Tutorial Letter 201/2/2013

Constitutional Law

CSL2601

2013

Department of Public, Constitutional and International Law

IMPORTANT INFORMATION
This tutorial letter contains important information about your module.
Dear Student

Read this tutorial letter carefully as it contains feedback on Assignments 01 and 02 and feedback on the self-assessment assignment for the second semester of 2013. It also contains information on the format of the examination for this semester.

We trust that you found the assignments challenging and hope that the feedback will enhance your knowledge and understanding of this module.

1 Feedback on Assignment 01

In this assignment, you were expected to indicate whether the following statements are TRUE or FALSE by selecting either 1 for “true” or 2 for “false” on the mark-reading sheet.

1.1 As Germany has a comparative foreign law, South African courts are obliged to consider German law as a primary source of South African law when interpreting any legislation. This statement is false (2). Foreign law is not a primary source of South African law but is a secondary source with persuasive value. In fact, section 39 provides that courts may (and not must) consider foreign law

1.2 Read the following scenario and indicate whether the statement that follows is true or false:

In 2011 the South African Police Services entered into a lease agreement with a certain Mr Robert Shabane in respect of a certain building in the city centre of Pretoria to accommodate its staff.
The relationship that flows from the lease agreement between the South African Police and Mr Shabane is regulated by public law because the state is involved in the relationship. This statement is false (2). Although the state is involved in this relationship, it is not exercising state authority.

1.3 A supreme constitution and an inflexible constitution are one and the same thing. This statement is false (2). Although the supremacy or otherwise of the constitution deals with the status of a particular constitution when compared to ordinary laws and whether ordinary laws can be tested against that constitution, the inflexibility or otherwise of a constitution deals with the difficulty or ease with which a particular constitution can be amended.

1.4 In South Africa, the Westminster system of parliamentary sovereignty was already replaced with constitutional supremacy as early as 1983. This statement is false (2). This was only done with the introduction of a supreme constitution firstly in 1993, and later in 1996.

1.5 In a constitutional law relationship, the state is always involved and it always exercises state authority. This statement is true (1).

1.6 Intergovernmental relations play an invaluable role in representing local government interests in the national and provincial spheres. This statement is true (1).

1.7 The exclusive legislative authority of provinces means that only the National Assembly has the power to make laws in relation to certain matters and that the national legislature generally does not have any authority in relation to these matters. This statement is false (2). Exclusive legislative authority of provinces means that only provincial legislatures (not the National Assembly) has the sole power to make laws in relation to certain matters listed in Schedule 5 of the Constitution but in certain circumstances the national legislative authority might intervene.

1.8 A provincial legislature may pass a constitution for the provinces or, where applicable, amend its constitution if at least two-thirds of its members vote in favour of the Bill. This statement is false (2). Although a provincial legislature may indeed pass a constitution for the province concerned, it does not require a two thirds majority of its members to do so.
1.9 South Africa is a democratic state and this means that people's representatives in Parliament, provincial legislatures and municipal councils are free to make whatever laws they wish and are not bound to observe the norms and values embodied in the Constitution. This statement is false (2). In South Africa, in addition to representative democracy, constitutional supremacy reigns. This effectively means that elected representatives are not free to pass whatever laws they wish but must adhere to the norms and values embodied in the supreme Constitution.

1.10 In a parliamentary system of government such as the South African one, the president is elected by voters and he or she must resign if voters adopt a motion of no confidence in him or her. This statement is false (2). This is actually the case in a presidential rather than a parliamentary system.

1.11 The doctrine of separation of powers entails the division of state authority between the national, provincial and local spheres of government. This statement is false (2). Separation of powers is a term of art meaning only the division of state authority between the legislature, the executive, and the judiciary.

1.12 Intergovernmental relations may be defined as the interaction between the various spheres of government with a view to achieving a common goal which is beneficial to the country. This statement is true (1).

1.13 The independence of the judiciary entails the functional and personal independence of the judges. This statement is true (1).

1.14 The Constitutional Court in Merafong Demarcation Forum v President of South Africa 2008 (10) BCLR 968 (CC) affirmed the rationality test in the exercise of public power. This statement is false (2). It confirmed the reasonableness test and not the rationality test.

1.15 The president, as the head of the national executive, also serves as the chairperson of the Judicial Services Commission. This statement is false (2). The Chief Justice, rather than the President who is the head of government, is the head of the judiciary who heads the JSC.
1.16 To enable members of Parliament to perform their functions without hindrance, parliamentary privileges enjoy immunity from judicial review. This statement is false (2). It was held in the De Lille case that like any other government organ or government conduct, both parliament and parliamentary privileges are indeed subject to judicial review due to the supremacy of the Constitution.

1.17 According to the Constitution of 1996, the President can refer a Bill back to the National Assembly for reconsideration only if a procedural defect has occurred in the legislative process. This statement is false (2). This was the situation under the interim Constitution. However, in terms of section 79 of the 1996 Constitution the President must refer a Bill back to the National Assembly if he has reservations about the Bill’s constitutionality either on procedural or substantive grounds.

1.18 In South Africa, as soon as a person is elected state president, he or she ceases to be a member of the National Assembly. This statement is true (1). See section 87 of the Constitution.

1.19 In Minister of Justice and Constitutional Development v Chonco, the Constitutional Court held that presidential powers can be transferred to a cabinet minister. This statement is false (2). The court actually held the opposite of this statement. It indicated that presidential powers cannot be transferred to members of cabinet as this would result in uncertainty as to what constitutional obligation is imposed upon whom.

1.20 According to section 83 of the 1996 Constitution, the President is the head of the national executive, and therefore all his powers involve the exercise of executive authority. This statement is false (2). Section 83 actually provides that the President is both a head of state and head of the executive. In fact, all powers exercised by the President in terms of section 84 are not executive powers but powers of a head of state.

2 Feedback on Assignment 02

Question 1

1.1 In your own words (not verbatim from the definition in the study guide), define constitutional law. (5)
Constitutional law is a set of principles that regulates the distribution and exercise of state authority. In other words, it determines who is responsible for legislative, executive and judicial authority and how these functions must be executed. It involves a dual relationship between state organs *inter se*, on the one hand, and state organs and individuals, on the other.

1.2 In *Ex parte Chairperson of the Constitutional Assembly: In Re Certification of the Constitution of the Republic of South Africa, 1996* (10) BCLR 1253 (CC), the court dealt with, among other things, the need for the supremacy of the Constitution and the inflexibility of the Constitution. Explain what each of the following phrases mean and how they were dealt with by the court in this case.

1.2.1 Supremacy of the Constitution (5)

The supremacy of the Constitution deals with the status of a constitution in comparison with other ordinary laws of a state and whether other laws can be tested for validity against such a constitution. A supreme constitution ranks above other laws. Any law which is inconsistent with it will be declared invalid. It is usually but not always inflexible. In the *First Certification* case the court had to rule upon the inflexibility of the draft constitution and declined to certify certain provisions of the draft constitution that immunised certain legislation from constitutional scrutiny.

1.2.2 Inflexible Constitution (5)

The flexibility of a constitution relates to the difficulty with which such a constitution can be amended. An inflexible constitution is difficult to amend because it requires special procedures (e.g. two weeks' notice) and special majorities (e.g. two-thirds majorities) for it to be amended. In the *First Certification* case the court had to rule upon the inflexibility of the draft constitution, and held that not only were special procedures required for the entrenchment of a particular provision but also special majorities.

1.3 Compare the term "sphere" with the term "level of government" and explain the connotation of each term in constitutional law. (10)

The term "level of government" is often used to depict a hierarchical relationship in which the tiers of government are ordered. In this arrangement, there is a "centre" that is more powerful than the second or intermediate tier which, in turn, has more power than the third tier.
The fact that the 1996 Constitution refers to "spheres" rather than "levels" of government suggests a clear attempt to move away from the traditional hierarchical structures of government towards a form of government in which the national, provincial and local spheres operate more or less as equal partners in government. Unlike the hierarchical arrangement where the different levels of government are arranged in a linear fashion (i.e. with the national or central government and the local government at the bottom), in the integrated cooperative model or arrangement the different spheres of government interact with each other with a certain measure of distinctiveness, interdependence and interrelatedness. The use of the word "spheres" rather than "levels" is also complemented by the use of the word "national government" rather than "central government" in the Constitution (see for instance s 40). The use of the word "national" rather than "central" government thus also indicates a deliberate intention to move away from the stratified hierarchical model that existed under the old dispensation and an acknowledgement of the need for a cooperative or an intergovernmental model.

1.4 What are the factors that are taken into account in order to determine the legitimacy of the national legislature's action by passing legislation that falls within the functional areas listed in Schedule 5? (5)

Schedule 5 of the Constitution contains a list of functional areas in respect of which provincial legislatures have exclusive or sole legislative authority. In other words, only the provincial legislatures (and not the national legislature) can pass legislation in respect of matters that are listed in Schedule 5 of the Constitution. However, section 44(2) of the Constitution provides that Parliament may pass legislation on a matter falling within a functional area listed in Schedule 5 when it is necessary to

(a) maintain national security
(b) maintain economic unity
(c) maintain essential national standards
(d) establish minimum standards required for the rendering of services
(e) prevent unreasonable action taken by a province which is prejudicial to the interest of other provinces or to the country as a whole

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Question 2

2.1 Briefly discuss the difference between direct and representative democracy.  (5)

Direct democracy means that all major political decisions are taken by the people themselves. This form of democracy may work in a different, small political community where people can get together on a regular basis (e.g. in a town hall) to discuss and decide important matters of common interest. Representative democracy, on the other hand, is characterised by the fact that the citizens of a state elect the representatives of their choice, and these representatives then express the will of the people. Representative democracy is created via a process of elections which should be held at regular intervals and reasonably frequently. Note that although direct democracy is suitable for a small community, representative democracy is suitable for a modern state which covers a wide geographic area.

2.2 The suspended National Commissioner of the South African Police Service is under investigation on allegations of misconduct regarding the procurement of office space for the Police Service. With reference to Sankie Mthembu Mahanyele v Mail & Guardian 2004 (6) SA 329 (SCA), analyse the importance of developing sound principles of accountability in public governance.  (10)

The principles of public administration are provided for in section 195 of the Constitution. These principles include the promotion and maintenance of a high standard of professional ethics, which requires professionalism, service delivery (the Batho Pele Principles) and professional integrity and standards. Also included is an efficient, economic and effective use of resources, which also requires managers to clearly understand the priorities of the government and to ensure that the resources are used within the framework of those priorities in order to

- determine the impact of resource allocation in the course of service delivery
- critically establish and maintain an integrated and consistent system for monitoring

Furthermore, the principle of accountable public administration requires managers in the public service to be subject to public scrutiny and to be answerable for their conduct and activities, as the public institutions have been delegated important management and regulatory powers and are expected to exercise these powers within the context of accountability.
Finally, the principle of good human resource management and career development practices require managers to develop sound human resource management strategies in order to promote and encourage both professional and personal growth in the public service so as to bring about an effective system of cooperative governance.

The significance of these principles was given effect by the Supreme Court of Appeal in *Sankie Mthembi-Mahanyele v Mail & Guardian Ltd and Another* (054/2003) [2004] ZASCA 67, where Coram J held that "it is necessary to hold members of government accountable to the public in order to allow robust and frank comment in the interest of keeping members of society informed about what the government does [at para 65]". The accountability of public officials further endorses the "reasonableness" of government action in regulating and fostering cooperation among the spheres of government which may effectively advance the principles of public administration for service delivery.

2.3 The South African Constitution contemplates a democratic society that is participatory in nature, entailing the meaningful involvement of the public at every stage of the law-making process. With reference to relevant sections of the Constitution and case law, critically discuss the merits of this statement. In your discussion, you should refer to the meaning, nature, scope and content of the duty to facilitate public participation. You should further indicate the extent to which this right has been implemented in practice (if any). (15)

The elected legislative bodies are constitutionally mandated to facilitate public involvement in their legislative and other processes of their respective committees (see s 59 (1) (a), 72(1) (a), and 118(1) (a) of the Constitution). This is referred to as "participatory democracy", and simply means that individuals or institutions must be given an opportunity to take part in the making of decisions that affect them (Currie & De Wall *The Bill of Rights Handbook* 5th ed (2005) 15).
As Ncobo J held in Matatiele Municipality and Others v President of the Republic of South Africa and Others (No 2) 2007 (1) BCLR 47 (CC):

Our constitution contemplates a democracy that is representative, and that also contains elements of participatory democracy. As the Preamble openly declares, what is contemplated is "a democratic and open society in which government is based on the will of the people". Consistent with constitutional order, section 118(1)(a) calls upon the provincial legislatures to facilitate involvement in [their] legislative and other processes’ including those of their committees. As was held in Doctors for Life International v Speaker of the National Assembly and Others (CCT 12/05), our Constitution calls for open and transparent government and requires legislative organs to facilitate public participation in the making of laws by all legislative organs of the State.

At para 68, he continued as follows:

The nature and degree of public participation that is reasonable in a given case depends on a number of factors. These include the nature and the importance of the legislation and the intensity of its impact on the public. The more discrete and identifiable the potentially affected section of the population, and the more intense the possible effect on their interests, the more reasonable it would be to expect the legislature to ensure that the potentially affected section of the population is given a reasonable opportunity to have a say.

In Doctors for Life International v Speaker of the National Assembly and Others 2006 (12) BCLR 1399 (CC), one of the issues the court had to consider was the nature and scope of the duty to facilitate public involvement comprehended in sections 72(1) (a) and 118(1)(a) of the Constitution. The court made an order declaring that Parliament had failed to comply with its constitutional obligation to facilitate public involvement before passing the Choice on Termination of Pregnancy Amendment Act 38 of 2004 and the Traditional Health Practitioners Act 35 of 2004, as required by section 72(1)(a) of the Constitution. It was held that as a consequence, these Acts had been adopted in a manner that was inconsistent with the Constitution and were thus invalid. The court in this case developed a reasonableness standard in determining whether a legislative body has complied with its constitutional duty to facilitate public involvement in its legislative processes. The court indicated that

…the duty to facilitate public involvement must be construed in the context of our constitutional democracy, which embraces the principle of participation and consultation. Parliament and the provincial legislatures have broad discretion to determine how best to fulfil their constitutional obligation to facilitate involvement in a given case, so long as they act reasonably...
In determining whether Parliament has complied with its duty to facilitate public participation in any particular case, the court will consider what Parliament has done. The question will be whether what Parliament has done is reasonable in all the circumstances. Factors relevant to determining reasonableness would include rules, if any, adopted by Parliament to facilitate public participation, the nature of the legislation under consideration, and whether the legislation needed to be enacted urgently. Ultimately, what Parliament must determine in each case is what methods of facilitating public participation would be appropriate. In determining whether what Parliament has done is reasonable, this court will pay particular respect to what Parliament regards as being the appropriate method. In determining the appropriate level of scrutiny of Parliament's duty to facilitate public involvement, the court must balance, on the one hand, the need to respect parliamentary institutional autonomy, and on the other, the right of the public to participate in public affairs. In *Merafong Demarcation Forum and Others v President of the Republic South Africa and Others* 2008 (5) SA 171, the reasonableness standard was developed further. *Echoing Doctors for Life International*, the court at para 27 held that

...[i]n determining whether the legislature acted reasonably, this Court will pay respect to what the legislature assessed as being the appropriate method. The method and degree of public participation that is reasonable in a given case depends on a number of factors, including the nature and importance of the legislation and the intensity of its impact on the public. In the process of considering and approving a proposed constitutional amendment regarding the alteration of provincial boundaries, a provincial legislature must at least provide the people who might be affected a reasonable opportunity to submit oral and written comments and representations (see also paras 56-57 and 116).

Applying this test, the court decided, at para 56, that failure by the Gauteng Provincial Legislature to report back to the Merafong community after changing the position taken by the Portfolio Committee in its negotiating mandate does not rise to the level of unreasonableness which would result in the invalidity of the Twelfth Amendment which was otherwise properly passed by Parliament. It cannot result in a finding that Gauteng failed to take reasonable measures to facilitate public involvement, as required by sections 72(1) (a) and 118(1) (a) of the Constitution.

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[60 MARKS]
Feedback on the self-assessment assignment

Question 1

1.1 Critically discuss whether local government is nothing more than an administrative handmaiden. (10)

This is a discussion question that allows you to indicate your understanding of Chapter 7 of the Constitution; the role of local government in the democratisation process; and the objectives, powers and duties of local government. Credit will be given for discussing the following:

- the restructuring of local government pursuant to the adoption of the Constitution;
- the provisions of sections 151 and 152 of the Constitution as they relate to the status; of municipalities and the objectives of local government respectively;
- the role of municipalities in cooperative government, as stated in section 154 of the Constitution;
- the importance of public participation, particularly at local level – discuss this briefly
- the powers vested in local government;
- the *Fed sure v Greater Johannesburg Metropolitan Council* judgment; and
- the provisions of section 156 of the Constitution and a discussion of the implications of this section when interpreted to suggest that local government is the administrative arm of the other spheres of government.
1.1 In *Doctors for Life International v Speaker of the National Assembly and Others*, at paras 1–11 and 31–72, the court had to determine the stage of legislation-making at which it can intervene in order to enforce Parliament’s obligation to facilitate public involvement. Critically analyse the decision of the court in this context.

This question tests your ability to read a judgment and summarise it in your own words. To answer this question, you have to

- include a proper introduction in which you explain to the reader what issues you are going to discuss, giving a brief contextual background. Look at issues of separation of powers and then determine whether the judiciary has any competency to intervene in the law-making process.
- study paragraphs 1–11 and 31–72 of the *Doctors for Life International* judgment and try to answer the following questions:

  Is the Constitutional Court competent to intervene in parliamentary proceedings in order to enforce Parliament’s obligation to facilitate public involvement in the law-making process

    (i) before Parliament has concluded its deliberations on a Bill?

    (ii) after Parliament has passed the Bill, but before the Bill has been signed by the President?

    (iii) after the Bill has been signed by the president, but before it has been brought into force?

What was the court’s answer to these questions? What is your opinion and what authority influences your opinion?
1.3 Explain in which respects the 1993 and 1996 Constitutions represent a radical break with the previous constitutional dispensation.

The 1993 Constitution initiated a constitutional revolution in South Africa.

- It was the first constitution in the history of South Africa that was supreme and contained a written Bill of Rights.
- It also established a democratic dispensation that is totally representative of the country’s population.
- The Constitution, in the words of Mureinik (at 32), replaced the old culture of authority with a new culture of justification: “a culture in which every exercise of power is expected to be justified; in which the leadership given by government rests on the cogency of the case offered in defence of its decisions, not the fear inspired by the force at its command”.
- However, from the outset, the 1993 Constitution was intended to be nothing more than an interim measure.

Question 2

2.1 One major difference between parliamentary and presidential systems of government concerns the election process. In a presidential system, the president and members of Congress are chosen in a separate election, which is not the case in a parliamentary system. Discuss in detail the essential features of both systems of government and indicate which system is followed in South Africa. Which system, in your opinion, is more efficient?

In a presidential system, the head of government is also the head of state. This is the case in the United States of America (USA), for instance. In a parliamentary system, on the other hand, the head of state and the head of government are two different persons. For instance, in the Westminster system, which is the archetypal model of a parliamentary system, there is a symbolic head of state (monarch), but the real power of government vests in the prime minister. In a presidential system, the head of government is not a member of the legislature and is not responsible to it. For instance, the American president is not a member of Congress, and neither are the members of his or her cabinet.
In a parliamentary system, on the other hand, the head of government and his or her cabinet are members of the legislature and are responsible to it. One can therefore conclude that there is often a more complete separation of powers (in the sense of a separation of personnel) in a presidential system than in a parliamentary system. In a presidential system, the head of government (president) is often elected directly by the people. In the USA, for instance, the president is popularly elected and his or her election is independent of the election of the legislature. In a parliamentary system, on the other hand, the head of government is the leader of the party with a clear majority in Parliament.

Both the 1993 Constitution and the 1996 Constitution are prime examples of constitutions with both presidential and parliamentary features. Presidential features are to be found in the fact that the president is both head of state and head of government. Parliamentary features are that the president is elected by Parliament, and not directly by the voters, which means that he or she must resign if Parliament adopts a motion of no confidence in him or her.

Another feature of a parliamentary system of government is that members of the supreme executive body (cabinet) must be members of Parliament. Which system, in your opinion, is more efficient?

2.2 Read the following passage and then answer the question that follows:

Parliament passes a law in terms of which President Zuma is authorised to amend and repeal the provisions of certain parliamentary legislation, as well as presidential proclamations pursuant to such legislation.

2.2.1 Critically evaluate whether this law is constitutionally valid in the context of the separation-of-powers principle.

This question deals with delegation of legislative authority to the executive. Delegation is an express or implied legal power of one public authority to authorise another to act in its stead (on its behalf), for example, Parliament could authorise the provincial legislatures to pass legislation in its stead. The question is whether there are limits to Parliament’s authority to delegate its legislative powers. Can Parliament delegate its legislative authority to the executive?
This question was answered in the affirmative in *Executive Council of the Western Cape Legislature*.

**Facts**

This case dealt with section 16A of the Local Government Transition Act, which conferred on the President the power to amend the Act by proclamation. The President used this power to transfer certain powers from the provincial to the national government. The Western Cape Provincial Government challenged the constitutionality of section 16A of the Act and the proclamation issued in terms thereof.

**Legal question**

The legal question was formulated as follows by Chaskalson P (at para 47):

> Whether under our Constitution, Parliament can delegate or assign its law-making powers to the executive or other functionaries, and if so, under what circumstances, or whether such powers must always be exercised by Parliament itself in accordance with the relevant provisions of the Constitution.

**Decision and reason for decision**

It was held that Parliament could indeed delegate its legislative authority under the 1993 Constitution because there was no express constitutional prohibition to this effect. This means the following:

Parliament’s power to delegate was implied in the Constitution. However, it was indicated that a distinction should be drawn between delegation of subordinate legislative powers to the executive and the assignment of plenary legislative powers. The latter would be a usurpation (taking over) of the legislative function, and would thus be contrary to the doctrine of separation of powers.
What is the position under the 1996 Constitution? Why?

The position is the same under the 1996 Constitution for the following reasons:

- like the interim Constitution, the 1996 Constitution is supreme and binds all organs of state, including Parliament;
- like its predecessor, the 1996 Constitution entrenches the doctrine of separation of powers;
- it also spells out the procedure for adopting Acts of Parliament; and
- finally, it does not authorise the assignment of plenary legislative powers to the executive, either expressly or by necessary implication.

2.3 Zingile Dingani is alleged to have misused the institution's money to build a wall around his private residence at a cost of R186 000. Pursuant to these allegations, assuming that Mr Dingani is a member of cabinet, provide a critical analysis of the responsibilities attached to cabinet members in exercising their authority. (10)

Section 92(1) stipulates that the Deputy President and ministers are responsible for the powers and functions of the executive assigned to them by the President. Section 92(2) provides that members of the cabinet are accountable, individually and collectively, to Parliament for the exercise of their powers and the performance of their functions. The notions of individual and collective ministerial responsibility had been developed first in British constitutional law.

Collective accountability

Collective responsibility signifies that the members of the cabinet "act in unison to the outside world and carry joint responsibility before Parliament for the way in which each member exercises and performs powers and functions" (Rautenbach & Malherbe at 179). Ministers who disagree with a particular cabinet decision must either support it in public or resign.

The principle of collective responsibility for all national powers and functions does have an important effect on the functioning of the cabinet. Any member of the cabinet may request that any matter within his or her individual area of responsibility be dealt with by the cabinet.
**Individual accountability**

According to Venter (at 181 and quoted in Rautenbach & Malherbe at 178), the notion of individual responsibility entails three duties on the part of the minister concerned:

(1) to explain to Parliament what happens in his or her department (study s 92(3), which places cabinet members under an obligation to provide Parliament with full and regular reports concerning matters under their control)

- to acknowledge that something has gone wrong in the department and to see to it that the mistake is rectified; and
- to resign if the situation is sufficiently serious.

Venter (at 181–182) states that a minister is obliged to resign in the following circumstances:

- where the minister is personally responsible for something that has gone wrong;
- where the minister is vicariously responsible for the actions of officials in his or her department; and
- where the minister is guilty of immoral personal behavior.

However, the notion of vicarious responsibility for the actions of officials is fairly controversial. It is doubtful whether a minister would have to resign over decisions about which the minister could not have been informed. In the majority of cases, it will be sufficient if the minister informs Parliament of the mistake and then promises to rectify it.

Asmal (at 29) states that we do not yet have any clear guidelines on the question as to when a minister should resign. However, he is of the opinion that if a minister is guilty of serious misconduct, corruption, the gross dereliction of duty, a cover-up or making scapegoats of officials, then he or she should certainly resign. Also, if a minister is lazy or indifferent and therefore did not know, but ought to have known, then this is also a strong case for "a head to roll".
But can a minister be forced to resign? It is clear that Parliament does not have the power to dismiss a minister. It cannot, for instance, adopt a motion of no confidence in an individual minister. However, Parliament can exert considerable moral and political pressure on a minister to resign. If that pressure is backed up by an outcry on the part of the general public, the minister may have little choice but to resign. The President is also likely to dismiss a minister whose continued presence has become an embarrassment to the rest of the cabinet.

4 Format of examination paper

The examination paper will consist of five questions of 20 marks each, which will cover all the study material, except study unit 2. The first question will consist of 20 multiple-choice questions (similar in format to Assignment 01) of one mark each, based on all the prescribed study material.

5 Conclusion

We hope that the above feedback will help you to understand what is expected of you in this module. We wish you success in the coming examination.

Your lecturers