



### QUESTION 1

Swaziland has repeatedly been criticised for gross violation of human rights. As a human rights lawyer what do you perceive as the main reason/s for this state of affairs and what are the possible reform proposals that would remedy this state of affairs.

[25 MARKS]

### QUESTION 2

Mabuza is Secretary General of the Swaziland Yesive Progressive party. Last month the party organised a political rally at Msunduzi sports ground. The state police violently disbanded the rally heavily assaulting Mabuza, who as a result suffered two broken ribs, a cracked skull and multiple bruises. He was taken to the Mbabane Police Station where he was interrogated continuously for four hours while shackled to leg irons. He was only taken to the Mbabane Government hospital the next day where he was immediately admitted to the intensive care unit. Mabuza's injuries were aggravated by the police's delay in taking him to hospital.

Advise Mabuza.

[25 MARKS]

### QUESTION 3

Mrs. Gama is the widow of Magalela Gama who was the Chief of the Mashobeni chieftdom in the Shiselweni region. Gama passed away two weeks ago. The family council as per custom wanted Mrs. Gama to:

1. have her hair shaved;
2. wear traditional mourning gowns;
3. be inherited by Magalela's younger brother under the *Kungenwa* custom; and give
4. all of Magalela's estate will now belong to his younger brother who would have taken over (*kungenwa*) his widow.

Mrs. Gama is refusing all the above arguing that the Constitution of Swaziland gives her full rights to do so, in addition she also claims protection under the Convention on the Elimination of All Forms of Discrimination Against Women. Is she right? Discuss fully.

[25 MARKS]

### QUESTION 4

Mr. Simelane, an alcoholic, spend thrift and a compulsive gambler has debts with Mr. Gumbi, a shylock, amounting to E150.000. Mr. Gumbi has taken a fancy to Nomcebo,

Mr. Simelane's youngest daughter, who is 16 years old and doing Form Four at Swazi National High School. Mr. Gumbi proposes to Mr. Simelane that if Mr. Simelane gives (*kwendzisa*) his daughter to him he will not only cancel the debt of E150.000 but will give Mr. Simelane over and above the bride price a cash sum of E100.000. Mr. Simelane agreed to this arrangement telling his wife and child that this is an old traditional custom which they cannot oppose.

Mrs. Simelane is convinced that under the Constitution of the Kingdom of Swaziland and under the Convention on the Rights of the Child and its two Optional Protocols, which Swaziland has ratified, Nomcebo has a right to refuse the application of the custom of *Kwendzisa* to her.

Discuss.

[25 MARKS]

### **QUESTION 5**

Mr. Mabila during a marula drinking spree was insulted by Prince Jolwane. A fight ensued which resulted in the death of the prince. Mr. Mabila languished in prison for twelve months because the trial had been postponed several times on the ground that the prosecution had problems locating its chief witnesses. His lawyers were also threatened by traditional authorities that if they represented Mr. Mabila they would "face the music". This led to the withdrawal of the lawyers from the case. When the trial began, even though this was a case involving the death penalty, his lawyers were not present in court. Yet the trial was allowed to proceed, and Mr. Mabila had to defend himself. He was convicted of murder and sentenced to death.

Mr. Mabila is desirous of your assistance in that he feels that his rights were grossly breached in this case, in that:

1. The DPP took too long to bring the case to trial.
2. Traditional authorities interfered with his lawyers resulting in the lawyers withdrawal of their services.
3. When the trial began it was allowed to continue even though he had no legal representatives.

Discuss.

[25 MARKS]