



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A MAIN EXAMINATION

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AUGUST – DECEMBER 2018 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 124: ADMINISTRATIVE LAW

Date: DECEMBER 2018

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

- Q1. a) Discuss the view that “Administrative Law is the citizens’ protection against abuse of power.” **(15marks)**
- b) Koko is a Poet who over the years has had his grants from the local authority Arts Committee renewed annually for the last 7 years. In 2018, however, his application was rejected. No reasons were given. The committee contends that complaints and or appeals would be futile as its decision is final. Koko knows that the new committee chairman had stated that he “had no time for poetry that does not rhyme.” Koko’s poetry does not rhyme and he suspects that this is the real reason for his rejection. He is, however, hopeful that he might get a grant next year and so does not wish to make a fuss. A pressure Group, Writers’ Rights in the Eighties (WRITE) is considering a judicial review application to test the committee’s behaviour against the principles of Administrative Law.
- i) Does WRITE have standing? **(5 marks)**
- ii) Has there been any breach of the known principles of Administrative Law? **(10 marks)**
- Q2. In light of Article 47 of the Constitution of Kenya and the Fair Administrative Action Act, the concept of common law judicial review is dead. Agree or disagree with this contention. **(20 marks)**
- Q3. The Wednesbury case was wrongly decided and now Wednesbury unreasonableness means whatever judges want it to mean. It is time to forget

Wednesbury and to establish a more rational basis for the principle of irrationality. In light of new case law, critically discuss this assertion.

(20 marks)

- Q4. a) “Natural Justice is not to be confused with a vague sense of unfairness [Stephenson LJ].” How is natural justice related to unfairness in light of this statement? **(10 marks)**
- b) What is Proportionality as used in Administrative Law? How have the Courts applied the proportionality principle? **(10 marks)**
- Q5. To what extent should public authorities be granted special treatment under the Law of Torts? **(20 marks)**

END