



JURISPRUDENCE: PART A OF THE 2022-23 EXAMINATION

There is a 'set case' component to the Jurisprudence examination with the case changing each year. For 2022-23, you are required to study the judgment of the UK Supreme Court *Lloyd v Google LLC* as cited below. You are required to answer one out of three questions in the examination.

The aim of this assessment exercise is to develop your skills in identifying the relevance, significance, and applicability of general theories of law in real contexts of legal practice. You will be assessed on your ability to identify possible clashes between compelling theories of law within these contexts and critically to discuss how these theories explain, and relate to, the decision. This will also reflect your ability to think about the decision, and legal practice in general, by questioning its foundational presuppositions with the help of general legal theories.

Your task:

Read *Lloyd v Google LLC* [2021] UKSC 50.

You should be able easily to locate the case exercising the skills you have already learned during your legal studies. There are earlier judgments which are not the focus of our analysis, except insofar as referred to in the Supreme Court judgment. Nevertheless, familiarity with them will help you form a more rounded and better informed view of the legal philosophical issues to which the case gives rise.

NB you are not required to discuss the doctrinal legal aspects of the case and no prior knowledge of the areas of law involved is expected. You are required to examine and analyse how the case is situated within and exemplifies legal philosophical arguments and implications. Remember this is a jurisprudence course.

A case begins with a set of social facts. Someone might be injured as a result of others, a business may suffer a loss, and so forth. Others, such as police, prosecution, lawyers, judges are called upon and then these social facts are ascribed a legal meaning. In this case, you are to read the judgment of the Supreme Court, a judgment that affects the legal meaning of some social facts. You should employ your knowledge of legal philosophy to interpret the case and tease out the deeper meaning of the judgment, always bearing in mind the specific social context in which it is played out, and critically and originally to reconstruct it.

In the examination, there will be three questions to choose from in Part A. That is, one on each of the following perspectives, and you will have to answer ONE:

- Liberalism and Law.
- Dworkin's theory.
- Feminist Legal Theories.

Readings and Guidance for each perspective:

1. **Liberalism and Law**. Your preparation should be based on chapter 12 of the module guide. Some of the questions you should concentrate on include: how does the Set Case relate to justice theories? Does it tell us anything about the relationship between law and morality? How do notions of autonomy and rights relate to the parties' arguments, if at all? What does the Set Case tell us about individual freedom and privacy in contemporary society?

Key readings:

- See the essential readings in Chapter 10 of the module guide.
2. **Dworkin's theory**. The starting point for your preparation should be chapter 9 of the module guide and, in particular, Dworkin's arguments regarding what judges do in hard cases, especially his critique of Hart's positivism and his analysis of principles, policies and rules. Some of the questions on which to focus are the following: how can principles determine judicial decisions? How are principles grounded in law? How ought they to be grounded? Is the decision taking into account policies or principles? How do Dworkin's concepts of 'fit' 'integrity' 'discretion' 'one right answer' relate to the judgment, if at all? Does the court exercise moral discretion or is the Set Case properly premised in pre-existing law? What would Dworkin's Hercules do in this case?

Key readings:

- See the essential readings in Chapter 9 of the module guide
3. **Feminist Legal Theories**. Chapter 12 in your module guide should be your starting point for this question. Some possible questions to consider in this context include: in what ways would feminist legal theorists analyse the Set Case? How does it highlight issues of gender, if at all? How could the principles in the Set Case apply to different sectors of society? How do feminist legal theorists highlight the social construction of power and difference and in what ways, if at all, does this relate to the issues in the Set Case?

Key readings:

- See the essential readings in Chapter 12 of the module guide.

General Note to all students:

Please note that the examiners are looking for evidence of your ability to *specifically* apply general theory to real life contexts as explained in the Set Case, and not *general* knowledge of the relevant theories. The Set Case itself must be your starting point: scripts which only provide general accounts of legal theories instead of applying them to the Set Case will have failed to address the question. Likewise, those answers which recount only a description of the Set Case will have failed to address the question. Such answers will therefore be marked accordingly.

Finally, a note on the role of institutions:

We appreciate that many of you are receiving support from institutions. Be aware of producing similar answers with similar material in this or any other question in the examination paper. It is YOUR answer that the examiners are looking for, **not** a stock answer prepared by an institution. Such an answer is unlikely to gain a good mark. Cases of collusion or plagiarism will be referred to the appropriate University authority.