BLOGS

MCQs on Jurisprudence for CLAT PG [Part 7]

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Jurisprudence is fundamentally concerned with the question of why law claims authority over individuals and why that authority is regarded as legitimate. At its core lies the inquiry into whether law is merely a command backed by force or whether it embodies normative principles that demand obedience independent of coercion. Different schools of legal thought have approached this inquiry from competing perspectives, each attempting to explain the relationship between power, morality, and obligation.

The command theory of law, classically associated with John Austin, conceptualised law as the command of a sovereign, habitually obeyed, and backed by sanctions. This view located the authority of law in political supremacy rather than moral justification. While the clarity of this approach appealed to early positivists, its limitations became apparent when applied to constitutional democracies. Laws that constrain the sovereign itself, customary practices that lack an identifiable author, and judicial decisions that appear to develop law rather than merely apply commands do not sit comfortably within this framework.

Legal positivism evolved in response to these limitations. H.L.A. Hart rejected the reduction of law to coercive orders and instead proposed that law consists of a system of primary and secondary rules. Primary rules impose duties, while secondary rules confer powers, including the power to recognise, change, and adjudicate law. Central to Hart’s theory is the rule of recognition, a social rule accepted by officials that identifies valid legal norms. Authority, in this sense, arises not from fear of sanctions but from institutional acceptance and practice. Law is valid because it is recognised as such within a legal system, not because it is morally just.

However, the separation of law and morality asserted by positivism has been persistently challenged. Natural law theorists argue that legal validity cannot be entirely divorced from moral content. According to this view, unjust laws—those that fundamentally violate moral principles—fail to qualify as law in the fullest sense. Lon Fuller, for instance, located legality itself in moral principles of procedure, such as consistency, clarity, prospectivity, and congruence between official action and declared rules. A system that systematically violates these principles, even if formally enacted, undermines its own claim to legality.

Ronald Dworkin further complicated the positivist account by arguing that law is not merely a set of rules but also includes principles that judges must interpret and apply. For Dworkin, legal reasoning is an interpretive exercise grounded in political morality. Hard cases, where rules run out, cannot be resolved by discretion alone; they require judges to engage with underlying principles such as equality, fairness, and justice. Law, therefore, is an interpretive practice aimed at presenting the legal system in its best moral light.

These debates assume particular significance in constitutional systems, where law functions both as a source of authority and as a restraint on power. Constitutions are not merely legal documents; they embody foundational commitments that shape political morality. Judicial review exemplifies this dual character. When courts invalidate legislation, they do not merely enforce textual commands but often invoke deeper constitutional values such as dignity, liberty, and equality. This raises enduring questions about the legitimacy of judicial power and the extent to which judges create, rather than discover, law.

In contemporary jurisprudence, the focus has increasingly shifted from abstract definitions of law to its lived operation within society. Law is now understood as a dynamic institution that mediates between authority and reason, stability and change. Its legitimacy depends not only on formal validity but also on its capacity to command reasoned acceptance. Jurisprudence thus remains an indispensable tool for examining how law justifies itself, how it responds to moral criticism, and how it sustains its authority in complex, pluralistic societies.

Q1. Austin's command theory is often criticised in constitutional democracies primarily because it fails to satisfactorily explain:

a) The existence of criminal sanctions
b) The role of morality in law-making
c) Laws that bind the sovereign itself
d) The importance of judicial precedent

Q2. Which of the following best captures Hart's departure from classical positivism?

a) Replacement of sanctions with morality
b) Recognition of law as a system of rules accepted by officials
c) Assertion that unjust laws are invalid
d) Subordination of law to political philosophy

Q3. The concept of the "rule of recognition" primarily performs which function in a legal system?

a) It ensures obedience through sanctions

b) It identifies the moral foundations of law

c) It provides criteria for legal validity

d) It authorises courts to strike down legislation

Q4. A statute enacted by a competent legislature but systematically applied inconsistently would most seriously challenge which jurisprudential idea?

a) Austin's sovereignty

b) Hart's primary rules

c) Fuller's inner morality of law

d) Kelsen's grundnorm

Q5. Lon Fuller's critique of positivism is best understood as asserting that:

a) Law must always pursue moral ends

b) Legal validity depends upon procedural morality

c) Judges must apply natural law principles

d) Sovereign commands are insufficiently democratic

Q6. Which jurisprudential position most strongly rejects the idea that judges merely "discover" law?

a) Analytical positivism

b) Command theory

c) Dworkin's interpretive theory

d) Classical natural law

Q7. According to Dworkin's theory, hard cases arise primarily because:

a) Legislatures fail to anticipate disputes

b) Legal rules are indeterminate

c) Judges lack sufficient discretion

d) Moral reasoning is excluded from law

Q8. The inclusion of "principles" alongside "rules" in legal reasoning most directly challenges which assumption?

a) Law is coercive in nature

b) Law is a closed logical system

c) Law is morally neutral

d) Law is historically contingent

Q9. In constitutional systems, judicial review creates tension mainly because it:

a) Substitutes legislative will with executive power

b) Undermines democratic accountability

c) Requires judges to invoke values beyond enacted text

d) Abolishes parliamentary supremacy

Q10. The legitimacy of judicial law-making is most strongly defended by which theoretical justification?

a) Judges act as delegates of the sovereign

b) Courts merely enforce legislative intent

c) Interpretation is inherent to applying law

d) Judicial discretion is unlimited

Q11. Which of the following ideas best explains why positivist theories struggle with constitutional adjudication?

a) Constitutions lack enforcement mechanisms

b) Constitutional norms often embody moral commitments

c) Judges are politically appointed

d) Constitutional law is customary in nature

Q12. The shift in modern jurisprudence towards examining "law in society" reflects a concern with:

a) Textual certainty

b) Institutional hierarchy

c) Law's social legitimacy

d) Judicial efficiency

Q13. A legal system that is formally valid but persistently rejected by citizens would most seriously undermine which concept?

a) Legal sovereignty

b) Legal certainty

c) Normative authority of law

d) Separation of powers

Q14. Which jurisprudential concern best explains why coercion alone cannot sustain a legal system?

a) Sanctions are inefficient

b) Coercion lacks moral justification

c) Obedience requires reasoned acceptance

d) Courts cannot enforce sanctions

Q15. The passage's overall approach to jurisprudence is best described as:

a) Strictly positivist

b) Purely natural law–based

c) Integrative and pluralistic

d) Exclusively constitutional

Answers

1. Correct Answer: C – Laws that bind the sovereign itself Explanation: Austin's theory assumes an uncommanded commander. Constitutional democracies contradict this by imposing legal limits on sovereign power itself. A theory that cannot explain constitutional restraints exposes its conceptual inadequacy.

1. Correct Answer: B – Recognition of law as a system of rules accepted by officials Explanation: Hart replaces coercion with institutional practice. Law exists because officials accept and operate rules, especially secondary rules, not merely because sanctions threaten disobedience.

1. Correct Answer: C – It provides criteria for legal validity Explanation: The rule of recognition answers the question "What counts as law?" It is a social rule used by officials to identify valid legal norms, distinct from moral or coercive considerations.

1. Correct Answer: C – Fuller's inner morality of law Explanation: Fuller insisted that consistency, congruence, and predictability are essential to legality. Inconsistent application erodes law's claim to guide behaviour, even if enacted validly.

1. Correct Answer: B – Legal validity depends upon procedural morality Explanation: Fuller did not argue that law must be morally good in substance, but that it must satisfy moral standards of legality. Procedural failure corrodes law from within.

1. Correct Answer: C – Dworkin's interpretive theory Explanation: Dworkin rejects mechanical application. Judges interpret law through principles, meaning they actively shape legal meaning rather than passively discovering pre-existing rules.

1. Correct Answer: B – Legal rules are indeterminate Explanation: Hard cases arise where rules do not clearly resolve disputes. Dworkin argues that principles not discretion guide judges in such cases.

1. Correct Answer: B – Law is a closed logical system Explanation: Once principles are admitted, law cannot be treated as a self-contained set of rules. Moral reasoning becomes unavoidable in adjudication.

1. Correct Answer: C – Requires judges to invoke values beyond enacted text Explanation: Judicial review often relies on abstract constitutional values like dignity and equality, intensifying debates about democratic legitimacy and judicial creativity.

1. Correct Answer: C – Interpretation is inherent to applying law Explanation: This view justifies judicial law-making by arguing that interpretation is unavoidable. Applying law always involves judgment, not mechanical execution.

1. Correct Answer: B – Constitutional norms often embody moral commitments Explanation: Positivism struggles where constitutional provisions explicitly encode moral ideals, making separation between law and morality difficult to sustain.

1. Correct Answer: C – Law's social legitimacy Explanation: Modern jurisprudence asks not just whether law is valid, but whether it commands acceptance. Social legitimacy becomes central to authority.

1. Correct Answer: C – Normative authority of law Explanation: Law's authority rests on acceptance, not mere enforcement. Persistent rejection signals failure of legitimacy, even if coercion exists.

1. Correct Answer: C – Obedience requires reasoned acceptance Explanation: Coercion may compel compliance temporarily, but sustainable legal systems require citizens to view law as justified and worthy of obedience.

1. Correct Answer: C – Integrative and pluralistic Explanation: The passage synthesises positivist structure, natural law morality, interpretive reasoning, and constitutional practice, reflecting a pluralist jurisprudential stance.