UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2014

TITLE OF PAPER: CRIMINAL PROCEDURE

COURSE CODE: L402

TIME ALLOWED: 3 HOURS

INSTRUCTIONS: 1. ANSWER ANY FOUR (4) QUESTIONS

2. ALL QUESTIONS CARRY EQUAL MARKS

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.

QUESTION 1

The provisions of the Environment Management Act, 2002 on prosecution of environment crime run counter to the provisions of the Constitution Act, 2005 and those of the Criminal Procedure and Evidence Act, 1938 regarding the powers of the Directorate of Public Prosecutions as *dominus litis* in matters of public prosecution. Critically evaluate the validity or invalidity of this statement. Make reference to authorities.

(25 Marks)

QUESTION 2

"Legal controls on police powers are a clog on police efforts in fighting crime. Police powers need to be enlarged not circumscribed so as to enable them to effectively meet the threat posed to society by criminals". Critically assess this statement.

(25 Marks)

QUESTION 3

The Constitution Act, 2005 has made radical inroads on the criminal jurisdiction of courts in Swaziland. Do you agree? Discuss the validity or invalidity of this statement making reference to authorities.

(25 Marks)

QUESTION 4

The accused Boyabengwenya Mlilo assaulted one Thula Goescht, a girl aged 12 years and had forcible sexual intercourse with her. The accused subsequently burned down the house in which Thula was. What charges can be preferred against the accused? Give reasons for your answer. Draft an indictment reflecting the charges that may be preferred against the accused.

(25 Marks)

QUESTION 5

According to Smit J, in *Black v Barclays Zimbabwe Nominees (Pty) LTD 1990 (1) SACR 433 (W)*, "an individual's statutory power to institute a private prosecution is a "safety valve", so to speak, in the machinery of the law. It is also to some extent an indirect method of controlling corruption or incompetence in the State's prosecutorial services. Do you agree? Discuss the validity or invalidity of this statement, making reference to decided cases.

(25 Marks)