

UNIVERSITY OF FORT HARE
NELSON MANDELA SCHOOL OF LAW
(East London)

Constitutional Law LEC212E/LEC213E

EXAMINATIONS 2023

MAIN EXAMINATION PAPER

Time: 08h30-12h00

Marks: 100

Internal Examiner:

Internal Moderator

Prof N Ntlama-Makhanya:

Prof A Van Coller

INSTRUCTIONS

- 1 Answer **ALL FOUR** questions.
- 2 **DO NOT** separate the sub-questions.
- 3 Write clearly and legible.
- 4 Refer to case law.
- 5 Please ensure that your Details are included in the COVER PAGE.

This paper consists of (3) pages including the cover page

QUESTION ONE

- 1.1 A member of Parliament, during the sitting of the National Council of Provinces (NCOP), was ejected from the House, for refusing to withdraw the remark that President Ramaphosa is a 'criminal' following the alleged money laundering claims at his Phala Phala farm. With this statement, refer to case law and discuss the application of the law of privilege and its limitations as applied in Parliamentary processes. (15)
- 1.2 What are the factors that constitute the 'dominance' of the National Assembly in the functioning of Parliament. In your answer refer to the relationship between the National Assembly and the National Council of Provinces. (10)

Marks: 25

QUESTION TWO

- 2.1 List the sources of Constitutional Law and give a brief explanation of each source. (8)
- 2.2 Discuss the factors that constitute a state. In your answer refer to the functions of the state. (10)
- 2.3 What is democracy and how does it fit into the concept of the rule of law? (7)

Marks: 25

QUESTION THREE

- 3.1 Distinguish between the unitary and federal forms of government. In your answer, refer to South Africa's form of government. (15)
- 3.2 Explain the relationship between the doctrine of separation of powers and constitutionalism. (10)

Marks: 25

QUESTION FOUR

- 4.1 Explain the importance of the institution of traditional leadership in South Africa's new constitutional dispensation. (5)
- 4.2 The judiciary is the last line of defence in the promotion of the principles of the new constitutional dispensation. With this statement, discuss the hierarchy of the judicial structure and the meaning of the principle of 'judicial independence' in the application of the law without fear or favour. (10)
- 4.3 What is the importance of the 'motion of no confidence' in the parliamentary processes? In your answer, make an independent opinion whether the motion of no-confidence against the Mayor or President of the ruling party will have any bearing if the majority party will use its numbers to vote against such a motion. (10)

Marks: 25

END OF THE PAPER!!