

NATIONAL LAW UNIVERSITY, JODHPUR**End Term Examination – April – May, 2025****Semester: LLM II Semester****Subject: Law & Justice In a Globalized World (Compulsory)****Time: Three Hours****Marks: 100****Instructions:**

1. All questions carry equal marks.
2. Kindly answer any four out of six questions.

Q 1) The Republic of Navadharmia is a constitutional democracy that has committed itself to the principles of justice, equality, and individual freedom in its Preamble. Recently, the government of Navadharmia enacted a Universal Basic Education Guarantee Act, aimed at ensuring every child has access to at least 10 years of formal education, including digital access and nutrition support. However, civil society groups have raised concerns that while the law exists formally, its implementation remains uneven. Children in remote and underprivileged communities often receive lower quality education, lack qualified teachers, and have limited access to the internet, even though on paper they are “in school.”

The government defends the law, arguing that it has designed the policy in line with principles of fair equality of opportunity, as it guarantees formal access to education for all. The Ministry of Justice further claims that once fair procedures and institutions are in place, individual outcomes are a matter of personal responsibility.

Critics, however, argue that real freedom and agency are not being achieved for the disadvantaged, and that focusing solely on formal entitlements without addressing substantive outcomes leads to “justice on paper but injustice in reality.”

The Navadharmia Institute of Social and Constitutional Thought has asked you to prepare a report evaluating the government’s policy through the contrasting philosophical frameworks of John Rawls and Amartya Sen. Kindly prepare a report accordingly. In your response, address the following:

1. What would Rawls say about the fairness of the existing institutional arrangements, particularly through his concepts of the original position, veil of ignorance, and the difference principle?
2. How would Sen critique this Rawlsian approach through his comparative and capability-based lens, and what alternative standard of justice would he suggest?
3. In light of both theories, offer a reasoned opinion on whether the current educational policy can be considered just.

(Marks 10 + 10 + 5 = 25)

Q 2) The Republic of Nomis, a democratic country with a written Constitution and a well-established legal system, recently passed the Digital Civility Act, 2025, which authorizes the government to restrict “malicious online expression” that causes “psychological harm” or disrupts “digital harmony.” The Act does not define these key terms but empowers a government-appointed Digital Ethics Board to identify harmful content and issue takedown orders.

When a group of civil rights activists challenge the Act, the matter reaches the Constitutional Bench of the Supreme Court of Nomis. The challenge is based on the ground that the Act violates the constitutional right to freedom of expression, which may only be restricted by law under grounds such as “public order” and “incitement to violence.”

During deliberations, two judges articulate competing theories of adjudication:

- Justice Verma, adopting a legal positivist position, argues that the law is a system of rules whose validity depends on social sources rather than moral content. She cites H.L.A. Hart’s view that in “hard cases,” judges must exercise discretion akin to legislative power, since the rules run out or are indeterminate. In her view, the legislature deliberately left some terms open-ended, and courts must respect that institutional choice.
- Justice Mehra, drawing on Ronald Dworkin’s critique in *Taking Rights Seriously*, insists that judges are not merely policymakers in hard cases but must decide by applying principles that already form part of the legal system, even if not formally enacted. She argues that individuals have rights against the state, and any restriction on speech must be justified not just procedurally but in terms of principles like equality and liberty.

You are a law clerk assisting the Court in resolving this theoretical disagreement. Prepare a briefing note addressing the following:

1. Explain Hart’s theory of law, especially his distinction between rules and the open texture of law, and how he justifies judicial discretion in hard cases;
2. Explain Dworkin’s critique of Hart’s model, particularly his emphasis on the role of principles;
3. Apply both theories to the case at hand: how would Hart and Dworkin likely decide whether the Digital Civility Act, 2025, is constitutionally valid?

(Marks 10 + 10 + 5 = 25)

Q 3) In the Republic of Veritas, which recently transitioned back to democratic rule after a decade of authoritarian governance, the newly established Truth and Justice Commission is reviewing cases of convictions under laws passed during the authoritarian regime.

One such law, the Civic Loyalty Decree, 2016, criminalized “acts of disloyalty, disrespect, or dissent that undermine the moral fabric of the nation.” It was broadly worded, retroactive in effect, and used to imprison hundreds of citizens based on reports filed by private individuals.



Ms. Elena Weiss, a government employee, had reported her colleague in 2019 for making satirical remarks about a senior minister. The colleague was arrested and imprisoned under the Civic Loyalty Decree. In 2025, Ms. Weiss is now being prosecuted by the state under the Restorative Justice Act, 2023, which allows for the prosecution of individuals who “knowingly aided the unjust enforcement of illegitimate laws.”

Ms. Weiss contends that her actions were lawful at the time under validly enacted legislation. The state argues that the law she relied on lacked the fundamental attributes of law and that no one can claim legality under a regime of injustice. The matter is now before the Supreme Court of Veritas. You are a judicial clerk assisting the Court.

Prepare a reasoned opinion advising the Court on whether Ms. Weiss’s actions can be considered lawful. In your response, refer to relevant jurisprudential debates on the nature of law, legal validity, and the relationship between law and morality, with particular reference to the contrasting views represented in the Hart–Fuller debate.

(Marks 25)

- Q 4) Write short notes on the following topics –
- Original Position in Rawls’ Justice as Fairness
 - Nozick’s conception of self - ownership

(Marks 12.5 x 2 = 25)

Q 5) The Republic of Santara, a low-income nation rich in natural resources, has long struggled with extreme poverty, debt, and institutional corruption. It exports oil and minerals to wealthy nations under contracts negotiated by a military regime that came to power through a coup. Despite gross human rights violations by the regime, multinational corporations from developed countries continue to trade with it, citing international norms that recognize the de facto authority of states.

Santara’s civil society groups allege that global trade, financial, and legal systems actively sustain poverty and injustice in countries like theirs. They argue that the international resource and borrowing privileges, recognized by the current global legal order, effectively reward and legitimize corrupt regimes while externalizing harms to already impoverished populations. They have submitted a complaint before the Global Justice Tribunal, arguing that wealthy countries and global institutions share negative responsibility for the persistence of extreme poverty in Santara.

You are a legal philosopher appointed to assist the Tribunal in analyzing the claim.

Draft a reasoned opinion addressing the following:

- Outline the central tenets of Thomas Pogge’s argument about the global institutional order’s role in perpetuating poverty and his notion of justice;
- Evaluate whether the conduct of wealthy nations and corporations, in benefiting from Santara’s regime, violates any obligations of justice under Pogge’s framework;



3. Offer your own view on whether Pogge's theory provides a persuasive account of global justice and legal responsibility in the context of extreme poverty.

(Marks 8 + 8 + 9 = 25)

Q 6) The government of the Republic of Helion has launched a new public welfare initiative called the "Joy for All" Program, which funds large-scale entertainment events like reality TV festivals, sports tournaments, and social media influencer shows aimed at increasing public happiness. Early reports show high public engagement and short-term boosts in national happiness metrics.

However, funding for this program has been diverted from libraries, public arts programs, and philosophy departments in universities — institutions now deemed "less impactful" in generating quantifiable happiness for the majority.

A group of educators and philosophers challenges the policy, arguing that the state has prioritized momentary amusement over intellectual and moral development, leading to a degradation of public taste and long-term well-being.

In its defense, the government claims that its policy is consistent with utilitarian principles, since it maximizes happiness for the greatest number.

You are a philosophy student advising a legislative ethics committee reviewing this policy.

Prepare a reasoned memorandum addressing the following:

1. Explain J.S. Mill's distinction between higher and lower pleasures, and the role this distinction plays in refining classical utilitarianism;
2. Analyze whether the "Joy for All" Program aligns with Mill's conception of utility or whether it reflects a more Benthamite approach;
3. Evaluate the argument that qualitative differences in pleasures should influence public policy decisions, even if it results in less aggregate satisfaction for the majority.

(Marks 10 + 10 + 5 = 25)