

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW
LL. B FINAL EXAMINATIONS
L4307 – JURISPRUDENCE

JANUARY 2022

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS

1. There are 6 questions. All questions carry equal marks. Answer **any four (4)** questions in all.
2. Essays must not exceed **three (3)** pages in length.
3. Students are warned against cheating and plagiarism. Defaulters will be penalized.

QUESTION 1

Write short notes explaining the following:

- | | |
|--------------------------|-----------------|
| (a) Command Theory | 5 Marks |
| (b) Primary Rules | 5 Marks |
| (c) Rules of Recognition | 5 Marks |
| (d) Separability Thesis | 10 Marks |

[25 MARKS]

QUESTION 2

Lesotho Council of Christians (LCC) is an ecumenical Christian organisation promoting Christian Faith. A whistle-blower informed LCC about the intention of Parliament to legalise sex work and make it formal employment in terms of the Labour Laws of Lesotho. This decision follows an outcry made in an article published by the Oak newspaper by sex workers which reads:

Decriminalisation of sex work is vital for the industry. It will be easier for us to have security, brothels and commodities (lubricants). It will help reduce HIV infection. Criminalising sex work promotes violence, rape and stigma towards sex workers and also police brutality. Currently, police officers don't deal with Gender Based Violence cases fairly because sex work isn't decriminalised and some clients take advantage of that. We are violated. Sex work is a business opportunity.

The Head of churches intends to write a letter to Parliament to condemn this decision to legalise sex work on the basis that it is immoral and against the Law of God. You are an independent researcher, write an opinion to the head of churches of LCC and give your opinion on the issue.

Do you agree or disagree with the head of churches? Use either the Natural Law or Positive Law theories that you have studied to support your opinion.

[25 MARKS]

QUESTION 3

Critically discuss Lon Fuller's Internal Morality and External Morality. In your answer, demonstrate the connection between the two.

[25 MARKS]

QUESTION 4

H.L.A Hart set the groundwork for the restatement of Legal Positivism.

(a) What was the demarcation point offered by HLA Hart? **10 Marks**

(b) How did Lon Fuller respond to the demarcation point offered by Hart? Discuss.

15 Marks

[25 MARKS]

QUESTION 5

Multiple Choice: Answer all questions by writing the answer in full.

A. Which statement best describes the relationship between law and morality among non-positivist legal theorists?

i. There is no relationship between law and morality.

- ii. Law is always in advance of moral ideas.
- iii. The law is inextricably bound up with morals.
- iv. Morality is generally in advance of the law.

5 Marks

B. Who wrote the book “the concept of law?”

- i. Hart
- ii. Fuller
- iii. Kelson
- iv. Dworkin

5 Marks

C. The criticism that morality, by itself, is insufficient to create legislation is based on which of the following theories of law?

- i. Legal realism
- ii. Legal positivism
- iii. Legal moralist
- iv. Legal reality

5 Marks

D. The following form a genus of kinds of law by Aquinas

- i. Eternal, natural, divine, inhumane
- ii. Natural, divine, eternal, custom
- iii. Custom, human, eternal, natural
- iv. Human, divine, eternal, natural

5 Marks

E. The phrase *lex iniusta non est lex* means

- i. Can unjust law be law
- ii. Unjust laws are acts of violence
- iii. An unjust law is law
- iv. An unjust law is not law

5 Marks

[25 MARKS]

QUESTION 6

Critically discuss Hans Kelsen's theory of the Basic Norm (Grundnorm) as well as his understanding of the conditions in which the basic norm could change.

[25 MARKS]