

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER, MAY, 2016.

TITLE: CONSTITUTIONAL LAW 11

COURSE CODE: DL028

TIME ALLOWED: THREE (3) HOURS.

INSTRUCTIONS:

1. THERE ARE FIVE QUESTIONS IN THIS EXAMINATION PAPER AND FOUR QUESTIONS MUST BE ANSWERED.
2. QUESTION ONE IS COMPULSORY AND ALL QUESTIONS CARRY 25 MARKS EACH.

TOTAL MARKS: 100

THIS PAPER SHOULD NOT BE OPENED UNTIL PERMISSION HAS
BEEN GIVEN BY THE INVIGILATOR.

QUESTION ONE

Sbhasana Ndlovu is the elected member of the Mtsambama Inkhundla. During a debate of the Bill on ARVs distribution in the country, MP Ndlovu moved a motion that all HIV positive people should be branded so that they can be easily identifiable. Some members of the House were greatly annoyed by this motion while others stated that there was nothing wrong with it. A confrontational debate ensued between the two factions and MP Ndlovu stepped down under pressure from the protesting members who were now on the verge of manhandling him. During the confrontations, MP Ndlovu manhandled the member of Dvokodvweni Inkhundla, MP Sikelela Dlamini, who is a well-known enemy of Ndlovu.

The Speaker failed to maintain order, and security forces were called in to calm the situation. The session for the day was adjourned unceremoniously. MP Sikelela Dlamini was seen rushing out of the House, bleeding profusely from the nose from the injury he had sustained from MP Ndlovu's blows during the confrontation.

Two days later, whilst sitting at the canteen in Parliament, MP Ndlovu was laid a criminal charge by the Lobamba Police. MP Dlamini had laid a charge of assault with intent to cause grievous bodily harm against MP Ndlovu on Count One. Dlamini had a huge cut on his cheek caused by the huge diamond rings on Ndlovu's fingers. Count Two was a charge for causing chaos in the House by initiating a discriminatory motion, knowing very well that some members of the House were also HIV Positive.

MP Ndlovu is very upset about these charges and approaches you for advice on his rights, powers and privileges as a Member of Parliament.
Advise MP Ndlovu.

[25 marks]

QUESTION TWO

The Constitutional system of Swaziland provides for a specific procedure for passing legislation. Discuss this procedure.

[25 marks]

QUESTION THREE

The Supremacy of the Constitution demands that the Courts should hold void any exercise of power which does not comply with the prescribed manner and form, or which is otherwise, not in accordance with the Constitution. Analyse the constitutional powers of the courts in Swaziland.

[25 marks]

QUESTION FOUR

“The Independence of the judiciary is constitutionally guaranteed in Swaziland.” Do you agree with the above statement? With the support of authorities, give your response.

[25 marks]

QUESTION FIVE

The doctrine of separation of powers entails that each arm of government should exercise its functions independently of the other arm. Is this doctrine practical in Swaziland? Discuss in detail.

[25 marks]