

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Legal Theory
Semester-II (Batch: 2012-14)

End Term LL.M. Examination: April-May 2013

Date: 28th April, 2013

Duration: 3 hours

Max. Marks: 60

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

Answer all the questions

Marks

- Q.1 According to natural law theory, there is no clean division between the notion of law and the notion of morality. Though there are different versions of natural law theory, all subscribe to the thesis that there are at least some laws that depend for their “authority” not on some pre-existing human convention, but on the logical relationship in which they stand to moral standards. Otherwise put, some norms are authoritative in virtue of their moral content, even when there is no convention that makes moral merit a criterion of legal validity. The idea that the concepts of law and morality intersect in some way is called the Overlap Thesis. Elucidate the above proposition. (10)
- Q.2 Hart’s biggest criticism of the command theory was that habitual obedience was not sufficient to explain the operation of legal systems, as it overlooked the social realities of the situation. He distinguished between rules and habits, and whilst denying the possibility of explaining rules solely by reference to external regularities of behaviour, introduced his concept of the internal point of view. When analyzing social institutions or social practices, a sound theory must take into account the way the participants understand those institutions or practices. Critically analyse the above thoughts with your own opinions. (10)
- Q.3 “...So far as legal theory is concerned a person is any being whom the law regards as capable of rights and duties. Any being that is so capable is a person, whether a human being or not, and no being that is not so capable is a person even though he be a man...”. Critically analyze the above statement in the light of the theories of legal personality, their relevance and applicability under the codified laws in India. (10)
- Q.4 The basic principle for imposing penal liability is found on “*Actus non facit reum nisi mens sit rea*” and at the same time other theories like *Necessitas non habet legem*, *Ignorantia juris non excusant*, *qui facit per alium facit perse*, *actio personalis moritur cum persona* are the principles which serve either as an exception or as a remedy. Explain the extent of applicability of the above maxims under various laws in India. (10)
- Q.5 A right is something to which every individual in the community is morally entitled, and for which that community is entitled to disregard or forcibly remove anything that stands in the way of even a single individual getting. Discuss the concept of rights with possible illustrations. (10)

Q.6 Write short notes on the following:

(2x5=

- (a) The concept of ownership in the era of liberalization, privatization and globalization
- (b) The Pure Theory of Law

10)
