



# THE UNIVERSITY OF THE WEST INDIES

## EXAMINATIONS OF APRIL/MAY 2001

Code and Name of Course: **LA27A ADMINISTRATIVE LAW**

Date and Time:

Duration: **2 HOURS**

**INSTRUCTIONS TO CANDIDATES:** This paper has 2 pages and 6 questions

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Answer **THREE (3)** Questions.

Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

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1. 'Judicial review is totally out of control'.

Do you agree with this assessment?

2. 'The court's response to ouster clauses may appear at times to challenge the doctrine of parliamentary sovereignty, but in so doing the judges display a laudable devotion to the principle of the rule of law.'

Discuss.

3. Assess the arguments for and against judicial recognition of a requirement, whether at common law or by statute, that administrative authorities offer reasons for their decisions.

4. Following a riot, a number of prisoners at the Glenfarm Prison are subjected to a variety of sanctions as punishment for their involvement.

Faith, Hope and Charity appear before the Board of Inquiry, accused of assaulting a guard. Faith is allowed to cross-examine prison guards concerning his role in the riot. However, the Board does not allow him to call fellow inmates to testify in his defence on the grounds that their testimony cannot possibly be reliable.

Hope is not allowed to cross-examine the guards or call witnesses as the Board has seen a television replay showing Hope punching a guard. In the Board's view, therefore, there was nothing to be said in Hope's defence.

PLEASE TURN OVER

Neither Faith nor Hope is allowed legal representation during the inquiry. Both prisoners received punishment of the loss of one year's remission of their sentence.

In respect of all three prisoners, the Board issues a statement to the effect that "we have incontrovertible evidence that the three prisoners are guilty of the offences charged."

The Prison Director additionally determines to withdraw 6 months remission from Jack and Jill for failing to assist other prison officers to restore order during the riot.

Jack and Jill are permitted to speak for one minute in mitigation of their punishment but not to challenge the assumption that they are guilty.

Advise Faith, Hope, Charity, Jack and Jill if they might successfully challenge the various decisions which affect them.

5. LA, a local authority in Blackacre, puts out a political manifesto in which it promises to reduce public transportation fares by 25% if returned to office during the next elections. Upon re-election, LA immediately passes a resolution to give effect to its manifesto pledge but is challenged by X, a citizen of Blackacre. LA also decides that TV licences fees are too low and ought to be revised. Accordingly, it passes a resolution to increase TV licence fees retroactively and to forfeit any future overlapping licences without payment of any compensation.

X is of the view that this resolution is also unlawful.

Meanwhile, by the Edutech Act of Blackacre, LA is required to promote 'computer education' providing an "efficient, integrated computer education" as it thinks fit and may expend such sums in that venture as it considers reasonable.

Under the direction of the Chief Education Officer, LA decides to invest its funds in promoting an "Arts First" policy. It thus spends its budget on hiring Arts teachers.

X is unhappy with this decision also.

Kindly advise X on the legality of these decisions.

6. If basic fairness lies at the root of legitimate expectations, then there is no reason in principle or logic why it should not cover both *procedural* and *substantive* interests.

Discuss.

**END OF PAPER**