

LAW I

Candidates should answer **THREE** questions

1. Does it any longer make sense to ask where 'sovereignty' resides in the case of the United Kingdom?
2. Should the Fraud Act 2006 be welcomed?
3. 'Proprietary rights, as a class, rarely arise from wrongs' [P. BIRKS]. Discuss.
4. What role does mistake play in English contract law?
5. 'Freedom of belief is absolute. Freedom to manifest belief is qualified' [LORD NICHOLLS OF BIRKENHEAD]. Discuss.
6. Assess the influence of the common law of bailment on the transfer of rights and on the imposition of liabilities under bills of lading.
7. Should we welcome the creation of a Ministry of Justice?
8. 'The tort of trespass vindicates rights ... and the tort of negligence offers damages as compensation for harm. The tort of nuisance does both' [T. WEIR]. Discuss.
9. 'The injustice of a law is not, in general, a sufficient reason for not adhering to it any more than the legal validity of legislation (as defined by the existing constitution) is a sufficient reason for going along with it' [J. RAWLS]. Discuss.
10. Does our private law care too little about a person's non-economic interests?
11. How effectively does EC law ensure that Member States abide by their Treaty obligations?
12. Has the Human Rights Act 1998 brought about an improvement in the English law on self-incrimination and silence?
13. What are the most important issues which remain to be resolved in relation to the change of position defence? How should they be resolved?
14. 'Judicial review of a prosecutorial decision, although available in principle, is a highly exceptional remedy' [LORD BINGHAM OF CORNHILL]. Should it be?
15. Does English law deal satisfactorily with 'unfair competition'?
16. 'Ownership has nothing in common with possession' [ULPIAN]. Discuss with particular reference to the English common law.
17. A, a minor pretending to be of full age, induces B to sell a bicycle to him for £500. He promises to pay for it later. After delivery, he exchanges the bicycle for C's digital camera

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worth £550. B never receives the purchase price. Advise B on any claim that he may have against A. What if A had sold the bicycle to C and then squandered the money?

18. Comment, without translating, upon: ‘*Generaliter iniuria dicitur omne, quod non iure fit: specialiter alias contumelia, quae a contemnendo dicta est ...; alias culpa ..., sicut in lege Aquilia damnum iniuria accipitur; alias iniquitas et iniustitia*’ [Institutes of Justinian, 4.4.pr].
19. Should one ever be liable to pay compensation to another for losses arising from the exercise of a right?
20. Does English land law show sufficient respect for family and private life?
21. What can the law of contract contribute to our understanding of the circumstances in which easements will be implied?

LAW II

Candidates should answer **THREE** questions

1. Should a final court of appeal have multiple judgments?
2. Are the existing restrictions on the power of company directors to determine their own salaries adequate?
3. Should contracts procured by corruption ever be enforced?
4. Do paedophiles have a right to privacy?
5. How do other legal systems cope without the doctrine of consideration? How does English law cope *with* it?
6. Is International Law international?
7. Should courts compete for business?
8. Are people who work for agencies adequately protected by English employment law?
9. Is the European Court of Human Rights in need of reform?
10. 'To say that [judges] never change the law is a fiction and to base any practical decision upon such a fiction would ... be abstract juridical correctitude. But the other question is whether a judicial decision changes the law retrospectively and here the answer is equally clear. It does.' [LORD HOFFMANN in *Deutsche Morgan Grenfell Group Plc v Inland Revenue Commissioners*, 2006]. Discuss.
11. Are there any compelling reasons why prisons should not be built and run by the private sector?
12. What distinguishes competitive and anti-competitive conduct by an undertaking in a dominant position?
13. Is the relationship between liberty and security best understood using the idea of 'balance'?
14. Should members of an audience be entitled to sue musicians for a bad performance? Should Prize Fellowship candidates be entitled to sue for a bad examination paper?
15. In a human rights case, 'what matters is the practical outcome, not the quality of the decision-making process that led to it' [LORD BINGHAM OF CORNHILL]. Discuss.
16. Should the provider of the sperm and the provider of the egg have equal rights to decide the fate of a frozen embryo? Do these rights co-exist with any other rights in relation to the frozen embryo?

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17. 'It can scarcely be chance that the two legal systems which have most influenced the juridical development of ... the westernised modern world [i.e. Roman law and English law] should have followed a similar pattern of development' [J.A.C. THOMAS]. Discuss.
18. Should religious courts be regarded as a part of the State for the purposes of State responsibility under International Law?
19. What legal considerations should affect a decision to allow filming of court proceedings?
20. 'The law of torts at the beginning of the nineteenth century was still recognisably medieval' [D. IBBETSON]. Discuss.
21. How should the taxation of businesses be differently organised from the taxation of individuals?
22. Which law should govern the availability of provisional and protective measures?

LAW I

Candidates should answer **THREE** questions

1. 'Consideration, offer and acceptance are an indivisible trinity, facets of one identical notion which is that of bargain' [HAMSON]. Does English contract law still reflect that notion?
2. Should a defendant in breach of contract ever be liable for substantial damages where the breach causes the claimant no 'loss'?
3. Could the recognition of a doctrine of good faith usefully add anything to English contract law? Would it render any of the well-established doctrines superfluous?
4. Can tort law be explained without recourse to policy?
5. Is it useful to think of the economic torts as part of competition law?
6. Does human rights law make any demands of English tort law? If so, does any remain unsatisfied?
7. Can the authority claimed by unjust laws be justified where such laws originate in just procedures?
8. Why should anyone find a descriptive theory of law interesting?
9. Is there still a place for overreaching in English land law?
10. Does the principle in *Tulk v. Moxhay* (1848) 2 Ph 774 provide a model for explaining how a licence may eventually be recognised as capable of binding a licensor's successor in title?
11. Does land law adequately give effect to the principle that parties should be held to their agreements?
12. Is the distinction between law and equity in the modern law best explained by historical, practical or conceptual considerations?
13. Does the theoretical basis of resulting trusts matter to anyone except restitution lawyers?
14. '[There is] more affinity between the Roman jurist and the common lawyer than ... between the Roman jurist and his modern civilian successor' [BUCKLAND/MCNAIR]. Explain.
15. Are there any questions that, as a matter of law, are not justiciable by the English courts, and, if so, how do we know that they are?

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16. '[I]t is no longer right to say that [Parliament's] freedom to legislate admits no qualification... [T]he rule of law enforced by the courts is the controlling principle upon which our constitution is based.' [*Jackson v. Her Majesty's Attorney General* (2005) UKHL 56, *per* Lord Hope]. Discuss.
17. Do the rules on standing continue to serve any useful purpose in administrative law ?
18. Does English law exaggerate the importance of procedural fairness?
19. Does any of the theories of law fit the case of international law?
20. Is strict liability for criminal offences always objectionable?
21. How satisfactory is the English law of criminal complicity?
22. Should undergraduates still read Hart's legal philosophy?
23. 'The concern for taxonomy is peculiarly academic.' Is this true of the law of trusts?

LAW II

Candidates should answer **THREE** questions

1. 'Unjust enrichment sheds little light on the restitutionary consequences of contractual failure.' Discuss.
2. Does quantifying a defendant's enrichment raise any issues that are conceptually different from quantifying a claimant's loss?
3. Should contractual consequences attach to agreements the object of which is dispute resolution?
4. Can a coherent account be given of the case law which establishes that an English court will not enforce foreign public laws?
5. Must choice of law schemes for non-contractual obligations inevitably tolerate uncertainty in their application?
6. What legal consequences, if any, flow from the statement that a c.i.f. buyer's right to reject goods and his right to reject documents are 'separate and successive rights'?
7. 'The primary object of comparative law, as of all sciences, is knowledge' [ZWEIGERT & KÖTZ]. Is such knowledge good for anything?
8. In what circumstances are liabilities under a bill of lading contract imposed on the transferor of the bill? How can such imposition of liabilities be justified?
9. Are African states entitled under international law to reparation for the damage inflicted by the slave trade? Should they be?
10. Should the United Nations Security Council be reformed; and if so, how, why and when?
11. Will the existence of a Supreme Court from October 2009 make any difference to public law?
12. 'The Strasbourg jurisprudence is closely focused on the facts of particular cases, and this makes it perilous to transpose the outcome of one case to another where the facts are different' [LORD BINGHAM OF CORNHILL]. Discuss.
13. Is the prohibition on the broadcasting of political advertising consistent with Article 10 of the European Convention on Human Rights?
14. More Acts of Parliament dealing with crime, criminal justice and punishment have been passed by Parliament in the 11 years since 1997 than in the 100 years that preceded it. How can this best be explained?
15. Is too broad a range of bad character evidence now admissible in criminal cases?

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16. Do the courts do enough to protect the privilege against self-incrimination?
17. How ought the government to respond to the tendency of the prison population to increase?
18. How significant a contribution has legislation made to the development of English land law?
19. What was the difference between trespass and case and why and how did that difference cease to matter?
20. 'Marriage in almost all but name' [BARONESS HALE OF RICHMOND]. If this is an accurate description, why does the Civil Partnership Act occupy more than three hundred pages of the statute book?
21. What problems may confront a would-be private claimant for a monetary award for infringement of the EC and UK rules on competition? How should the amount of such an award be calculated?
22. Does the expression 'distortion' add anything, and if so, what, to the condition of 'prevention, restriction or distortion of competition' in the context of the rules on competition of the EC Treaty and the Competition Act?
23. Is it helpful to think about collective labour law from the perspective of human rights?
24. 'Employment rights need to be divorced from the individual employment relationship. Instead of a quid pro quo for subordination, rights should be afforded to all who participate in the paid workforce, however marginally' [FREDMAN]. Discuss.
25. 'The interplay between the legislator, the courts and academic writing in the common law is different from that generally encountered in civil law systems' [CARTWRIGHT]. Comment.
26. Are the similarities between the English law on negligence and the Roman law on Aquilian liability more significant than the differences?
27. Do we need to codify contract law at the European level?
28. When and why should the corporate veil be pierced?
29. Would English tax law benefit from a general anti-avoidance principle?
30. Was the Companies Act 2006 worth the trouble?
31. Can English law be reproached for lacking a law of personal property?
32. What are the limits of the 'but for' test of causation?
33. In what, if any, circumstances is it appropriate to require an unwilling owner of an intellectual property right to license it to third parties?

LAW I

Candidates should answer **THREE** questions

1. Should the courts have a general power to adjust the terms of unequal bargains?
2. Can contract law be based entirely upon the concept of a consensus?
3. What principles distinguish duress from undue influence?
4. Following *Transfield Shipping Inc v Mercator Shipping Inc* ('The Achilleas') [2008] UKHL 48, does English private law now have a single coherent test for remoteness of damage?
5. Should private nuisance be understood as a tort or as an aspect of the law of real property?
6. Do the economic torts serve any coherent purpose?
7. Is it justifiable to place different limits on recovery for psychiatric and for physical injury?
8. Should upstaging entail tortious liability?
9. What principles should govern the decision whether to characterize a wrong as a tort or a crime or both?
10. In the law of restitution, 'the civilian approach, so different on its surface, nearly always comes to the same conclusions as the common law reaches through its list of unjust factors' [BIRKS, *Unjust Enrichment*, 2003]. In what ways, if any, is the difference between these two approaches important?
11. What is a constructive trust?
12. In what respects is a licence of land a property right?
13. What rights, in reality, does a 999-year lease give to the leaseholder?
14. How should we determine which social groups (if any) should be protected against verbal abuse?
15. What legal principles are implicated by Google's publication of photographs of streets in England?
16. Is there a need to reform the rules on Parliamentary Privilege?
17. In what circumstances should persons nominated to be jurors be entitled to refuse to serve?
18. What, if anything, does it mean to say that public decency is outraged?

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19. Should the Article 234 procedure be replaced with a system of appeal to the European Court of Justice?
20. Should there be a limitation period on the prosecution of some or all serious war crimes?
21. In what circumstances should superior orders be a defence to criminal liability?
22. Is the risk of prejudicing security cooperation with a foreign State a sufficient ground for refusing to disclose in a trial evidence that would otherwise be discoverable?
23. Should persons acquitted of crimes be entitled to compensation for defamation?
24. Should police officers be obliged always to display identifying numbers on their uniforms? Should protestors be obliged to display their identities?
25. Are there grounds for serious concern about the operation of the European Court of Human Rights?
26. Has European human rights law had a beneficial effect on the English law of evidence?
27. Does the criminal law of complicity extend too far?
28. Is there any further illumination of the English law of torts to be gained from the Roman law of delict?
29. Do the rules of standing serve any useful purpose in administrative law?
30. Should ultra vires action by a public authority give rise to a claim in damages?

LAW II

Candidates should answer **THREE** questions

1. Are the legal consequences of corporate personality in need of revision?
2. Should there be intellectual property rights in facts? In mathematical formulae?
3. In what circumstances should employees at railway stations be personally liable for losses resulting from incorrect information given by them regarding train fares and timetables?
4. On what principles should jurisdiction to tax multinational corporations be based?
5. As a matter of international law, is Taiwan a State?
6. Should foreign States continue to respect the sovereignty of Somalia over its territorial sea in circumstances where that sea is used as a base by pirates?
7. Does the International Criminal Court serve the public interest; and who *is* the public in this context?
8. Are marriage laws necessary, or could it all be left to the law of contract?
9. How should the limits of the concept of 'religion' be defined for the purposes of freedom of religion?
10. Are agency workers adequately protected by employment law?
11. Is capital punishment a question of penology or of human rights?
12. Do the laws of evidence advance the search for truth?
13. Does an electronic commercial transaction have a situs, and does it matter?
14. To what extent is there a private right to prevent unfair competition?
15. Would a British Bill of Rights and Responsibilities serve any valuable purpose?
16. Are courts sufficiently protective of the right to property under Article 1 of the First Protocol to the European Convention on Human Rights?
17. 'Under the First Amendment there is no such thing as a false idea; however pernicious an opinion may seem, its correction depends not on the conscience of judges and juries but on the competition of other ideas' [POWELL J in *Falwell v Hustler*]. Should Article 10 of the European Convention on Human Rights apply the same principle?
18. Is it useful to view the doctrine of legitimate expectations as the public law equivalent of estoppel?

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19. 'If it is open to an authority to ban a product or activity altogether, then a court cannot condemn as disproportionate any lesser restrictions the authority may choose to impose.' Do you agree?
20. Is the current law on damages for the 'loss of chance' satisfactory?
21. Are there sufficient justifications for imprisoning offenders for 'public protection'?
22. Is it a cause for concern that England and Wales have a significantly higher proportion of their population in prison than France, Germany and several other Western European countries?
23. In what sense, if any, are the fundamental freedoms of Community law constitutional principles?
24. To what extent does the harm principle assist us in determining whether to prohibit particular forms of conduct?
25. Why should cyclists stop at red lights?
26. Is the concept of abuse of a dominant position capable of being exhaustively defined?
27. Why did uses develop in England in the period prior to 1536?

LAW I

Candidates should answer **THREE** questions

1. How free should contracting parties be to determine the consequences of their failure to perform?
2. Why enforce unfair contract terms?
3. When should a public authority be liable to compensate those harmed by its poor administration?
4. Is there a tort of negligence?
5. What does tort law tell us about the common law approach to economic competition?
6. Can the situations in which a court will enforce informal commitments in relation to land be coherently explained?
7. When, why, and to whom should a recipient of trust assets be liable to restore their value?
8. Does the dichotomy between rights *in rem* and rights *in personam* adequately account for the trust?
9. In deciding whether a function is 'public' for the purposes of the Human Rights Act 1998, 'there is no single test of universal application' [LORD NICHOLLS]. Have the courts identified clear and helpful criteria in addressing this issue?
10. Should the Speaker control access to Parliament by the police?
11. Is proportionality a useful concept outside the spheres of administrative and EC law?
12. Should mass equal pay claims against local authorities be permitted?
13. Can the authority claimed by a government without the mandate of those governed ever be justified?
14. Is equality overrated?
15. Are crimes of omission difficult to justify?
16. Have governments been right not to pursue any of the proposals for reforming the structure of the English law of homicide made in the last fifty years?
17. Would it be better if the prison sentence announced by the court and the actual term served were the same?
18. Is 'universal jurisdiction' of national courts in relation to war crimes and serious violations of human rights obligations a good thing?

[OVER]

19. Is the Roman concept of *furtum* preferable to the English concept of theft?
20. As a result of standardisation agreements entered into under the aegis of industry bodies, access to certain privately owned intellectual property rights may be essential to enable undertakings to compete. How should competition law deal with such situations?
21. For an undertaking in a dominant position, what is the difference between conduct that will be deemed to be unlawfully anti-competitive and conduct that will be acceptable as competitive even though damaging to the undertaking's competitors?
22. Does the incidence of personal and/or proprietary restitution depend on whether or not a claimant transfers his rights to the defendant?
23. Does it matter whether a legal system orders restitution on the grounds of a present unjust factor or an absent legal basis?
24. What is the significance for private international law that a dispute arises between parties to a pre-existing relationship?
25. Should biology be given priority when a court decides with whom a child should live?
26. Should a tribunal be free to ignore expert evidence?

LAW II

Candidates should answer **THREE** questions

1. 'All consensual obligations are contractual.' Discuss.
2. '[It is assumed] that we are all neighbours now, Pharisees and Samaritans alike, that foreseeability is a reflection of hindsight and that for every mischance in an accident-prone world someone solvent must be liable in damages' [LORD TEMPLEMAN]. Should courts confirm or contradict the assumption?
3. As a matter of public international law, what legal consequences would arise from the insolvency of a State?
4. Can the concept of 'national security' be regulated by law?
5. Does migration have anything to do with rights?
6. Should businesses have human rights?
7. To what extent, if any, should the Human Rights Act 1998 apply to the conduct of the military in time of war?
8. Should we be worried about the popularity of English courts among non-English defamation claimants?
9. Have English sentencing guidelines been a success?
10. What, if anything, is wrong with private sector involvement with policing and punishment?
11. Should the DNA records of those who have not been convicted of a crime be retained by the police?
12. Is a freedom to associate, without a liberty to strike, meaningless?
13. Can the situations in which the law requires unequal treatment of those in a protected group be justified?
14. Should the State support marriage as the cornerstone of a civilised society?
15. For which disputes, concerning which assets, does it make sense to defer to the law and/or courts of the *situs*?
16. What challenges does anonymous testimony pose for a fair trial? Can these adequately be surmounted?
17. Is it right that prosecutors should determine the effective ambit of the law on assisting suicide?

[OVER]

18. How political should good legal philosophy be?
19. '[T]he conferment of any legal protection or preference upon a particular substantive moral position on the ground only that it is espoused by the adherents of a particular faith, however long its tradition, however rich its culture, is deeply unprincipled' [LAWS LJ]. Discuss.
20. Should control orders be abolished?
21. Can courts adequately scrutinize corporate governance?
22. What are the legitimate objectives of comparative law? Can these be attained?
23. What is a rational fining policy for competition authorities to adopt in respect of 'hard core' infringements?

LAW I

Candidates should answer **THREE** questions

1. 'I make no apology for referring to moral considerations. The law and morality are inextricably interwoven.' (LORD STEYN in *Smith New Court Ltd v Scrimgeour Vickers (Asset Management) Ltd* (1997)). Discuss.
2. Has the Contracts (Rights of Third Parties) Act 1999 been a success?
3. 'Reliance damages are never awarded for breach of contract'. Discuss.
4. Should pre-contractual negotiations be admissible evidence in construing a contract?
5. 'A claimant is free to choose between different causes of action.' Discuss.
6. Is the law of tort best understood as a system for redressing the infringement by a defendant of the claimant's rights?
7. Why has the economic analysis of law had little impact on English courts in deciding cases in contract and tort?
8. *B* negligently damages an oil pipeline that is held on trust for *A* with the consequence that *A* loses profits that it would have made from using the pipeline. Does *A* have a claim in the tort of negligence against *B* for its lost profit?
9. What is tracing?
10. Is 'property' best defined by reference to proprietary rights?
11. To what extent is a bona fide purchaser for value without notice protected in English law?
12. *C* drops a £50 bank note. *D* picks it up. Is *D* liable to *C* in unjust enrichment?
13. In the law of unjust enrichment, is the value of an enrichment the market value to a reasonable person in the defendant's position?
14. Are common law and equity fused?
15. 'Documentary letters of credit are autonomous'. Discuss.
16. How does one decide which law governs restitutionary claims involving a foreign element?
17. Should the law on company charges be reformed?
18. 'Pre-nuptial and post-nuptial agreements ought to be binding contracts'. Discuss.
19. Can the welfare of the child always be decisive in decisions about the child's future?

[OVER]

20. Should procedural failings invalidate industrial action?
21. Does the Equality Act 2010 change anything?
22. Does the trend towards mediation undermine access to civil justice?
23. Is procedure more important in practice than substantive law?
24. Is every statute dependent on the common law?
25. Write a memorandum for the Law Commission on an area of law that needs reform with an outline of the possible options for reform.

LAW II

Candidates should answer **THREE** questions

1. Does comparative law have any practical utility?
2. What role should be played by forgiveness in relation to the criminal law?
3. 'It is vital to measure crime accurately if we are to tackle it effectively' [DAVID BLUNKETT MP, Home Secretary, July 2001]. Is it?
4. Is the English law relating to homicide now in a satisfactory state?
5. In what, if any, circumstances should limitation periods be applied to the prosecution of crimes?
6. Is the English law on the admissibility of bad character evidence satisfactory?
7. Is the Government under a legal or moral duty to give effect to judgments of the European Court of Human Rights in cases brought against the United Kingdom?
8. To what extent may human rights be given up by contract?
9. How, if at all, should a religion be defined for legal purposes?
10. Is judicial review a procedure for the enforcement of individual rights or of standards of good governance?
11. Is there a proper role for anti-suit injunctions issued by one EU court in respect of proceedings in another?
12. In what circumstances should judicial determinations of the law have only prospective effect?
13. Was the Roman Law in relation to multiple damages the result of a failure to distinguish clearly between criminal law and civil law?
14. Was *Slade's Case* a watershed in the development of English contract law?
15. For an undertaking in a dominant position, what is the difference between anti-competitive and competitive conduct?
16. Is a clear definition of what amounts to 'income' an indispensable foundation of every system of tax law?
17. What legal duties do States owe to individuals outside their territory?
18. Are all legal obligations equally binding?
19. Should all crimes under international law automatically constitute crimes under English law?

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20. Are the WTO rules on subsidies adequate?
21. Do Bilateral Investment Treaties strike the correct balance between the rights and interests of investors and the rights and interests of host States?
22. Is there a need for a new legal framework within which to fight the 'war on terrorism'?
23. To what legal questions would the melting of the Arctic ice cap give rise?
24. Is consent to medical procedures given in a 'living will' a satisfactory basis for the protection of patient autonomy?
25. 'It is an odd situation if the judges are making the law rather than Parliament' [DAVID CAMERON MP, 2011]. Is it odd, and if it is what, if anything, should be done about it?