

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR IV (online) – 2022

JURISPRUDENCE

(Three Hours)

Total Number of Questions: **06**

Answer **THREE (03)** questions and **no more**.

(Candidates will be penalized for illegible handwriting.)

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01. Though the historical evolution of positivism has superseded the notion of moral dimension of law to a great extent, the legal systems of the modern era find unique means and ways to continue the legacy of natural law.

Critically examine the above statement by making reference to the Sri Lankan approaches in upholding at least two key concepts of natural law theory through statutory and judicial means.

(100 marks)

02. Sri Lanka is on the brink of either a historic political revolution or a catastrophic breakdown of law and order. The phenomenon of revolution questions the efficacy and the validity of the basic norm and the legitimacy of the existing government.

Critically analyze the inefficacious circumstances in the existing legal order of Sri Lanka in the light of Kelsen's Pure Legal theory. You are expected to provide illustrations to support your analysis.

(100 marks)

03. H. L. A. Hart sought to liberate legal positivism from the orthodox and conceptual traps that Austin and Bentham have led it to. Hart's concept of law is more relevant in contemporary legal systems than Austin's and Bentham's.

Do you agree with this argument? Critically analyze the aspects of Hart's theory that you would recognize as more 'intellectually enriched and socially relevant' than those encapsulated in classical positivism promoted by Bentham and Austin. Substantiate your answer drawing examples from contemporary legal systems.

(100 marks)

04. Sri Lanka is currently in the midst of a political, economic, medical and humanitarian crisis. In order to express dissent to the way the situation is being handled by the Government of Sri Lanka, Trade Unions, including the Federation of University Teachers Association (FUTA), organized concerted strikes and boycotted their regular duties. Some of these trade union actions resulted in violation of the rights of people, including students.

Analyze the above situation, with special emphasis on students' rights in light of Roscoe Pound's theory of social engineering. Substantiate your analysis with philosophical perspectives.

(100 marks)

05. *Roe v. Wade* 410 U.S. 113 is one of the most influential judgments that has been given in the past century. This case made it legal for women to terminate pregnancies in the first trimester without government restriction. However, the case has not been without criticism. One of the biggest criticisms is that the court was encroaching on the role of legislature. In May 2022, an early draft of a Supreme Court Opinion which may overrule *Roe v. Wade* has been leaked. Taking the cue from the Supreme Court, around 20 States in the United States of America appear poised to make abortion illegal as soon as the said decision is rendered.

Imagine you are either a pro-choice human rights activist (you are for the ruling in *Roe v. Wade*) or a pro-life human rights activist (you are against the ruling in *Roe v.*

Wade). Write a reasoned opinion of the role of the court, the duty of judges, and their expected contribution to the development of the law through the lens of American Realism. Support your answer with relevant legal authorities.

(100 marks)

06. The world has witnessed commendable achievement in terms of women's prolonged quest for equal treatment and elimination of all forms of oppression in recent times. However, the Sri Lankan legal system has more to gain.

Do you agree? Justify your position citing examples from Sri Lanka and at least one other jurisdiction and relevant authorities.

(100 marks)
