Nearly all natural lawyers are committed to some version of the maxim ‘an unjust law is no law at all’. Does this mean that natural lawyers deny the existence of unjust laws that have been validly promulgated?

Critically evaluate the two views of legal positivism offered by John Austin and HLA Hart. Your answer must include a discussion of which of the two theories you think is more convincing and why.

Using the Umpire’s Dilemma as an example, explain the dispute between Ronald Dworkin and legal positivism. Then argue which theory is to be preferred with respect to this particular example.
QUESTION 4: 50 marks

Answer EITHER i OR ii.

i. 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.

OR

ii. In 2009, Christine Michaels sent off an application to study at Rhodes University. Due to delays resulting from the postal strike of that year, her application arrived at Rhodes after the deadline had passed. On what grounds could she argue that Rhodes is required to consider her application? Your answer must include a discussion of natural law and legal positivism.

SECTION B: 100 marks

Answer BOTH questions.

QUESTION 5: 50 marks

On 11 September 2010, Pastors Danny Allen and Bob Old burnt copies of the Koran to mark the 9 year anniversary of the attacks on the Twin Towers. The men were publicly condemned but not arrested. Explain whether this response was justifiable or not according to the positions of:

i. Mill

ii. Hart

iii. Devlin

QUESTION 6: 50 marks

Cecile Fabre offers a theory of legal justice in terms of the principles of ‘sufficiency’ and ‘autonomy’ Explain and critically evaluate her account in light of the debates about EITHER organ trading OR prostitution.