

# LAW I

Candidates should answer **THREE** questions

1. What is a legal person?
2. Should judges put aside their emotions when they decide cases?
3. Can cryptocurrency be held on trust?
4. Is a knowing recipient a trustee?
5. Under what circumstances, if any, should civil liability arise because of a conspiracy?
6. Is duress a form of necessity, or necessity a form of duress?
7. When, if ever, should a claimant's illegality ground a defendant's defence?
8. Do private lawyers need a concept of standing?
9. C drops a £10 note; D picks it up. Discuss.
10. What principles should govern the remedies for claims founded upon 'proprietary estoppel'?
11. When should a court permit service out of the jurisdiction on the grounds that the defendant is a 'necessary and proper' party to a legal suit?
12. Should costs follow the event?
13. 'The law of torts at the beginning of the nineteenth century was still recognisably medieval' (DAVID IBBETSON). Discuss.
14. How should foreign law be proved?
15. Can adverse possession laws be justified?
16. Should all criminal courts in all countries have jurisdiction to hear prosecutions for crimes committed anywhere?
17. Discuss, with examples, the extent to which it has been necessary for the legislature to reform private law in your jurisdiction of choice, because the judges have failed to do so.
18. Explain the relation between interpreting a contract and identifying an implied term of a contract.
19. Is the law of frustration a creation of law, equity, Parliament, or the contracting parties?

20. Explain the difference between a tort and a crime.
21. How should the law protect creditors of a company against decisions by the company that put it at risk of insolvency?
22. Should transgender women prisoners be subject to the same prison regime as cisgender women prisoners?
23. If a state is bound by its treaties, is it truly sovereign?
24. Does family law need more rules?
25. '[The] law school belongs in the modern university no more than a school of fencing or dancing.' (THORSTEIN VEBLEN). Is a university the right place to learn law?

## LAW II

Candidates should answer **THREE** questions

1. “The lawyer ... is analogous to a prostitute. The difference between the two is simple. The prostitute is honest—the buck is her aim. The lawyer is dishonest—he claims that justice, service to mankind, is his primary purpose. The lawyer's deception of the people springs from his actual money-making role; he represents the client who puts the highest fee on the table.” (FLORYNCE KENNEDY). Discuss.
2. Should courts ever have an equitable jurisdiction to depart from the requirements of a statute?
3. How must the use of private power be constrained in order for a community to attain the ideal of the rule of law?
4. Are there legal duties that are not backed up by sanctions?
5. How, if at all, does the law on bias in administrative decisions differ from the law on bias in judicial decisions?
6. Are there constitutional principles that are not legal principles?
7. Should a court in the United Kingdom ever judicially review an exercise of the power to make or unmake treaties? If so, when?
8. ‘The purpose of the European Convention on Human Rights is to protect *human* rights. There should, for that reason, be no territorial restriction on its application.’ Discuss.
9. Should ministers of the Crown have a legal duty to act so as to ensure that the United Kingdom does not violate international law?
10. Should the government have legal power to veto a disclosure under the Freedom of Information Act 2000?
11. On what grounds, if any, should ombudsmen be subject to judicial review?
12. Are minimum voting age restrictions in elections objectionable?
13. ‘Very many countries seem to have felt it to be important that their national legislature should have two chambers, but none has found a satisfactory role for the upper chamber, or a satisfactory technique for determining its membership.’ Discuss.
14. Is the ‘intention of Parliament’ a fiction?
15. ‘[T]he Order in Council..., being founded on unlawful advice, was likewise unlawful, null and of no effect and should be quashed. This led to the actual prorogation, which was as if the Commissioners had walked into Parliament with a blank piece of paper.’ (LADY HALE AND LORD REED, *R (on the application of Miller) v Prime Minister* [2019] UKSC 41 [69]). Discuss.

[OVER]

16. Which beliefs are not worthy of respect in a democratic society?
17. Does it matter whether punishment deters?
18. Should draft judgments be confidential?
19. Should the rules of precedent be the same for statutory and common law cases?
20. Is 'intellectual property' property?
21. How should judges be appointed?
22. Is international refugee law fit for purpose?
23. Assess the significance of the Statute of Uses (1536) for the development of English land law.
24. 'Ownership has nothing in common with possession' (ULPIAN). Discuss.
25. Should we abolish juries?

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1. In what sense, if any, is law neutral?
2. When, if ever, should an omission generate tortious liability?
3. What did *South Australia Asset Management Corporation (SAAMCO) v York Montague Ltd* [1997] AC 191 decide? Was it rightly decided?
4. Should *Foakes v Beer* (1883) LR 9 App Cas 605 be overturned?
5. How effectively does the law guard against exploitation in boilerplate contracts?
6. Do the remedies for breach of contract depend upon the fault of the party in breach? Should they?
7. Is ‘unjust enrichment’ about enrichment?
8. What principles should govern the availability of proprietary restitution?
9. Are all trustee duties fiduciary?
10. Is the ‘common intention constructive trust’ simply remedial?
11. What is the relationship between relativity of title and ownership?
12. Should parties be forced to mediate before they are entitled to a day in court?
13. Is the right to strike usefully understood in terms of individual freedom?
14. Should units of cryptocurrency be classified as personal property?
15. Has the ‘Brussels I regime’ contributed to the development of a generally coherent system of private international law?
16. How should outstanding cultural heritage be legally protected for future generations?
17. Are the best days of landmark Case C-120/78 *Cassis de Dijon* (1979) over, or does mutual recognition still have a role to play in the EU market integration project?
18. ‘The approach of the law does not lend itself to easy visualization.’ Discuss.
19. ‘The EU is founded on an institutional architecture that seeks to reflect the interests of States and of their peoples in an environment of deepening transnational activity that tends to push the effective site for problem-solving in some areas (e.g. climate change, migration, security, economic reform) beyond the State.’ Discuss.
20. Does the COVID-19 pandemic provide any reason to revise TRIPS?

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21. Are product intervention legal measures in the regulation of financial services (such as a ban on selling) ‘unacceptable paternalism’ or an essential plank in the legal protection of small investors?
22. Are there any legal systems that do not have any general principles at all?
23. How could the study of the Roman law of slavery further or hinder the fight against ‘modern slavery’?
24. Should all infringements of intellectual property rights be crimes?
25. Can all modern domestic legal systems be gathered into a few families of law?

## LAW II

Candidates should answer **THREE** questions

1. Do courts' appeals to legislative intent do more to constrain judicial law-making or to conceal it?
2. Should public lawyers be more concerned with remedies?
3. When is a claim against a government decision-maker non-justiciable?
4. Is there a viable alternative to balancing tests in human rights adjudication?
5. When, if ever, is immigration detention defensible?
6. Should the law treat discrimination against members of majority groups in the same way as it treats discrimination against members of minority groups?
7. Assess the merits of 'worker' status in labour law.
8. "'Dignity' has no clear meaning, and its invocation in medical law serves more to obscure than to justify legal conclusions.' Discuss.
9. How far do children's rights protect children's interests?
10. Is corporate criminal liability more than a useful fiction?
11. When, in law, does deception vitiate consent to sex? When should it?
12. Does the Police and Criminal Evidence Act 1984 require fundamental reform?
13. Should wealth be taxed? If so, how?
14. 'The modern approach is that judges (and, increasingly, juries) can be trusted to evaluate evidence in a rational manner, and that the ability of tribunals to find the true facts will be hindered and not helped if they are prevented from taking relevant evidence into account by exclusionary rules' (LORD HAMBLIN and LORD LEGGATT). Discuss.
15. 'What matters is how judges decide cases, not whether we call the norms they apply "law".' Discuss.
16. Does law have a function?
17. To what extent is a member State of an international organization not an independent State?
18. Is the law resilient?
19. Is forum shopping an inevitable consequence of globalization?

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20. Is the language of human rights the most effective tool to address domestic abuse?
21. Is the business and human rights agenda only corporate rhetoric?
22. Does unilateral treaty denunciation undermine the international rule of law?
23. Was the *Lotus* case (1927) PCIJ Ser A, No 10, 208 wrongly decided?
24. Is 'cyberwarfare' a misnomer?
25. 'There is now clear alignment between national and international law in recognizing that achieving the greenhouse gas reductions mandated by the Paris Agreement is legally required.' Discuss.



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1. Was the Supreme Court in *MWB Business Exchange Centres Ltd v Rock Advertising Ltd* [2018] UKSC 24 correct in deciding that a 'no oral variation' clause in a contract stops an oral variation?
2. Is the present English law on vicarious liability in a mess?
3. Are punitive damages an anachronism?
4. What is the present law on the availability of 'negotiating damages'?
5. A clause in a contract requires a party who breaks the contract to pay over to the other party all profits made from the breach. Is that clause valid?
6. What are the differences, if any, between remedies for the tort of privacy and remedies for the equitable wrong of breach of confidence?
7. Is unjust enrichment a cause of action in English law?
8. A pays B £10,000 by mistake. Three years later, B realizes the mistake and pays back £10,000 to A. Is A entitled to interest? If not, should A be entitled to interest?
9. Is it nonsense to describe a trust as involving a division of legal and equitable ownership?
10. Do you understand the law on tracing?
11. Is there a valid distinction between principle and policy in legal reasoning?
12. What is meant by a defence in private law?
13. Is correlativity the key to understanding the normative structure of private law?
14. Should one seek to eliminate judicial discretion in private law?
15. To what extent is there, or should there be, a uniform private law across common law jurisdictions?
16. Write a memorandum for the Law Commission explaining the need for statutory reform of one aspect of family law.
17. In applying the Human Rights Act 1998, do the courts still adhere to the 'mirror' principle?
18. 'Statutory interpretation is all about Parliamentary intention.' Is it?

[OVER]

19. If a managing director is the mind and will of a company, how can there be a civil wrong against the company by the managing director?
20. Are legal regulation of the internet and freedom of speech compatible?
21. Will online courts improve access to justice?
22. 'The law on costs in civil cases is clear and principled.' Is it?
23. How does one decide whether someone who does work for another is an 'employee' and why might that matter?
24. Has the 'Brussels Regulation Recast' (EU Regulation 1212/2012) been a success?
25. What are the likely implications of Brexit for the law and courts in the UK?

## LAW II

Candidates should answer **THREE** questions

1. Under what circumstances should the Supreme Court reverse its previous decisions?
2. On which courts, if any, should lay judges sit?
3. Assess the case for a codified UK constitution in light of legal and political developments since the 2016 Brexit referendum.
4. What distinguishes constitutional and administrative law?
5. How much leeway should administrative law give public authorities to change their minds?
6. Should socio-economic status be a protected characteristic in anti-discrimination law?
7. Does EU law rely too heavily on general principles of law?
8. Has the approach to effective judicial protection taken by the Court of Justice of the European Union made national procedural autonomy an illusion?
9. 'If it is permissible to criminalize unsuccessful attempts, then it is permissible to criminalize mere harmful thoughts.' Discuss.
10. Is it objectionable for a defendant to be found guilty of a crime on the basis of statistical evidence alone?
11. What role should victims play in criminal sentencing?
12. Has the International Criminal Court been a failure?
13. How should vague rules of customary international law be interpreted?
14. Is there a crisis of legitimacy in international investment arbitration?
15. 'Persisting with the status quo ad hoc, State-by-State approach to implementing refugee protection obligations is not an option' (JAMES HATHAWAY). Discuss.
16. Who should hold environmental rights?
17. How, if at all, should competition law be reformed to address the rise of algorithms and 'big data'?
18. Is a general defence to copyright infringement of 'fair use' preferable to a closed list of permitted uses?
19. Is UK tax law consistent with the rule of law?

[OVER]

20. Is law the most important element in effective financial regulation?
21. Are legal obligations simply obligations that judges ought to enforce?
22. Does law claim authority?
23. Can legal history help to resolve current doctrinal controversies?
24. 'Civil law and common law systems differ in degree but not in kind.' Discuss.
25. '[S]een in the light of modern tort theory, Julian's analysis of Ch.1 of the *lex Aquilia* seems, if not prescient, then at least not unsophisticated' (HELEN SCOTT). Discuss.