



University of Venda

**UNIVERSITY OF VENDA**  
**SCHOOL OF LAW**  
**DEPARTMENT OF PUBLIC LAW**  
**CONSTITUTIONAL LAW 2541**  
**COURSE OUTLINE 2017**

|                       |            |
|-----------------------|------------|
| <b>NQF level</b>      | <b>6</b>   |
| <b>Credits</b>        | <b>12</b>  |
| <b>Level</b>          | <b>6</b>   |
| <b>Notional hours</b> | <b>120</b> |

## **Constitutional Law**

CAL 2541

### **Introduction**

It is a great honour to welcome students to the course in Constitutional Law (CAL 2541). Your lecturer for this module is Advocate HJ Choma, office number F020, school of law building (email address: [advchoma@yahoo.co.uk](mailto:advchoma@yahoo.co.uk)), Tel 015 962 8354. HOD is Adv. H.J Choma, office number F020, school of law building.

Constitutional Law is a first semester, second year module which is compulsory in the field of LLB studies. The module will be attended three (4) times a week. Attendance of all classes is compulsory and students are advised to prepare for classes in advance.

It is the lecturer's hope that students find this course rewarding.

### **Purpose**

The purpose of CAL 2541 is to equip students with the laws relating to the enforcement of the Constitution or the laws pertaining to the welfare of the people of South Africa.

The module is designed to prepare students to act as legal practitioners or advisors or policy analysts or administrators who may be called upon to provide legal advice / support or manage matters relating to Constitutional Law, and to provide practical solutions to matters concerning Constitutional Law.

### **Course objectives**

After completion of this module, students should demonstrate their possession of sufficient knowledge which enables them not only to successfully identify but also solve practical constitutional law disputes. In order to equip students with these skills, the module encompasses substantive law contained in legislation, international instruments and regional instruments which students are expected to familiarize themselves with. Furthermore, students should be knowledgeable on the application monitoring, adjudication and implementation of the constitutional rights.

### ***Modus operandi***

Teaching will be done through the means of expository lectures, class presentations, class problem-solving, take-home assignments and any other potential effective means. As already mentioned that SSL 4631 is an elective, lectures will be attended 3 times a week. However, a lot of studying is expected from the students and the lecturer may be consulted according to the timetable pasted on her office door.

#### **CLASS TIMES** (subject to change)

Monday      12H00-14H00  
Friday        11H00-13H00

#### **VENUE** (subject to change)

E3  
E1



#### **Consultation Hours:**

Tuesday                : 09hoo-10hoo  
Wednesday            : 08hoo-09hoo  
Thursday                : 10hoo-12hoo

**CLASS TIMES:**

Tuesday : 11:00-12:00 E3  
Wednesday : 09:00-10:00 E3  
Thursday : 09:00-10:00E3  
Friday : 12:00-13:00E2

**VENUE:** Please take note that venues are in accordance with existing time-table.

**Synopsis of the curriculum**

The focus of the course is on Constitutional Law laws, the application in day-to day situations, and the protection and enforcement of the Constitution in South Africa. As such, students will be required to study relevant cases, constitutional provisions, and relevant articles as well as future proposals.

Topics to be covered include the following:

**1 INTRODUCTORY TOPICS:**

- Historical review constitutional development;
- Pre- Union developments;
- The Union of South Africa;
- The transition to democracy;
- The South African Constitution;
- Basic concepts of Constitutional Law;
- Constitutionalism;
- The Westminster constitutional model;
- The transformative nature of the Constitution;
- Constitutionalism in South Africa: a brief overview ;
- Separation of powers;
- The purpose and principles of the doctrine of separation of powers;

- The rule of law;
- The separation of powers and the national legislature;
- Separation of powers and the nation executive;
- Separation of powers and judicial authority;
- Separation of powers and chapter 9 institutions;
- Multilevel government in South Africa;
- The Bill of Rights and enforcement of constitution
- The limitation of rights.
- Equality, Human, dignity and privacy rights;
- Administrative justice, access to information, access to courts and labour rights
- Socio-economic rights

### **Teaching-Learning strategies**

Active learning is expected in this module, students are required to be actively involved as the student-centered –learning will be used. Students are further advised not to solely rely on class notes but to do a lot of reading on their own, so as to come up with new knowledge on the field.

### **Specific course outcomes**

After completion of this module, students should be able to:

- Define Constitutional Law and be able to explain its place in the South African and international legal system
- Identify the sources of South Africa Constitutional Law
- Clearly show the impact of transformative constitutionalism in South Africa
- Demonstrate an understanding of Constitutional Law
- Apply the specific provisions of the Constitution dealing with socio-economic rights
- Understand the relevance of socio-economic rights and the application of Social Security Law

- Understand the main laws regulating social security
- Apply the law governing social security to practical case law
- Be able to indicate to what extent does the South African Constitution comply with international standards of human rights.
- Analyse and create new knowledge in the field of Constitutional Law
- Confidently stand in front of a crowd and make presentations
- Communicate effectively and efficiently

| <b>Specific learning Outcomes</b>  | <b>Assessment criteria</b>   |
|--|--|
| 1. Identify the sources and principles of Constitutional Law   | 1.1 explain the different concepts found in Constitutional Law<br>1.2 analyse given practical problems so as to determine the relevant sources of Constitutional Law<br>1.3 Outline the importance and effect of the rights embodied in the Bill of Rights for the purpose of Constitutional Law                           |
| 2. Carefully examine the effect of transformative constitutionalism on socio-economic rights in South Africa | 2.1. explain the effect and importance of the Constitution.<br>2.2 demonstrate an understanding of the statutes reviewed in line with constitutional interpretation.<br>2.3 evaluate the constitutional values relating to social security<br>2.4 analyse the relevant legislative provisions pertaining to administration |

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|   | <p>and institutional framework of the chapter nine institutions</p> <p>2.5 demonstrate divergent thinking on the impact of transformative constitutionalism on in South Africa</p>  |
| <p>3. Explain the various contingencies addressed by the South African social security law system</p> | <p>3.1 critically elaborate on the scope of application of the Constitution</p> <p>3.2 assess given case studies and be able to decipher whether the eligibility requirements for social security benefits have been complied with</p>                          |
| <p>4. Evaluate the monitoring, adjudication and enforcement of socio-economic rights</p>              | <p>4.1 identify the most suitable forum where a socio-economic rights dispute may be dealt with</p> <p>4.2 critically explore the various internal and external review and appeal mechanisms available for beneficiaries of social security in South Africa</p> |

### **Assessments**

The semester marks of all CAL 2541 students will be made up of three assessments.

These assessments will be in the form of one assignment, one test, and one presentation.

The answers to the assessments should follow the following guidelines;

- Answers to the assessments should not just narrate the facts or tell the story but they should show a clear build-up of an argument, which include statements that are evidence-based. The answers should show that a lot of logical thinking has been done
- Students should not just memorise and reproduce the work of the book writers but they should show a lot of understanding and their views on the issue

- Students must aim to build up a logical argument on the topic given to them, and this argument must be supported by evidence from the student's literature
- “Evaluating”, requires that students should judge the worth of something
- “Analysing”, requires the taking apart of something to see the smaller that it's made up of
- “creating”, means coming up with something new

## ASSESSMENT DATES



- |                            |                             |
|----------------------------|-----------------------------|
| 1. Friday , 04 March 2016  | Due date for the assignment |
| 2. Saturday, 12 March 2016 | Test 1                      |
| 3. Saturday, 19 march 2016 | Test 2                      |

***Any student who misses any assessment due to valid reasons will only be allowed to apply for an aegrotat or special test within the period of seven (7) days from the date of the assessment***

*Late submission*

***Any student who misses the deadline for an assignment will be penalized by a deduction of 10 out of 100 marks per day. In other words, a student who submits***



***his or her assignment up to 24 hours late will receive a mark for the assignment minus 10. If the assignment is submitted three days later, 30 marks will be subtracted from the mark.***

The following are the guidelines that will be used in giving marks for presentations;

| <b>GUIDELINES FOR PRESENTATION</b>                                      | <b>CRITERIA</b>   |
|---|---|
| <b>Professionalism of students<br/>(10 marks)</b>                       | Students will be awarded good marks if:<br>The presentation is submitted on time, students are professionally dressed, if appropriate professional language is used, the layout, structure, spelling and grammar is flawless.<br>A group will be awarded a good mark if :<br>The topic and layout of the presentation is comprehensively introduced |
| <b>Introduction<br/>(5 marks)</b>                                       | Students will be awarded good marks if:<br>The topic and layout of the presentation is comprehensively introduced   |
| <b>Quality of knowledge on the topic being presented<br/>(60 marks)</b> | Good marks will be awarded to students if:<br>The presentation is coherent, logical, easy to understand, clear, covers all information comprehensively and adequately, more effort than requested or expected is demonstrated   |
| <b>Preparedness<br/>(10 marks)</b>                                      | Students will be awarded good marks if:<br>The presentation does not have any spelling or grammar mistakes  |

|  |   |
|--|---|
|  | <p>The cover page contains all the necessary details</p> <p>The presentation is within time limits</p> <p>Students demonstrate confidence and know when who needs to speak and there is no confusion</p> <p>Adequate in-test referencing and a comprehensive reference list at the end of the presentation of more than 3 sources, correctly referenced</p> |
| <p><b>Creativity</b><br/><b>(10 marks)</b></p> | <p>Students will be awarded good marks if:</p> <p>Additional marks will be awarded for relevant creativity in the works of the students</p>   |
| <p><b>Conclusion</b><br/><b>(5 marks)</b></p>  | <p>Students will be awarded good marks if :</p> <p>The arguments of the topic are well concluded or summed up</p>   |

Students are expected to show the following in answering questions;

1. Remembrance of the content (foundational competence)
2. Understanding (reflective competence)
3. Ability to evaluate, analyse and apply the knowledge gained to practical situations (Practical competence)
4. Create new knowledge which is evidence based (Practical competence)

## **Prescribed books**

- P De Vos et al South African Constitutional Law, published by *Oxford University Press Southern Africa, Republic of South Africa, 2014*

## **Additional Readings:**

- Choma HJ The Protection and Enforcement of Socio-Economic Rights in South Africa, published by *David Publishing Company in the United States of America, May 2009*
- Choma HJ The Relevance of Courts and Human Rights Organisations in the Monitoring Socio-Economic Rights in South Africa, published by *David Publishing Company in the United States of America December 2012*