

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B FINAL EXAMINATIONS

L183: CONSTITUTIONAL LAW

MAY 2018

MARKS: 100

TIME: 3 HOURS

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**INSTRUCTIONS:**

1. Answer any **FOUR(4)** questions.
2. Carefully read through all the questions.
3. You may use a calculator where appropriate (**NOT A CELLPHONE**).

## Question 1

- (a) The doctrine of parliamentary sovereignty originates from British constitutional history. The extent to which it is part of Lesotho's constitutional framework is a matter of considerable controversy. With the help of decided cases, discuss the extent to which this doctrine is part of Lesotho's constitutional law.

**15 Marks**

- (b) Critically discuss the extent to which Administration of Judiciary Act of 2011 has enhanced independence of the judiciary in Lesotho.

**10 Marks**

**[25 MARKS]**

## Question 2

The Republic of Machache is a former colony of the Kingdom of Lesotho. As a result, it uses the same electoral system and the same electoral laws as the Kingdom of Lesotho. The National Assembly has 120 members. The Republic uses a mixed system in terms of which 40 members are elected using the principle of proportionality applied in respect of the National Assembly as a whole; 80 members are elected using the majoritarian principle. The Republic has just come out of elections and the Table 1 below shows how the parties have performed.

As an election expert, you have been approached by the election management body to calculate both the compensatory seats for each party and the seats each party is entitled to in the National Assembly as a whole.

TABLE 1

Party	No votes	No of Constituencies Won
1. LEEC	304 316	79
2. LRRRA	124 234	0
3. WASSA	32 046	1
4. LHDDA	30 346	0
5. NUUL	16 095	0
6. LCEE	14 584	0
7. LPP	7 788	0
8. BOJALEFA	6 890	0
9. KHOALING	6 330	0
10.MCCE	3 985	0
<b>Total</b>	<b>546 614</b>	<b>80</b>

[25 MARKS]

**Question 3**

- (a) The Kingdom of Matsieng is the former colony of the Kingdom of Lesotho. As such, its constitution is the mirror-image of the constitution of the Kingdom of Lesotho. The ruling party in Matsieng is Matlama. Its leader was accordingly appointed as the Prime Minister of the Kingdom. The ruling party has internal conflicts and there is a faction which wants the Prime Minister removed. This faction is so strong that the likelihood is that at the party's elective conference scheduled for October 2018, the Prime Minister might lose the election. The ultimate goal of this faction is that once the Prime Minister loses his position as the leader of the party

he will automatically lose his position as the Prime Minister of the Kingdom of Matsieng.

The Prime Minister is nervous and has approached you as a constitutional expert about his prospects. With the help of relevant constitutional provisions and decided cases, advise the Prime Minister about his fate should he lose his position as the leader of the ruling party at the upcoming elective conference. (20 Marks)

- (b) With the help of relevant authorities discuss the appointment and removal of the leader of opposition under the constitution of Lesotho. (5 Marks)

**(25 MARKS)**

#### **Question 4**

With the help of decided cases, discuss the following:

- (a) Succession to the Office of King under the Constitution of Lesotho. **10 Marks**
- (b) The legal immunities of the King. **7 Marks**
- (c) The powers and prerogatives of the King. **8 Marks**

**[25 MARKS]**

#### **Question 5**

With the help of decided cases write short notes on the following constitutional doctrines:

- |     |                                     |                |
|-----|-------------------------------------|----------------|
| (a) | Subsidiarity                        | <b>5 Marks</b> |
| (b) | Legality                            | <b>5 Marks</b> |
| (c) | Mootness                            | <b>5 Marks</b> |
| (d) | Objective constitutional invalidity | <b>5 Marks</b> |
| (e) | Ministerial responsibility          | <b>5 Marks</b> |

**[25 MARKS]**

**Question 6**

- (a) Critically discuss the structure of Local Government in Lesotho.

**10 Marks**

- (b) With the aid of relevant authorities, critically discuss the legislative process and the limitations of Senate under the Constitution of Lesotho.

**15 Marks**

**[25 MARKS]**