

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER, DECEMBER 2007

TITLE OF PAPER : ADMINISTRATIVE LAW

COURSE CODE : L 205

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- 1. ANSWER FOUR (4) QUESTIONS.**
- 2. ALL QUESTIONS CARRY EQUAL MARKS.**

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.

QUESTION 1

Lubawu Mbau is a final year law student from the University of Cameroon. She is on an educational exchange programme in Swaziland. She is presently writing her dissertation on the basic areas from which Swaziland's administrative law owes its existence.

She has conducted some research and has spoken to various people who each gave her differing opinions. First, she has been told that Swaziland has a dual legal system of government with one based at Ludzidzini and the other based in Mbabane - Hospital Hill. She has been told that the Ludzidzini government is stronger than the government based in Mbabane. She has also been told that the Ludzidzini government makes law (without consulting the government in Mbabane).

Further, Miss Mbau has been told that in Swaziland, the seat of governmental power is at the House of Parliament at Lobamba. Lastly, she tells you that some people say there is no specific institution or foundation from which Swazi administrative law owes its existence. This is because various institutions are empowered to develop their own administrative law, principles and legislation - to support their stance, they cited local government structures and the University of Swaziland.

Ms. Mbau finds you at the University of Swaziland and is told you are an able student of administrative law. Assist her establish and determine from where administrative law owes its existence in Swaziland. What other administrative law issues emanate from the above facts.

[25 MARKS]

QUESTION 2

In any democratic state where government is held accountable by the electorate, the constitution will create a number of institutions that an individual can turn to for assistance in limiting and controlling state power. Discuss the validity/invalidity of this statement and refer to some of the institutions. Does the constitution of Swaziland provide for any of the institutions designed to control state power?

[25 MARKS]

QUESTION 3

Judicial Review of administrative action is a contested terrain. Critically evaluate the validity of this statement.

[25 MARKS]

QUESTION 4

Mrs. Stop Nonsense is the matron of the Hope of the Hopeless general hospital. She is responsible for the day to day office and staff administration and reports to Mr. Let Rip who is the Chief Administrator of the hospital. Mrs. Stop Nonsense is responsible for issuing tenders to different companies for the supply of material needed for the daily operation of the hospital. The issuance of tenders is therefore a "one (wo) man show". Mr. Do Good tendered to supply the hospital with cleaning material in May 2006, two years after the fact Mrs. Stop Nonsense had

still not responded to Mr. Do Good's tender, instead, the tender was given to a niece of Mr. Let Rip. Mr. Do Good approached the matron on several times to make a follow up on the matter to no avail. He then approached the administrator who told Mr. Do Good that a decision was reached by himself that the present supplier should be given the tender and that if he (Mr. Do Good) had problems with that he should go fly his kite in the lake. Mr. Do Good is astounded and approaches you for advice.

[25 MARKS]

QUESTION 5

In light of the Bill of Rights chapter which is enshrined in our constitution, the common law remedy of mandamus has fallen into disuse. Do you agree? Critically evaluate the validity of this statement.

[25 MARKS]