Subfield 1: Philosophy of Law and Constitutional Interpretation

1. Compare and critically assess TWO of the following four legal theorists on the question of the relationship between law and morality: Aquinas, Hart, Finnis, and O.W. Holmes.

2. Since the New Deal, the scope of regulation by the United States government has expanded significantly. At the same time, the Supreme Court continues to describe the Constitution as establishing a system of "dual federalism." How, if at all, does it make sense to describe the constitutional structure today as one of dual federalism? What is the appropriate role of courts and other governmental actors in defining the relationship between the United States government and the States?

Subfield 2: American Constitutional Law and Judicial Politics:

1. There seems to be general agreement that John Marshall was the greatest Justice in the history of the Supreme Court. Do you agree with this? Does it even make sense to make judgments like that? Are there objective factors that would go into making such an assessment? If so, what might they be? If not, why not?

2. Alexander Bickel argued that judicial review suffers from a counter-majoritarian difficulty because, “when the Supreme Court declares unconstitutional a legislative act or the action of an elected executive…it exercises control, not on behalf of the prevailing majority, but against it.” Robert Dahl disagreed; he claimed that, “[e]xcept for short-lived transitional periods…the Supreme Court is inevitably a part of the dominant national alliance… [and] of course supports the major policies of the alliance.” Based on the discussions of majoritarianism and the role of the Court in the Federalist Papers, how would Madison and Hamilton respond to these claims?

Subfield 3: International Law and Human Rights

1. The International Court of Justice (ICJ) constitutes the main judicial organ of the United Nations. Throughout the Court’s history, it has struggled to establish high levels of authority/legitimacy among all states in the system. Identify three structural or functional weaknesses of the ICJ and elaborate on how these weaknesses may shape states’ views of the Court.

2. Human Rights Law is embodied in several international treaties and conventions. Depending on specific issue area, these international instruments experience varying levels of support from states in the system. Elaborate on the history and theoretical underpinnings of the international human rights law, linking it to the natural law doctrine. Can we truly say that contemporary international law provides a “universal system of human rights?”