

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Jurisprudence
Semester- IV (Batch: 2020-25)

End Semester Online Examination: May 2022

Date: 07th May, 2022

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, 5 Marks: 400-450 words, 4 Marks: 300-350 words, 2 Marks: 200-250 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 Indian context along with your own illustrations. (10)
- Q.2 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 an institutional method. Do you agree with the views of positivists? Examine this in the light of present situation of Russia and Ukraine war. (10)
- Q.3 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 mentioned thoughts with your own opinions. (10)
- Q.4 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 (2+4+4=10)

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 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:

- a) What is Possession?
- b) What are the essential elements of Possession?
- c) What are the modes of acquiring Possession?

Q.5 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.” (10)

In the light of the above mentioned pattern discuss the following:

- a) Hohfeld’s analysis of rights.
- b) The characteristics of a legal right.
