

Total number of printed pages--4

14 (LLM 1) 1003

2014

**MODERN THEORIES OF LAW
AND STATE**

Paper :1003

Full Marks : 80

Pass Marks : 32

Time : Three hours

*The figures in the margin indicate full marks
for the questions.*

1. "Natural Law Theory has a history reaching back centuries BC."

Write an exhaustive note on the evolution of the theory during the Greek and the Roman Period.

8+8=16

Contd.

BYCE P/1/17

(17)

OR

"In order to secure peace and to enforce law of nature, Hobbes argued, it is necessary for men to enter into a compact mutually among themselves by which everyone agrees to transfer all his power and strength upon one man, or upon an assembly of men, on condition that everybody does the same."

Explain the above in terms of the sovereign as proposed by Hobbes for the purpose of promoting the Peace, Safety and Convenience of all. 16

2. Make an elaborate assessment made by Bentham, Austin and Hart towards the establishment of Analytical Positivism. Find out their similarities and dissimilarities of approaches for introducing Analytical Positivism. 16

OR

Discuss about the evolution and two basic points for understanding Kelsen's Pure Theory of Law.

2. What do you understand by the term "groundnorm." State about the effectiveness and validity of the theory. Mention briefly about the several implications of this theory. 2+4+4+4+2=16

3. "Values are the life-blood of the law. the motive-power of a machine which would otherwise be inert". Explain the above in the light of textures of law and at least five yardsticks of evaluating conflicting interests in every decision reflecting a value judgement. 6+10=16

OR

Give a detail account of the contribution of Professor Hall in insisting on inclusion of moral value in a definition of positive Law.

How he explains "integrative" jurisprudence ? 8+8=16

4. Critically examine the distinction that provides the respective bases for the terms "the institutional" and "the utilitarian" interpretations of moral position.

Elucidate your views with the help of submissions made by Hart and Devlin. 4×4=16

OR

Write notes on the following : 8+8=16

- (a) Machinery of the law
(b) Restraint of Liberty.

5. Dworkin advocated for individual and minority rights. Discuss about Dworkin's right thesis, hard cases and his objections to judicial decision making on policy grounds. 16

OR

✓ Academically evaluate the role of higher judiciary in India in laying the foundation of the "Jurisprudence of obligation" within the ambit of the mandates of the Constitution of India, citing some of the landmark judgments of the highest judiciary in India. 16