

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW

MAIN EXAMINATION PAPER, MAY, 2017.

TITLE: CONSTITUTIONAL LAW 11

COURSE CODE: DL028

TIME ALLOWED: TWO (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 QUESTION CARRY 25 MARKS EACH.**

TOTAL MARKS: 100

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

QUESTION ONE (COMPULSORY)

The honourable member of Parliament for the Sandleni Inkhundla, Mr. Mancoba Carlos Ndzinisa and honourable member for the Hhukwini Inkhundla Madam Nozipho Ngwenya have always not seen eye-to-eye with each other during and after business of the House of Parliament. Mr Ndzinisa had, in the past, complained that madam Ngwenya was disrespectful and had a tendency of body shaming him in front of the other honourable members of the House because of this small and slim stature.

On the 12th of May, 2017, during a debate on a Consumables Bill, MP (Member of Parliament), Ngwenya made an example to the effect that people with small, slim and frail body structures should be given first priority at the cafeteria during lunch lest they collapse due to being in famished after intensive debates in the House.

This motion by MP Ngwenya angered MP Ndzinisa who suddenly advanced threateningly towards the motion mover, MP Ngwenya waiving his knobkerrie that he always carry with him. The other MPs, on seeing that MP Ngwenya was in danger tried to intervene and stop him; however, complete chaos erupted in the House as some members sided with MP Ndzinisa and others were defending madam Ngwenya. MP Ndzinisa whilst trying to reach for Ngwenya tripped and fell breaking his wrist in the process. The Speaker, having failed to maintain peace in the House, adjourned the session unceremoniously.

When the house resumed a week later, MP Ngwenya was greeted by a gentleman at the gate of Parliament, who introduced himself as the deputy sheriff for the Hhohho Region, and that he had come to serve the MP with court process. The summons reflected that MP Ndzinisa was claiming compensation for the injuries and defamation of character he

had sustained during the last sitting, as a result of MP Ngwenya's unlawful conduct. MP Ndzinisa is very upset about Ngwenya's claim and comes to you for advice.

Advise MP Ndzinisa on the constitutional functions of Parliament including the immunities and privileges of Parliamentarians. Cite the relevant authorities where necessary.

[25 marks]

QUESTION TWO

Swaziland has adopted a constitution that is modelled on the Westminster model at independence. Discuss the key set up of government based on this model. Is the current constitution different from the Westminster imported model? Give detailed reasons for your answer.

[25 marks]

QUESTION THREE

The Tinkhundla system of government has been severely criticised by some constitutional law scholars. What are these criticisms against the system? What is your own opinion on these criticisms?

[25 marks]

QUESTION FOUR

In your own view, can the current constitution of Swaziland be said to be autochthonous and reflect the wishes of the people? State in detail the reasons for your answer.

[25 marks]

QUESTION FIVE

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

[25 marks]