

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:-

LL.B.

LL.B. Part II: Jurisprudence and Legal Theory

COURSE CODE : LAWS1100

DATE : 11-MAY-05

TIME : 10.00

TIME ALLOWED : 3 Hours 15 Minutes

JURISPRUDENCE AND LEGAL THEORY

Answer **THREE** questions. Where there is an overlap between your answers to questions on this paper, or on this paper and an assessed essay, no credit will be given for repetition.

1. Answer **ONE** of the following:

- (a) What does Dworkin mean when he says the foetus is 'sacred'? Is he right in saying that the 'sacredness' of the foetus is a matter solely for the mother to determine? What could 'sacredness' mean in the context of euthanasia?
- (b) Carol Smart (1989) says that feminists should resist the 'siren call' of law. Discuss what she means by this statement and assess its merits, illustrating your answer with at least one example drawn from her book *Feminism and the Power of Law*.
- (c) In his book *History and Illusion in Politics*, Raymond Geuss claims that our current model for thinking about politics is confused and incoherent. What are his reasons for making this claim, and do you agree with him?
- (d) 'Locke's conceptions of liberty and equality in the State of Nature do not survive the transition to civil government.'

Discuss.
- (e) Examine critically Mill's defence of the 'liberty principle'.
- (f) 'Socrates should have escaped from prison and disobeyed the verdict. He was not guilty of impiety and he defended his innocence at the trial. His prosecution was politically motivated, based on prejudice and intolerance. His entire moral philosophy was grounded on the liberal idea that the ultimate authority is moral truth, not what the majority thinks. If anything, this should entail that there is no duty to obey an unjust decision.'

Discuss with reference to the arguments advanced in *Crito* for the duty to obey the law.

TURN OVER

2. Is the rule of law an inherently moral ideal?
3. It has been said that one cannot think about justice without taking a position on Rawls's *A Theory of Justice*. What is your position?
4. Evaluate the arguments for treating law as an interpretive, rather than a semantic, concept. Do legal positivists 'produce and debate semantic theories of law'?
5. Answer **EITHER** (a) **OR** (b).

EITHER (a) Why does Hobbes believe that life in the 'state of nature' is 'solitary, poor, nasty, brutish and short'? By what means does Hobbes suggest human beings can leave that state, and are there any difficulties with his suggestions?

OR (b) Critically appraise Grotius's conception of natural rights. Was Bentham correct to be sceptical of the idea of natural rights?
6. Evaluate what you consider to be the significant insights in Hart's *The Concept of Law*.
7. 'By formulating the basic norm, we do not introduce into the science of law any new method. We merely make explicit what all jurists, most unconsciously, assume when they consider positive law as a system of valid norms and not only as a complex of facts, and at the same time repudiate any natural law from which positive law would receive its validity.' (Kelsen)

Discuss.
8. 'Extreme injustice is no law.' (Radbruch).

Is this convincing? Are there other and better ways of examining extremely unjust laws?
9. Critically examine Marx's concept of law.
10. Are there any good arguments why the criminal law should not enforce morality where there is no victim?
11. 'It doesn't follow from the fact that no knock-down argument demonstrates that the case for the plaintiff is better or worse than the case for the defendant, all things considered, that it is not, in fact, actually better or worse.' (Dworkin).

Discuss.

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12. 'The important issues that utilitarianism raises should be discussed in contexts more rewarding than that of utilitarianism itself. The day cannot be too far off in which we hear no more of it.' (Williams).

Discuss.

13. Could an evil legal system display what Dworkin calls the virtue of integrity?
14. What is the significance of the word 'natural' in the term 'natural law'?

END OF PAPER