

Total number of printed pages-4

23 (LLM-I) 1003

2017

**MODERN THEORIES OF
LAW AND STATE**

Paper : 1003

Full Marks : 80

Time : Three hours

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

1. "The problem of the relation between justice and positive law dominated Greek thinking" (W. Friedmann). Explain the above statement based on the contributions made by the Greek philosophers from Homer to Stoics.

16

Or

In the process of search for absolute values based on social contract theories, make an academic assessment of the contributions of the classical natural law philosophers from H.Grotius to J.J. Rousseau.

16

Contd.

2. Make an elaborate assessment of the contributions made by Austin towards the development of analytical positivism. How far is his theory different from that of Bentham ? Write a brief note on the application of positivism under the Indian Legal system. 8+4+4

Or

- ✓ What are the six essential foundations of Kelsen's Pure Theory of Law as advanced by W. Friedmann ?

"A theory of law should be uniform, i.e. it should be applicable at all times and in all places" (Dias). Elucidate the above concept in the light of general jurisprudence, propositions of law and science, groundnorm and its effectiveness and validity as espoused by Kelsen. 16

3. What do you understand by the terms 'Values' and 'Value Judgement' ? What are the different textures of law ? Mention briefly *at least five* yardsticks by which conflicting interests are evaluated by judges. Cite Supreme Court cases to support your views. 16

Or

According to Ronald Dworkin, legal systems contain rules and principles. How Dworkin logically related the rules to the principles in order to make a legal system dynamic and Justice Oriented ? What is 'fit' principles and how is it ascertained by the judiciary ? 16

4. "Liberty ends where duty begins, and vice-versa" – R.W.M. Dias.

Analyse the above in terms of the criterion based on which the limits of liberty is determined. 16

Or

In the field of dynamic Indian Constitutional Jurisprudence, how according to you, the compatibility of liberty of individual with that of fundamental duties can be harmoniously arrived at ? 16

5. Evaluate the contributions made by the Indian Judiciary in evolving new sets of "Jurisprudence", viz., environmental, gender, dalit etc in recent years. Support your view with the help of case laws. 16

Or

"The main difficulty about Professor Hall's thesis is a practical one. For all the persuasiveness of his theoretical demonstration that the moral value has to be included in a definition of positive law, the question remains : how does this help in the day-to-day business of law-as-action"? (Dias)

What do you understand by the term "Integrative Jurisprudence" ? What are the six features possessed by law, according to Jerome Hall ? 16