

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW
LL.B FINAL EXAMINATIONS
L2309 – ADMINISTRATIVE LAW I

JANUARY 2024

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. Answer any **FOUR (4)** questions only.
2. All questions carry equal marks.
3. Support your answers with relevant authorities.
4. Write legibly.
5. The question paper consists of four pages, including the cover page.

QUESTION 1

One of the critical organs in the public service in Lesotho is the Public Service Commission, which the Constitution establishes. With reference to the relevant provisions of the Constitution, advise on the propriety of the following:

- (a) (i) The appointment of the Chairperson of the Commission by the President of the Court of Appeal. 5 Marks
- (ii) Ten persons were recently appointed to the Commission by the Prime Minister. 5 Marks
- (iii) A discredited leader of a political party in the country presently acts as the Chairperson of the Commission. 5 Marks
- (b) Discuss the essential powers of the Public Service Commission as conferred by the Constitution. 10 Marks
- [25 MARKS]**

QUESTION 2

- (a) Critically analyse, supporting with relevant authorities, the essential differences between Constitutional supremacy and Parliamentary supremacy. 15 Marks
- (b) With reference to relevant provisions, discuss which of these concepts is adopted under the Lesotho Constitution. 10 Marks
- [25 MARKS]**

QUESTION 3

(a) Critically analyse the sources of administrative law. 10 Marks

(b) Discuss the distinctions between administrative law and constitutional law.

15 Marks

[25 MARKS]

QUESTION 4

(a) What do you understand by the trinity principle in administrative law?

10 Marks

(b) “The political liberty of the subject is a tranquility of mind, arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another.”

Baron de Montesquieu, L’esprit des lois (The Spirit of the Laws - 1748)

Discuss how this theory justifies the concept of separation of power in administrative law.

15 Marks

[25 MARKS]

QUESTION 5

In *Sekoati and 48 Others v President of Court Martial and Two Others* [2003] LSHC 9 (1 January 2003) the court held that it is important to bear in mind that no judicial system is entirely devoid of any relationship with the legislative or executive branches of government, and that an absolute separation of a given tribunal from the executive or legislative branch is impossible.

Critically examine this judicial pronouncement in the context of the provisions bordering on judicial independence in the Lesotho Constitution of 1993 Constitution.

[25 MARKS]

QUESTION 6

With reference to the Court of Appeal decision in *Former Employees of The Agricultural Development Bank v The Government of the Kingdom of Lesotho* (C of A (CIV) 35 of 2020) [2021] LSCA 18 (14 May 2021); analyse the concept of legitimate expectation and the binding effect of a government promise to citizens.

[25 MARKS]