

**UNIVERSITY OF SWAZILAND**

**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION, JULY, 2017**

**TITLE OF PAPER:            CONSTITUTIONAL LAW**

**COURSE CODE:            LAW 103**

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

**INSTRUCTIONS:**

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

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GRANTED BY THE INVIGILATOR**

## **QUESTION ONE**

While walking down the bus rank in Manzini, Sly Max was attacked by two thugs who took his bag and disappeared into the 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 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, 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 that does not have a written constitution guaranteeing fundamental civil liberties how can Elizabeth Roland secure the freedom of her client? Discuss, citing authorities.

(25 Marks)

## **QUESTION TWO**

You have been approached by the Constitutional Review Commission to make a submission in respect of the distribution of the powers of government in the new constitution of the State of New Haven. In your submission, state the reasons for preferring either a separation of powers or a fusion of powers in one or a few hands.

(25 Marks)

### **QUESTION THREE**

Describe the role of the judiciary in modern constitutional governance and show in what way the independence of the judiciary can be safeguarded.

(25 Marks)

### **QUESTION FOUR**

The doctrine of the Rule of law is a foundation and pillar of all civilized and democratic states as it advocates for separation of powers and constitutionalism. Discuss the main features of the concept of the Rule of law as set out by Professor A.V. Dicey. Are the main features of the rule of law relevant in present day Swaziland?

(25 Marks)

### **QUESTION FIVE**

“Parliamentary supremacy is consistent with Constitutional supremacy”. Do you agree? Critically evaluate the validity of this statement and illustrate your answer with examples.

(25 Marks)