CODE: **LAW 104 (IDE PROGRAMME)**
TIME ALLOWED: THREE (3) HOURS.
INSTRUCTIONS: 1. THERE ARE FIVE QUESTIONS IN THIS
EXAMINATION PAPER AND FOUR
QUESTIONS MUST BE ANSWERED.
2. ALL QUESTIONS CARRY EQUAL MARKS
TOTAL MARKS: 100

1/25

THIS PAPER SHOULD NOT BE OPENED UNTILL PERMISSION HAS BEEN
GIVEN BY THE INVIGILATOR

QUESTION ONE

In the matter between *Thulani Rudolf Mseko & others v. Rex*, the Kingdom of Eswatini made international headlines in the manner in which the High Court handled the case. The High Court sentenced the accused to two years imprisonment without the option of a fine for contempt of court. The manner in which the trial was conducted, the sentence handed down and the reasons for the sentence were in accord with the provisions of the Bill of Rights Chapter of the Constitution Act N0. 1 Of 2005. Do you agree? Critically assess the validity of this statement conclusion, citing authority in support of your answer.

TOTAL [25 marks]

QUESTION TWO

Constitutionalism requires that legitimate government should adhere to certain basic standards and/or requirements in exercising its functions. Give a detailed discussion of these standards and/or requirements.

QUESTION THREE

“Parliamentary Sovereignty is a model of constitutionalism that is not reconcilable with democratic principles”. Do you agree? Critically evaluate the validity of this statement. Support your answer with reference to authorities.

TOTAL [25 marks]

QUESTION FOUR

Montgomery & Sons (Pty) Ltd is a global asset management company worth in excess of one trillion Emalangen. The company is interested in expanding its investments into the Kingdom of ESwatini.

The company has retained your firm of attorneys to represent it in the country. Montgomery's investment philosophy is that they only invest in countries where the rule of law is venerated and they are not sure whether the Kingdom of ESwatini upholds the rule of law. Advise Montgomery & Sons Pty Ltd on whether the principle of the rule of law is respected in Swaziland.

[25 marks]

QUESTION FIVE

Explain the following concepts:

- (a) Monarchical and Republican Constitutions. [5 marks]
- (b) Constitutionalism. [5 marks]
- (c) Supremacy of the Constitution [5marks]
- (d) Parliamentary Sovereignty [5 marks]
- (e) Rigid constitution and flexible constitutions [5marks]

[25 marks]