

GUJARAT NATIONAL LAW UNIVERSITY
SILVASSA CAMPUS
Course: **Jurisprudence**
B.A., LL.B. Semester- III (Batch: 2023-28)
End Semester Examination: Oct 2024

Date: 25th October, 2024

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: (3 Marks: 250-300 words), (5 Marks: 500-600 words), (7-10 Marks: 650-800 words)

Answer any five of the following questions

- | | Marks |
|--|--------------|
| <p>Q.1 In the State of Varanja, workers at Shakti Industries, employing over 10,000 people, are striking due to poor working conditions, low wages, and unsafe environments. Despite multiple complaints, local authorities took no action, allegedly due to the company's political ties. The workers, backed by a union, demand better wages, safety, and work hours. However, the government, invoking the Industrial Peace and Productivity Act (2024), declares the strike illegal, citing its potential to harm State productivity. The ordinance requires a 60-day notice and arbitration before any strike. The workers, defying the order, argue the law unjustly infringes on their rights and dignity. In response, the government arrests union leaders and terminates several workers under the Essential Services Maintenance Act (ESMA), 1980 stating that the factory's operation is critical for public welfare. The workers challenge these actions in court, asserting that the laws protect corporate interests and violate their fundamental rights to life, equality, and freedom of expression.</p> <p>You are representing the protestors before the Supreme Court of Varanja. Using John Finnis' natural law theory, argue why the Industrial Peace and Productivity Act (2024) is unjust and violates essential moral principles.</p> | (10) |
| <p>Q.2 "A person may compel another to obey a command by threatening evil, as when a robber demands my wallet by threatening to shoot me. But the robber is not making law but violating the law. Bentham and Austin would have agreed that the robber's command is not law because the robber is not the sovereign. Hart's answer is that a sovereign is no</p> | (7+3) |

different from a robber if people obey their commands solely due to fear of sanction. It is misleading to understand law in this way.”

- a. In light of the statement given above, discuss, in detail, Hart’s criticism of Austinian and Benthamite Positivism.
- b. Shed light on the role that morality plays in Hart’s characterization of a legal system.

- Q.3** a. What were the conditions that necessitated and paved the way for a historical inquiry in comprehending the meaning of law? (3+7)
- b. How was Savigny’s, Maine’s and Marx’s attempt to demystify law different from each other?

- Q.4** In the country of Bindia, a law called the Land Tenure and Resource Allocation Act (2024) governs land ownership and usage rights. Under this Act, large landowners can lease portions of their land to local farmers who do not have land of their own, giving the farmers limited rights to use the land for agricultural purposes while still maintaining ownership of the land. Vikram, a local farmer, leases a piece of land from Mr. Das, a wealthy landowner, under a long-term agreement that allows Vikram to grow crops and use the water from a nearby stream, which runs through Mr. Das’ property, for irrigation. This arrangement has been beneficial for both parties, as Vikram earns his livelihood, and Mr. Das receives rental payments for the lease of the land. However, a recent dispute arises when Mr. Das decides to sell the land, including the water rights, to a developer, EcoLand Ltd., which plans to build a resort on the property. Vikram objects, arguing that he has a legal right to continue using the land and the stream under the lease agreement, despite the change in ownership. He claims that his right to use the land and water should remain valid even after the property is sold to a third party. EcoLand, on the other hand, asserts that once they acquire full ownership of the land, they have the exclusive right to decide how the land is used, and Vikram’s lease should be terminated. (5+5)

In light of the facts mentioned above answer the following questions:

- a. What do we mean by rights and what are its essential elements? Highlight the essential elements of Vikram’s rights, if any, as claimed by him in the passage mentioned above.
- b. Does Vikram have a legal interest in the land and water that is enforceable against third parties (such as EcoLand) even after the sale of the property? If yes, what kind of interest?

- Q.5** “Durkheim’s views of the evolution of restitutive law through mutual convenience and the division of labour closely follow the insights established by Adam Smith and other evolutionary thinkers of the 18th century. The value of his work lies in his explicit application of these insights to the law in a more technical way.” (10)

What was Emile Durkheim’s contribution to the understanding of law? Explain the role that division of labour plays in Durkheim’s characterization of law.

- Q.6** What are the different theories of corporate personality? Elucidate your answer with relevant case laws. (10)
