

Course Code: L103 (M) 2005

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION PAPER, MAY 2005**

**TITLE OF PAPER** : **CONSTITUTIONAL LAW**

**COURSE CODE** : **L103**

**TIME ALLOWED** : **THREE (3) HOURS**

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

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INVIGILATOR**

**QUESTION 1**

In Swaziland, the King may legislate by Decree, in terms of the King's Proclamation to the Nation of 1973 (as amended); secondly, by Order-in-Council; and thirdly, in conjunction with Parliament in terms of the Establishment of the Parliament Order of 1992. Which of the King's legislative powers are readily acceptable within a democratic framework? Illustrate your answer by making reference to any relevant pieces of legislation. **[25 MARKS]**

**QUESTION 2**

Instead of enshrining the fundamental rights of the people, the Draft Constitution of Swaziland, 2003, reinforces the status quo and is a far cry from a democratic constitution. Do you agree? Discuss fully, citing relevant legislation. **[25 MARKS]**

**QUESTION 3**

Discuss the ways in which the Tinkhundla Parliamentary system of government is similar to and different, from the Westminster model system. **[25 MARKS]**

**QUESTION 4**

Sly Max while walking down to the bus rank in Manzini was attacked by two thugs who took his bag and disappeared into the thick crowd. A few minutes later, they returned to demand money from a shaken Sly Max. Both of them were brandishing deadly knives. Sly Max tried to run away but was overtaken and beaten viciously. He was already bleeding profusely when he wrenched himself free and attempted another escape. Once again he was overtaken and beaten. At this point he saw a broken bottle lying nearby. In an attempt to ward off one of his assailants, he threw the broken bottle at the neck of the thug, inflicting a fatal wound in the process. The thug died on arrival at the RFM hospital, Manzini.

Sly Max was arrested by the police. Although he had been in custody for six weeks, he had not been charged. When his lawyer Elizabeth Roland went to see him at the police station, she was refused permission to talk to him. The police argued that he was not under arrest but detention for purposes of investigation.

In a country without a written constitution guaranteeing fundamental civil liberties how can Elizabeth Roland secure the freedom of her client? Make reference to decided cases. **[25 MARKS]**

**QUESTION 5**

In a debate in the House of Assembly on the control of weed in Lake Nyala, Abnormal Harris refers to Rudolf Miasma, the Director of the Lake Nyala Weed Control Board as “possibly the most noxious weed in the whole godforsaken lake”. He accuses Miasma of taking bribes from the weed interests. The debate is being broadcast.

At this juncture Cecil Footsy rises to his feet and points out that Miasma had been tried on similar charges two years previously and was acquitted. The Minister of Wax, Ralph Mildew, then explains that he never thought much of that count anyway. He thought that there were some weedy interests in that bench as well.

You have been retained by Miasma who wants to know who, if anyone, he can sue. Advise Miasma. Can anything be done to control members of Parliament in their debate and canvassing of issues within the House?

**[25 MARKS]**