



Pearson

International Advanced Level Law YLA1

Paper 1

Underlying Principles of Law and the English Legal System

Question 3

Exemplar scripts with examiner commentaries

Introduction

This set of exemplar responses with examiner commentaries for IAL Law, Paper 1 Underlying Principles of Law and the English Legal System (Q3), has been produced to support teachers delivering and students studying the International Advanced Level Law qualification.

This pack includes exemplar scripts, examiner commentaries and mark scheme for ease as reference.

The scripts selected exemplify performances for this paper of the June 2017 examination series.

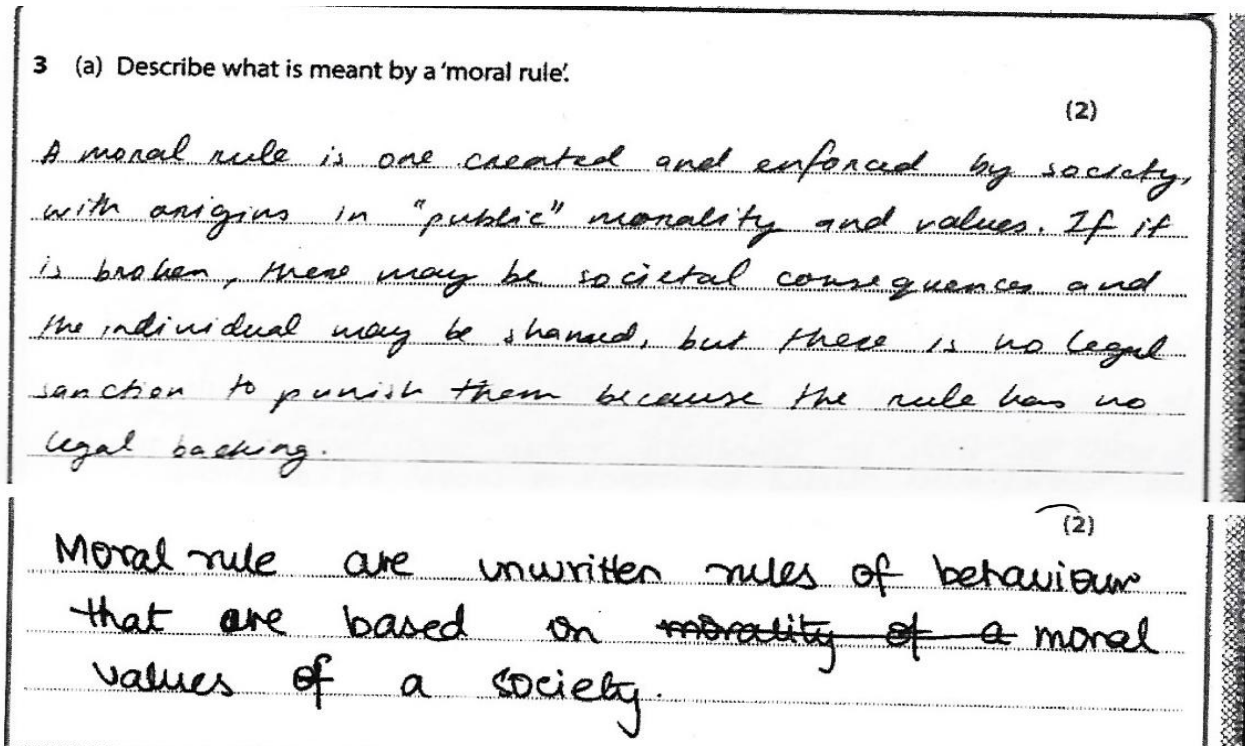
This document should be used alongside other IAL Law teaching and learning materials available on the [Pearson website](#).

Link to May/June 2017 IAL Law examination Mark scheme is [here](#) on the IAL Law webpage.

Exemplar scripts

Question number	Answer	Marks
3(a)	<p style="text-align: center;">(1 A01), (1 A02)</p> <p>One mark for providing an accurate definition (1 A01), and one mark for an example or expansion (1 A02).</p> <ul style="list-style-type: none">• A standard of behaviour accepted, set or followed by society but not enforced by law(1 A01) <p>EXAMPLES</p> <ul style="list-style-type: none">• Intervening in a fight – immoral but not illegal(1 A02)• Diving in to rescue an unrelated drowning child – immoral but not illegal (1 A02)• Committing adultery – moral but not illegal• Or similar correct example (1 A02).	(2)

Script 12 and script 13



Examiner Comment – 3a (script 12 and script 13)

The command word is '**describe**' which requires candidates to paint a picture with words which demonstrates the meaning of a legal term.

This question is a points-based one where the candidate needs to provide an accurate definition for one mark, and then expand on this by giving an example for the other mark.

Script 12 scored 2 marks as it makes 2 points – rule enforced by society and no sanction.

Script 13 only scored 1 mark, as only one point is made.

Question: 3b. Explain the relationship between law and morality (6)

Question number	Answer	Marks
3(b)	<p style="text-align: center;">(2 AO1), (2 AO2), (2 AO3)</p> <p>Responses are likely to include:</p> <ul style="list-style-type: none"> • Salmond’s view – intersecting circles of law and morality • Changes in the law (body of rules which society must abide by) can result in changes in morals: Race Relations Act, Homosexuality and same sex marriage • Changes in morals can result in changes in the law: resulted in rape in Marriage - RvR , Abortion Act • Wolfenden Report – law should not intervene in private lives of citizens – public and private morality distinctions and examples • Hart - legal enforcement of morals unnecessary and interferes with individual liberty <p>Just comparison of law and morality MAX 2 marks – level 1</p>	(6)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1–2	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
Level 2	3–4	<p>Elements of knowledge and understanding are demonstrated. Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately</p>
Level 3	5–6	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner, and supported by appropriate legal authorities.</p>

Script 14

There are ~~two~~ ^{three} main theories which deal with the interrelatedness of law and morality. Natural law legal theory, developed by theorists such as Thomas Aquinas, says that law and morality are one and the same. It is derived from a higher power and not human superiors and laws which do not contain morality are invalid and corrupt. Legal positivism takes the opposite stance and says that law has nothing to do with morality. Laws ~~may~~ ^{should} have moral roots but they are valid even if they don't, and they are made by the sovereign e.g. Parliament. Jeremy Bentham is a pioneer of both this theory and that of utilitarianism, the theory that only laws which create the greatest good for the greatest number should be made.

Script 15

(b) Explain the relationship between law and morality.

(6)

Law is a body of rules passed by higher authority. Morals are decisions made by people. Breaching of law attract punishment morals are not punishable. Morals can be change overnight but law need formal procedure to be change. people can change their moral but people can not change the law.

Examiner Comment – 3b (Scripts 14 & 15)

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was '**Explain**', which was looking for a detailed answer, and required a linked justification or exemplification of the relationship between law and morality. It did require authorities. A simple comparison of law and morality only achieved level 1 marks.

Script 14 scored 5 marks in the level 3 band. It showed accurate knowledge supported by relevant authorities and theories.

Script 15 scored 1 mark and was deemed to be a level 1 response. It lacked detail, and knowledge and understanding was not directly applicable to the question. There are no theory or authorities referred to.

Question: 3c.

Cultural background and sexual orientation often influence personal choices. Evaluate using examples, whether the law can resolve complex moral issues. (12)

Question number	Indicative content	Marks
3(c)	<p style="text-align: center;">(2 AO1), (2 AO2), (4 AO3), (4 AO4)</p> <p>Responses are likely to include:</p> <ul style="list-style-type: none"> • Similarities: both set standards of behaviour • Stating the definition of law as a set of legal rules • Contrasting this with rules that are defined by standards of morality <p>Differences: penalties or punishments for breaches of law</p> <ul style="list-style-type: none"> • Differentiating law from morals and recognising that rules adopted by people following personal conscience may not necessarily be reflected in legislation • Illustrating the similarities and differences between moral and legal rules <p>John Stuart Mill – harm to others</p> <p>Hart / Devlin Debate the latter arguing the damage caused by law lacking morality against the view that some people's moral values ought not to be used to stop others' behaviour</p> <p>Discussion on legal theories - Hart – positivist – no valid connection between law and morals</p> <p>Natural law – man made laws depend on a higher morality and if not, then they are not valid</p> <p>Wolfenden Committee</p> <p>Examples: Human Fertilisation and Embriology Act Surragacy</p> <p>Euthanasia - Diane Pretty</p> <p>St George’s Healthcare trust vS Equality Act</p> <p>Mandatory Life sentences Anti-terrorism laws</p> <p>Evaluating decided cases on above topics and cases such as R v Brown, Shaw v DPP, R v R, the Gillick case and concluding as to the extent to which morals ought to inform English laws.</p> <p>Conclusion, weighing up the evidence</p>	(12)

Examiner comment

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was '**Evaluate**', which was looking for an extended answer with examples, to identify and analyse whether the law can resolve complex moral issues. Candidates were expected to review the statement in the question and draw on evidence and their understanding of the law to justify their argument and come to a conclusion. Candidates needed to weigh up relevant issues and authorities.

A **level 1 (1-3 marks)** answer demonstrated isolated elements of knowledge

A **level 2 (4-6 marks)** answer demonstrated some understanding and began to apply their knowledge to the question, with perhaps use of authorities, albeit sometimes applied inappropriately.

A **level 3 (7-9 marks)** answer demonstrated accurate understanding of the question demonstrated accurate understanding supported by relevant authorities and attempted to balance reasoning and evaluate with a conclusion.

A **level 4 (10-12 marks)** answer demonstrated thorough and accurate understanding and an awareness of competing arguments with balanced interpretations, reasoning and a sound conclusion.

Many believe that law and morality are not meant to coincide and are separate entities and should not be allowed to coincide. In the 1950s, there were great debates going on regarding the deterioration of morality among the younger generations. Issues such as drug abuse, homosexuality, prostitution came into discussion. Finally, a Government-commissioned report was launched which went on to find out whether prostitution and homosexuality should be allowed or not. It was titled the 'Wolfenden Report', the results of which are that in the report the Commission recommended that they should be legalised with restrictions and people should not interfere in others' public lives that agreed with the report's findings and Devlin disapproved. This started the great Hart-Devlin debate.

Devlin believed in a basic argument of good and evil was necessary to keep the society coherent. Hart believed that issues of moral immorality should not allow someone to be imposed sanctions upon.

In R v Shaw v DPP, Shaw published a magazine called 'Ladies Directory' cataloguing all the sexual practices allowed. House of Lords charged him with a conspiracy to corrupt public morals. Thus, it is seen that Devlin's views were supported here.

Again in R v Gibson, a woman decided to person make and using freeze-dried foetuses of 34 weeks worth development. Again she was charged for outraging decency and Devlin's views were upheld. In R v Brown, it is seen that a group of people formed a sort of

