

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION PAPER, JULY, 2009

TITLE OF PAPER: CONSTITUTIONAL LAW

COURSE CODE: L 103

TIME ALLOWED: THREE HOURS

INSTRUCTIONS: 1) ANSWER FOUR (4) QUESTIONS
2) ALL QUESTIONS CARRY EQUAL MARKS

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GRANTED BY THE INVIGILATOR.**

QUESTION 1

You have been approached by the Constitutional Review Commission to make a submission in respect of the distribution of the powers of government in the new Constitution of the State of New Haven. In your submission, state your reasons for preferring either a separation of powers or a fusion of powers in one or a few hands.

(25 Marks)

QUESTION 2

Describe the role of the judiciary in modern constitutional governance and show in what ways their independence can be safeguarded.

(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

Generally speaking there are at least two strands of judicial review: the interpretive model and judicial activism. Taking into account democratic requirements which form of judicial review would be most suitable for the Kingdom of Swaziland and why?

(25 Marks)

QUESTION 5

Instead of enshrining the rights of the citizen the Constitution of the Kingdom of Swaziland reinforces the *status quo ante* and is a far cry from a democratic constitution. Do you agree? Give reasons for your answer citing relevant authorities and examples.

(25 Marks)