

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR IV (Conducting Online) - 2021

Jurisprudence
(Three Hours)

Total Number of Questions: **06**

Answer **THREE (03)** questions and **no more**.
(Candidates will be penalized for illegible handwriting.)

01.

The unchecked and unfettered nature of the executive's power of pardon has created a long-running legal and moral debate that dates back centuries. Neither the legislature nor the court shall question the underlying motive of the executive when this power is exercised. In Sri Lanka, the executive's power of pardon has been exercised in a manner undermining the values and principles enshrined in the Constitution.

You are expected to argue for and against the unfettered nature of the executive's power of pardon in light of the above statement by referring to an appropriate jurisprudential theory or philosophy.

02.

Engage in a critical examination of Hart's rule of recognition and Kelsen's *grundnorm* and evaluate the similarities and differences between the two concepts.

03.

American Realism believes that law is not a coherent and complete system of rules and principles, but is nothing more than predictions based on past decisions plus predictions of what future judges would do.

Do you think the law is a prophecy? Critically evaluate the prediction theory of law introduced by Justice Holmes in light of the above statement. You are expected to provide illustrations to support your answer.

04. Answer **either** part (A) or (B)

- a) Identify the contributions that have been made by the Critical Legal Studies school in exposing the shortcomings of liberal legal theory. Critically analyze the effectiveness of Critical Legal Studies school in solving the problems it identifies.
- b) Identify two schools of feminism that challenged the liberal legal system and discuss two successful practical instances from any jurisdiction in which these theories have attempted to overcome the shortcomings of liberal feminism.

05.

Dworkin suggests that instead of exercising an unfettered discretion, judges must play a herculean task in determining hard cases.

Do you agree? Analyze the above-mentioned statement critiquing the practicability of a herculean task in Sri Lanka. Support your answer with relevant case law illustrations.

06.

It is said that Rawls generalises and carries to a higher level of abstraction the familiar theory of the social contract as found in the theories of Hobbes and Locke. Analyze the role of the State in Rawls' social contract theory in relation to his conception of 'Justice' in comparison to the aforementioned classical social contract theories and discuss whether it furthers fairness and justice.

(Each question will be marked out of 100)