

FORM OF REPORT ON EXAMINATIONS 2019/20

[In compiling their reports, examiners are asked to have regard to the [Examinations and Assessment Framework](#) and any applicable divisional/subject guidance. All parts of this report, with the exception of Section E of Part II, should be shared as a matter of course with joint consultative committees (or equivalents) and made available to students.]

EXAMINATION FOR THE DEGREES OF BACHELOR OF CIVIL LAW (BCL) AND MAGISTER JURIS (MJUR)

PART I

STATISTICS

A.

(1) Numbers and percentages in each class/category

BCL:

Category	Number			Percentage (%)		
	2019/20	2018/19	2017/18	2019/20	2018/19	2017/18
Distinction	52	(64)	(53)	58	(57)	(52)
Merit	34	(32)	NA	38	(28)	NA
Pass	4	(16)	(47)	4	(15)	(42)
Fail	0	0	(1)	0	0	(1)

MJUR:

Category	Number			Percentage (%)		
	2019/20	2018/19	2017/18	2019/20	2018/19	2017/18
Distinction	12	(9)	(14)	41	(24)	(29)
Merit	13	(23)	NA	45	(60)	NA
Pass	4	(6)	(33)	14	(16)	(69)
Fail	0	0	(1)	0	0	(2)

(2) If vivas are used:

Vivas are not used.

(3) Marking of scripts

All first marks which end with 3, 4, 8 or 9, and any paper with a mark below 60, are second marked. The second marker also marks any paper in line for a prize, any fail paper, and any paper with a first mark below 60. Second markers must also make sure that they mark a sample of 6 scripts, or 20% of the scripts, whichever is the greater number. Many second markers choose to mark all scripts.

The External Examiner was provided with sample scripts from three options (Comparative Human Rights, Human Rights at Work and Private Law and Fundamental Rights), including three fail scripts, and a sample of dissertations.

NEW EXAMINING METHODS AND PROCEDURES

B. Please state here any new methods and procedures that operated for the first time in the 2019/20 academic year with any comment on their operation in the examination and on their effectiveness in measuring the achievement of the stated course objectives.

This part of our report is much longer than usual as the changes made to the process of assessment which were put in place by way of response COVID-19 were considerable.

By way of preliminary, however, we note that the teaching (lectures, seminars and tutorials) scheduled to take place for BCL/MJur courses in Trinity Term took place as scheduled, though on-line rather than in person. No adjustment to the assessments was therefore required so as to take account of teaching not being generally available.

On the other hand, (i) the format of the assessment of the majority of optional subjects was changed from manuscript answers written in an examination room to on-line open-book submissions; (ii) significant changes were made to final outcome rules in the Examination Conventions so as to provide a 'safety-net' for the students assessed this year; and (iii) a different process was adopted for consideration by the Board of mitigating circumstances affecting individual candidates.

(i) Changes in the format of assessment and their implications

The changes required by way of response to COVID-19 differed according to the three usual formats of assessment in the BCL/MJur.

Jurisprudence and Political Theory, Law and Society in Medieval England, Law and Computer Science.

There was no need to change the format of assessment for these options as they were already to be assessed by take-home essays undertaken remotely on an open-book basis and then submitted electronically. On the other hand, the assessments were due to take place over the Hilary Term/Trinity Term vacation (with the essays topics released on 13 March). Owing to the travel disruption (as almost all students had to return home immediately at the end of Hilary Term), the Proctors gave a general 48 hour extension to all students taking Hilary/Trinity vacation essays.

Dissertations.

The format for dissertations and the process for their submission did not require change.

All other papers (“open-book papers”).

In the case of all other papers, the traditional examination room 3 hour assessment was replaced with a 4 hour on-line assessment undertaken on an open-book basis.

However, the character of the papers and what they required of students was preserved; the rubrics, number and type of questions (as between essays and problems where relevant) stayed the same as in previous years; and the overall timing for the sitting of the papers stayed the same as usual (though subject to a series of changes in terms of commencement by individual students on the days). All the materials normally available to candidates in the examination room were made available remotely to the students taking open-book assessments and they were informed of this in advance of the examinations themselves. Where applicable, ‘caselists’ were appended to the examination papers themselves as is normally the case.

Moreover, the qualitative assessment criteria in the earlier published Conventions remained the same and, in the case of open-book examinations, markers were told that they should not expect papers to be of a higher quality as a result of the open-book format.

In addition, markers were asked to take into account in their assessment that candidates should not be expected to know about the content of materials which were not available to the students. For this purpose, markers were informed by the BCL/MJur administrator which materials were not available generally online for each optional subject. This was made possible only by a very considerable amount of work undertaken by the Bodleian law librarians. The Board would wish to record their appreciation of this work.

Students were given guidance as to the likely length of answer which could be expected of them (depending on whether the paper required 3 or 4 answers). They were also told that there would be a maximum number of words per question which they should write, but that there would be no penalty for exceeding this maximum other than that the markers would be asked not to read the excess.

In the case of one optional open-book paper (Corporate Insolvency), the disruption caused by Covid 19 had impacted on the subject-matter of the course. The Board (on the advice of the Course Convenor) therefore advised the candidates taking this paper that “the examiners do not expect them to be aware of or refer to any developments in insolvency law in the UK or elsewhere that have taken place after 1 March 2020, although they are not prohibited from referring to such developments in their answers.”

(ii) Final outcome rules and the ‘safety-net’

There were two aspects of the safety-net put in place by the Board.

First, the final outcome rules were changed so that (in summary) candidates could be awarded a Distinction or a Merit overall if they achieved at least two distinction or merit marks on individual papers and “have no more than one mark below 60 and this mark not below 50”, this being changed from “and have no mark below 60”; and for candidates to attain a Pass, they had to achieve four pass marks (50 or above), though “a mark lower than 50 but greater than 39 can be compensated by a *good* performance elsewhere” replacing the previous reference to a “*very good* performance elsewhere.”

These changes in rule benefited 12 candidates out of an overall cohort attaining classified results in the BCL and MJur of 119 (10%).

Secondly, the Board of Examiners undertook to take into account in its decision-making on the final outcome of students the overall proportions of student achievement in this year's cohort as compared to previous years.

In the result, the overall proportions of students achieving a Distinction or a Distinction or Merit in this year's cohort were no smaller than in previous years. No candidate's performance was classified overall as a fail.

(iii) Mitigating Circumstances Notices submitted by individual candidates

The process by which candidates informed the boards of examiners of mitigating circumstances was changed by the University as a result of wider changes made in response to COVID-19. In particular, boards of examiners were not required to constitute a sub-panel of themselves to consider and to classify Mitigating Circumstances according to categories of seriousness and reliability of evidence. In the case of the BCL/MJur, the full Board of Examiners therefore considered each Mitigating Circumstances Notice individually for each candidate and how it could and should affect their decision-making.

Here, three general points should be noted.

First, given the information and explanations received by way of Mitigating Circumstances Notices for individual candidates, the Board of Examiners waived *all* the penalties which would otherwise have been imposed under the Conventions for the late submission of scripts. This meant that, quite apart from any special permission for late submission granted directly by the Proctors, no candidate was penalised for late submission. In some cases, the imposition of these penalties would have resulted in a different (and lower) overall final outcome for the candidate in question.

Secondly, apart from the possibility of waiver of penalties for late submission, short-weight or breach of rubric, under the Examination Conventions the Board of Examiners was *not* empowered to change *marks* awarded for individual papers by the markers by way of taking account a candidate's individual mitigating circumstances.

Thirdly, however, (and quite apart from the effect of any waiver of penalties for late submission as noted above), as empowered under the Conventions, the Examiners upgraded the final outcome of 7 candidates by way of taking account of their individual mitigating circumstances. Where the marks of a candidate submitting a Mitigating Circumstances Notice themselves attracted the highest overall final outcome (an overall Distinction) under the final outcome rules, the Board was not of course in a position to take such an action.

For statistics on Mitigating Circumstances Notices see Appendix 4.

Overall conclusion

In the view of the Board no further mitigating actions need to be considered for the cohort.

- C.** Please summarise any **future or further** changes in examining methods, procedures and examination conventions which the examiners would wish the faculty/department and the divisional board to consider. Recommendations may be discussed in further detail under Part II.

In general, the Examiners do not consider it appropriate to advise the Faculty or the Divisional Board as to further changes to examining methods, procedures or examination

conventions as these will depend on the format of assessment, which is not clear to it at the time of writing this report.

However, the Examiners consider that if the open-book format for examinations is retained, the University should provide very clear guidance on the nature of plagiarism and of poor academic practice in the context of such examinations. Consideration should also be given to the powers of Examination Boards in dealing with serious cases of poor academic practice which does not constitute plagiarism within the meaning of the University's own rules.

D. Please describe how candidates were made aware of the examination conventions to be followed by the examiners and any other relevant examination information.¹

Candidates were made aware of the Examination Conventions, and any relevant update on examinations, by email correspondence. The Examination Conventions were placed on the student virtual learning environment (Canvas) and the faculty website.

In addition, all candidates were informed by notices sent by email correspondence of the nature of the changes to the examination process required for most subject options by the change to assessment by open-book examination. These notices included information on the 'safety-net' (as noted earlier in this report); on the practical arrangements for the taking of open-book examinations (e.g. in terms of the time allowed for individual papers); information as to the provision of case-lists and as to the arrangements for materials normally made available in the exam room; information on arrangements for students needing to submit mitigating circumstances notices; guidance on the expected word-length and the setting of maximum word-lengths for student answers; guidance on referring to sources (cases, legislation and scholarship); and guidance on plagiarism. These notices also passed on information from the University about the DDM and referred candidates to the University's general guidance on open-book examinations.

The information and guidance contained in these notices was later collated in a second 'Notice to Candidates' sent to candidates at the same time as the revised Examination Conventions.

In the case of one open-book option paper (Corporate Insolvency Law), the examiners informed candidates of a temporal cut-off as to new legal developments (as noted under Part 1B(i) above). This was sent by email to the relevant students and also added to the front page of the examination paper itself.

PART II

A. GENERAL COMMENTS ON THE EXAMINATION

The overall standard of performance in the BCL and MJur examinations was excellent, a particularly impressive achievement given the difficulties which students faced resulting from the impact on Covid-19. Many of the markers' reports on subject papers (Appendix 3) remark on the very high quality of the work submitted and sometimes comment on its truly outstanding and/or impressive character. Some of them note the importance of answers being strictly relevant to the question set. This is, of course, one of the long-standing

¹ Examiners are not required to attach to this report a copy of the examination conventions or regulations unless a specific change for the following academic year is being recommended. In such cases, a short rationale must also be provided.

aspects of the qualitative assessment criteria in the Examination Conventions, but (as the Examiners' Second Notice to Candidates noted in the context of candidates' reliance on their own existing work by way of 'cutting and pasting') it has a particular significance in the context of open-book examinations.

Overall, 54% of students were awarded a Distinction, this being rather higher than in 2018/2019 (49%) (see Appendix 1). There were few very weak performances, and no overall failures. Compared to 2018/2019 (which was the first year in which the classification was awarded), there was a somewhat greater percentage of award of Merit (39% this year rather than 37% in 2018/2019). However, there were relatively fewer Pass awards made (7% this year rather than 15% in 2018/2019). This final figure reflects in part decision-making based on the safety-net introduced for this year (see above, section B(ii)) and/or taking into account individual candidates' mitigating circumstances.

BCL and MJur compared.

Last year's examiners' report drew attention to the fact that the gap that year in the percentages of candidates achieving Distinction in the BCL compared with the MJur was 57%-24%, this being slightly wider than in earlier years (2018: 53%-29%; 2017: 53%-39%; 2016: 51%-24%; 2015: 48%-19%). For this year (2019/2020), the difference between the percentages was smaller, being 58%-41%, though it should be borne in mind that the absolute numbers for the MJur are relatively small (total number of candidates classified being 29). Nonetheless, there remains a significant difference in the proportion of candidates for the BCL and for the MJur attaining distinction. The examiners agree with the view expressed in last year's report that this difference is likely to reflect the fact that candidates for the BCL have received their first law degree in a common law system, while MJur students have received their first law degree in a civil law system; and that, on average, MJur students are significantly more likely to have English as a second language, and to be new to the forms of teaching and assessment used in common law legal education.

Nevertheless, the level of performance on the MJur remains very high, as is reflected in the fact that this year the combined percentage award of Distinction and Merit for the MJur was 86% (of 29 candidates classified). In the case of the BCL, this combined percentage was 96% (of 90 candidates classified).

MJur students can take one option from the FHS in Jurisprudence; this year only 5 students whose degree was classified took this opportunity, in Contract Law and EU law (with 1 distinction, 2 Merits and a Pass awarded for these papers).

This was the first year in which the option in Law and Computer Science was taken and assessed. The examiners for that paper comment in detail on the performance of students in their assessments in Appendix 3, but overall it was clearly a successful start to the option. As regards their performance in the theoretical paper (examined by essays between Hilary and Trinity terms) half of the 10 BCL/MJur students taking the course achieved a Merit and half achieved a Distinction.

B. EQUALITY AND DIVERSITY ISSUES AND BREAKDOWN OF THE RESULTS BY GENDER

A breakdown of the results by gender for both the current year, and the previous 3 years is provided in Appendix 1. Chairs of examiners should include in the reports of their boards a commentary on any general issues relating to questions of equality and diversity, and of special educational needs (comments which might identify individual candidates should be confined to section E).

A breakdown of the results by gender for both the current year, and at least the previous 3 years should always be supplied, so that it is possible to track systematically gender differences in examination performance. In small cohorts this breakdown by gender may be omitted to maintain confidentiality. Where there is a noticeable gap in attainment between genders, boards are encouraged to place the breakdown of results by gender in Section E of the report, to avoid the risk that the data reinforces negative stereotypes regarding gender performance, in a context where students are using examiners' reports as part of their examination preparation.

This section of the report should also include comments on the effect of different methods of assessment (e.g. problem questions, extended essays, essay papers) on any observed differences.]

Gender:

Over the four years previous to 2019/2020, on the BCL and MJur combined, 159 out of 320 men attained distinctions (50%), and 112 out of 274 women (41%). Last year (2018/2019) this difference in relative attainment was somewhat greater than this general pattern with 58% of men and 38% of women awarded Distinctions. However, in the present year's cohort (2019/2020) on the two degrees combined, the difference in relative attainment has lessened considerably with 56% of men and 51% of women awarded Distinctions. A similar pattern can be seen in the case of Merit awards, as this year 40% of men were awarded Merit and 39% of women. On the other hand, 4% of men and 10% of women were awarded Pass (though in both cases the actual numbers are small, being 3 and 5 respectively).

This overall pattern for this year's cohort is clearly very much to be welcomed, though the difference in proportion of Distinctions awarded to men and women remains significant. In this respect, though, there was a noticeable difference as between the BCL and the MJur. In the BCL (90 candidates in total), 59% of percentage of women were awarded a Distinction compared to 57% of men; 36% of women were awarded a Merit compared to 39% of men; and 4% of both men and women were awarded a Pass. Here, therefore, the figures are practically in balance between the genders. However, a different pattern is seen in the case of the MJur (29 candidates in total). In the MJur, 53% of men were awarded a Distinction as compared with only 20% of women; 42% of men were awarded a Merit as compared to 50% of women; and 5% of men were awarded a Pass as compared to 30% of women. While the actual numbers involved are relatively small (with only 10 women taking the MJur), the difference in attainment as between men and women in the MJur remains a matter of concern, particularly given the contrasting change in this respect visible as regards BCL students.

Form of assessment:

There were only 5 dissertations forming part of a classified performance this year, rather fewer than last year (when 11 dissertations were submitted). Following the practice of recent years, the Examiners encouraged markers to bear in mind that the dissertation is a writing project that reflects only one quarter of the work for a one-year degree, and to reward high attainment in that context; the Examiners recommend that markers should continue to be so reminded. This year, the proportion of Distinctions, Merits and Pass broadly reflected the overall proportions attained for optional subjects.

For problem questions and essay questions, see the comments on particular papers; the Examiners did not note any significant overall discrepancies.

Law and Society in Medieval England, Law and Computer Science, and Jurisprudence and Political Theory use essay assessments; performance in these three options was at a high standard. Numbers for the first of these options are too small to draw general conclusions;

marks for Jurisprudence and Political Theory and Law and Computer Science were broadly in line with marks awarded for other subjects.

C. DETAILED NUMBERS ON CANDIDATES' PERFORMANCE IN EACH PART OF THE EXAMINATION

A statistical summary of the mark distributions for each paper is attached to this report as Appendix 2.

D. COMMENTS ON PAPERS AND INDIVIDUAL QUESTIONS

Comments on papers and individual questions are provided in Appendix 3.

F. NAMES OF MEMBERS OF THE BOARD OF EXAMINERS

Simon Whittaker (Chair)
Merris Amos (External)
Dori Kimel
Jennifer Payne
Rob Stevens

Appendix 1 - Results Statistics by Gender 2020

BCL	2020						2019						2018						2017						2016											
	Male		Female		Total		Male		Female		Total		Male		Female		Total		Male		Female		Total		Male		Female		Total							
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%						
Dist	29	57	23	59	52	58	41	66	22	45	63	57	30	54	23	50	53	52	23	55	26	52	49	53	30	56	20	45	50	51						
Merit	20	39	14	36	34	38	13	21	19	39	32	29																								
Pass	2	4	2	5	4	4	7	11	7	14	14	12	24	44	23	50	47	47	19	45	23	46	42	46	24	44	24	55	48	49						
Fail	0	0	0	0	0	0	1	2	1	2	2	2	1	2	0		1	1	0		1	2	1	1	0		0		0							
Total	51		39		90		62		49		111		55		46		101		42		50		92		54		44		98							

MJur	2020						2019						2018						2017						2016											
	Male		Female		Total		Male		Female		Total		Male		Female		Total		Male		Female		Total		Male		Female		Total							
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%						
Dist	10	53	2	20	12	41	6	31	3	16	9	24	10	35	4	21	14	29	12	38	8	42	20	39	7	26	6	21	13	24						
Merit	8	42	5	50	13	45	10	53	13	68	23	60																								
Pass	1	5	3	30	4	14	3	16	2	11	5	13	18	62	15	79	33	69	20	62	11	58	31	61	20	74	21	75	41	74						
Fail	0	0	0	0	0	0	0		1	5	1	3	1	3	0		1	2	0		0		0		0		1	4	1	2						
Total	19		10		29		19		19		38		29		19		48		32		19		51		27		28		55							

Appendix 2

Option	Average mark	Number sitting	Mark ranges (%)						
			49 or less	50-54	55-59	60-64	65-69	70-74	75 and over
Advanced Property and Trusts	69	13	0	0	0	8	46	46	0
Children, Families and the State	69	9	0	0	0	0	45	55	0
Civilian Foundations of Contract Law	66	5	0	0	0	40	20	40	0
Commercial Remedies	64	33	3	0	12	30	30	24	0
Comparative Contract Law in Europe	67	6	0	0	0	33	17	50	0
Comparative Corporate Law	68	6	0	0	0	20	20	60	0
Comparative Equality Law	69	12	0	0	0	0	50	50	0
Comparative Human Rights	68	24	0	0	0	25	33	42	0
Competition Law	67	21	0	0	5	24	38	33	0
Conflict of Laws	67	30	0	0	3	17	50	30	0
Constitutional Theory	67	12	0	0	0	17	58	25	0
Contract	66	2	0	0	0	50	0	50	0
Corporate Finance Law	69	6	0	0	0	0	40	60	0
Corporate Insolvency Law	69	14	0	0	0	7	43	50	0
Corporate Tax Law and Policy	68	6	0	0	0	0	67	33	0
Criminal Justice, Security and Human Rights	69	11	0	0	0	0	45	55	0
European Union Law	65	3	0	0	0	33	67	0	0

Human Rights at Work	68	4	0	0	0	0	75	25	0
Intellectual Property Law	68	14	0	0	0	7	70	43	0
International Dispute Settlement	68	14	0	0	0	21	43	21	15
International Economic Law	68	7	0	0	0	14	29	57	0
International Environmental Law	69	11	0	0	0	0	64	18	18
International Law and Armed Conflicts	68	17	0	0	0	12	41	41	6
International Law of the Sea	69	13	0	0	0	23	31	31	15
Jurisprudence and Political Theory	67	15	0	0	7	20	33	40	0
Law and Computer Science	69	10	0	0	0	0	50	50	0
Law and Society in Medieval England	69	3	0	0	0	0	67	33	0
Law in Society	67	10	1	0	0	10	30	40	10
Legal Concepts in Environmental Law	68	11	0	0	0	0	64	36	0
Medical Law and Ethics	65	9	0	12	0	33	22	33	0
MJur/BCL Dissertation	66	5	0	0	0	20	40	40	0
Philosophical Foundations of the Common Law	68	18	0	6	0	11	39	44	0
Principles of Civil Procedure	68	23	0	0	4	9	48	30	9
Principles of Financial Regulation	69	10	0	0	0	10	20	70	0
Private Law and Fundamental Rights	68	13	0	0	0	16	38	46	0

Regulation	68	14	0	0	7	0	36	57	0
Restitution of Unjust Enrichment	66	34	3	0	9	12	41	35	0
Roman Law (Delict)(BCL/M Jur version)	67	2	0	0	0	0	100	0	0

D COMMENTS ON PAPERS AND INDIVIDUAL QUESTIONS

Name of Paper	Advanced Property and Trusts
No. of students taking paper	14

Summary reflections on the paper as a whole

Fourteen candidates, all BCL candidates, sat the examination. All candidates negotiated the demands of the remote system successfully. The standard of papers was very high, and the examiners felt that the levels of attainment shown by the students in seminars and tutorials was well reflected in the quality of the examination work. A permanent move away from the traditional three-hour closed book exam seems amply justified by this year's experience, and we hope to use a take-home open book format for future assessment.

65% of individual answers dealt with property topics, and 35% with trusts. It was pleasing to see that over a third of the students chose to write on the new topic of Native Title (Q5), and did so eloquently and with erudition. High grades for this topic were given to those who could combine philosophical, comparative and historical perspectives in addressing how courts and legislatures have framed first nation rights in land. The question on possession and relativity of title was also popular (Q1), and attracted detailed work juggling the classical case law against theories old and new. Some candidates muddled the rationes of the key cases slightly and misunderstood the possible operation of the *jus tertium* as a factor governing the basis of titular claims as opposed to a matter affecting remedy; and some preferred to rehearse Romanist basics rather than addressing perhaps more challenging ideas from modern Civilian jurisprudence; but overall the answers were engaged and showed careful thought in a key area.

A relatively open question was posed on the use of analytical theory to identify and describe the key features of property (Q2). This topic attracted some very good answers, with some going to town on Hohfeldian analysis and its modern variants, and others looking at the Honoréan incidents or theories of exclusion. Few engaged with Honoré's alternative theory of immunity from divestment, and the chance to discuss problems of incorporeality and assignability, and the associated analysis of "mother-daughter" rights proffered by Gretton, were also largely missed.

The most popular question concerned the *numerus clausus* (Q3), taken by two thirds of the class. Sometimes analysis of the key cases was skimmed or rationes muddled. Few engaged with the special problem of servitudes demanding positive action. Generally the theoretical debates were well handled, though some more attention to the need for notice and the differential operation of proprietary claims on assignees and trespassers.

Only two students took on the property justification question (Q4), and preferred here to write on commons and economic analysis, suggesting that the old Locke/Hegel/Nozick debates are not so compelling as they once were. The intricacies of Coasean analysis were largely avoided, which was a little puzzling as it is a core topic and was taught with some emphasis in the course.

Turning to the trusts topics, the question on the basic nature of equitable interests evoked by *Akers v Samba* again attracted a third of the class; some answers showed a complete mastery of this lively debate, looking at theories of persistence, multitality, engraftment and so on; but others merely recycled conventional case materials without a binding theory. Lazy reliance on metaphor is too easy in this topic, and perhaps it will be a continuing mission of the course to bring clarity to this basic problem.

The question on the voluntary elements of trust and fiduciary duties attracted only three candidates. Answers given covered the field well, but despite some good grades the examiners felt that the candidates were sticking to a re-description of current juristic fashions and did not chance their arm to make fresh statements about another key area of controversy. The question might have been read as inviting a reconstruction of the very idea of a voluntary obligation, partitioned into stages of ascription, modification, and perhaps remedy; the echoes of similar debates in contract and tort were not caught in the answers this year.

Again, a third of the class were engaged by the entity/patrimony question (Q8), and some fine answers were given, engaging with asset partitioning and credit relations and showing a good understanding of comparative dimensions. Other candidates were a bit baffled as to how to write about this topic and hid in generalities about split patrimonies without showing why this was controversial, and failed to work on the admittedly difficult case law in their answers. Lower grades were the inevitable result.

The final question on the amorphous purpose trust could have provided a stage to discuss a wide range of common law and comparative developments including the walk away from *Saunders v Vautier*, the rise of enforcer trusts and “massive discretionary trusts” (in Professor Lionel Smith’s memorable phrase), and the problem of extended perpetuities. The answers garnered tended to be captured too much by the quotation from Lord Eldon, and could have gone a lot further in both analysing the famous case of *Morice v Bishop of Durham* where Eldon laid down the basic rules, and then shown their development and mutation.

The comments above highlight weaknesses and gaps in the examination performances; but as a corrective it must be stressed that on the whole their quality was extraordinarily high, with erudition and elegant writing in strong supply. It has been a rewarding year for this subject, despite the strictures of a remote third term, and the students have performed well. Many attained overall distinction or high merit grades.

Name of Paper	Children, Families, and the State
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No. of students taking paper	9
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Summary reflections on the paper as a whole

Nine students sat the paper. This was a strong group of scripts. Questions 4 (state restraint of parents' exercise of responsibility), 5 (legal effect of religious marriage ceremonies), and 9 ('best interests') were particularly popular. No candidates answered Questions 2 (child abuse inquiries) or 7 (theoretical basis of CRC).

All candidates demonstrated a good understanding of the wider literature and underlying conceptual and theoretical debates. Whilst there were no weak scripts, a number of answers were less acutely focused on the precise question set and were instead focused on the topic more generally. In addition to paying acute attention to the specific question set, the strongest candidates also generally demonstrated an ability to integrate the insights from a range of materials studied, often across topics, as the question demanded. The best candidates also displayed a pleasing degree of critical analysis and creative thinking, including novel responses to entrenched legal quandaries.

Name of Paper	Civilian Foundations of Contract Law
No. of students taking paper	5

Summary reflections on the paper as a whole

Please comment on the distribution of questions answered, the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

Five students sat the paper. The paper worked well and there were no apparent problems arising from the change to the online examination.

The overall result was all right. There were two clear distinctions, 1 merit and two scripts at 60 or above. All eight questions were answered. The choice was well distributed, with Q4 (evolution of doctrine of error) and Q5 (a quotation from Domat on the transfer of property) slightly more popular than the rest. Given the small numbers, further comment is impossible without commenting on individual scripts.

Name of Paper	Commercial Remedies
No. of students taking paper	37

Summary reflections on the paper as a whole

All questions attracted answers, and the overall standard was very good with more than half achieving a Distinction or Merit on the paper, with the very best answers being extremely good. Having said this, the overall average grade was slightly down this year, which may in part have been a result of candidates choosing to concentrate on problem questions. This choice may have disadvantaged some candidates who might have been better advised to have tackled at least one essay question and so write more adventurously.

Question 1 (meaning of loss) attracted some standard responses on those cases where damages does not seem to be quantified by consequential loss. Few addressed how the meaning of consequential loss in law differs, if at all, from that in everyday speech.

Question 2 (equitable compensation) was reasonably well done but would have benefited from further reflection on why fraud might make a difference.

Question 3 (adequacy of damages) was best tackled by those who did not confine themselves to contract damages but saw that identical rules apply in the law of torts.

Question 4 (agreed remedies) was best answered by not being confined to the penalties rule.

Question 5 (effect of a court order) was reasonably well done, but rarely attempted.

Question 6 (negotiating damages, injunctions, account) was tackled badly, with too many candidates seeming to think that negotiating damages are determined by what would have been agreed as a matter of fact by the parties themselves. An alarming number seemed to believe that a court would grant an injunction even if it led to a large number of deaths.

Question 7 (third party loss, cost of cure, conditions) was reasonably well tackled.

Question 8 (limitation, remoteness, bribery) some candidates omitted altogether to discuss the impact of scenario (b) where, as a counterfactual matter, K has suffered no loss.

Name of Paper	Comparative Contract Law in Europe
No. of students taking paper	6

Summary reflections on the paper as a whole

As in previous years, this year's examination paper consisted of eight questions, including one (optional) problem. There was an even spread of answers, with most questions being attempted by typically two or three candidates. Only the problem question attracted no answers this year.

The overall quality of the scripts was good, though there was less spread (in terms of marks) between the strongest and the weakest candidates than usual. Marks on individual questions ranged from the low 60s to the low 70s. Better answers engaged with the material in a manner that really compared the legal systems concerned rather than merely describing them side-by-side and showed both depth and breadth of knowledge as well as a good context-sensitivity. Weaker essays, of which there were few, tended to be less successful at compiling a genuinely *comparative* account of the systems involved. The examiners were pleased to see that candidates made a real effort to address each question on its own terms.

Name of Paper	Comparative Corporate Law
No. of students taking paper	17

Summary reflections on the paper as a whole

Please comment on the distribution of questions answered, the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

Four questions proved popular among students (with between 7 and 10 of them attempting them) while four were not (with between 2 and 3 students attempting them). The overall quality of the scripts was high, especially within the BCL/MJur cohort.

Question 1: Most students engaged well with the question and looked into the various factors that may lead to different interest groups having the upper hand in different jurisdictions.

Question 2 invited students to discuss whether the quotation still reflects the reality of US companies, how the UK fits in the suggested framework and on the kind of shareholder rights that countries with concentrated ownership display, in addition to asking what the dynamics are that lead to the relevant outcome (where the causality comes from).

Question 3: Not all of the answers focused, however partially, on the UK.

Question 4 required students to reflect upon corporate purpose and specifically to proposals to require companies to identify a corporate purpose in their charter. As

some of the answers highlighted, there is a risk that this formalization may not add much in terms of defining a company's purpose while introducing thorny legal issues.

Question 5 required students to reflect upon what factors explain the different outcome in terms of market for corporate law dynamics in the EU compared to the US. Most students highlighted the lack of incentives and the difference in the market for legal services.

Question 6 provocatively identified the board neutrality rule as a factor of competitive advantage in the UK. The question solicited reflections upon the role of hostile takeovers in corporate governance, their social value and also whether and how boards can be trusted with the function of vetting them.

Question 7 was about recent implementation of rules on RPTs in Germany. It implied knowledge of the EU rules and a comparison of the various alternatives on how to transpose them into domestic law, also in light of the specific features of German corporations and corporate law.

Question 8 was really about how better to tackle externalities from technological innovation. Two out of three students focused almost exclusively on the role of corporate law in facilitating startups. Perhaps the fact that it was the last question (and corporate law and innovation was the last course topic) misled them. Yet, a diligent student would not have forgotten that that was a key topic in the last lecture/seminar in Michaelmas Term.

Name of Paper	Comparative Equality Law
No. of students taking paper	12

Summary reflections on the paper as a whole

The standard was very good in this subject this year, with some outstanding papers. Twelve candidates took this paper, of which six were awarded Distinction grades. All other scripts were awarded 60% or over. This was a very pleasing outcome, especially given the extraordinarily difficult circumstances students had to contend with as a result of the Covid-19 pandemic and the lockdown.

The standard over all the questions answered was high, with candidates displaying a good, in-depth understanding of the legal materials in a comparative context. The best candidates were able to use their analysis to develop a strong and often innovative and interesting line of argument. Candidates made a good attempt to structure their essays clearly, and to use the comparative materials well. The strongest scripts were able to focus their attention on the specific question asked, especially where a quotation was provided, and to use comparative materials in a thematic way, rather than jurisdiction by jurisdiction. Candidates were rewarded for good comparative methodology, accuracy in their use of legal materials, a proper focus on answering the question, and clearly structured and well supported

arguments, as well as independent and critical thinking. Specific attention was paid to candidates' ability to show an in-depth understanding of the judgements to support their own line of argument, rather than simply stating the case-name. A careful assessment of different legislative and constitutional texts was also key to achieving good grades.

The most popular questions were Q1 on direct and indirect discrimination, and Q4 on affirmative action. Responses were clear, well-structured and generally focussed well on the question, using the comparative materials well. Also popular was Q7b on religion as a ground of discrimination, and all the other question received a fair set of responses, except for Q2a on the US as an outlier in equality law, which received no responses. Overall, the scripts were a pleasing demonstration of the ability of the candidates to achieve a good understanding of equality law in different jurisdictions from a comparative perspective, and to develop their own critical approach.

Name of Paper	Comparative Human Rights
No. of students taking paper	24

Summary reflections on the paper as a whole

The overall standard of this year's examination was very good. There were 24 candidates who took this paper. Ten were awarded Distinction grades and all the candidates achieved 60% or above. This was a very pleasing outcome, especially given the extraordinarily difficult circumstances students had to contend with as a result of the Covid-19 pandemic and the lockdown. The best scripts focussed their responses on the challenges raised by the question, especially if a quotation was included, and used a thematic approach to the comparative jurisprudence rather than dealing with one jurisdiction at a time. Candidates were rewarded for demonstrating an in-depth understanding and analysis of the judgements, and secondary literature, rather than simply mentioning cases or other materials. A fluent knowledge of the textual mandates and constraints in the constitutions and statutes of different jurisdictions was crucial to achieving a good grade.

Most questions were attempted by candidates, but, as ever, the most popular question was that on capital punishment. The best answers were able to address the challenges expressed in the quotation, and to interrogate the meaning given to public opinion in different jurisdictions. Weaker answers assumed without question that public opinion could be equated with legislation. All the other questions received a good spread of responses. Question 2 on the right to health attracted some excellent answers, and several produced some very interesting and innovative ways to deal with the tensions. The responses to Question 3 on education were sound and well supported, but most candidates did not give sufficient attention to ways of resolving the conflict. Responses to Question 4 on meaningful engagement and the right to housing were rewarded if they focussed on the arguments presented in the quotation and analysed the cases in the light of the ideal of meaningful engagement presented

there: several candidates produced outstanding answers, while others did not pay sufficient attention to the relationship between procedure and substance. There were several good answers to Question 5 on comparative law: the better scripts used case-law to support their arguments rather than offering broader generalizations. Fewer candidates attempted Q6a on freedom of speech, Q7 on privacy, and Q8 on the rights of pregnant women, but the standard of response was generally good, provided they made sure to answer the questions directly. Question 6b on State neutrality and religion attracted some interesting answers; but several candidates did not engage sufficiently with the role of the justification analysis in jurisdictions outside of the US, or the challenges of the particular wording of the US First Amendment.

Overall, the scripts were very pleasing and showed a good understanding of the legal materials, the comparative methodology and the underlying challenges.

Name of Paper	Competition Law
No. of students taking paper	21

Summary reflections on the paper as a whole

The paper comprised eight questions, of which four were essay questions and four problem questions. Candidates were asked to answer three questions including at least one problem question.

The first essay question focused on the goals of competition law and its adequate scope. The second essay question considered the application of Article 102 TFEU to exclusionary conduct which may affect less efficient competitors. Question three sought to elicit responses from students in respect of the dichotomy between restriction of competition by object and restriction by effect. In question four, students were given the opportunity to comment on a quotation from the Competition and Markets Authority's Annual Plan that considered competition enforcement and digitalisation.

Problem questions focused on the application of Article 101 TFEU, Article 102 TFEU, The European Merger Regulation and the enforcement of Competition law.

Question five contained a multitude of issues including the use of algorithms to align prices, the use of personal data to facilitate discriminatory pricing, possible abuse through loyalty discounts and horizontal collaboration. Question six predominantly concerned the Commission's enforcement powers related to dawn raids, possible collusion between competitors and failure to notify a possible merger transaction. Question seven focused on distribution agreements and vertical restrictions. Question eight included issues relating to the acquisition of minority shareholding, competition and sustainability and state action.

The examination was taken by 23 candidates (3 MLF students, and 20 BCL/MJUR students). On the whole, the scripts showed excellent command of the subject and

very good analytical skills, with 8 candidates being awarded an overall mark of 70% or above.

Distinction level answers generally displayed a strong grasp of the underlying material, underscored by significant and sustained references to case law and commentary, balanced with robust analytical engagement. Weaker answers tended to miss substantial issues, neglect critical analysis, fail to engage in detail with case law and misconceive the relevant law or how that law ought to be applied to the facts.

Name of Paper	Conflict of Laws
No. of students taking paper	30

Summary reflections on the paper as a whole

The overall standard appeared (very) highly competent: about 30% were thought to be worth distinction, and only one fell below 60. Although the best papers were very good indeed, the sense of awe and amazement at the best (manu)scripts, which has illuminated the process in some years, was less palpable this year. It seems likely that the form of the examination produced a general levelling up and bunching in a way which the traditional system did not.

Relatively few answers were offered in response to the essay questions; nobody opted for the broadly-based question on unjust enrichment, which was telling. No general essay points need to be made, though answers to the question on s 33(1) Civil Jurisdiction and Judgments Act 1982 were far more persuasive when they offered specific suggestions for demonstrable improvement rather than settling for a general pointing out of shortcomings.

Each of the four problem questions attracted a substantial number of answers; the best answers were those which showed that they understood the way the rules worked in relation to each other. For example, in Q5, it was easy to assert jurisdiction over C (as a proper party) if it was first shown that there was jurisdiction over B, by reason of *Owusu* and *Vedanta*, but much more awkward if it were approached the other way round. When it came to finding the applicable law, good candidates examined the puzzle resulting from Articles 12 and 4.3 of the Rome II Regulation when the claim against B is that he has tricked the claimant into a contract made with C; less good ones simply gave an answer as though there was nothing to debate, which was not so prudent where the answer produced was an odd one which surely called for explanation. Reflection on the place where damage occurred (Art 7.2 Brussels; Art 4.1 Rome II) was sometimes a little sketchy.

In Q6, once again, jurisdiction over F was difficult unless it could first be shown to exist over E; very few reflected on whether the rules of Ruritanian law applicable to claims against F regulated a matter of substance or of procedure. Treatment of the

mandatory rules and public policy of aspects of illegality and impossibility in the course of contractual performance was somewhat uneven.

In Q7, good candidates tested whether the claim against J could fall within Section 5 of Chapter II of the Brussels Regulation; the legal test summarized in *Holterman* offered all that was needed. If it did not, the precise nature of the duty laid on an unchosen court by Art 31.2-4 of Brussels was explored with varying degrees of rigour; the question of which legal system's rules resolve issues arising from the ambiguity of language in an admitted choice of court agreement was not always addressed as directly as it should have been.

In Q8, most (but, alas, not quite all) candidates approached the question on the basis of the facts given, that H Ltd, an English entity, was defendant so that jurisdiction was not a problem whether or not the matter was civil or commercial. However, when the applicable law was in issue, the relationship between Art 1 of the Regulations and Dicey's Rule 3 required careful planning.

Occasionally an answer script betrayed repeated use of the cutting and pasting function. It is rarely a good thing to be able to see what tools were used, and how often they were employed, in the production of a piece of work.

Name of Paper	Constitutional Theory
No. of students taking paper	12

Summary reflections on the paper as a whole

The standard of answers to the Constitutional Theory exam was very high, with a significant number of Merit and Distinction scripts. The papers showed a good grasp of the relevant literature and an impressive engagement with the issues raised by the course. Just about all of the questions set were answered, and, given the relatively small number of scripts, it is not possible to offer any question-specific comments about the answers. Overall, the very best scripts were the ones that engaged critically with the questions set and materials studied; showing that the candidates had thought hard about the issues raised.

Name of Paper	Corporate Finance Law
No. of students taking paper	20 (6 BCL/MJUR)

Summary reflections on the paper as a whole

The quality of the answers was overall very high. Students generally focused on answering the questions in front of them rather than providing generic answers to the topics covered. All students answered a Part A and Part B question as required and there were more students choosing to answer their third question from the debt side of the course than in previous years. The most popular questions were questions 1, 2, 3, 6, 8 and 9 but all questions on the paper were answered by at least one candidate. Candidates generally had a good grasp of the underlying policy concerns and most were able to provide a good level of primary and secondary material to support their arguments. Those that were able to deploy this material to analyse the specific question set were well rewarded.

Name of Paper	Corporate Insolvency Law
No. of students taking paper	14

Summary reflections on the paper as a whole

The scripts this year were of an outstanding quality. Half of the cohort received a distinction, and the remainder Merit results. All questions were answered at least once; the most popular questions were those relating to director and shareholder liability, administration, preferences and cross-border insolvency. The best answers paid close attention to all parts of the question, and drew carefully on both the primary materials and the secondary literature.

Question 1

This question invited candidates to identify differences between the liquidation and administration procedures (for example, in relation to the scope of the stay, the liquidator's and administrator's duties and powers, costs, etc), and then to evaluate whether the persistence of such differences was justifiable (given convergence in some of the features of both procedures) and if so, on what basis or bases. The question was not popular, but very well-answered by those who did choose it, with candidates identifying a number of advantages of allowing the identified differences to persist.

Question 2

This question invited students to describe and critically evaluate the rules governing the distribution of the debtor's estate in liquidation. The best answers explained the scope of the estate available to unsecured creditors, and the rules governing the distribution of that estate, and grounded their evaluation of each in the literature on pre-insolvency entitlements and the purpose(s) of insolvency law.

Question 3

This was a reasonably popular question which was generally answered well. All candidates demonstrated careful reading of *Belmont*, and were able to identify the effect of *Belmont* on the distinction, and to evaluate the desirability of the Supreme Court's approach, drawing on the secondary literature.

Question 4

This question required candidates to consider *both* the personal liability of directors and the personal liability of shareholders in relation to insolvent companies. Weaker answers concentrated on the former and offered only superficial treatment of the latter.

Question 5

This was another popular question. Few candidates wished to retain s.239 in current form, but the best drew on both theory and comparative evidence to make the case for reform.

Question 6

This question focused on the deployment of assets in administration. It could have been answered well in any number of ways, but most candidates focused on the controls on the exercise of the administrator's power of sale, particularly in pre-packaged sales. The best answers exhibited close familiarity with the relevant rules governing the administrator's powers and duties and with relevant empirical evidence, and linked this analysis with the purpose of administration to critically evaluate what they observed.

Question 7

This was another reasonably popular question which was generally answered well. The best answers encompassed consideration of the rules on the construction of classes, voting/meetings, and the factors relevant to the exercise of discretion at the sanction stage, and drew on comparative and theoretical material to critically evaluate these rules.

Question 8

This was not a particularly popular question, but those few who addressed it did so well, identifying and critically evaluating the obstacles to achieving a binding plan in reorganisation proceedings falling within the Regulation's scope, including in relation to the treatment of rights *in rem*.

Question 9

This was a popular question. All candidates dealt well with the first part of the question, but the best answers also dealt carefully and specifically with the second part, which required candidates to clearly state whether the relevant powers should be widened (on which most candidates appeared to agree), but also *how*, and *why*.

Name of Paper	Corporate Tax Law & Policy
No. of students taking paper	6

Summary reflections on the paper as a whole

Please comment on the distribution of questions answered, the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The overall quality of the scripts this year was high. Three out of the seven scripts obtained a mark of 70 and over – one script being clearly the strongest of the three. The remaining four scripts obtained a mark of 65 and over.

Students were asked to answer three out of eight questions. All but one question (Q5 on losses and groups) were attempted. The following number of candidates answered each question: Q1 (1), Q2 (6), Q3 (5), Q4 (2), Q6 (3), Q7 (3), Q8 (1).

The most common weakness in the scripts was a failure to answer the specific question being asked. The lowest marks were in fact awarded to answers which failed to address all parts of the question asked in a direct and satisfactory manner. Also, at times, candidates accepted and repeated views found in the literature uncritically. On the other hand, the strongest answers were characterized by an ability to impose one’s stamp on the arguments made, even if largely found in existing literature.

There was a noticeable difference among scripts this year. Some scripts were very similar to the scripts we are accustomed to marking in closed book examinations in that they appeared to have been entirely written on the spot. Other scripts, however, may have made some use of pre-prepared material. The latter scripts also tended to be longer than the former.

The question on the asymmetric treatment of debt and equity for corporate tax purposes was the most popular on this exam with six out of seven candidates attempting it. The best answers combined an understanding of the economic and theoretical arguments with a solid grasp of the relevant legislation.

The question on tax avoidance was the second most popular question on this exam. The weaker answers did not fully address the specific question posed – in particular they failed to explain whether, and if so how, courts could provide a better approach to tax avoidance.

Name of Paper	Criminal Justice, Security and Human Rights
No. of students taking paper	12

Summary reflections on the paper as a whole

This was a strong year in CJSHR. The scripts were of a high quality, and demonstrated both engagement with the substantive material on the course and close attention to the question. Overall, there were 6 distinctions, with two scripts sharing the prize. The very best scripts demonstrated a breadth of knowledge of the primary sources, as well as critical argument.

More generally, we saw excellent answers on the question of targeted killings, as well as on emergencies powers and positive duties. No questions stood out at the lower end as having been answered poorly. There was also a relatively even distribution across the questions on the paper.

Overall, an excellent set of papers.

Name of Paper	Human Rights at work
No. of students taking paper	4

Summary reflections on the paper as a whole

Four candidates took the paper this year and answered a broad spread of questions, with only one question attracting no takers. On the whole, the answers were well-organised and showed a good knowledge of the material covered during the course, though the examiners would have enjoyed seeing more creativity and originality in the candidates' arguments.

Name of Paper	Intellectual Property Law
No. of students taking paper	14

Summary reflections on the paper as a whole

The standard was generally very high. Most candidates showed both a good grasp of legal doctrine and a solid understanding of the deeper policy issues. However, at the bottom end of the distribution candidates missed important issues when answering problem questions and/or provided superficial answers to the essay questions. There was therefore no evidence that the move to an online examination skewed results in either direction. It was also pleasing to note that students performed strongly across all three sections of the paper and that the range of marks was similar for each section.

In the trade mark section of the paper candidates dealt well with the problem question, but there were two issues (interpretation of the specification and bad faith) that candidates either missed entirely or dealt with much too briefly. These issues were largely responsible for separating the candidates. It was somewhat surprising

that the interpretation of the specification point had this effect given that this was an issue that was covered in detail in tutorials. In relation to the trade mark essays, the biggest problem was where candidates gave answers that were competent but that were not as responsive to the question as one would have expected.

In the copyright section of the paper, it was encouraging to note that all the questions were attempted, with the problem question proving to be marginally the most popular.

Question 6 was the most popular question on the paper, attempted by most candidates. The standard of answer was good overall. Candidates varied considerably in their treatment of inherent patentability, with the conclusions reached ranging from “definitely patentable” to “definitely not patentable” and several answers in between. This was fine provided the answers were reasoned and supported appropriately. Candidates generally handled the novelty and inventive step enquiries well, with the strongest answers considering the rules governing Internet-based disclosure and the scope for an Article 52(2) & (3) objection.

The distinctiveness essay was done very well in the majority of cases. However, some candidates provided somewhat superficial answers, suggesting that they were answering the distinctiveness question that they had been expecting rather than tackling the question that appeared on the exam.

For question 3, most of the candidates failed to engage with the construction of the specification point. One or two also failed to deal with the bad faith ground of refusal. These issues produced much of the grade curve.

For Q8(a), on whether fair use should be introduced into the UK, the quality of answers varied considerably. Weaker answers tended to provide a descriptive overview of the limitations associated with the current approach, where fair dealing is applied to specific uses/purposes, the closed list of exceptions under EU law and the lengthy as well as detailed exceptions in the CDPA 1988. Candidates also debated the advantages (flexibility and adaptability in particular) of the US approach. Better answers explored lessons to be learned and mistakes to be avoided from US experience, while some considered in depth why the quotation exception may not be the appropriate ‘Trojan horse’ to smuggle a fair use approach into UK law.

By contrast Q8(b), on the extent to which copyright defences can recognize expressive interests, invited consistently thoughtful responses. These included observations on the extent to which gaps already exist within the current ‘harmonised’ EU approach, the relatively unsophisticated manner in which the CJEU has developed ‘fair balancing’ and engaged with fundamental rights as well as ways in which to remedy this limited engagement.

While the copyright problem proved popular, candidates tended not to perform equally well across all three sub-parts. For (a), issues relating to titles and catchphrases were missed, although the TV format aspect was adequately identified. The joint authorship issue required the most attention. For (b), some candidates failed to consider in appropriate detail whether a few simple dance moves could qualify as choreography. While most candidates handled infringement adequately, defences were sometimes neglected. For (c), those who spent time considering the nature of infringement – are both economic rights and moral rights infringed? – were rewarded.

Name of Paper	International Dispute Settlement
No. of students taking paper	14

Summary reflections on the paper as a whole

All questions in the paper were attempted at least twice, with the exception of Q2, which was not attempted by any student. As usual, questions which were based on tutorial teaching were attempted more than others, with almost all students attempting at least one of the two problem questions. The quality of scripts was very good overall, with 5 of the 14 students achieving a Distinction, another 5 achieving a Merit and only 4 students scoring below 65 (no students scored below 62 overall). An outstanding answer undertook a detailed analysis of the question, using the material to demonstrate the points it was making.

Question 3: This was a question on provisional measures. It asked students to comment on an excerpt of an ICJ decision demanding a report on the implementation of provisional measures. Good answers would relate this to the binding force of these measures and the (inherent) powers of the ICJ in this respect.

Question 4: This was a question on MFN. It was similar (as usual) to an essay question used for tutorial teaching. Poor answers merely rehashed parts of the essay submitted for the tutorial, without actually analysing the question asked and using the material critically to answer it. This resulted in poor structure of the answers and lack of focus. Conversely, excellent answers focused specifically on what was being asked, and presented a coherent argument in response to the question.

Question 5: This problem question on preliminary objections in the ICJ was attempted by almost all (13/14) students taking the exam. It was a type of problem question we had worked on during tutorials. Most answers ranged from good to absolutely excellent. The best answers were those where students were able to analyse the fact pattern carefully, spot the issues, and use the material to solve the issues. Poorer answers were less successful in spotting all the issues, assuming these would be broadly the same as in the tutorial problem question and would require the same material to be resolved.

Question 6: Again, a question similar to the ones we had worked on during tutorials: attempted widely but not very successfully. The question was short and required students to offer a critical view on potential changes to the law on recognition and enforcement of awards against states. Many just rehashed material they had prepared for the tutorial essay, without focusing it in setting up an argument in response to the question.

Question 7: This was an admittedly difficult problem question on competing jurisdictions. It required careful reading and analysis of the pattern and questions, and careful structuring. The answers were very good; an outstanding answer involved detailed and careful analysis of the pattern, with excellent use of material to support the arguments made.

Question 8: See comments to question 6, which apply here with equal force. Here, the question was on independence and impartiality, but required commenting on an excerpt. Most answers rehashed material from tutorials without focusing on the excerpt.

Name of Paper	International Economic Law
No. of students taking paper	8

Summary reflections on the paper as a whole

The performance of students who wrote the International Economic Law examination paper in 2020 was outstanding despite the disruption caused by the Coronavirus. The results were as follows: 62.5% received a Distinction mark overall in the subject with the remaining 37.5% of students all obtaining solid to high marks. In a marked improvement from the previous year, all students answered the questions – and only the questions – being asked as opposed to providing pre-prepared answers on a specific topic. This position was no doubt assisted by the fact that the examination was a take home examination this year. Of those students whose marks were in the mid to high 60s, they would have performed even better had they adopted a more analytical – and less descriptive – approach to their answers.

Name of Paper	International Environmental Law
No. of students taking paper	11

Summary reflections on the paper as a whole

International Environmental Law was taught, in its current iteration, for the first time in 2019-2020. Performance in the examination was excellent. All twelve candidates sitting the examination achieved grades in the mid-60s or higher, with four candidates achieving distinction grades overall. The top scripts, in the mid-70s, were superb, and contained insights of near publishable quality. No script was marked below 66%. All questions were attempted by at least two candidates. The most popular question was question 10 (legal character of the obligations in the 2015 Paris Agreement) closely followed by questions 4 (compliance and effectiveness of International Environmental Law) and 5 (International Environmental Law in National Courts). The least popular questions related to the effect of International Environmental Law principles (question 2) and extra territorial jurisdiction in relation to global environmental harm (question 6). The latter, in particular, was a challenging question, but presented candidates an opportunity to showcase original and

thoughtful analysis. In general, the best answers engaged directly with the question, were well-structured and demonstrated detailed knowledge of the key legal instruments, case law and academic authority. This was pleasingly evident in many of the truly outstanding answers in this year's scripts.

Name of Paper	International Law and Armed Conflict
No. of students taking paper	17

Summary reflections on the paper as a whole

All questions in the paper were attempted at least twice. There was a roughly equal spread between parts 1 and 2 (students are required to answer at least one question from each part): there were 26 answers on the jus ad bellum (part 1) and 25 on the jus in bello (part 2).

The quality of scripts ranged from good to excellent, with just below half the scripts achieving a Distinction overall (8 of the 17). Seven scripts scored a Merit, and only two scripts scored a mark between 60 and 64. There were no scripts that were marked below 62 overall.

The best scripts were those that focused on the question asked rather than merely rehashing material from tutorial essays. The main reason for marks below Distinction was precisely lack of focus on the question asked and poor use of material in order to construct an argument in response to the questions.

Name of Paper	International law of the Sea
No. of students taking paper	13

Summary reflections on the paper as a whole

Performance in the law of the sea examination this year was once again excellent. The paper comprised a combination of essay (6) and problem (2) questions, and permitted free choice between them as the paper is not divided into parts. All of the questions were attempted by at least some candidates, with essay question 4 (marine biodiversity beyond national jurisdiction/regional and global governance) proving least popular. Of the problem questions, question 8 (prescriptive and enforcement jurisdiction, use of forcible enforcement measures, distress) was marginally preferred while the most popular question overall, attempted by most candidates, was essay question 6 (jurisdiction on the high seas/freedom of navigation). The best answers both to essay and problem questions demonstrated detailed knowledge of the key legal instruments, case law and academic authority (and avoided excessive reliance on the recommended text alone). The best responses to essay questions were well structured and coherently argued, and

displayed the ability directly to engage with the question posed. This was particularly important for, and pleasingly evident in the outstanding answers to, the broadly framed essay questions on the 'Constitution of the Oceans' (question 1) and on the evolution of maritime interdiction since LOSC (question 3). Both questions required selection of examples best illustrating the arguments being made, including reference to instruments beyond the LOSC, and to relevant academic authority. The importance of familiarity with both academic authority and case law was demonstrated in the range of marks awarded to candidates attempting popular question 6 (comprising a quote from the ITLOS judgment in the *M/V Norstar* case), with the best answers demonstrating familiarity with, and critiquing, the judgment, inter alia. The same point may be made with respect to the problem questions, where in addition to citation of relevant academic authority, the pertinence of case law considering, inter alia, petroleum operations in areas of disputed continental shelf jurisdiction (question 7) and claims of the excessive use of force in maritime enforcement operations (question 8) was appreciated in the better answers to these questions. Overall, the standard of performance was extremely good with just under half the candidates achieving distinction marks and several merit marks also awarded for a total of 77% of candidates in the distinction and merit range. No candidate achieved an overall mark less than the lower 60s.

Name of Paper	Jurisprudence and Political Theory
No. of students taking paper	17

Summary reflections on the paper as a whole

Question one (What are 'hard choices'?) received a number of takers. While answers tended to show a good degree of awareness of the relatively specialised literature on this topic and evidenced sophistication in its deployment most failed to depart from the standard lines and responses that feature in said literature.

Question two (What is the point of just laws?) was less popular than the first but drew a more catholic range of responses. A number of candidates focused on the paradox of just law and the problems this is taken to create for certain conceptions of authority whereas others expanded the scope of the question to include issues concerning the contribution of law to the achievement of justice and what (if anything) this says about the nature of law.

Question three (What are 'normative powers'? Do we have them?) was answered by a similar number of students to question one, with several candidates tackling both. For those that did so the better answers cross-referred where appropriate. Stronger candidates departed more quickly from hackneyed examples to consider the implications of the normative powers thesis for rationality and agency more broadly.

Question four (Legal obligations are moral obligations. Discuss) tended to be answered in a survey manner, focusing on a small number of articles from the recent past. The thesis is not a new one for legal philosophy, however, and nor does its affirmation or denial neatly track divides between jurisprudential 'schools of thought',

for example legal positivism and interpretivism. Better answers focused on arguments, not authors.

Question five (Are obligations of justice associative?) received a number of good responses with better candidates distinguishing between different ways in which associative constraints might form part of an account of justice, for example as a condition of its achievement, or aspect of the very concept of justice.

Question six was split into two parts. The first (Assess the view that judges have a duty not to *change* the law but only a duty to *give effect* to the law) received relatively few answers with a number of candidates preferring to answer the question in a way which erred on the side of being doctrinal as opposed to philosophical. Part b ("The fact that a practice... exists justifies asserting a normative rule... not because the practice constitutes a rule..., but because the practice creates ways of giving offense and gives rise to expectations of the sort that are good grounds for asserting a duty." (Dworkin, *Taking Rights Seriously*)) was popular with candidates and was on the whole answered competently if not imaginatively.

Name of Paper	Law and Computer Science
No. of students taking paper	12

Summary reflections on the paper as a whole

Law & Computer Science is a new course run jointly between the Faculties of Law and Computer Science, where it is open to students on the BCL/MJur/MLF and 4th year/MSc courses respectively. The course contains two summative components; the written paper (requiring essays to be written over a period between the Hilary and Trinity terms) which is the subject of this report and a practical project which required students to work in interdisciplinary groups of 6 (three from each discipline) to produce a legal product based on blockchain technology. The practical project is marked simply on a three-mark scale: satisfactory, satisfactory – or satisfactory+. Such was the quality of this year's projects that all students received an S+ mark. For the purposes of the BCL/MJur this does not have any implications for the candidates' overall degree classification, though such a mark can have that effect for the courses in Computer Science.

Similarly, the written, theoretical paper was generally very well answered by students from both disciplines and there was evidence that both disciplines had made every effort to engage with the other. Essays were generally well-researched containing citations from both disciplines. The best scripts were those where the candidates had engaged in detailed analysis of particular, specific examples considered from both a law and a computer science perspective in order to analyse how both disciplines can contribute to the solution of particular problems.

All papers were marked by both examiners in order to ensure that they had been marked from a similarly interdisciplinary perspective. Notably, and reassuringly, there was not usually a significant difference between the marks awarded by each examiner when these were compared at the end of the marking process. Where

there were minor discrepancies these were discussed and a final mark was agreed upon.

The questions in Part A were based on the first half of the course, covered in Michaelmas Term, and examined the ways in which technology might affect the process of law and/or legal practice. The most popular question was question 2, followed by question 3. The other questions were noticeably less popular. The questions in Part B were based on the second half of the course, running in Hilary Term, and examined particular specific legal challenges raised for different areas of law by the advent of technology. Here, questions 8 and 9 were overwhelmingly more popular than the others. Our specific remarks on each question are as follows:

1. This was not a popular question. Good answers would consider specific examples such as the vagueness of law as compared with computer science, or the consideration of normative as well as physical constraints and would examine these from both a theoretical and practical perspective in relation to both disciplines.
2. This question was very popular, drawing we suspect in large part from the students' understanding of this topic from their practical projects. Good answers considered the extent to which even smart contracts are fully automated given the DAO experience, and considered both the law applicable in cases such as *Quoine Pty* and the detail of the technical aspects of such contracts, such as the use of oracles. The best scripts were able to identify the circumstances to which automation was best suited and to consider the precise interplay of law and technology when such a contract is deployed.
3. This was the other popular question in Part A. Good answers considered a variety of means of augmentation and automation currently in use, from e-discovery and knowledge management to the potential for automated drafting and dispute resolution. Candidates were rewarded, as always, for addressing both aspects of each issue, from legal challenges such as access to justice, equality and transparency to technical issues such as the ability to spoof.
4. This was not a popular question. Good answers contained a detailed analysis of Reidenberg's argument and the extent to which code can regulate in place of law. Candidates were rewarded for examining both the technical limitations of code and the theoretical desirability of each system, with reference to specific examples such as smart contracts.
5. Again, only a relatively few candidates answered this question. Good answers considered the sociological aspects of dispute resolution as well as its instrumental purpose in producing a particular outcome, and as well as examining what is currently done technically and what could be done in future, and stronger candidates considered whether automation can enhance access to justice, or indeed reduce it given the particular needs, e.g. of disabled users of the system. Candidates were rewarded for drawing on the various sessions of the course in which these issues were discussed.
6. This question aimed to draw out one of the key themes of the course, namely the difficulties which arise when either discipline goes too far without the input

of the other. Areas which could have been considered included the Computer Misuse Act, the challenges to competition law presented by algorithmic collusion, the need to adapt public law in order to address automated as opposed to human decision making or the challenges of applying current equality legislation to problems of algorithmic bias. Answers needed to examine in detail the computer science techniques giving rise to these problems and the relevant applicable law and to suggest ways in which these two perspectives could be brought together more successfully.

7. This question required analysis first of what kinds of harm new technology can generate, such as algorithmic discrimination and other threats posed by big data, or electronic trespass or invasions of privacy, followed by an analysis of the ways in which criminal law, data protection law or other areas have responded to these issues. Candidates were also required to give normative suggestions for future improvement based on the need to integrate both disciplines in finding remedies for these harms and to suggest how this might be done with reference to specific examples.
8. This was one of the two most popular questions in Part B. Candidates were required to consider both the 'tools' provided by the GDPR and their current aims. Good answers considered whether the GDPR's focus on the gathering of data and the specific rights it protects are sufficient to counteract the wider forms of harm that might be experienced by individuals or society as a result of the analysis of big data. Many successful answers also considered a good analysis of the ways in which from a technical point of view the legal categorisation of data under the GDPR is rendered meaningless and the mismatch between data classification and its potential for harm, as well as the difficulties in allowing consent to regulate the use of data. Stronger answers also engaged with the work of Wachter, Mittelstadt and others in examining how some of these problems might be addressed. Weaker answers focused more exclusively on the legal aspects of the GDPR, while stronger answers considered technical means of addressing some of these challenges, such as concepts of security and identity, as well as the role(s) that might be played by other forms of legislation or areas of law.
9. This was the other very popular question in Part B. Stronger answers considered in detail the various technical metrics by which a particular system might be judged, and examined, for example, the contrasting viewpoints held by ProPublica and Northpointe regarding the COMPAS risk assessment system in analysing the precise ways in which bias might arise from a technical point of view and how it might be dealt with from that perspective. Candidates were rewarded for examining the ways in which existing Equality legislation might in fact make it more difficult to pursue some of these technical solutions, as well as for considering a variety of different legal techniques, both public and private, that might be brought to bear on the problem. And as always, the key to a successful answer was to examine how the two disciplines ought to work together.
10. This was not a popular question. The key was to consider specific issues such as causation in criminal or tort law, or the future of deference in public law and to examine both the specifics of the technology giving rise to the

particular challenge, and the ways in which either the law or the technology or both might be modified in response.

Name of Paper	Law and Society in Medieval England
No. of students taking paper	3

Summary reflections on the paper as a whole

There were three candidates, who all wrote highly competent essays; one was strong enough for Distinction.

Name of Paper	Law in Society
No. of students taking paper	11

Summary reflections on the paper as a whole

Five of the eleven candidates gained Distinction marks in this paper. This is a pleasingly high proportion compared to other years, and the generally high quality of work was also evidenced by the high proportion of Merit marks awarded.

Most candidates discussed a good range of empirical examples in their essays and the best referred to material from different seminar topics. The essays which attracted the highest marks were generally those that also made clear, well-sustained, and nuanced arguments. Others occasionally seemed to sacrifice quality of argument for quantity of case material.

Candidates attempted all of the questions, save one.

Name of Paper	Legal Concepts in Environmental Law
No. of students taking paper	11

Summary reflections on the paper as a whole

These were overall, an impressive set of answers in a course that requires students to think in a rigorous and creative way about law beyond conventional legal boundaries. The questions were diverse in what they required of students, and students rose to the challenges they each presented. All questions on the paper were answered and it was clear that students had thought carefully and independently about the course material. Question 6 (about courts) and question 8 (about climate change and legal imagination) were particularly popular but no question was particularly unpopular. In the answers, intellect and reasoning were very much on show – students were not just parroting material. Stronger answers were those that addressed the questions in a direct way that placed the question within a legal and intellectual context. These answers also retained their focus on the question with a good use of structure. Stronger answers also showed an impressive mastery of relevant legal detail so as to provide a thorough answer. Where some answers were weaker was in using pre-prepared frames of analysis to address some points that were not always as relevant to a question as they could be. Weaker answers also tended to be not as robust in their integration of legal analysis with an understanding of the complexity of environmental problems.

Name of Paper	Medical Law and Ethics
No. of students taking paper	9

Summary reflections on the paper as a whole

There was a wider range of marks than normal this year. At the top end there were some excellent papers which demonstrated a deep understanding of the legal principles and the theoretical literature. At the lower end there were some disappointing answers. The latter exhibited three key features. First, there were large chunks of what appeared to be pre-prepared material, with little attempt to use it to answer the question. Secondly, the candidates did not demonstrate a deep reading of the material: the simple citation of a list of names is no substitute for engaging with the arguments raised in the material. Thirdly, it is important to demonstrate an understanding of the law: some answers included only a limited knowledge of the law, including errors. Despite these issues with a few scripts, most students had clearly enjoyed the subject and engaged with the material extremely well.

Name of Paper	Philosophical Foundations of the Common Law
No. of students taking paper	18

Summary reflections on the paper as a whole

The overall quality of the scripts was impressive, with virtually all candidates demonstrating the ability to engage with the questions on their precise terms and by way of offering genuine theses, while showing both knowledge of and the capacity to engage critically with existing positions in the literature. Close to a half of the scripts were of a Distinction quality, adding the final degree of polish, precision and originality required for classification within this range of marks. The rest, with very few exceptions, were sound throughout, revealing a robust grasp of the philosophical debates at issue and solid technique, and were of a Merit standard .

All questions were attempted multiple times, and no question appeared to present particular difficulties (or resistance to Distinction treatment) for those who chose them. Questions 3 (on criminal law), 7 (on causation) and 8 (the philosophical foundations of the common law as a whole) were relatively less popular, with a small majority of candidates preferring to write on the philosophy of contract, tort, and the 'crossover' between the two.

As befitting a philosophical subject, answers to the same questions frequently had little in common – in terms of the overall thesis, agreement or disagreement with particular stances in the literature or with the question's proposition, examples used or literature discussed, etc. – while still resulting in distinction marks (or, at any rate, in similar marks). The candidates appeared to relish the freedom and the particular scope for creativity offered by a philosophical investigation of the law, and appeared to understand well that the emphasis in this subject is not on arriving at hard-and-fast 'right answers' to foundational philosophical questions, but rather on the nuance and quality of argumentation with which to engage in philosophical debates.

The open book format practised this year did not make a noticeable difference in terms of the style or the quality of the scripts compared to previous years. The best scripts tended to be around 500 words shorter than the generous word limit; answers which ran right up to the word limit in length tended to be somewhat repetitive or less focused on the precise question.

Name of Paper	Principles of Civil Procedure
No. of students taking paper	23

Summary reflections on the paper as a whole

All questions on the paper were attempted. The new topic on the use of technology in the civil justice system was reasonably popular and answers obtained relatively high marks. There were some exceptional answers to questions on interim remedies, management, collective redress, bias, legal professional privilege and finality of litigation. Overall, the standard this year was very high. Common features of very strong distinction answers (72 – 75) were the consideration of reform proposals where appropriate; sophisticated synthesis of the material on the reading list generating new insights; and/or evidence of additional research and relevant deployment of same to support the candidate's thesis. By contrast, answers that merely summarised the existing case law and arguments of academics in the field, even with precision, typically scored a mark in the high 60s. In making their assessment, the markers paid close attention to the criterion of answering the question directly, and candidates who failed to engage with the issues raised by the question were marked down accordingly.

Name of Paper	Principles of Financial Regulation
No. of students taking paper	37

Summary reflections on the paper as a whole

Please comment on the distribution of questions answered, the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

Two questions proved extremely popular (on fintech and bank governance) while one had only two students attempting it (on high frequency trading) and others being attempted by between one fifth and two fifth of the students. The quality was overall all high, especially among BCL/MJur students.

Question 1: Not all students delved into the question of what features of primary markets may cause the need for MD different (i.e., the incentives of offerors).

Question 2: The question was formulated quite broadly, which may have contributed to some answers having sometimes gone beyond the point, by looking at all the responses to the financial crisis rather than those relating to macroprudential policies. Sometimes an evaluation of the effectiveness of the reforms was lacking.

Question 3: The quality of answers was uniformly high, although there was a tendency to focus excessively on the two examples given in the question when more could have been said by most candidates about the general question of regulation by assimilation and its problems (namely, Goodhart's Law).

Question 4: One of the two questions was only focused on market failures.

Question 5: In the most popular question, most students focused on fintech startups and consumer biases and therefore consumer finance regulation.

Question 6: Most of the answers to this question were particularly well drafted and insightful, perhaps a sign of how the students who chose this question felt strongly about it.

Question 7: A very broad question that required a good dose of ability to synthesise. Some interpreted the question as even broader than envisaged, by adding reference to capital adequacy reforms and they were penalized for doing so. The average quality of answers was high.

Question 8: The quotation was quite clear in being critical of short-selling bans. Most students sided with the quotation but some introduced caveats.

Question 9: The issue of extending LOLR to shadow banks implied a critical appraisal of the instrument and the trade-offs it involves especially in terms of increased moral hazard risk and how to deal with it re more lightly regulated entities. Not all students engaged with all of these facets.

Name of Paper	Private Law and Fundamental Rights
No. of students taking paper	13

Summary reflections on the paper as a whole

This paper was taken by thirteen candidates this year. The markers were impressed by the overall standard of the scripts; most answers were focused on the questions asked, clearly constructed and relied on a cogent mix of case law and academic writing. Only question 1(a), about the wisdom of changing the law so that private individuals can directly sue each other for compensation for acting incompatibly with Convention Rights, attracted no answers, though the questions on intellectual property (Q. 2), freedom of contract (Q. 3), and social justice (Q. 7) were chosen by relatively few candidates. The most popular questions were question 4 (the tort of trespass to land and the fundamental rights of protestors) and question 5 (the best explanation for the decision of the Supreme Court in *McDonald v McDonald*). Most answers to question 4 recommended some changes to the tort, though not all considered the full range of circumstances in which protestors might want to use another's land, or the legitimate reasons that possessors of land might have for wanting to exclude uninvited protestors, and some proposals were more clearly defined than others. On question 5, most candidates provided good summaries of the Court's reasoning, and many supplemented this with well-grounded alternative explanations of the *McDonald* judgment and critical perspectives; possible reasons for distinguishing the positions of public defendants managing public housing stock and private landlords tended to be dismissed relatively briefly.

Name of Paper	Regulation
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No. of students taking paper	14
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Please comment on the distribution of questions answered, the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

Students were required to answer one question from Part A, one question from Part B, and one question from either Part A or B. Students answered a range of the total of 10 questions on the exam paper, with some questions being particularly popular: Q 1 (10), Q 2 (6), Q. 8 (6), Q. 5, 6,9 (5), Q. 7 (4), Q. 10 (3), Q. 4 (1) and Q. 3 (0).

The overall quality of the scripts was good. There did not seem to be much of a difference between the answers written this year in the open-book format and answers provided in previous years through the closed book format. Scripts that attracted lower marks this year tended to reproduce material distributed for the seminars, eg. through powerpoint slides or were very short. Scripts marked in the higher range of marks included the student's own critical analysis of, e.g., regulatory theories, reference to specific regulatory regimes with a fairly detailed discussion of legal provisions, and critical analysis of academic readings as well as good writing skills.

The quality of scripts ranged across the marking scale, with one script given a pass mark below 60, 5 scripts awarded Merit marks and 8 scripts awarded Distinction marks.

Students were asked to answer 3 questions out of a total of 10, with 1 question having to be answered from Part A (comprised of 5 questions), and 1 question having to be answered from Part B (comprised of 5 questions) and 1 question which could be from either Part A or B.

Three questions merit particular comment

Question 1: A number of students chose the actual question 1 from the exam paper as the first question they answered. Some of the answers were not as tightly focused on the specific question asked and discussed at some length 'nudging' as a regulatory strategy.

Question 2: Scripts marked in the distinction bracket demonstrated significant knowledge of material relevant to the specific question asked, and presented a clear and structured argument as an answer to the question, also by developing their own critical analysis.

Question 3: Scripts marked in the lower range of marks contained errors in summarizing reading materials, lacked clarity in the writing, and could have further developed the scope of their answer.

Name of Paper	Restitution of Unjust Enrichment
No. of students taking paper	34

Summary reflections on the paper as a whole

The overall standard of achievement was excellent, with 35% achieving a Distinction grade and a further 40% achieving a Merit. As in previous years, however, some candidates focussed too closely on the views of academic commentators, without demonstrating knowledge of the materials constituting the positive law itself. Future candidates would be best advised to mention academics only where they are adopting for their own purposes an argument that one has made in print. The subject is not best understood as a kind of dialogue between those who write about it. Problem questions proved popular.

Question 1 (meaning of the subject) proved too big a question for many.

Question 2 ("at the expense of") was popular, predictable, and well done. The new focus on this area has reinvigorated the course.

Question 3 (enrichment) was surprisingly unpopular given its centrality.

Question 4 (legal compulsion) was as ever unpopular. It may be that candidates have (rightly) intuited that this is an area apart, and so have decided to drop it. In future, it may be necessary to incorporate it into more problem questions in order to prevent this.

Question 5 (ignorance) was unpopular, perhaps reflecting the fact that this idea, once suggested by Birks, has fallen out of academic favour, and so is no longer a hot topic.

Question 6 (lawful duress) was surprisingly unpopular, given that it is to be litigated this year before the UKSC.

Question 7 (taxes that were not due) was also unpopular, again perhaps reflecting the decline in academic interest in the topic.

Question 8 (property rights) would have benefitted from a more close consideration of what a right in rem is.

Question 9 (mistaken gifts, change of position) because the issues in the problem questions were relatively few, they required a more expansive consideration than some candidates seemed prepared for, and they instead searched for issues that were not there. The problem required a close consideration of when and why it is possible to avoid a gift (not made by deed) and a careful discussion of the reason for any change of position defence.

Question 10 (changes in the law) attracted some good discussion of *DMG v IRC*.

Question 11 (failure of consideration) was best tackled by those sceptical as to the prospects for any claim.

Name of Paper	Roman Law (Delict)
No. of students taking paper	2

Summary reflections on the paper as a whole

Both scripts were of a high standard, showing in-depth knowledge of both primary and secondary sources. The highest marks were awarded to answers which focused narrowly on the question posed, whether this took the form of a commentary on a particular ancient text or a more general essay-style question.

