

(4)

(f) What is the legal aspect of death penalty? Discuss.

(g) Write a short note on 'Preamble' of the Indian Constitution.

(h) Write a short note on 'breach of contract'.

(i) Give a comparative analysis of Contract Law and Tort Law.

4. Answer any two of the following questions : 10×2=20

(a) Discuss the various theories of punishment and its justification.

(b) How do you explain that tort law is based on causation?

(c) Give a comparative analysis of positive and negative rights.

5. Answer any one of the following questions : (d) 14

(a) Explain legal positivism with reference to Hart and Austin.

(b) Describe the salient features of the Indian Constitution.

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2020

PHILOSOPHY

Paper : PHL DSE 4

(Philosophy of Law)

Full Marks : 80

Time : 3 hours

The figures in the margin indicate full marks for the questions

1. Choose the correct answer from the following : 1×6=6

(a) Which nineteenth century philosopher argued that people should be able to do what they want as long as they don't pose direct harm to others?

(i) Devlin

(ii) Hart

(iii) Plato

(iv) Mill

(b) To the legal positivist, what governs our expected behavior?

(i) Posited laws

(ii) Ethical beliefs

(iii) Moral arguments

(iv) Random rules

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(Turn Over)

- (c) Which of the following theorists believed that law against prostitution was necessary to protect public morality?
- (i) Devlin
 - (ii) Hart
 - (iii) Wolfenden
 - (iv) Mill
- (d) The criticism that morality, by itself, is insufficient to create legislation is based on which of the following theories of law?
- (i) Legal positivism
 - (ii) Legal relativism
 - (iii) Legal moralist
 - (iv) Legal reality
- (e) Which of the following describes retributive punishment?
- (i) People are punished because they deserve to be punished
 - (ii) Punishment should be beneficial for society
 - (iii) Punishment should not exist
 - (iv) Punishment should focus on healing the victims

- (f) 'Reciprocal' contracts means
- (i) one-sided contracts
 - (ii) bilateral contracts
 - (iii) trilateral contracts
 - (iv) None of the above
2. Answer the following questions : 2×5=10
- (a) What is the traditional natural law theory?
 - (b) What do you mean by obedience to the law?
 - (c) What do you understand by law for the common good?
 - (d) What do you mean by capital punishment?
 - (e) What is retributive theory of punishment?
3. Answer any six of the following questions : 5×6=30
- (a) What is the law of contract? Discuss.
 - (b) What are fundamental rights? Discuss.
 - (c) Discuss the Hohfeldian concept of rights.
 - (d) Are criminals responsible for their actions? Discuss.
 - (e) What is the difference between justification and excuses? ***