QUESTION 1: 20 marks

Nearly all natural law theories are committed to some version of the maxim ‘unjust law is no law at all’. Explain how the following natural law theorists would interpret this in terms of whether we have an obligation to obey unjust laws:
   i. Cicero
   ii. Aquinas

QUESTION 2: 30 marks

a) In rugby, when a referee is unsure about whether a try has been scored or not, he is permitted to ask the television match official (TMO) for a decision. The TMO is only allowed to answer the question of whether the ball has been grounded on or beyond the try line. In 2011, in a match between the Springboks and the All Blacks, the TMO confirmed that the ball had been correctly grounded but because he had spotted an illegal move prior to this, he asked the referee if he ‘would like any further information?’
(because he realised that a strict application of the law would result in the unjust outcome of the All Blacks being awarded the try).

i. If the referee was applying legal positivism, how would he respond to the TMO’s decision?

ii. If the referee was using Dworkin’s theory of ‘constructive interpretivism’, how would he respond to the TMO’s question?

iii. Which of the two theories is to be preferred and why?

OR

b) 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 3: 50 marks

In Fuller’s article *Fidelity to the Law* he offers the following imaginary case:

A rule exists which states that ‘It shall be a misdemeanor, punishable by a fine of five dollars, to sleep in any railway station.’ Two men are arrested for violating this law.

The first is a passenger who was waiting at 3am for a delayed train. When he was arrested he was sitting upright in an orderly fashion, but was heard by the arresting officer to be gently snoring.

The second is a man who had brought a blanket and pillow to the station and had obviously settled himself down for the night. He was arrested, however, before he’d had a chance to go to sleep.

Explain what your judgment would be in both cases making explicit reference to Hart AND Fuller in your explanation.
SECTION B: 200 marks

Answer BOTH questions.

QUESTION 5: 100 marks

‘Individual freedom and consent is the most important thing in deciding what the law should allow.’ Do you agree or disagree with this claim? Your answer should be informed by a careful consideration of the theories implicit in the ‘Hart-Devlin debate’.

QUESTION 6: 100 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 the legalisation of organ trading.