

FORM OF REPORT ON EXAMINATIONS

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

Unclassified Examinations

BCL

Category	Number			Percentage (%)		
	2018/19	2017/18	2016/17	2018/19	2017/18	2016/17
Distinction	64	(53)	(49)	57	(52)	(53)
Merit*	32	NA	NA	28	NA	NA
Pass	16	(47)	(42)	15	(42)	(46)
Fail	0	(1)	()	0	(1)	(1)

*Merit award introduced in 2018/19

MJur

Category	Number			Percentage (%)		
	2018/19	2017/18	2016/17	2018/19	2017/18	2016/17
Distinction	9	(14)	(20)	24	(29)	(39)
Merit	23	NA	NA	60	NA	NA
Pass	6	(33)	(31)	16	(69)	(61)
Fail	0	(1)	(0)		(2)	(0)

(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 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 four options (Constitutional Theory, Legal Concepts of Financial Law, Restitution of Unjust Enrichment and Comparative Human Rights), including two fail scripts, and a sample of dissertations. The External was also able to access scripts during the final marks meeting, and did so where she saw fit.

No scaling is employed.

NEW EXAMINING METHODS AND PROCEDURES

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

In 2019, the award of Merit was available for the first time. The change resulted in a modest increase in second marking. Of the candidates in the examinations who did not attain a Distinction, 70% attained a Merit. This result is an indication of the strength of performance on the degrees. The availability of the new award did not result in any decrease in the proportion of Distinctions (the proportion of Distinctions for the two degrees taken together was 45% in 2018 and 49% in 2019).

In 2019, for the first time, the course in Law and Society in Medieval England was examined by an extended essay. Attainment in the essays was high (as the markers' comments indicate), with three out of five candidates receiving marks of 70 or higher, but the numbers are too small to draw general conclusions.

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.*

Case lists and other materials in the examination room: In 2018, the Examiners recommended that rules be formulated for the content and presentation of the lists of cases and other materials provided with some question papers. Examinations Committee adopted a new policy that the lists should not have more than one level of headings (with headings designed to reflect division of the teaching of the subject, rather than to give an outline of the structure of the subject). This year the Examiners decided that the best approach was to communicate with setters of papers, asking them to check that the list of cases and other materials was compatible with the subject reading list provided to students, and reflected any changes during the year in the materials that the subject group recommended to students. The Chair of Examiners reviewed the lists of cases and other materials to arrive at lists in a consistent format compatible with the policy of Examinations Committee, and agreed final lists with setters. This approach appeared to have worked well.

The statutory and other materials provided in the examination room for some papers are complex and voluminous, and ensuring accurate, accessible and effective provision is an important part of the conduct of the examinations. In 2019, significant parts of the materials

were illegible for one paper. That unsatisfactory situation caused difficulty for the candidates. The Examiners took this into account, treating all candidates for that paper as having had mitigating circumstances. The Examiners recommend that the Chair of Examiners should check all materials, or arrange for them to be checked, before each paper.

Timing of examinations: Two points for future consideration arose. The first is that where there is a substantial number of candidates who take a combination of two options, it may be good in future to ask Examination Schools to schedule a gap between the papers for the two options. Secondly, it will be helpful to markers if papers with high numbers of candidates can be scheduled earlier in the examination window, particularly to give those markers flexibility in dealing with the potential overlap of FHS and BCL – MJur marking.

No changes to the examination conventions are proposed.

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

Candidates are made aware of the Examination Conventions by email correspondence. The Examination Conventions are placed on the student virtual learning environment (WebLearn).

Part II

A. GENERAL COMMENTS ON THE EXAMINATION

[Excluding comments on identifiable individuals and other material which would usually be treated as reserved business. This section should include any matters which the examiners wish to draw to the particular attention of the responsible body, including any comment on statistical trends as shown in section A. It is especially helpful to have a comment on the overall standard of performance in the examination, including any trends in results or in relation to particular areas of the curriculum, and on any developments or changes to the existing course which might have been suggested by the examination process.]

The overall standard of performance in the BCL and MJur examinations was very high. The markers' reports on subject papers (Appendix 3) consistently report original and incisive work in the strongest scripts and essays. Overall, 49% of students were awarded a Distinction, and the Examiners take the view that this high rate is fully justified by the candidates' excellent performance. The proportion of Distinctions was slightly higher than in recent years (see Appendix 1). There were very few weak performances, and no failures. The new Merit award also reflects the strength of the candidates' performance: overall, 86% of candidates attained a Merit or a Distinction.

BCL and MJur compared: In 2019, the gap in the percentages of candidates achieving distinction in the BCL compared with the MJur was 58-24, which was slightly wider than in recent years (2018: 53-29; 2017: 53-39, 2016: 51-24, 2015: 48-19). 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. 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. So the difference in attainment is unsurprising, and performance was high on the MJur. That fact is reflected in the new award of Merit: 84% of MJur candidates attained either a Distinction or a Merit. In the case of the BCL that figure is 87%, so the proportion of very good performance is not very different between the two programmes, although a higher proportion of BCL candidates attain outstanding results. MJur students can take one option from the FHS in Jurisprudence; ten students took that opportunity, in Company Law, Commercial Law, Contract Law, Torts, and Trusts. Performance was strong, with six of the ten candidates attaining marks of 70 or above in the FHS paper.

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

[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 the previous 3 years is provided in appendix 1.

Gender: Over the four most recent years including 2019, on the two degrees combined, 159 out of 320 men have attained distinctions (50%), and 112 out of 274 women (41%). This pattern has repeated itself every year, but the difference was somewhat greater in 2019 than in recent years (58% of men and 38% of women attained Distinctions in 2019). The Examiners recommend that the Examinations Committee ask the Faculty Office to survey results on different papers by gender, to find out if there are special disparities in particular subjects, and to find out if the disparities vary with the mode of assessment.

Form of assessment: There were 11 dissertations. As in 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. Marks for dissertations were perhaps slightly lower than marks for other subjects (3 distinction-level marks out of 11 dissertations, with no mark below 60), but not notably out of line. The Examiners recommend that markers should continue to be reminded to tailor their assessment to the context of a taught degree.

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, Trusts and Global Wealth Taxation, and Jurisprudence and Political Theory use essay assessment (in the case of Trusts and Global Wealth Taxation, for 50% of the mark); performance in these three options was at a high standard. Numbers for the first two of those options are too small to draw general conclusions; marks for Jurisprudence and Political Theory were in line with marks 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.

E. COMMENTS ON THE PERFORMANCE OF IDENTIFIABLE INDIVIDUALS AND OTHER MATERIAL WHICH WOULD USUALLY BE TREATED AS RESERVED BUSINESS

In accordance with procedure laid down by the Education Committee a sub-panel of the Examiners (Timothy Endicott and Jennifer Payne) met before the marks meeting in order to consider all such applications, and to band the circumstances into '1 indicating minor impact, 2 indicating moderate impact, and 3 indicating very serious impact'. A record was kept of these decisions and the reasons for them. This banding information was used in the marks meeting to inform the Examiners' decisions regarding the mitigating circumstances submissions. The Examiners took specific and individual account of all mitigating circumstances submissions, and

a record was kept of how the banding information was used and the outcome of the consideration with the reasons given. A statistical summary is attached to this report as Appendix 4.

F. NAMES OF MEMBERS OF THE BOARD OF EXAMINERS

Timothy Endicott (Chair)

Merris Amos (External)

Dori Kimel

Simon Whittaker

Jennifer Payne

Appendix 1 – Result statistics by Gender 2019

		2019								2018						2017						2016										
BCL	Male		Female		Non-binary		Total		Male		Female		Total		Male		Female		Total		Male		Female		Total							
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%						
Dist	40	66	23	47	1	100	64	58	30	54	23	50	53	52	23	55	26	52	49	53	30	56	20	45	50	51						
Merit	14	23	18	37			32	29																								
Pass	7	11	8	16			15	13	24	44	23	50	47	47	19	45	23	46	42	46	24	44	24	55	48	49						
Fail	0		0				0		1	2	0		1	1	0		1	2	1	1	0		0		0							
Total	61		49		1		111		55		46		101		42		50		92		54		44		98							

		2019								2018						2017						2016										
MJur	Male		Female		Non-binary		Total		Male		Female		Total		Male		Female		Total		Male		Female		Total							
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%						
Dist	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	10	53	13	68			23	60																								
Pass	3	16	3	16			6	16	18	62	15	79	33	69	20	62	11	58	31	61	20	74	21	75	41	74						
Fail	0		0				0		1	3	0		1	2	0		0		0		0		1	4	1	2						
Total	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	65	1					100		
BCL Dissertation	66	8				37.5	37.5	25	
Children, Families and the State	69	18					55	39	6
Civilian Foundations of Contract Law	68	6				17	33	50	
Commercial Negotiation and Mediation	66	15			7	20	53	20	
Commercial Remedies	67	40		2.5	5	15	27.5	47.5	2.5
Commercial Law	66	1					100		
Company Law	67	1					100		
Comparative and Global Environmental Law	67	10				20	60	30	
Comparative Contract Law in Europe	67	12				33	42	25	
Comparative Corporate Law	67	15				13	53	27	7
Comparative Equality Law	67	20				15	55	30	
Comparative Human Rights	68	23				4	57	39	
Competition Law	65	22			4	32	46	18	
Conflict of Laws	65	37		3	8	27	35	27	
Constitutional Principles of The EU	67	6					60	40	
Constitutional Theory	69	20					35	65	
Contract	71	4						100	
Corporate Finance Law	64	7				43	57		
Criminal Justice, Security and Human Rights	69	19				5	37	58	

European Business Regulation (the law of the EU's internal market)	68	4					75	25	
Human Rights at Work	68	11				18	36	46	
Intellectual Property Law	67	7			14		43	43	
International Commercial Arbitration	66	24			4	38	29	29	
International Criminal Law	69	5				20	20	60	
International Dispute Settlement	67	15				27	40	33	
International Economic Law	68	14				14	36	36	14
International Law and Armed Conflict	67	19				10	58	32	
International Law of the Sea	68	11				27	27	46	
Jurisprudence and Political Theory	68	25			4	8	44	40	4
Law and Society in Medieval England	70	5				20		60	20
Legal Concepts in Financial Law	66	22	5	9		18	32	36	
Medical Law and Ethics	69	18					67	33	
MJur Dissertation	68	3					67	33	
Philosophical Foundations of the Common Law	67	20				25	45	25	5
Principles of Civil Procedure	67	19				26	42	32	
Principles of Financial Regulation	68	13				7	62	31	
Private Law and Fundamental Rights	67	19				16	42	42	
Regulation	70	9				11	11	78	
Restitution of Unjust Enrichment	67	31	3		3	16	29	49	
Roman Law (Delict)(BCL/M Jur version)	66	7				14	57	29	
Tort	56	2		50	50				
Trusts	60	2			50	50			
Taxation of Trusts and Global Wealth	70	5					40	60	

D COMMENTS ON PAPERS AND INDIVIDUAL QUESTIONS

Name of Paper	Children, Families, and the State
No. of students taking paper	18

Summary reflections on the paper as a whole

Overall, this paper was very well-answered. Particularly popular were Q 2 (parental status and parental rights); Q. 4 (surrogacy); Q. 5 (religion); Q. 7 (gender) and Q 8 (vulnerability).

All candidates were able to show a good knowledge of the literature and the theoretical issues. There were no weak scripts. Questions which were awarded distinction-level marks could be distinguished from those who scored highly but below distinction level in three main ways. The first was a close attention to the question. Very few candidates made the error of writing a generic answer broadly on the theme addressed by the question, but the top marks went to those who kept focussed on the particular issue raised and provided an argument addressed to it.

The second, was a demonstration of a broad understanding of the issues covered in the course. For example, strong essays on parental rights (question 2) drew on the material on children's rights and concepts of children's well-being, to address the issue; and good essays on surrogacy (question 4) explored how the issues raised in that particular topic related to broader issues about justice and certainty in family law. The third was a detailed engagement with the academic literature, drawing out the particular arguments from articles that were relevant to the question asked, demonstrating a detailed knowledge of the literature.

Name of Paper	Civilian Foundations of Contract Law
No. of students taking paper	6

Summary reflections on the paper as a whole

Six students sat the paper. This was a strong group of scripts, with three students achieving distinction level marks and two achieving merit level. There was some clustering of attempts on the most general questions, Q1 (nudum pactum and the Roman numerus clausus) and Q8 (proposed EU Directive definition of 'contract'). Given the small numbers, further comment is impossible without commenting on individual scripts.

Name of Paper	Commercial Negotiation and Mediation
No. of students taking paper	17

Summary reflections on the paper as a whole

Seventeen candidates (fifteen MJur/BCL and two MLF) attempted this paper. The overall standard of the scripts was high. The spread was a little wider than in the years before. Three candidates (19%) were awarded marks of 70 or above, 12 candidates (71%) were awarded marks of 65 and above, the lowest mark was 57, the highest 73, and the average mark was 65.71. All questions were attempted by the candidates at least twice. Questions 6, 3, and 1 were particularly popular (they were attempted by 12, 12 and 8 candidates, respectively), 6 candidates attempted questions 7 and 8, 3 candidates attempted question 5 and two candidates questions 2 and 4.

Questions related to commercial negotiations (e.g. question 2), commercial mediations (e.g. questions 5-7) and issues/problems of a more general nature, which are relevant for both commercial negotiations and mediations (e.g. questions 1, 3-4). One question (question 8) raised issues of “algorithmic dispute resolution”. Overall, questions related to the full academic scope of the course, ranging from psychology and game/decision theory to doctrinal analysis and policy issues in the field of commercial negotiation and mediation. Some questions covered “classic” problems in the field, which could be dealt with by applying insights from study materials in a straightforward manner (e.g. questions 1, 5-7). Other questions called for more independent and creative thinking (e.g. questions 2 and 4).

Most candidates displayed a very good knowledge of the subject matters raised, demonstrating their ability to integrate the insights from the different materials studied. Some answers clearly benefitted from the practical negotiation/mediation training candidates had done as part of the course. The very best scripts precisely and thoroughly answered all elements of a question by intelligently weaving in the materials studied, and they went beyond a mere application of acquired knowledge by engaging in critical and creative thinking, coming up with novel and interesting new ideas. Few candidates failed to deal with all problems raised by a certain question or did so only in an unstructured manner. The weakest scripts simply used the questions to display more general knowledge only loosely related to the problems raised by the questions. These scripts usually failed to articulate a thesis and to use an argumentative style in their answer.

Name of Paper	Commercial Remedies
No. of students taking paper	40

Summary reflections on the paper as a whole

<p>The standard of the scripts for this year's exam was high. Higher than that of the proof reading for the paper, which apparently concerned an examination for the degree of "Bachlor of Civil Law (sic).</p> <p>As in past years, the problem questions proved more popular than the essays, with many candidates opting to only answer problems. This was perhaps surprising as the problems were difficult this year (at least for the examiner who had to work out the answers in advance). One essay (Question 2 ("interest")) attracted no answers, which was disappointing given the exciting issues it raised.</p> <p>Question 1 ("punishment") was generally well done, most being elaborate ways of saying "no". Question 3 ("negotiating damages") was predictable, and predictably popular. Question 4 ("discretion") needed more consideration of what we mean when we say something is a matter of discretion. It is not good enough to just point at a number of factors in play. Question 5 ("mitigation and contributory negligence") was poorly done, requiring more focus of study in future years.</p> <p>Question 6 raised a large number of issues. All candidates proved pleasingly able to spot them, even if not all could satisfactorily address them.</p> <p>Question 7 combined together sale of goods issues with a plausible story of profit making from breach of fiduciary duty. Happilyly, most seemed happy to address these quite separate areas.</p> <p>Question 8 (a) concerned a *non-exclusive* licence, the significance of which was often over looked. Part (b) involved a careful setting out of the various factors a court would have to take into account in seeking specific performance, and a knowledge of the availability of damages on behalf of another. The latter issue was less well done.</p>
--

Name of Paper	Comparative Contract Law in Europe
No. of students taking paper	12

Summary reflections on the paper as a whole

<p>Twelve candidates took the examination this year. The overall performance was good, with the spread of marks being noticeably smaller than it usually is. Most questions were answered by between four and seven candidates; only question 6 (concerning the requirements for a consensual termination or variation of contract) attracted no answers. On some scripts, the final essay was evidently rushed.</p>
--

The best answers engaged with the comparative material in a manner that went far beyond a mere side-by-side description of the legal systems concerned, showed real depth and breadth of knowledge as well as a good system overview, and managed to draw on this to display a sophisticated understanding of the legal problems and their (potential) solutions. Weaker essays tended to engage insufficiently with the terms of the actual question asked and instead sought to mould around the examination question a general (pre-prepared?) essay on a given week's topic.

Name of Paper	Comparative and Global Environmental Law
No. of students taking paper	10

Summary reflections on the paper as a whole

Overall, the quality of responses was very pleasing. All questions on the examination paper were answered, and while some questions were less popular (Q 6 and 8) the rest of the answers were spread evenly across the other questions. Stronger answers were those that paid acute attention to the question asked, explored the legal implications of those questions in a nuanced and sophisticated way, and used in-depth legal examples from the course to illustrate points. They also tended to rest on a sound understanding of the complexity of environmental problems. The overall command of legal detail by candidates was impressive, with stronger answers displaying a deep understanding of a number of legal regimes and the relevant legal reasoning. Stronger answers also included carefully crafted critical analysis where appropriate.

Name of Paper	Comparative Corporate Law
No. of students taking paper	15

Summary reflections on the paper as a whole

Twenty-four candidates (fifteen BCL/MJur students, and nine MLF) attempted this paper. The overall standard of the scripts was high. One quarter of the candidates obtained first class marks, and the average mark was 67%. All questions were attempted, with question 1 proving the most popular, followed by question 8.

Fifteen students attempted question 1, which required them to engage with a quotation from an English case on derivative suits. The quotation was quite generic, so a couple of students failed to recognize the context in which the statement had been made. The other students showed familiarity with the case and with the criticism thereto from one of the co-teachers of the course and most also compared the English courts' unease with making business judgements on behalf of companies with the greater activism of Delaware courts.

Question 8 was the second most popular one. It allowed the thirteen students who attempted it to discuss both shareholder primacy and the idea that it is a force in the direction of more convergence in corporate law. Unsurprisingly, many of the students expressed strong criticism about the latter, while only a few of them questioned the premise that shareholder primacy, whether as a matter of statutory law or as a social norm, is still a relevant cornerstone of corporate law systems.

The questions with the lowest number of attempts (two) were questions 5 and 6, respectively on the protection of creditors in the three core jurisdictions covered by the course and codetermination.

The remaining questions were attempted by a relatively high number of students (between 8 and 11) and did not raise any particular concern.

Name of Paper	Comparative Equality Law
No. of students taking paper	20

Summary reflections on the paper as a whole

The standard was very good in this subject this year, with some outstanding papers. Twenty candidates took this paper, of which just under a third were awarded first class grades. All other scripts were awarded 64% or over. Particularly noticeable was the in-depth knowledge of the different jurisdictions and how the elements of equality law fit together within that jurisdiction. This enabled a much better informed approach to comparison. Candidates also made a pleasing 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.

The most popular question was on affirmative action, but few candidates saw the specific challenge of competing disadvantage set out in the quotation. Some of the best responses were to the question on sexual orientation. The questions on religion and the role of intention were also popular, and the standard was generally high. Candidates were rewarded for showing an in-depth understanding of the judgements to support their own line of argument, rather than simply stating the case-name, as it appeared in the case-list. Candidates should take care not to repeat the same material in more than one question, as they will not be rewarded twice. 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	23

Summary reflections on the paper as a whole

<p>The overall standard of this year's examination was very good. There were 23 candidates who took this paper and nine were awarded first class grades. All the candidates achieved 63% or above. 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 also rewarded for demonstrating an in-depth understanding and analysis of the judgements, rather than simply mentioning the case-names, which they could find on the case-list. Candidates should generally avoid repetition.</p> <p>Most questions were attempted by candidates, but the most popular question was that on capital punishment and the judicial role. The best answers were able to use the comparative case law on capital punishment to demonstrate different approaches to the judicial role in different jurisdictions and to support the candidate's own normative argument. Also very popular were the questions on freedom of religion, and the rights to housing and health. Here too candidates were rewarded for focussing on the question asked: for freedom of religion on the concepts of neutrality and impartiality; for the right to housing, on the duties to respect, protect and fulfil; and in relation to the right to health, on minimum core and progressive realization. Candidates were rewarded for making a clear distinction between the analytic and normative aspects of the question. The crosscutting question on the use of comparative authority was particularly well done by those who attempted it.</p> <p>Overall, the scripts were very pleasing and showed a good understanding of the legal materials, the comparative methodology and the underlying challenges.</p>
--

Name of Paper	Competition Law
No. of students taking paper	22

Summary reflections on the paper as a whole

<p>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.</p> <p>The first essay question asked students to discuss whether the introduction to competition policy of objectives in addition to consumer welfare would lead to a suppression of competition. This was a popular question. Answers were generally of a good standard. The better ones explained the background in the Treaty and the</p>

Competition Act 1998, and drew on cases from both jurisdictions to illustrate their points. The best scripts also critically discussed literature on the topic. Weaker answers remained descriptive and abstract. This pattern recurred with the other essay questions.

The second essay question on the Bundeskartellamt's Facebook decision of February 2019 was chosen by few candidates, but attracted some very thoughtful answers.

The third essay question invited a comment on the Cartes Bancaires judgment on 'restrictions by object'. The quality of the numerous answers was mixed. The best explained the relevance of the classification, then traced the development of the case law, and offered a critical assessment, ideally drawing on some literature.

The fourth essay question, on the reform of Reg. 330/2010 (the 'Vertical' Block Exemption Regulation), had no takers. This was a portent of some very superficial treatment of the Regulation when it arose in problem questions 7 and 8. A good number of students failed altogether to identify it as relevant to the problem; others merely reproduced snippets from it but then were unable to apply them in a meaningful way.

The first problem question (no. 5) revolved around the concepts of agreements and concerted practices in the shape of information exchange among competitors in the context of bid-rigging; damages; and investigations and sanctions, including leniency for whistleblowers. Weaker candidates spent an inordinate amount of time discussing the question of 'restrictions by object', partly recycling their answer to essay question 3.

The second problem question (no. 6) raised issues of concerted practices through statements in the media, the role of third parties in facilitating coordination among competitors, general contract terms of dominant undertakings (if dominance were found), rebates by such companies, collective boycotts (very rarely spotted), and non-concentrative joint ventures. This was not as popular as the preceding question, and there were more weak answers, too.

The third problem question (no. 7) prompted candidates to discuss questions of distribution agreements, in particular selective distribution (which attracted answers of very mixed quality, and highlighted across the board candidates' weak understanding of Reg. 330/2010), the distinction between the respective fields of application of Art. 101 and the Merger Control Regulation in the case of acquisition of minority shareholdings, abuse of dominant position through discrimination, and competition investigations, in particular undertakings' right to have legal advisors present during such investigations.

The fourth problem question (no. 8) revisited issues of distribution, with answers being affected by the same weaknesses as above, the definition of the relevant market, and non-compete clauses (inadequately addressed by most candidates). Overall, the examiners were pleased with the greater willingness than in previous years of candidates to tackle essay questions.

Name of Paper	Conflict of Laws
No. of students taking paper	37

Summary reflections on the paper as a whole

Following a change in rubric this year, candidates were required to answer three questions, with a free choice among four essay questions and four problem questions. The overall standard was high with almost two thirds of candidates receiving a distinction- or merit-level grade overall.

Problem questions were more frequently chosen than essays, but the examiners' impression is that a larger proportion of candidates chose to write at least one essay, with a few choosing to express themselves in this form only. Some excellent answers were given to both types of question: the best essays paid close attention to the question and brought a diverse range of material into focus, while stronger answers to problem questions presented the issues arising from the problem facts in a logical, concise and practical manner. In a few cases, candidates were penalised for a failure to give sufficient attention to questions of choice of law alongside (or inter-mingled with) questions of jurisdiction.

Of the essays, Q1 (anti-suit injunctions) and Q4 (recognition and enforcement of judgments) were the most popular, while Q3 (party autonomy in choice of law) was answered by very few candidates. While answers provided some interesting, and varied, takes on the questions, the examiners felt that more prominent use could have been made of case law alongside academic literature and the writer's own insights. Answers to Q2 (Brussels I Regulation) were sometimes let down by an approach that was descriptive rather than analytical.

Q5 (obligations problem) was a popular question. The stronger answers analysed and brought together issues of jurisdiction (including *lis pendens*) and choice of law, and took a sensible approach to the more difficult questions of characterisation. They paid appropriate attention to the scheme of the Regulations and, in particular, the protective regime for consumers.

Q6 (enforcement of judgments problem) was also popular. The best answers were able to see, and make constructive use of, the connections between the common law competence rules and the relevant statutory provisions (CJJA 1982, ss 32-33). They also recognised that the alternative scenario (enforcement of a Member State judgment) made a significant difference to the legal landscape and discussed the differences in appropriate detail. Treatment of potentially applicable defences varied greatly: a few candidates did not engage seriously with them, while others took a kitchen sink approach. Those who steered between these two extremes, giving sensible, practical insights, were justly rewarded.

Q7 (property/governmental interests problem) was less popular, but mostly well handled. The majority of candidates answering this question dealt well with the interaction between claims in tort and property issues. The best answers also engaged with the 'incidental question' question and recognised the possibility of a contractual claim against S, bringing the foreign illegality into play.

Q8 ('common law' jurisdiction problem) was the most popular question on the paper. The examiners were pleased that almost every candidate who answered this question was able to explain the structure of the enquiry involved in answering the question whether the English courts have jurisdiction, and to engage in analysis of the gateways and *forum conveniens*. Stronger answers integrated analysis of choice of law issues, and gave convincing reasons why England was (or was not) the natural forum, and for concluding that justice could (or could not) be obtained in the alternative forum.

Name of Paper	Constitutional Principles of the EU
No. of students taking paper	7

Summary reflections on the paper as a whole

This paper was taken by seven candidates. They were asked to answer three questions out of eight. There was an extensive case list. The overall standard was very high, ranging from high upper second to high first. Some answers were exceptional. Overall, there were very strong answers regarding citizenship, procedural autonomy and pluralism. Candidates demonstrated a very good knowledge of the black letter law as well as a strong understanding of the theoretical issues posed by EU's nature.

Name of Paper	Constitutional Theory
No. of students taking paper	20

Summary reflections on the paper as a whole

The performance in the Constitutional Theory examination was particularly strong this year, with a significant number of scripts awarded firsts and the remainder receiving good 2:1 marks. There was a fairly even distribution among the questions set, indicating that candidates engaged well with a wide range of topics in the course. On the whole, they displayed a broad knowledge of the materials and important issues. The best answers responded in detail to the specific question posed, combining careful analysis of the theoretical literature with original reflection and insight. A number of candidates enriched their theoretical arguments with examples carefully chosen from different jurisdictions.

Name of Paper	Corporate Finance Law
No. of students taking paper	7 (BCL & MJUR)

Summary reflections on the paper as a whole

In general, this paper was answered well. In common with previous years, some candidates failed to pay sufficient attention to the particular questions set, producing rather generic answers to the broad subject areas of the examination questions; those candidates that tackled the precise text of the questions in front of them were rewarded accordingly.

In question 1, the strongest answers focused on the actual purpose of the question, which was to discuss the additional benefits given by proprietary protection. This entailed a comparison of both types of protection and a discussion of the limits of contractual terms, for example, in relation to monitoring, governance, enforcement etc. The very best answers considered the possible additional benefits in a wide context, and evaluated not only the benefits of proprietary protection but also its drawbacks.

Answers to question 2 needed to consider typical arrangements for bondholder decision-making whereby a majority can bind a minority, the reasons for this arrangement (for example, to overcome hold-outs), and the dangers of minority oppression. Strong answers also discussed whether general legal duties are the best way of dealing with these dangers (and whether these should be duties at common law or statutory duties), and the interaction of these duties with contractual terms of the bond issues, such as in the case of *Assénagon Asset Management SA v Irish Bank Resolution Corporation Ltd*. Weaker answers focused less on the actual question posed, and gave a general account of the structure of bondholding.

The best answers to question 3 considered both the efficiency of debt governance and the effect on it of debt decoupling and CDSs in equal measure. Answers that prioritised the former to the exclusion of much discussion of the latter were suitably penalised.

Question 4 was very popular and could be approached in a number of ways. Good answers focused on one or more of the following: the protection of the general law for non-adjusting creditors, the protection for which adjusting creditors could bargain and the more general question of the agency conflict between the shareholders and the creditors. The best answers made an argument which referred closely to the quotation from *Sequana*, and considered to what extent the statement accurately reflected the current legal position.

Question 5 required a focus on the potential effects of cheap plentiful debt on the private equity industry (rather than merely a description of the debt-heavy structure of private equity transactions). Good answers considered the problematic effects but also some of the potentially beneficial aspects of this phenomenon by way of counter-argument, and considered all those potentially affected, rather than simply concentrating on one or two groups.

Question 6 was popular and was generally well answered. The best answers focused closely on the quotation and analysed both the stated purpose of the Code and what

the aims ought to be. Weaker answers tended to be rather descriptive of the provisions of the Code.

Question 7 required candidates to compare and contrast investor protection in an IPO and in relation to equity crowdfunding, giving roughly equal weight to each. The best answers avoided simply describing the differences and focused fully on the second part of the question regarding the lessons that can be learned from either approach.

No candidate answered question 8. Question 9 was popular and required candidates to consider the two different mechanisms employed in tackling insider dealing, namely information disclosure and bans. Good answers considered the relationship and inter-action between the two.

Name of Paper	Criminal Justice, Security and Human Rights
No. of students taking paper	19

Summary reflections on the paper as a whole

19 candidates took this paper, and 11 candidates obtained a distinction. The lowest mark was 62% and the highest mark was 72% (obtained by 3 of the candidates). The best scripts displayed a compendious knowledge, a thoughtful and critical argument, a sharp analytical structure, and an outstanding use of materials honed to the question set. The weakest scripts tended to be mostly descriptive of the case law, lacking a clear analytical framework and displaying little knowledge of the critical academic literature. Some of the weakest answers were also very confusing and took too long to lay out the facts of the cases chosen.

The spread of questions chosen was quite even, and displayed the choices made by the students in their tutorial selection. There were no clear misunderstandings of the questions set, and the overall standard was genuinely very high. Generally students were able to use the full range of case law materials from the various jurisdictions covered. An excellent year.

Name of Paper	European Business Regulation
No. of students taking paper	4

Summary reflections on the paper as a whole

This year's scripts were of a good standard, typically showing a strong grasp of the material and focused answers to the questions set. The range of questions attempted was rather narrow, yet all candidates were able to use topics from across the course in answering at least some of the questions, and the strongest answers drew from the full breadth of the seminar and tutorial subjects to offer critical, nuanced and insightful discussion and analysis.

Name of Paper	Human Rights at Work
No. of students taking paper	11

Summary reflections on the paper as a whole

Eleven candidates sat this paper. The standard was very high. All marks were 60 or above. Five scripts were awarded a mark of 70 or above. All students displayed an extensive grasp of the case law. A particular strength of the answers this year was the ability of most students to be able to combine analysis of theoretical questions with detailed discussion of the law. The most popular question was 6 concerning freedom of expression and the use of social media, but though the candidates were knowledgeable and engaged with the issues concerning dismissal for Facebook posts, they were less clear about how these issues might be resolved, and there was perhaps not enough discussion of the law relating to whistleblowing. Question 7 on the right to work was also popular and in general extremely well done, though the tricky issue of whether the law should grant people a positive right to a job was avoided. Answers to question 2 were well informed about the litigation before the European Court of Human Rights regarding rights to collective bargaining and to strike, but there was little by way of assessment of the idea of strategic use of litigation. The question in 1(b) concerning whether labour rights are human rights was also very popular and enabled some candidates to critically examine the opposing arguments of legal scholars about the validity of the claim and its implications. Perhaps the hardest question on the paper, question 5, about the connection between the protection of the right to privacy and legal control over employer's disciplinary powers, attracted a few, extremely impressive answers, demonstrating not only an appreciation of how the law of Article 8 has been developing but also an awareness of the different philosophical conceptions of privacy and how they might (or might not) be applied to the employment relationship. Other questions only attracted one answer at most, so comment is probably not helpful.

Name of Paper	Intellectual Property Law
No. of students taking paper	7

Summary reflections on the paper as a whole

Students again performed well in the copyright and patent sections of the Intellectual Property Law paper. Especially pleasing was the spread of answers across the questions, and the combination of essays and problem answers. Overall, students demonstrated a strong understanding of the doctrinal law and deep engagement with the policy and theoretical issues that it raises. Especially well-handled among the essay questions were question 4 (regarding UK Supreme Court jurisprudence in the area of patent protection) and question 8 (regarding internet intermediary liability for

copyright infringement). The problem questions were challenging this year, but confidently handled nonetheless. Some candidates could have improved their performance by demonstrating better knowledge of the exceptions and limitations to copyright when answering question 9 and offering a more focused treatment of the core aspects of patentability when answering question 6. Overall however, a very pleasing performance.

For trade marks, most candidates focussed on the problem question (Q3) and with one exception, produced rigorous and careful answers. The one exception approached the problem question with an essay mindset, offering detailed critiques of the existing law and normative speculation, which was not required by the question. For the problem, the more challenging issues included assessing in appropriate detail whether a shape mark has substantive value (Q3(a)); assessing a non-traditional mark such as gameplay based on whether it is used as a mark, distinctive and possible to represent adequately (Q3(b)); and assessing infringement in a context specific manner, use by use, under both double identity and likelihood of confusion (Q3(c)). The essay on dilution by blurring (Q1) was dealt with extremely well with discussion of whether blurring involved any meaningful form of harm and whether it might instead be a smokescreen for a free riding claim.

Name of Paper	International Commercial Arbitration
No. of students taking paper	24

Summary reflections on the paper as a whole

Twenty-four candidates attempted this paper. The overall standard of the scripts was very high, even higher than in previous years. At the same time, the spread was also a little higher than in the years before. Seven candidates (29%) were awarded marks of 70 or above, 14 candidates (58%) were awarded marks of 65 and above, the lowest mark was 57, the highest 73, and the average mark was 65.5. All questions were attempted by the candidates at least once. Questions 2 and 6 were by far the most popular (they were attempted by 21 and 22 candidates, respectively), 10 candidates attempted question 3, 7 attempted question 7, 4 questions 1 and 8, 3 question 5 and 1 question 4.

Questions related to all issues and problems covered in the course. Question 1 focused on hybrid dispute resolution processes, questions 2-6 on arbitration agreements, the applicable law, arbitral proceedings and enforcement issues, question 7 on investor/state arbitrations and question 8 on the sociology of arbitration. The most popular questions 2, 3 and 6 raised “standard” issues and problems in international commercial arbitration.

The examiners were pleased to see some very high quality scripts where candidates demonstrated careful independent thinking, producing clever, articulate and interesting answers that also displayed an ability to reflect on the broader thematic issues raised by the course. The best scripts also engaged in a thorough comparative analysis, weaving in scholarly papers and court judgments from different jurisdictions discussed in the course—in particular the US, the UK, Germany and France—to support the answers given. In addition, they often demonstrated an

ability to engage in more than one line of reasoning to support their thesis. As in previous years, some scripts failed to pay adequately close attention to the exact question set, listing authorities and repeating well-rehearsed, general points prepared in advance, rather than developing arguments addressing specifically the question or quotation.

Name of Paper	International Criminal Law
No. of students taking paper	5

Summary reflections on the paper as a whole

The examination this year was not divided into two parts – there were simply eight questions from which to choose. Answers ranged across the questions, though no candidate answered question 2 on the prohibition on spreading terror among the civilian population. The strongest answers showed a deep knowledge of the case law and were able to deploy this knowledge in a critical and evaluative way. As with last year, the first-class scripts engaged directly with the particular framing of the question.

There were three distinction-level marks with the remainder being in the 60s.

Name of Paper	International Dispute Settlement
No. of students taking paper	15

Summary reflections on the paper as a whole

Scripts this year were very good, to the satisfaction of the markers. The great majority of them were focused, informed, and clearly written. All questions in the paper were attempted at least once. The problem questions (7 and 8) were popular, and mostly very well done. Almost equally popular were questions on means of dispute settlement and litigation strategy, as well as MFN in dispute settlement, independence and impartiality of judges and arbitrators, and enforcement of awards and judgments, the latter three having been covered in tutorials. The unevenness in the distribution of answers continued to decline this year, to the extent that all questions bar three were attempted roughly the same amount of times.

Answers to problem questions were good to very good, without the incidence of pre-prepared answers tacked on to broadly relevant questions found in some essay answers – suggesting that candidates should not be afraid to test their ability to apply their knowledge to the simulated real-life situations presented in problem questions. Essay questions were also mostly focused and well done, though some candidates this year as well failed to read the question carefully and to tailor their answers to what was being asked.

No script was marked below 61, while six out of 15 scripts received a distinction-level mark. The best scripts overall were those where candidates were able to discern differences in the fact pattern or phrasing of the essay question and tailor their analysis accordingly. Candidates revealed in-depth knowledge of international dispute settlement, citing numerous cases and secondary sources, to the great satisfaction of the markers.

Name of Paper	International Economic Law
No. of students taking paper	14

Summary reflections on the paper as a whole

The performance of students who wrote the International Economic Law examination paper in 2019 was on the whole excellent. Of the 14 students who sat the examination, 50% received a distinction-level mark overall in the subject with the remaining 50% of students all obtaining solid to high marks. Of those students whose marks were in the 60s, it can be said as a general observation that these students would have performed even better had they adopted a more analytical approach to their answers. In particular, several of the marks in the lower 60s would have benefitted by more specifically focusing on answering the question – and only the question – being asked and not providing what in some cases appeared to be pre-prepared answers on a specific topic.

Name of Paper	International Law and Armed Conflict
No. of students taking paper	19

Summary reflections on the paper as a whole

This was the fifth year that the examination was divided into two parts. As in the past four years, Part A contained questions dealing with the use of force by states, including action through the Security Council; Part B contained questions relating to international humanitarian law and its interaction with human rights law. All candidates complied with the rubric.

As to the distribution of answers, five of the questions received the bulk of attention. These concerned humanitarian intervention, the use of force in self-defence against terrorists, consent to the use of force by another state, the difference between rules applicable in international and non-international armed conflicts, and the convergence between international humanitarian law and international human rights law. Answers were generally strong. In each of these questions, the examiners were not seeking a general assessment of the broad issue; several candidates seemed to reproduce a tutorial essay without direct engagement with the specific question asked. For instance, the quotation from Koskenniemi in question one directs attention

not only to the current state of the law on humanitarian intervention, but to the attitude that some scholars have taken with respect to such issue. The best scripts took on and responded to the quirk of each question. Overall, the standard was very good – six distinction-level marks were awarded along with thirteen in the 60s.

Name of Paper	International Law of the Sea
No. of students taking paper	11

Summary reflections on the paper as a whole

Performance in the law of the sea examination this year was excellent. The paper was not divided into parts, but did comprise a mixture of essay (5) and problem (3) questions. All of the essay questions were attempted by at least some candidates, with question 8 (marine scientific research/treaty interpretation) proving less popular. Of the problem questions, question 5 (maritime jurisdiction, fisheries regulation and dispute settlement) proved the most popular. The best answers to essay and problem questions demonstrated detailed knowledge of the key legal instruments, case law and academic authority. 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 fragmentation in the law of the sea (question 1), exclusivity of flag state jurisdiction (question 2), security interests at sea (question 4), and marine scientific research and the interpretation of terms in the Law of the Sea Convention (question 8). Candidates answering essay question 3 (continental shelf delimitation) demonstrated a welcome awareness not only of the relevant case law, but also of the major critiques of it. Problem question answers were also well-handled overall, with the best answers reflecting a good knowledge of the substantive law of the sea on e.g. fisheries (question 5), marine environmental protection (question 6) and deep seabed mining (question 7) but also of the wider state responsibility and dispute settlement implications. The best answers to question 5 were thorough in addressing each of (i)-(iv), though one or two candidates were disappointingly brief in addressing sub-paragraph (iii). Overall, however, the standard of performance was extremely good with half the candidates achieving distinction-level marks and several merit marks also awarded. No candidate was marked below the lower 60s range.

Name of Paper	Jurisprudence and Political Theory
No. of students taking paper	25

Summary reflections on the paper as a whole

Twenty five candidates wrote essays for the subject this year. Fourteen wrote on Q6 (on whether consistency requires that standards of equal rights or equal opportunity that apply domestically also apply globally.). Thirteen wrote on Q2 (on whether people can create new obligations by choosing to do so) and twelve wrote on Q3b (on whether a directive is authoritative if we better conform to reasons by treating it as if it were authoritative). Q1 (whether the point of law is to constrain the use of the power of government) was attempted by eleven candidates. Q5 (whether in a genuine community of equals the majority must explain to those who face bleaker prospects why it has not chosen a different arrangement under which their prospects would be better) was attempted by nine candidates. Q3a (whether the law is supposed to change people's normative situation and how it could accomplish that) and Q4 (whether the fact that members of a community behave in some way can give reason to behave in that way) were each attempted by eight candidates. Seven candidates chose from among the first four, more narrowly jurisprudential questions.

Overall the quality of the essays was exceptionally high. Most essays were sharply focused on the relevant question and defended a thesis. The best essays were particularly clear and precise and illustrated claims with effective original examples, with some attaining subtlety and insight. Eleven of twenty five candidates achieved a distinction-level mark. Thirteen achieved a mark in the 60s, of whom nine scored 65 or better. One candidate achieved a mark in the 50s.

Name of Paper	Law and Society in Medieval England
No. of students taking paper	5

Summary reflections on the paper as a whole

This was the first year in which the five students taking the course were assessed by two essays written during the Easter vacation and chosen out of a total of eight questions. Only one question (on the main beneficiaries from de Donis) went unattempted and only one question (on whose interests were served by the system of debt registration and enforcement established by the statutes of Acton Burnel and Merchants) attracted three students. The overall standard was very high.

Name of Paper	Legal Concepts in Financial law
No. of students taking paper	22

Summary reflections on the paper as a whole

The standard this year was generally good, with some really excellent scripts. There were also some weak scripts, which were characterised by failure to engage with the question posed, lack of any real argument and, in some cases, lack of knowledge of the relevant law.

Q1 The very best answers to this popular question considered the meaning of the terms used in the quotation, such as 'legal personality', before discussing its use in financial transactions. There were a number of examples from which candidates could choose to illustrate their argument: the most popular one was securitisation, but others included the structuring of loans to groups of companies and the use of guarantees. Weak answers failed both to identify and analyse relevant transactions and to make any properly informed discussion of the advantages and disadvantages of the use of the concept of separate legal personality.

Q2 The best answers to this question described with precision the meaning they attributed to 'abstract' and 'quantitative', and discussed how these two conceptions appears in English law, with detailed analysis of the caselaw. Weaker answers tended to attempt relate the two conceptions to the classic theories of money, with no analysis of English law and no discussion of the application of the two conceptions in decided cases.

Q3 This question was generally answered very well indeed, with some very pleasing critical analyses of the caselaw in which the various parts of s.2 of the ISDA Master Agreement have been interpreted, and some excellent discussion of the ramifications of these decisions.

Q4. There were some very good answers indeed to this question, evidencing close attention to the principles concerned and a real appreciation of why it mattered that a proprietary interest had been created. Weaker answers treated the question as about characterisation in general and discussed how the courts determined whether an interest was absolute or by way of security, or whether a charge was fixed or floating, which was not within the scope of the question.

Q5. There were very few answers to part (a) of this question. Part (b) attracted a large number of answers, many of which were very good. The best answers identified the various aspects of the definition which had caused problems in the case law or had the potential to cause problems in the future. There were many sensible, and sometime innovative, suggestions of amendments to the definitions to overcome the identified difficulties.

Q6. While there were some good answers to this question, focusing on the core characteristics of a documentary intangible, many answers tended just to write a standard essay on the holding of securities through intermediaries.

Q7. Only two candidates attempted this problem question. They explored the issues methodically and with a good appreciation of relevant case law, and the arguments about the nature of digital assets.

Q8. This was a more popular problem. It raised a number of issues, which needed to be discussed with reference to the case law and legal principles. Weak answers were marred by lack of accuracy and lack of understanding of the differences between a fixed and a floating charge.

Name of Paper	Medical Law and Ethics
No. of students taking paper	18

Summary reflections on the paper as a whole

The overall standard of scripts for this paper was very high. All the questions were attempted by at least one candidate, although questions around mental capacity (Q. 2), reproductive autonomy (Q. 3), body ownership (Q. 4), and end of life (Q. 1) were the most popular. There were few weak scripts with all candidates showing a good knowledge of the legal and academic material.

The best scripts were marked by paying careful attention to the precise question asked and drawing on the argument in the literature most relevant to the issue at hand. They also demonstrated a critical engagement with the disagreements on controversial issues and sought to explore the underlying basis of the disagreement. The least successful scripts were more prone to summarise the arguments of others, rather than analyse the claims and subject them to critical assessment. The best scripts also showed how the ethical issues played out in legal cases. It was a pleasure to see how many candidates had engaged deeply with the literature and to note the wide diversity of views on controversial topics.

Name of Paper	Principles of Civil Procedure
No. of students taking paper	19

Summary reflections on the paper as a whole

19 candidates sat the examination this year. Overall the standard was more variable than in previous years with a small number of candidates receiving marks below 60, but the standard of distinction-level scripts was still very strong. This was the first year we had provided a case list and, perhaps as a result, it appeared candidates covered more case law in their answers. Weaker scripts did not directly answer the question asked – for example the question on costs and funding specifically directed candidates to consider the problem of resource inequality. Yet, some candidates wrote what appeared to be pre-prepared essays on the high costs of civil litigation. Strong scripts provided a sophisticated synthesis and critique of the primary and secondary material on the reading list, or developed original well thought out proposals to address existing legal problems. All 9 questions on the examination were attempted.

Name of Paper	Philosophical Foundations of the Common Law
No. of students taking paper	20

Summary reflections on the paper as a whole

<p>The overall quality of the scripts was very impressive, with virtually all candidates demonstrating the ability to engage with the questions on their precise terms, and by way of offering genuine theses. All questions were attempted by multiple candidates; none was exceptionally popular or unpopular, and none proved to be particularly problematic (or particularly resistant to first-class treatment) for those who chose it.</p> <p>As befitting a philosophical subject, it was pleasing to see answers to the same questions which have very 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. – similarly resulting in distinction-level marks.</p> <p>A small number of weak answers (all still in the 60s, but with marks significantly below the majority of other efforts) suffered from the same flaw, namely that of reliance, in the context of tackling private law questions, on material from other BCL courses, which does not offer the same degree of philosophical nuance or rigour.</p>
--

Name of Paper	Principles of Financial Regulation
No. of students taking paper	13

Summary reflections on the paper as a whole

<p>A total of 36 candidates (23 MLF and 13 BCL/MJur) took this paper. The overall standard of the scripts was, as in previous years, strong. Seven candidates (22%) obtained marks of 70 or above and only one candidate (3%) obtained a mark lower than 60. The average mark was 66, similar to previous years.</p> <p>Most candidates were able to synthesise effectively a wide range of materials. However, the questions invited candidates to focus on specific aspects of the issues they had studied. A common weakness in a number of the scripts was insufficient attention to this particular focus – that is, not fully answering the specific question set – resulting in answers that simply gave a general overview of the topic in question. Those candidates who were successful in structuring their answers so as to engage directly with the particular question set were rewarded accordingly. The most impressive scripts were characterised by candidates taking carefully-reasoned positions of their own, demonstrating clear evidence of independent thought.</p>

Name of Paper	Private Law and Fundamental Rights
No. of students taking paper	19

Summary reflections on the paper as a whole

Nineteen candidates sat this paper. The standard of answers was high, probably higher than in previous years. All candidates demonstrated a good knowledge of the assigned materials for the course. All scripts received a mark of 60 or above. Eight candidates received a mark of 70 or above. Question 2 allowed a large number of candidates to assess the relative merits of the familiar and well-known arguments between judges on the Supreme Court and legal scholars regarding the need for the law of negligence to be developed in order to protect human rights. Better candidates stressed the significance of potential liability for omissions and the possible difference in remedies in tort and under the Human Rights Act. Question 3 attracted some strong answers, including some that articulated in various forms the view popular in Oxford that the Human Rights Act does not require any changes to be made to private law, at all, ever. Most candidates focussed on the law of nuisance, but the potential scope of the question ('changes to tort law') was significantly broader. Question 4(a) attracted some good answers, with not only discussions of double proportionality but also protecting the essence of rights. However, no-one had a convincing account of why the courts seem reluctant to justify this step in their reasoning in any great detail. Question 5 was popular but answers tended to focus on decisions regarding landlord and tenant in relation to Article 8, but did not consider the case of evictions for failure to repay mortgage instalments under EU consumer protection laws and the Charter of Fundamental Rights. Question 6 was popular, but not always comprehensively answered in the sense that it required an examination of the rights of both private parties and public authorities with regard to exclusion of protesters from their land. Question 8(b) attracted a few thoughtful answers on the issue of whether courts should (and do) interpret contracts so that they conform to fundamental rights, which enabled the candidates to explore all the different possible meanings of indirect effect. Other questions attracted one answer or less, so comment is probably not helpful.

Name of Paper	Regulation
No. of students taking paper	9

Summary reflections on the paper as a whole

This academic year yielded again a strong performance of students in the 3 hour written examination for the 'Regulation' course. Students showed in particular a good understanding of a range of the theoretical perspectives discussed during MT 2018. Answers to the three examination questions also showed good skills in critiquing these theoretical perspectives by applying them to the specific case studies on economic and social regulation as well as the 'law and technology' case studies discussed during HT 2019.

There was this year a high incidence of in total seven distinction-level scripts, with 74% awarded to the prize winning script.

Some of the answers in relation to the five questions on Part B of the examination paper that focused on the specific case studies of regulation discussed during HT 2019 would have needed to contain more legal detail in order to score higher marks. On a few occasions the specific examination question asked could have been tackled in a more direct and focused way.

Overall, most scripts provided well-structured answers with a significant amount of critical analysis that showed a development of short essay writing skills also through the tutorial essays and the collection.

Name of Paper	Restitution of Unjust Enrichment
No. of students taking paper	31

Summary reflections on the paper as a whole

All of the questions had some takers, the problem questions proving very popular. Questions 1 ("enrichment") and 2 ("at the expense of") proved the most answered essays, unsurprisingly given their central importance in the most recent ultimate appellate court decisions, and the new focus upon them in academic work. Question 3 ("defences") drew some thoughtful responses from those with a broad understanding of the many defences there possibly are. Question 4 ("policy") proved unpopular, partly because it is so difficult to define what "unjust enrichment" might be. Question 5 ("undue influence") was surprisingly poorly done, with too few having a firm enough grasp of the caselaw, or the possible species there might be, with their different underlying explanations. Question 6 ("tracing") attracted few takers, with the better answers considering at the outset what 'tracing' might be, so as to consider whether it makes sense for the rules to vary at common law and equity. Question 7 ("agency/banks") was also unpopular, perhaps reflecting the fact that there is so little straw out of which to build bricks. Question 8 ("absence of basis") was phrased in such a way as to deter the reproduction of standard essays on the topic. In this it proved successful. Question 9 (primarily "failure of consideration") saw too many

candidates who were over optimistic as to the prospects of Cruddy Ltd having a successful claim, absent rescission. Unjust enrichment is too often seen as a magic adjustable spanner, enabling any claim however far-fetched to succeed. Part of the point of the course is to disabuse students of this notion. Question 10 (primarily “discharge of another’s obligation”) was less popular, perhaps reflecting the fact that this topic is under-studied. Question 11 (primarily “duress”) saw the duress aspects of the question well tackled, the other parts (eg claims to extra gains, claims against third parties) less well done.

Overall, an encouraging year. Many candidates seem to have hearkened to the advice of past reports, that sticking close to the caselaw is the best route to success.

Name of Paper	Roman Law (Delict)
No. of students taking paper	7

Summary reflections on the paper as a whole

Seven candidates attempted the examination. There were two marks in the 70s and five in the 60s. Overall, candidates demonstrated a good command of the set texts and familiarity with the relevant secondary literature. The best answers showed sensitivity to both the content and context of the primary sources, as well as sophisticated doctrinal analysis.

The small number of candidates in this paper precludes detailed commentary on individual questions; two questions (i.e. questions 7 and 8) attracted no takers. Nevertheless, we include some general remarks on the most popular questions.

Question 2: regarding part (a) in particular, candidates who attempted this question showed good knowledge of debates in the secondary literature regarding the definition of theft, in particular the contrectatio question, but only relatively few pushed through to the deeper issues raised by this text: for example, the way in which philosophical debates regarding the nature of things may have informed jurists’ treatment of the cases discussed, or the difficulty jurists may have had in matching the concept of theft to their chosen definition.

Question 3: several candidates furnished thoughtful and sensitive analyses of this text, but only a few were able to draw parallels with the treatment of this issue in Gaius’s Institutes, or with treatments of iniuria to slaves elsewhere in Ulpian’s Edictal Commentary.

Question 4: although answers to part (a) were generally strong – most candidates made a serious and sophisticated attempt to analyse this difficult text – answers to part (b) sometimes showed an absence of detailed knowledge of atrox iniuria in both its substantive and procedural aspects.

Question 5: answers to this question were generally strong; the best displayed accurate knowledge of the relevant primary texts.

Question 6: again, some strong answers here, but on the whole candidates failed to engage with the Aristotelian analysis of wrongdoing, explicitly referenced in the Daube quotation on which the question was based.

Question 10: candidates who attempted this question showed detailed knowledge of the accounts of quasi-delict provided in the secondary literature, but some failed to engage adequately with the issues raised by the text itself.

Name of Paper	Trusts and Global Wealth Taxation
No. of students taking paper	5

Summary reflections on the paper as a whole

This is the second year in which this course, which has developed out of the former Personal Taxation course, has been taught and examined. It is examined by a two-hour written paper, taken at the end of the year (which makes up 50% of the overall mark) and by a 4,000 word extended essay, written during the first week of Trinity Term (which makes up the other 50% of the overall mark). The written paper focuses on the UK material and the extended essay on the various international aspects of the course.

The course was taken by five candidates. Three candidates obtained distinction-level marks, and the other candidates' marks were in the high 60s. The extended essays and examination answers were generally of a very high standard, effectively combining issues of policy, of statutory construction, and of complex case analysis into a coherent whole both (in the examination) in the context of the UK taxation of individuals and trusts, and (in the extended essays) in the wider context of the issues raised for UK taxation (and more broadly) as wealth comes increasingly to be held in several jurisdictions in a range of trust-like (but distinct) international vehicles.

Report of factors mitigating circumstances applications.

Name of examination: BCL / MJur 2019	
Number of mitigating circumstances applications received before final meeting of examiners:	14
Number of mitigating circumstances received after final meeting of examiners:	0
Total number of mitigating circumstances applications received:	14
Percentage of mitigating circumstances applications received (as a percentage of all candidates in the examination):	9
Number of mitigating circumstances which resulted in a change to the classification/final degree result:	2
Percentage of mitigating circumstances applications which resulted in a change to classification/final degree result (as a percentage of all mitigating circumstances applications):	14
Number of mitigating circumstances applications which resulted in changes to marks on an individual paper(s)/submission(s) (but not to the final classification/degree result):	0
Percentage of mitigating circumstances applications which resulted in changes to marks on an individual paper(s)/submission(s) (but not to the final classification/degree result) (as a percentage of all mitigating circumstances applications):	0
Number of mitigating circumstances applications which did not result in any changes to marks or degree result:	12
Percentage of mitigating circumstances applications which did not result in any changes to marks or degree result (as a percentage of all mitigating circumstances applications):	86