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UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER, MAY 2014

TITLE OF PAPER: CONSTITUTIONAL LAW

COURSE CODE: L103

TIME ALLOWED: THREE (3) HOURS

INSTRUCTIONS:

- 1. ANSWER ANY FOUR (4) QUESTIONS**
- 2. ALL QUESTIONS CARRY EQUAL MARKS**

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BY THE INVIGILATOR.**

QUESTION 1.

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In the year 2013, the state of Mphumalanga gained independence from Great Britain. Like all newly independent states, the people of Mphumalanga wanted to have a written constitution reflective of their history, and their aspirations as a nation. After thorough consultation, the people of Mphumalanga were still not agreed about the nature and system of government they wanted for the new state. Constitutional law experts were consulted and they gave very conflicting responses. When the committee entrusted with the work of drafting the constitution was at the end of its tether, they approached you, an expert of constitutional law. They sought your advice on the nature of the constitutions and the pros and cons of same and the systems of government that would be most suitable for a state that wanted to uphold democratic ideals and the well respected principle of constitutionalism. Advise the state of Mphumalanga. In your brief, state what model of constitutionalism would be suitable for this new state. Give reasons for your answer.

(25 MARKS)**QUESTION 2**

The law regulating the conduct of elections in Swaziland has undergone a lot of change since 1978. Do you agree? Critically evaluate the validity of this statement. Support your answer with authority.

(25 MARKS)**QUESTION 3.**

The King's Proclamation to the Nation of 1973 is an important document on the history of constitutional development of Swaziland because it ushered in a new culture of constitutionalism, separation of powers and respect for human rights. Critically assess the validity of this statement and cite relevant authority.

(25 MARKS)

QUESTION 4.

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The Kingdom of Swaziland prides itself in a Judiciary that is independent and upholds the rule of law. Do you agree? Discuss the characteristics of an independent judiciary and give reasons why it is important that the concept of the independence of the judiciary be upheld.

(25 MARKS)

QUESTION 5.

While walking down the bus rank in Manzini, Sly Max 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 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 viciously. 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, Ruth Dlongolo went to see him at the Police station, she was refused permission to talk to him. The Police argued that Sly Max was not under arrest but detention for purposes of investigation.

In a country without a written constitution guaranteeing fundamental civil liberties how can Ruth Dlongolo secure the freedom of Sly Max? Discuss, making reference to decided cases.

(25 MARKS)