

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Jurisprudence
Semester- IV (Batch: 2019-24)

End Semester Online Examination: July-August 2021

Date: 25th July, 2021

Duration: 8 hours

Max. Marks: 50

Instructions:

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: 800-900 Words.

- | | Marks |
|---|-------|
| Q.1 According to natural law theory of law, 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, authoritative by 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 mentioned proposition with reference to the present globalizing world along with your own illustrations. | (10) |
| Q.2 Two needs have determined philosophical thinking about Law and Justice. On the one hand, the paramount social interest in the general security, which as an interest in peace and order dictated the very beginnings of law, has led men to seek some fixed basis of a certain ordering of human action which should restrain magisterial as well as individual wilfulness and assure a firm and stable social order. On the other hand, the pressure of less immediate social interest and the need of reconciling them with the exigencies of the general security and of making continual new compromises because of continual changes in society have called for readjustment at least of the details of the order. Do you agree with the above proposition? Examine in detail in the light of views of relevant thinkers. | (10) |
| Q.3 The Libertarianism, as the name suggests, emphasizes individual liberty as the central and indeed exclusive concern of social justice. A just society, according to the Libertarian, must grant and protect the liberty or freedom of each individual to pursue his desired ends. In the Libertarian view people are essentially rational end-choosers, to use our earlier term, and the kind of life appropriate to rational end-choosers requires them to be free to choose their own ends and free to pursue them without interference from others. This may seem to imply that the Libertarian holds that everyone should be able to do whatever he or she wants, but really the Libertarian holds no such view. The Libertarian view is that each person should have the same freedom to pursue his chosen ends, that each is therefore obligated to refrain from interfering with others in their | (10) |

freedom to pursue their ends, and that the function of the state is solely to protect each individual's freedom to pursue his chosen ends. The Libertarian therefore conceives of everyone as having certain rights, which protect his or her liberty to pursue a desirable kind of life. What is distinctive about Libertarianism is its conception of the rights that each individual has.

Analyse the above mentioned proposition with reference to John Locke's theory of law and the present Indian context (along with illustrations).

- Q.4 A popular launching pad for the comprehension of legal ideas is Lon Fuller's hypothetical case of the 'Speluncean Explorers'. It contains five judgments of the Supreme Court of Newgrath. Explain in brief all the five judgments of the Supreme Court along with your agreements and disagreements. (10)
- Q.5 Positivists say that International Law cannot qualify to be a true law, as, it lacks sovereign authority and it does not possess any institutionalized method of sanction. However, this stand is countered by an argument that there is legislation in the form of multi-lateral treaties and there is sanction in the form of self-help and war. However, here the diluting point is that treatise bind only the consenting states and method of self-help or war can hardly be said as institutional method. Do you agree with the views of positivists? Clarify in the light of different positivists views. (10)
