SECTION A

QUESTION 1: 50 marks

ANSWER ALL QUESTIONS

a) Natural law theorists argue that ‘true law is right reason in agreement with nature.’ Explain in detail what this means. [10 marks]

b) How does traditional natural law theory differ from modern natural law theory? [10 marks]

c) What are the central claims of legal positivism? [10 marks]

d) Explain fully what Austin means when he says that ‘a law is a command which obliges a person/persons to a course of conduct’. [10 marks]

e) Explain in detail Hart’s claim that ‘the union of primary and secondary rules is at the centre of a legal system’. [10 marks]
QUESTION 2: 50 marks

Critically examine classical accounts of natural law theory in light of the maxim ‘an unjust law is no law at all’.

[50 marks]

QUESTION 3: 50 marks

The Hart-Fuller debate can be summed up as a debate between ‘revised legal positivism’ and ‘revised natural law theory’. Explain the contrasting views of both Hart and Fuller in terms of the relationship between law and morality.

[50 marks]

QUESTION 4: 50 marks

a) What does Dworkin mean when he argues for the conception of ‘law as integrity’?

[10 marks]

b) What is a ‘hard case’ according to Dworkin?

[10 marks]

c) On what grounds does Dworkin reject ‘judicial discretion’?

[10 marks]

d) What does Dworkin mean by ‘constructive interpretivism’?

[10 marks]

e) What is the significance of Dworkin’s distinction between the law ‘including’ principles and ‘extralegal’ principles?

[10 marks]

QUESTION 5: 50 marks

Imagine that you are a judge in a case where applying the law is neither vague nor ambiguous but will result in grossly unjust results. With reference to at least one theory examined in the course, explain what your decision would be and why.

[50 marks]
SECTION B

QUESTION 6: 50 marks

ANSWER ALL QUESTIONS

a) What is Legal Moralism and on what grounds does Devlin argue for it? [10 marks]

b) What is Legal Paternalism and on what grounds does Hart argue for it? [10 marks]

c) What is Mill’s ‘Harm Principle’ and how does Hart ‘soften’ it? [10 marks]

d) Using one or more of the above theories, state and defend your position in terms of EITHER organ trading OR prostitution. [20 marks]

QUESTION 7: 50 marks

ANSWER BOTH QUESTIONS

a) In discussions about whether to legalise prostitution (for the 2010 Soccer World Cup), some opponents have argued that the practice of prostitution ‘defies the word of God’. Name the theory examined in this course that could be used to support this view. Do you think it is convincing? If so, explain why and if not, explain why not, using ANY OTHER theory examined in the course. [25 marks]

b) A number of theories (examined in this course) could be used to support legally allowing individuals to sell and buy (non-vital) organs. Critically examine any ONE of these theories, explaining whether and why you are/are not convinced by this theory. [25 marks]
QUESTION 8: 50 Marks

‘What is important is not the quality of the creed but the strength of belief in it’. Critically examine this claim in terms of the legal enforcement of social morality. Your answer must refer EITHER to organ trading OR prostitution.

[50 marks]

QUESTION 9: 50 Marks

Cecile Fabre offers a theory of legal justice in terms of the principles of ‘sufficiency’ and ‘autonomy’ Explain her account and show how it can be applied to the debates about EITHER organ trading OR prostitution.

[50 marks]