LAW MODERATIONS – HILARY TERM 2025

MODERATORS' REPORT

Part I

A. STATISTICS

Number of candidates in each class

	2025	2024	2023	2022	2021
Distinction	41	28	40	42	42
Pass	171	180	174	185	198
Incomplete	0	4	5		
Fail	0	0	1	1	2
Total	212	212	220	228	244

Percentage of candidates in each class

	2025	2024	2023	2022	2021
Distinction	19.34	13.21	18.18	18.42	17.21
Pass (without Distinction)	80.66	84.91	79.10	81.14	81.15
Fail	0	0	0.45	0.44	0.82

Number of vivas held

Vivas were not held in these examinations.

Number of scripts second marked

Scripts in this examination are not automatically double marked. Instead, scripts are double marked during the first marking process to decide prize winners, and when a fail mark has been awarded. Further double marking takes place during the first marking process if the marking profiles of those marking a particular paper appear misaligned, or if a profile contains an unusually large number of very high or very low grades.

Once first marks are returned, the following classes of script are second marked:

- Where a candidate has an average below 60
- Where a candidate is borderline in terms of getting a distinction: where a candidate has 2 marks at or above 68 but does not yet have 2 marks at or above 70, scripts with marks at 68 and 69 will be remarked.
- Where a script is 4 or more marks below the candidate's average.

B. EXAMINATION METHODS AND PROCEDURES

In person online examinations

Law Moderations took place in 9th week of Hilary Term. The examinations were closed book and held at the Examination Schools. Materials were provided in the examination room, and candidates were given 3 hours to complete their answers.

Word limits and rubrics

As the exams were sat in person, there was no word limit.

Mitigating circumstances

21 candidates submitted mitigating circumstances applications. At the Board's final meeting, the Moderators assessed the seriousness of each application and then used those assessments to determine whether to adjust the results of each candidate. No results were adjusted on the basis of the MCE applications.

Late penalties

The possibility of late submission was eliminated in 2021/22.

Examination conventions

The Notice to Candidates was uploaded to the BA Jurisprudence Mods Courses Canvas page on 03/02/2025 and the Examination Conventions were uploaded to Canvas on 22/01/2025.

Part II

A. GENERAL COMMENTS ON THE EXAMINATION

This was the second year since 2019 that Law Moderations took place in person, and the second year they have taken place in person on a computer.

Plagiarism

All of the exam scripts were run through plagiarism software. No plagiarism was identified.

B. EQUALITY AND DIVERSITY

Breakdown of results by gender for Course 1 and Course 2 combined.

	2025		2024		2023		2022		2021	
Result	**No**	**Gender**	**No**	**Gender**	**No**	**Gender**	**No**	**Gender**	**No**	**Gender**
Distinction	21	F	15	F	24	F	23	F	19	F
	20	M	13	M	16	M	19	M	23	M
Pass	105	F	114	F	101	F	114	F	126	F
	66	M	67	M	73	M	72	M	72	M
Fail	0	F	0	F	1	M			2	F
	0	M	0	M			1	M		
Partial Pass	0	M	1	F						
Incomplete	0	F	2	M						
	0	M	1	F						

The percentage of male students obtaining Distinctions increased from 2024, along with the percentage of female students obtaining Distinctions. 24% of male students obtained Distinctions in 2025, compared to 16% in 2024. 16% of female students obtained Distinctions in 2024, compared to 11% in 2024.

Appendix A of this report contains a gender breakdown by paper

C. COMMENTS ON PAPERS AND INDIVIDUAL QUESTIONS

A Roman Introduction to Private Law

Candidates again maintained a generally high standard of work, with a substantial number of Distinctions. There were several scripts of the highest quality, gaining marks of 72 or above. The markers are truly in awe of students who can tame and harness a substantial volume of legal material, and deploy it to tackle unprompted questions, within the first two terms of their law degree. At the other end, students who struggled seemed more likely to be let down by a lack of exam technique (in particular, problems of timing) than a deficiency of legal acumen.

In Part A (Q1), Gobbets (b), (d) and (f) were more popular, with Gobbet (e) being chosen by relatively few candidates. The best answers built upon the issues specifically raised by the text, while less successful responses tended to treat a single word or phrase ("acquisition by use", "stipulation", "damnum iniuria datum") as an incentive to disgorge knowledge on a broader topic. A significant minority misinterpreted Gobbet (b) as being concerned with the plight of the bona fide purchaser, who mistakenly purchased property that did not belong to the transferor, rather than a mistake as to the ground for possession following delivery.

All three problem questions (Part B) were popular, and were generally well answered, although the issues of contract law raised by Q3 seemed to present greater challenges than the issues (primarily of delict and property) raised by Q2 and Q4. Although open to some interpretation, stronger answers to Q2 were alive to the fact that each horse, and each person coming into possession of horses, was potentially in a different legal situation. In Q3, many candidates overlooked the question of mistake (error in substantia) presented by the sale of the table; others asserted that the seller would be liable to an actio empti in respect of the table without explaining the basis for this. In Q4, there was a

tendency to see treasure trove everywhere, although there was no treasure to be found. In addition, time was needlessly consumed discussing actions by or against unnamed parties (the travelling salesperson in Q3 and owner of the household waste site in Q4).

Among the essays (Part C), Q6 and Q7 were popular. The most impressive essays in all scripts made good use of primary materials to support arguments, paid close attention to the wording of the question, and carefully defined their terms of engagement (eg in what ways are the law's institutions enriched, refined or developed?; how should we understand the characteristics of a "functioning law of delicts"?). Q5 and Q8 attracted a mixture of largely descriptive, and genuinely insightful, responses. There were very few answers to Q9—among which were some who took the general nature of a prompt as an invitation to squeeze in an essay on a topic of choice (for example, on bonitary ownership), with generally deleterious effects for the overall mark. Although there were some strong answers to Q10, on the second-life of Roman law, those who confined themselves to explaining Justinian's reasons for promulgating the Corpus Iuris Civilis were wide of the mark.

Criminal Law

The standard of the scripts in criminal law remains impressive given how early in the degree the examination arrives. Most candidates demonstrate the ability both to competently work through the issues raised by a problem question, and to coherently defend a thesis in answer to an essay question. Though there are some exceptions, many remain more at home with the former than with the latter. The examiners would emphasise the importance, when answering essay questions, (i) of clarifying what is being asked before offering an answer; (ii) of stating one's answer before mounting a defence; and (iii) of considering both the strengths and limitations of one's defence before announcing that it delivers one's conclusion.

Q1 – this question attracted few takers. The answers that were forthcoming tended to consist of a smattering of case summaries, combined with some speculative remarks about the merits of the decisions reached therein. The FDI principle, which one might have expected to find at the core of any answer, was conspicuously absent from several.

Q2 – this essay was also unpopular. Most candidates focused on judicial interpretation of recklessness in the criminal damage context. There were, however, some excellent answers comparing the approach taken to inadvertence in R v G with that taken more recently by the Supreme Court in Ivey, and by the legislature in the SoA 2003.

Q3 – another essay most chose to avoid. Some insisted on the importance of the offence/defence distinction without troubling themselves to offer an account of the distinction itself. The role of the Dadson principle, in conferring importance upon it, went almost entirely unremarked.

Q4 – a somewhat more popular question, though not one that was generally handled adeptly. The central question – whether it should matter to the validity of V's consent that D intends to harm V rather than merely foreseeing that she will do so – tended to be cast aside in favour of aspects of the topic of more interest to candidates.

Q5 – not a popular essay by any means. Better candidates grappled with the nature of the distinction between principals and accomplices, and saw both pros and cons in convicting the latter of distinct offences from those committed by the former.

Q6 – an extremely popular essay. Some denied the very possibility of an offence being overly reliant on one of its elements. This was not a promising strategy. Better candidates saw that determining

whether a criminal offence's degree of reliance is properly regarded as over-reliance requires identifying standards relative to which offences are to be judged. The best had sensible things to say about what those standards might be and brought the case law to bear to determine whether they had been violated.

Q7 – this essay also appealed to large numbers of candidates. A sensible starting point, not adopted by all, would have been to ask both (i) what distinguishes justificatory necessity from other criminal defences, and (ii) what would make it true that—as the question asserts—its status in English law is "suspect". The best answers engaged sensitively both with the different judgments in Re A (Conjoined Twins), and with its reception by later courts.

Q8 –the second most popular essay on the paper. Candidates were asked to consider both (i) whether results foreseen to be virtually certain constitute intended results in law and (ii) whether they ought to do so. As to (ii), few saw that an affirmative answer need not entail conviction: those who intend a result, and cause it, may nonetheless be granted a defence. As to (i), better candidates recognised that the answer remains far from clear in English law given the model direction in Woollin.

Q9 – this question was concerned with liability under the SoA 2003 and OAPA 1861. Not all candidates saw the possibility of liability of the latter kind. Discussion of the former tended to be sensitive to the central issues, but a surprising number omitted discussion of leading cases (including, but not limited to, Assange and Lawrance).

Q 10 – this question contained several inchoate offences, alongside a completed offence of theft. It was, for the most part, reasonably well done.

Q 11 – this question required discussion of liability for non-fatal offences (including by omission) and of several criminal defences. The best answers were alive to the relevance of intoxication, the doctrine of best-interests necessity, and the decision in Hichens on the availability of self-defence.

Q 12 – this question combined involuntary manslaughter with property offences, specifically theft and fraud by false representation. Though some were dismissive of the two property offences on the facts, better candidates were attentive to the sheer breadth of the liability they create.

Q 13 – this question invited candidates to discuss the liability of principals and accessories for offences under the OAPA 1861 and for murder. Though many handled the liability of principal offenders well, correctly identifying the elements of secondary liability continues to pose a challenge for many candidates.

Constitutional Law

The overall standard was generally good and there were a number of scripts that were very good indeed. For the most part, the examiners did not have concerns about candidates copying and pasting tutorial essays, although some candidates did offer overly general and descriptive answers, which failed to engage sufficiently with the particular question that had been posed.

Some questions were especially popular, including those touching on parliamentary sovereignty and human rights law, whereas other questions, such as those concerning devolution, were considered by relatively few candidates. Some questions clearly required candidates to relate some particular law or practice to the constitution as a whole – predictably, those who had a strong grasp of the wider constitutional context or scheme fared better than those who could discuss it only in part, without being aware of, or able to articulate, wider connections.

The best answers demonstrated an impressive grasp of the detail of constitutional law and practice, considering and deploying effectively a wide range of relevant case law, and engaged intelligently with questions of constitutional principle. Some scripts were held back by considering only a fraction of the material relevant to some question, developing answers that were partial and limited, or by repeating familiar tropes about the material rather than making out a sustained, thoughtful argument.

Q1. This question was not particularly popular. Some answers failed to engage adequately with the history and nature of the Ministerial Code, instead discussing constitutional convention in overly general terms. Better answers engaged intelligently with the idea of crystallisation, discussing relevant recent case law, explaining the Ministerial Code incisively, and situating the (changing) Code in relation to questions about the nature of constitutional conventions.

Q2. This was a popular question. Some candidates discussed parliamentary sovereignty in very general terms, without noting the particular focus of the question, which concerned the nature of the doctrine of parliamentary sovereignty and the prospect that the courts might revise it under certain circumstances. However, many answers explored the foundations of parliamentary sovereignty carefully, engaging well with the scholarship and case law that was directly relevant to the question.

Q3. This question was answered by relatively few candidates. It required an understanding of the relatively recent Dissolution and Calling of Parliament Act, which required in turn analysis of the Fixed-term Parliaments Act and the prerogative power of dissolution, including in light of the Supreme Court's prorogation decision. The best answers were in command of the main features of the 2022 Act and were able to explain its relative importance effectively.

Q4. This was a popular question but was wrongly treated by some candidates as a general invitation to discuss the relationship between government and Parliament, rather than to focus on how legislative power is, and has been historically, arranged. Different answers focused to different extent on primary and delegated legislation, both of which were in principle relevant. Strong answers were able to explain the dynamics of the legislative process, especially in historical perspective, and avoided caricature or over simplification. Some candidates made good use of examples, helping to illustrate more general claims about constitutional practice and principle.

Q5. This question was fairly popular. It required reflection on the role that the House of Lords now performs in the constitution, as well as analysis of the merits of a particular reform proposal – replacing the existing House with "an elected assembly of the nations and regions". The best answers engaged with this question and addressed the merits of the status quo and the proposed alternative. However, many candidates instead discussed the House of Lords in general terms, touching on reform only in passing, or saying little or nothing about this reform proposal in particular.

Q6. This was a popular question and was in general fairly well answered. It attracted a wide range of answers, in terms of the range of cases that candidates considered. Not all answers managed to balance the two parts of the question effectively (asking whether courts have heeded Lord Reed's warning in Miller (No 1) and asking whether they should have heeded it). However, there were some excellent answers, which displayed a strong grasp of history, case law detail, and principle.

Q7. This question was not answered by very many candidates. Some answers went astray in taking the question to be an invitation to reflect on the nature of the rule of law in general terms, without engaging with the principle of legality and the case law deploying this principle in constitutional law. However, some answers did consider this case law with care, connecting it effectively to the idea or principle of the rule of law, understood in relation to the scholarly literature and judicial commentary.

Q8a. This was the first of two alternative questions about devolution. This particular question was answered by relatively few students, some of whom had difficulty in picking out the features of devolution that were relevant to an understanding of the nature of the UK constitution, often focusing on an overly narrow set of considerations that limited their overall argument. But some candidates did develop a powerful analysis of the history and detail of the devolutionary settlements and, especially, the implications of this analysis for our understanding of the UK constitution itself.

Q8b. This second alternative question was not popular. It required reflection on and evaluation of the existing devolutionary arrangements by reference to the relation between England and the UK in particular. Some answers did develop a thoughtful argument about devolution in light of the size of England, drawing out similarities and differences between devolution and federalism. While the possibility of devolution for/to England was not irrelevant, some candidates did focus overly much on these points, rather than addressing the question itself.

Q9. This question was answered by many candidates, some of whom wrongly took the quotation as an invitation to discuss section 3 and section 4 of the Human Rights Act in general terms. Better answers were focused sharply on the question that had been posed and were able to address the relevant case law in detail, situating it in relation to constitutional principle and academic commentary, and thus developing a compelling overall argument.

Q10a. This question, the first of two alternatives, was very popular. However, many candidates provided very general answers about the relationship between Strasbourg case law and the Human Rights Act. Candidates who were unaware of relevant Supreme Court precedent in recent years struggled to answer this question effectively. Better answers engaged with the full range of relevant case law, reflecting on the point of the Human Rights Act and on its development over time – and answered the question directly.

Q10b. This was a less popular alternative question. Some candidates did not engage with the question's focus on common law rights, which of course limited the force of their answers. The best answers had a strong grasp of the relevant case law, and thus could speak confidently and clearly about the relative freedom of UK courts after 1998/2000 to create or develop common law rights. They also addressed the second part, which asked how much freedom they should have.

Board of Examiners

Thomas Adams (Chair)

Rebecca Williams

Wolfgang Ernst

Appendix A

Breakdown of results by individual paper and by gender

Criminal Law	Student Count	75 – 79	71 – 74	70	68 - 69	65 – 67	61 – 64	60	58 – 59	50 - 57	48 - 49	40 - 47	39 or less
	Number												
Criminal Law - All	212	0	8	35	13	73	53	10	9	10	0	1	0
Female	126	0	4	21	5	50	31	6	4	5	0	0	0
Male	86	0	4	14	8	23	22	4	5	5	0	1	0
	Percentages												
Criminal Law - All		0	3.78	16.51	6.13	34.43	25	4.72	4.25	4.72	0	0.47	0
Female	59.43	0	3.17	16.67	3.97	39.68	24.6	4.76	3.17	3.97	0	0	0
Male	40.57	0	4.65	16.28	9.3	26.74	25.58	4.65	5.81	5.81	0	1.16	0

A Roman Introduction to Private Law	Student Count	75 – 79	71 – 74	70	68 - 69	65 – 67	61 – 64	60	58 – 59	50 - 57	48 - 49	40 - 47	39 or less
	Number												
Roman Law - All	212	0	20	25	14	64	49	22	7	9	1	1	0
Female	126	0	10	16	9	45	23	14	2	5	1	1	0
Male	86	0	10	9	5	19	26	8	5	4	0	0	0
	Percentages												
Roman Law - All		0	9.43	11.79	6.6	30.19	23.11	10.38	3.02	4.25	0.47	0.47	0
Female	59.43		7.94	12.7	7.14	35.71	18.25	11.11	1.59	3.97	0.79	0.79	0
Male	40.57	0	11.63	10.47	5.81	22.09	30.23	9.3	5.81	4.65	0	0	0

Constitutional Law	Student Count	75 – 79	71 – 74	70	68 - 69	65 – 67	61 – 64	60	58 – 59	50 - 57	48 - 49	40 - 47	39 or less
	Number												
Constitutional Law - All	211	0	16	26	16	63	59	10	12	6	2	1	0
Female	126	0	6	15	12	37	34	5	10	5	2	0	0
Male	85	0	10	11	4	26	25	5	2	1	0	1	0
	Percentages												
Constitutional Law - All		0	7.58	12.32	7.58	29.86	27.96	4.74	5.69	2.84	0.95	0.47	0
Female	59.72	0	4.76	11.9	9.52	29.36	26.98	3.97	7.94	3.97	1.59		0
Male	40.28	0	11.76	12.94	4.71	30.59	29.41	5.88	2.35	1.18	0	1.18	0