

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

Constitutional Law-LEC221E/LEC213E

EXAMINATIONS 2023

SUPPLEMENTARY 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 legibly.
- 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 Following the issues that emanated from the alleged discovery of the money hidden in couches or sofas at President Ramaphosa's Phala Phala Farm, Parliament constituted a Panel Member to investigate whether the President had a *prima facie* case to answer to Parliament for breaching the ethical principles that regulate the functioning of the House including its members. Pursuant to the findings and recommendations that found the President to have the *prima facie* case to answer, members of Parliament voted against the acceptance of the Panel Member Report. On the other hand, the President was called by various groups and members to resign and some tabled a 'motion of no confidence' against him. With these facts in mind:

(a) Discuss 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 President of the ruling party will have any bearing if the majority party uses its numbers to vote against such a motion. (15)

1.2 Discuss the limitations of the National Council of Provinces (NCOP). In your answer, refer to its specific role in the national legislative process. (10)

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QUESTION TWO

2.1 Explain the relationship between the doctrine of separation of powers and constitutionalism. (10)

2.2 Discuss the factors that constitute a state. In your answer refer to the functions of the state. (8)

2.3 What is democracy and how does it fit into the concept of the rule of law? (7)

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QUESTION THREE

- 3.1 List the sources of Constitutional Law and give a brief explanation of each source. (8)
- 3.2 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)
- 3.3 Explain the importance of the institution of traditional leadership in South Africa's new constitutional dispensation. (7)

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QUESTION FOUR

- 4.1 Distinguish between the unitary and federal forms of government. In your answer, refer to South Africa's form of government. (15)
- 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)

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END OF THE PAPER!!