

**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 : LAWSII00**

**DATE : 04–MAY–06**

**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 between this paper and an assessed essay, no credit will be given for repetition.

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

- (a) Discuss the role of 'property' in Locke's *Second Treatise on Government*.
- (b) 'The "persuade or obey" doctrine that Socrates defends in *Crito* is completely inconsistent with his previous philosophical views and his moral integrity.'  
  
Discuss.
- (c) Does Mill's *On Liberty* set out a secure basis from which to defend freedom of discussion and association?
- (d) How coherent is the critique of natural rights in Bentham's *Fragment on Government*?
- (e) Explain the role of the 'state of nature' in Hobbes's overall argument for the justification of political authority. Why does Hobbes describe the state of nature as he does?
- (f) 'Punishment is grounded in a simple failure to repay an incurred debt. The idea of guilt is merely a corruption of that original relationship.'  
  
Discuss in the context of Nietzsche's overarching project.
- (g) 'For the 3,000 deaths [of 11 September 2001] there are lines of responsibility into the past ... We in our democracies are in them, and in particular those of us who have got themselves into our governments... The killers and those who aided them and Bin Laden are not alone. We have to escape the long illusion that those of us who are ordinary are innocent.' (Honderich)  
  
How sustainable is this argument?
- (h) 'It is impossible to think of anything in all the world, or indeed even beyond it, that could be considered good without limitation except a **good** will.'  
(Kant)  
  
Discuss.
- (i) Does Dworkin's idea of the 'sacred' or 'intrinsic' quality of human life explain controversial questions about abortion and euthanasia in a better way than explanations in terms of 'rights', 'interests' and 'persons'?

**TURN OVER**

2. Describe Blackstone's account of the nature of common law, explaining why he preferred common law to statute as a source of law. Is there any truth in the suggestion that Blackstone's views are anti-democratic, and, if it is true, does that detract from the appeal of his views?
3. Evaluate Fuller's claim that the rule of law is an intrinsically moral ideal.
4. Answer **EITHER** (a) or (b):
  - (a) Compare and contrast Hobbes's and Grotius's accounts of law and of the origins of legal order. Explain which of these views you find the most persuasive.
- OR**
- (b) What, according to Hobbes, is the source of legal authority?
5. Has Ronald Dworkin successfully refuted legal positivism?
6. Is there any sense to the idea that there cannot be right answers to legal questions unless it is possible to find out what, for certain, those answers are?
7. How successful is Hart in providing a value-free description of the concept of law?
8. 'Utilitarianism fails to capture too many of our deep-seated moral convictions to form a plausible foundation for our moral reasoning.'

Discuss.

9. To what extent, if any, can the command theory of law be salvaged from the criticisms of Hart?
10. How fair is Rawls's theory of justice to competing conceptions of the good?
11. 'Kelsen's theory of validity has in the past been adduced to justify undemocratic regime changes. Properly understood, however, it is a powerful tool to guard against such abuses of power.'

Discuss.

**CONTINUED**

12. 'Dworkin's theory of integrity is a rough patch in his jurisprudence.'

Discuss with reference to other models justifying state coercion.

13. In a pluralistic society what sense, if any, can be made of the claim that without the legal enforcement of morality society faces disintegration?

14. '[T]hough the search for and use of principles underlying the law defers the moment, it cannot eliminate the need for judicial law-making.' (Hart)

Discuss.

**END OF PAPER**