

**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DEPARTMENT OF LAW**  
**MAIN EXAMINATION PAPER, MAY 2010**

---

TITLE OF PAPER : CONSTITUTIONAL LAW

COURSE CODE : DL021

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : 1. ANSWER ANY FOUR (4) QUESTIONS

2. CAREFULLY READ AND UNDERSTAND THE QUESTIONS

3. PUT YOUR THOUGHTS IN AN ORGANISED MANNER WITH YOUR  
ANSWERS

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

### QUESTION 1

Write short notes on what the following terms mean:

- a) Judicial precedent
- b) Stare decisis
- c) Parliamentary sovereignty
- d) Supremacy of the constitution
- e) Organs/branches or arms of government

(25)

### QUESTION 2

In your view, what do human rights or fundamental rights seek to achieve? Discuss whether, as the law presently stands in the Kingdom of Swaziland, there is protection given to individuals' rights or fundamental rights.

(25)

### QUESTION 3

It has been said that "wherever law ends, tyranny begins". Critically consider this statement, in relation to Professor A.V. Dicey's doctrine of the Rule of Law, and indicate whether you agree or disagree with it. Give reasons for the position you have taken. You are expected to state the three (3) main principles of the Rule of Law.

(25)

#### QUESTION 4

Explain what the doctrine of the separation of powers involves and what importance and relevance it has for the current (2005) constitutional law dispensation of the Kingdom of Swaziland.

(25)

#### QUESTION 5

What do you understand the principle of judicial independence to mean? Can it be said that the Kingdom of Swaziland subscribes to the independence of the judiciary?

(25)

#### QUESTION 6

A contention is made often that the Tinkhundla system of government seeks to blend tenets of democracy and the cultural practices and traditions of the Swazis. At its simplest, the argument is for a home-grown system of government (so-called autochthonous system).

Do you agree or disagree with this contention? Motivate the stand you take. In doing so, take into account the historical developments the country has gone through in its constitutional evolution.

(25)