

**GUJARAT NATIONAL LAW UNIVERSITY**  
**GANDHINAGAR**  
 Course: **Jurisprudence**  
**Semester- IV (Batch: 2018-23)**

**End Semester Online Examination: February 2021**

**Date: 03<sup>rd</sup> February, 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.
- Each question minimum word limit is 800 words and maximum word is 900 words

- |     |   | <b>Marks</b>      |
|-----|---|-------------------|
| Q.1 | <p>The plaintiff was serving in the Royal Artillery. He was stationed in a house requisitioned by the Government and during his stay he accidentally found a brooch in an upstairs room occupied by him. The brooch was handed over to the police for finding the real owner and handing it over to him. The police were unable to find out the rightful owner of the brooch, as a result police delivered the brooch to the defendant who was the owner of the house. The defendant sold the brooch and used the proceeds for his personal purposes. A suit was filed by the plaintiff for recovery of the brooch with a contention of claiming him as the finder. The contention of the defendant was that he was entitled to it as the owner of the house property where it was found. The defendant was never in possession of the house property and he had no knowledge of the brooch until it was brought to his notice. Decide the case by answering the following questions:</p> <p>a) What is Possession? (2 Marks)</p> <p>b) What are the essential elements of Possession? (4 Marks)</p> <p>c) What are the modes of acquiring Possession? (4 Marks)</p>  | <p>(2+4+4=10)</p> |
| Q.2 | <p>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 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.</p> | <p>(10)</p>       |

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

- Q.3 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 Indian context. (10)
- Q.4 For some jurists, the essence of law is to be discovered in the enunciation, interpretation and protection of rights. They view "rights are more than norms, or expectations, or standards of conduct. They are rules which define the boundaries of what is 'owed' to a specified group of people (the right holders) by another group (the right respecters), rights may be demanded and enforced: they are therefore part of our system of permissions and requirements." (5x2=10)
- In the light of the above mentioned pattern discuss the following:
- a) Hohfeld's analysis of rights. (5 Marks)
  - b) The characteristics of a legal right (5 Marks)
- Q.5 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 behavior, 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. (10)
- Explain clearly the concept of Hart's internal aspect of law and examine the above mentioned thoughts with your own opinions.

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