

UNIVERSITY OF LONDON

267 0005 ZB

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LLB EXAMINATION

for External Students

PART II EXAMINATION (Scheme A)
FOURTH YEAR EXAMINATION (Scheme B)
GRADUATE ENTRY LEVEL II (Route A)
GRADUATE ENTRY THIRD YEAR (Route B)

BSc DEGREES

for External Students

MANAGEMENT WITH LAW, LAW WITH MANAGEMENT, ACCOUNTING
WITH LAW AND LAW WITH ACCOUNTING FOR STUDENTS IN THE
EXTERNAL PROGRAMME

Jurisprudence and Legal Theory

Wednesday 13 May 2009: 2.30 - 5.45 pm

Candidates will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their answer books. They then have the remaining **THREE HOURS** in which to answer the questions.

Candidates should answer **ONE** question from **SECTION A (The Set Book)** and **THREE** questions from **SECTION B** of the following **TWELVE** questions.

Candidates should answer all parts of a question unless otherwise stated.

SECTION A (The Set Book)

1. “On this simple account of the matter, which we shall later have to examine critically, there must, wherever there is a legal system, be some persons or body of persons issuing general orders backed by threats which are generally obeyed, and it must be generally believed that these threats are likely to be implemented in the event of disobedience. This person or body must be internally supreme and externally independent. If, following Austin, we call such a supreme and independent person or body of persons the sovereign, the laws of any country will be the general orders backed by threats which are issued either by the sovereign or subordinates in obedience to the sovereign.”
(Hart, *The Concept of Law*)

Discuss.

2. “Plainly, there will be a very close connection between the rules of change and the rules of recognition: for where the former exist the latter will necessarily incorporate a reference to legislation as an identifying feature of the rules, though it need not refer to all the details of procedure involved in legislation. ... [A] system which has rules of adjudication is necessarily also committed to a rule of recognition of an elementary and imperfect sort. This is so because, if courts are empowered to make authoritative determinations of the fact that a rule has been broken, these cannot avoid being taken as authoritative determinations of what the rules are.”
(Hart, *The Concept of Law*)

Explain the connections between the secondary rules Hart describes in this passage, and discuss how significant they are, if at all.

3. “...though every rule may be doubtful at some points, it is indeed a necessary condition of a legal system existing, that not every rule is open to doubt on all points.”
(Hart, *The Concept of Law*)

Discuss.

SECTION B

4. “For Weber, the study of modernity suggests that legitimate modern law is fundamentally rational.”

Discuss.

5. “Marx was not writing jurisprudence. If his work tells us anything about law, it does so in the context of a radical philosophy of political economy.”

Discuss.

6. “Feminist theory of law is so compelling because it has developed the ability to criticise and update itself.”

Discuss.

7. “American Critical Legal Studies was primarily concerned with the way in which legal reasoning distorted the social world, and how legal reasoning itself could be manipulated.”

Discuss.

8. “Critical race theory has a largely pessimistic view about the potential of law to bring to an end modernity’s endemic racism.”

Discuss.

9. “If Raz’s service conception of authority is correct, then the theories of both soft positivists and Dworkin cannot be right.”

Discuss.

10. What is Dworkin’s concept of law? What is Dworkin’s conception of law, and how would Dworkin say it differs from the conceptions of law held by Hart and Kelsen?

11. What is Raz's distinction between 'social normativity' and 'justified normativity' and how, if at all, does it illuminate Kelsen's theory of law?

12. How would Aquinas make sense of the criminal law of rape, the law of wills, and the law imposing value added tax (VAT)? Would Finnis makes sense of them in a different way?

END OF PAPER