

National Law University Jodhpur
Jurisprudence – I
End Term Examination – October/November 2023

S.E.M. III 214.

Time: 3 hours

MM: 100

Instructions:

1. Answer any five questions.
2. Write precise answers.
3. All questions carry equal marks.

30 OCT 2023

Q1. “Statutory lawlessness and Supra-statutory laws” is a proposal that seem to reaffirm positivism on the one hand but also align with natural law ideas on the other. What is the usability of such a proposal? Explain with the help of some concrete examples.

(Marks: 20)

Q2. When and how does the *Grundnorm* change? Give examples of some successful *Grundnorm* changes in the world, and also of some failed attempt/s to change the *Grundnorm*. What are the consequences in both the cases?

(Marks: 20)

Q3. What does it mean to say that Prof. Dworkin’s theory of law as interpretation is a participative theory rather than a descriptive theory? What are the advantages and disadvantages of a participative theory vis-a-vis a descriptive theory?

(Marks: 20)

Q4. Customs and legislations relate with each other. Explain that relationship from the perspective of a Positivist, a Naturalist, and a Historicist.

(Marks: 20)

Q5. Explain in detail Prof. Finnis’s idea of Basic Goods, Common Good, and Law as the most appropriate instrument for achieving the Common Good.

(Marks: 20)

Q6. “To say that a given rule is valid is to recognize it as passing all the tests provided by the rule of recognition and so as a rule of the system...there is no rule providing criteria for the assessment of its own legal validity... No such question can arise as to the validity of the very rule of recognition which provides the criteria; it can neither be valid nor invalid but is simply accepted as appropriate for use in this way... Its existence is a matter of fact. – HLA Hart, *The Concept of Law*.”

In the light of the abovementioned statement write a note on the validity of Constitutions.

(Marks: 20)

