



13904



BRAINWARE UNIVERSITY

Term End Examination 2025-2026

Programme – LLM-2022/LLM-2023/LLM-2024/LLM-2025

Course Name – Theories of Law and Justice

Course Code - LLM101

(Semester I)

Library
Brainware University
398, Ramkrishnapur Road, Barasat
Kolkata, West Bengal-700125

Full Marks : 60

Time : 2:30 Hours

[The figure in the margin indicates full marks. Candidates are required to give their answers in their own words as far as practicable.]

Group-A

(Multiple Choice Type Question)

1 x 15=15

1. Choose the correct alternative from the following :

(i) Choose: The rule of law upon which the decision is founded in a case is:

- | | |
|----------------------|------------------------|
| a) Decision incurium | b) Ratio decidendi |
| c) Obiter dicta | d) pacta sunt servanda |

(ii) Choose the incorrect option:

- | | |
|---------------------|-----------------|
| a) Command- Bentham | b) Norms -Hart |
| c) Rules - Kelsen | d) All of these |

(iii) Legislation grows out of theory but customary law grows of practice. The existence of legislation is essential for which one of the following?

- | | |
|------------------------------|-----------------------------|
| a) de jure | b) de facto |
| c) both de facto and de jure | d) dependent on recognition |

(iv) Outline the meaning of 'Volkgeist':

- | | |
|-------------------------|--------------------------|
| a) Natural Will | b) Popular consciousness |
| c) Social customary law | d) Both (b) and (c) |

(v) According to Austin, there are some kind of law which, though not commands are still within the province of jurisprudence. Outline these laws from among the following:

- | | |
|---------------------------------|-----------------------|
| a) Declaratory statutes | b) Repealing statutes |
| c) Law of imperfect obligations | d) All of these |

(vi) Select: Rawls claims that when his two principles come into conflict:

- | | |
|--|--|
| a) neither takes precedence over the other | b) the first principle (concerning liberty) takes precedence over the second (concerning inequality) |
| c) the second principle (concerning inequality) takes precedence over the first (concerning liberty) | d) a mistake has been made, because they cannot conflict |

(vii) Identify the meaning of 'Lex iniusta non est lex' :

- a) The law is not valid unless it is formally enacted
b) Law has lexical priority over morality
c) An unjust law is not law
d) No one is beyond the reach of law
- (viii) Select the statement which is closest to characterizing the principal difference between the positions adopted by Hobbes and Locke:
a) They adopt different attitudes towards the role of courts in maintaining order
b) They disagree about the role of law in society
c) They have opposing views about the nature of contractual obligations
d) They differ in respect of their account of life before the social contract
- (ix) Identify the school to which the following statement relates to: "Law is the sum of conditions of social life as secured by the power of the state through the means of external compulsion":
a) Historical School
b) Analytical School
c) Realist School
d) Sociological School
- (x) Select: 'Right in rem' is a right against which one of the following:
a) An individual
b) Government
c) Everyone
d) All of these
- (xi) Choose: An example of imperfect right is:
a) Right to reputation
b) Time-barred debt
c) Right to physical integrity
d) All of these
- (xii) Choose: Real and personal rights are also called:
a) proprietary and personal right
b) positive and negative right
c) right in rem and right in personam
d) right in propria and rights in re-aliena
- (xiii) Choose: _____ said "exclusiveness is the essence of possession".
a) Savigny
b) Holland
c) Gray
d) Salmond
- (xiv) Choose the correct combination(s) of theories of corporate personality and their propounder among the following: 1. Symbolist - Savigny 2. Realist - Ihering 3. Fiction - Gierke
a) All (1), (2) and (3)
b) Only (1) and (3)
c) Only (2) and (3)
d) None of these
- (xv) Choose: Corpus possessionis means:
a) physical control over the object possessed.
b) the mental element or the intention to hold the object as owner
c) physical control over the object possessed and the mental element or the intention to hold the object as owner
d) Neither Physical control over the object possessed and the mental element or the intention to hold the object as owner

Group-B

(Short Answer Type Questions)

3 x 5=15

2. Explain 'dialectical materialism' and 'legal fetishism' in Marxist theories of law and state. (3)
3. Dworkin maintains that there is a general obligation of obedience to law. On what grounds? (3)
4. Compare and contrast natural law and legal positivism. (3)
5. Infer the differences between Kelsen's Grundnorm and Hart's 'rule of recognition'. (3)
6. Examine Roscoe Pound's classification of interests. (3)

OR

Briefly analyse the contributions to law and society of Emile Durkheim. (3)

Group-C

(Long Answer Type Questions)

5 x 6=30

7. Explain Duguit's theory of social solidarity and discuss its implications for understanding the nature of law. (5)
8. Explain the impact of social and constitutional considerations on property rights. (5)
9. Distinguish between Liberal, Socialist and Radical Feminism. (5)
10. Determine the impact of American Realism on modern judicial reasoning with special reference to India. (5)
11. Discover the 'idea of obligation' in Hart's theory and analyse his description of legal system as the union of primary and secondary rules. (5)
12. Explain the Realist claim that "law is what the courts will do in fact" and critically analyze its jurisprudential significance. (5)

OR

Discover the different perspectives on the nature and concept of law. (5)

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