



UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
BACHELOR OF LAWS
FINAL EXAMINATION PAPER APRIL 2021

TITLE OF PAPER : CONTITUTIONAL LAW 1
COURSE CODE : IDE-LAW103
TIME ALLOWED : THREE (3) HOURS
INSTRUCTIONS : 1. ANSWER ANY FOUR (4) QUESTIONS.
2. MARKS ARE INDICATED AT THE END OF EACH QUESTION.
3. CANDIDATES ARE THEREFORE ADVISED TO ALLOCATE THEIR TIME ACCORDINGLY

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QUESTION 1

Compare and contrast the following concepts:

- (a) Constitutional supremacy vs Parliamentary sovereignty (5 marks)
- (b) The legislature vs the executive (5 marks)
- (c) Fundamental Rights vs Directive principles of state policy. (5 marks)
- (d) Common Law vs Custom (5 marks)
- (e) International law vs Municipal law (5 marks)

[Marks 25]

QUESTION 2

Name and describe three models of democracy. Using examples, comment on the advantages and disadvantages of each.

[25 marks]

QUESTION 3

The Kingdom of Wakanda recently attained independence on the 6th of September 2018 after a long period of colonial rule by the British. The country is divided into seven provinces, and each province has a provincial government which is accountable to the central government at its headquarters, Lombard, the capital city of the country.

The people of Wakanda are not happy with the Westminster Export Model constitution that was imposed on them by the British government at independence. They wish to make their own autochthonous Constitution, which will detail how they (as the indigenous people of Wakanda), want to govern themselves. A Constitution Review Commission (CRC) has been set up and given the task to review the independence constitution.

You are the Attorney General of Wakanda and you are given the task to advise the CRC on, amongst other things, the different classifications of constitutions to enable them to come up with a home-grown type of a constitution for the people of Wakanda.

Give the CRC detailed advice on, amongst other things, the various classifications of constitutions of the world. Specify also, the advantages and disadvantages (if any) of each class, and the class(es) that you recommend for Wakanda. [25 marks]

QUESTION 4

Saharawi is a recently recognised Arab state found in the Continent of Africa in Western Sahara. As a young state, the president of the country is desirous of forming a government that will take into account the historical transition from oppression rule from Morocco and incorporate Saharawi people's traditions. The President of Saharawi Mr Brahim Gali has learned from a friend of a friend that you are an International constitutional law expert who was instrumental in advising the Kingdom of Eswatini in crafting its Constitution which comprises of modern and traditional principles.

Advise Mr Gali on the concept of government and how the people play a role in it. You are to advise him on the tenets of law that make a government work like a well-oiled machine. Do give Mr Gali your opinion in your conclusion on the following:

- a) Do you think the Tinkhundla Government system is compatible with a system of party government? Why or why not?
- b) Do you think that Eswatini Constitution establishes a system of party government? Why or why not? [25 marks]

QUESTION 5

Discuss the different ways human rights can be protected in countries that have a supremacy clause and in countries that have an unwritten constitution. Which method of human rights protection is most preferable and why? Use authorities in your answer. [25 marks]

100 MARKS