

Total number of printed pages-7

19 (III) JUPR 3-3

2019

JURISPRUDENCE

Paper : 3-3

Full Marks : 80

Time : Three hours

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

1. Fill in the blanks by choosing the appropriate answer. 1×10=10
 - (a) The significance of the study of Jurisprudence lies in the opportunity for lawyers to bring theory and life into focus as it concerns human thought in relation to _____. [Society/Judicial System]
 - (b) _____ defines jurisprudence as the 'Science of law'. [Bentham/Salmond]

Contd.

- (c) 'Legal Theory' makes _____ approach to law. [analytical/philosophical]
- (d) _____ main thesis is that the task of law is 'Social Engineering'. [Austin's / Pound's]
- (e) According to _____ realism means a movement in thought and work about law. It takes law as a means to social ends and any part of it needs constant examination for its purpose and effect. [Jerome Frank / Llewellyn]
- (f) The Pure Theory of Law is a theory of _____. [positive law / natural law]
- (g) _____ is the meaning of an act by which a certain behavior is commanded, permitted, or authorized. [Norm / Interest]
- (h) According to Von Savigny (1779-1861) -'Law grows with the growth and strengthens with the strength of the

people and finally dies away as the nation loses its _____. [nationality/ independence]

- (i) Theories of legal realism, like positivism look on law as the expression of the will of the state, but see this as made through the medium of the _____. [Courts / Legal Philosophers]
- (j) In the case of Chiranjit Lal v. Union of India (1950) SCR 869, the Supreme Court of India observed that 'the right to property guaranteed by Article _____ means that rights, which by themselves and taken independently, are capable of being acquired, held, or disposed of as property.' [19(1)(f)/19(2)(g)]

2. Write short notes on : (**any five**) 2×5=10

- (a) Scope of Jurisprudence
- (b) Legal personality of a foetus

- (c) Legislation
 - (d) Grundnorm
 - (e) Hans Kelsen and nature of international law
 - (f) Custom
3. (a) Define the term 'Justice'. What are the different kinds of Justice ? $2+4=6$
- (b) Distinguish between Civil and Criminal Justice. 6

Or

Explain with examples the following terms used by Austin :

- (i) Sovereignty
- (ii) Subjection and
- (iii) Independent political society.

Where can you locate such sovereign in India ? $10+2=12$

4. Do you agree that the functions of Volksgeist, in law making, in modern times is limited? Evaluate the positive and negative aspects of the concept. $4+8=12$

Or

Discuss the origin, development and revival of 'Natural Law Theory' in 20th century. 12

5. (a) What do you mean by the terms 'Legal Rights' and 'Legal Duties' ?
- (b) Explain in brief, the Hohfeldian analysis of jural relations. Define each term with examples. $6+6=12$

Or

"Roscoe Pound's theory of Social Engineering proceeds on the assumption that conflicting or competing social interests can be reconciled". Elucidate the statement with examples. 12

6. "Theories of legal personality are indeed fascinating in their analogy and ideologies. But they don't always provide safe guide for lawyers and judges in their daily tasks." Elucidate the statement with at least two theories of legal personality. 12

Or

What do you mean by the term 'Ownership'? Discuss various modes of acquisition of ownership with examples. 4+8=12

7. Write short notes on : **(any four)** 3×4=12

- (a) Analytical Legal Positivism
- (b) Fundamental Rights in Indian Constitution as emphasized by the Supreme Court of India in Maneka Gandhi Vs. Union of India, AIR 1978 SC 597
- (c) Concept of Truth (Satya) and Non-violence (Ahimsa)
- (d) Sadachar and Indian Constitution

- (e) Distinguish between Obligation and Liability
- (f) Idea of obligation' in Hart's theory of law

Or

"There is no one feminist approach to law or theory of law that can adequately explain the complex and multiple oppression in the legal regulation on women." Elucidate the statement and show how the various approaches differ from one another. Which approach would you like to adopt as a feminist in India ? 12

Total number of printed pages-7

19 (III) JUPR 3-3

2018

JURISPRUDENCE

Paper : 3-3

Full Marks : 80

Time : Three hours.

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

1. Fill in the blanks by choosing the appropriate answer: 10×1=10

(1) Jurisprudence as a discipline is the _____ study of law. [legal/theoretical]

Contd.

- (2) Legal positivism has been one of the most influential schools of jurisprudence which focusses on outlining the _____. [law as it ought to be and not law as it is/law as it is and not law as it ought to be]
- (3) A rule based on morality may also be law according to the _____ provided it meets the formal criteria of legal validity. [positivist tradition/natural law theory]
- (4) The realist school is similar to the positivistic school in the fact that it believes that the law as it is _____ the law as it ought to be. [similar to/ different from]
- (5) _____ is best enshrined in the Latin maxim of *Lex injusta non est lex* or 'unjust law is not law'. [Natural law theory/Radical jurisprudence]
- (6) The natural law and its inter-relationship with morality finds mention in the work of Lon Fuller and _____ [Ronald Dworkin/H. L. A. Hart]

- (7) The power of legislation vests in the _____ of a political community, [sovereign authority/executive authority]
- (8) The idea or concept of legal possession is more or less based on the idea of _____. [possession in fact/possession in law]
- (9) According to Holland ownership is a plenary control over an object. According to him an owner has three rights on the object owned possession, _____ and disposition. [ownership/enjoyment]
- (10) The law of property is the law of proprietary right _____. [in personal / in rem]

2. Write short answers : 2x5=10

- (a) Distinguish between Natural Rights and Fundamental Rights.

- (b) What is the legal personality of a foetus ?
- (c) What do you mean by the term, obligation ?
- (d) Briefly state the Contribution of Savigny.
- (e) What is 'Social Solidarity' ?
3. (a) What do you mean by the term 'Justice' ? What are the different kinds of Justice ?
- (b) Explain briefly the concept of 'State' and 'Sovereignty'. 12

Or

What are the different sources of Law ? What are the requirements of a valid custom to become a source of law ? Discuss.

12

4. Discuss the approaches of Ihering, Duguit, Spencer towards Sociological School of Law. How their approaches different from Roscoe Pound's theory of 'Social Engineering' ?

12

Or

Write short notes on : **(any three)**

4×3=12

- (a) Social Engineering' thesis of Roscoe Pound
- (b) Concept of 'Grundnorm' according to Kelsen's Pure Theory of Law
- (c) What does Henry Maine mean by "From 'Status' to 'Contract' " ?
- (d) Briefly explain the 'idea of obligation' in Hart theory of law

5. How do you distinguish between Possession and Ownership ? Discuss two theories of possession with suitable examples. 12

Or

What do you mean by the term 'possession'?
What are different modes of acquiring
possession, specifically mediate and immediate
possession? 12

6. Define the terms 'right' and 'duty'. Briefly
discuss the analysis of legal rights and kind
of legal rights. 12

Or

Distinguish between Hohfeld's theory of jural
relation of power-liability from that of claim-
duty relation. 12

7. Discuss the concept of 'Feminist
Jurisprudence' and its impact on law.
Analyse the recent development of different
legislative enactments for the protection of
women in India. 12

Or

Briefly discuss the origin, development
and revival in 20th century natural law
theory. 12

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19 (III) JUPR 3-3

2017

JURISPRUDENCE

Paper : 3-3

Full Marks : 80

Time : Three hours

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

1. Fill in the blanks with appropriate answers given in the brackets : $1 \times 10 = 10$

(a) The term "Jurisprudentia" originated in _____. (*ancient Greece/ancient Rome*)

(b) _____ theory of punishment supports capital punishment.

(*Preventive/Deterrent*)

(c) According to John Austin, International Law is _____.

(*Law by analogy / Law by metaphor*)

Contd.

(d) _____ described law as a normative science. (Kelson/Roscoe Pound)

(e) According to _____ the task of law is 'social engineering'. (Bentham / Roscoe Pound)

(f) _____ Realists are mainly concerned with judicial decisions. (Scandinavian/American)

(g) A time-barred debt is an example of _____. (perfect right/imperfect right)

(h) An example of corporation aggregate is _____. (the President of India/a Company)

(i) The Supreme Court of India was established in _____. (1947/1950)

(j) Article _____ of the Constitution of India provides for 'complete justice'. (141/142)

2. Answer the following questions : 2×5=10

(a) What is a 'formal science'?

(b) Why did HLA Hart call legal rules as social rules?

(c) Write a short note on Roscoe Pound's 'jural postulates'.

(d) What do you mean by vicarious liability?

(e) What is "realism"?

3. Discuss the definitions of Jurisprudence as given by different jurists. Add a note on the importance of Jurisprudence. 8+4=12

Or

What is 'Precedent'? Discuss different kinds of precedents. Print out the situations when a precedent may not be followed by a court. 2+5+5=12

4. Critically examine Jeremy Bentham's Utilitarian theory. Compare Bentham's Positivist theory with Austin's theory. 8+4=12

Or

Explain Savigny's theory of "Volksgeist". What are the main defects of Savigny's theory? 8+4=12

5. Distinguish between basic ideas of American Realists and Scandinavian Realists. Write a note on the contribution of Realists towards further development of jurisprudence. 6+6=12

Or

Discuss the history of the Natural School of Jurisprudence. Explain the reasons behind the revival of the Natural School in the twentieth century. 8+4=12

6. Discuss Hohfeld's theory of jural relationship. 12

Or

Distinguish between the following :

4×3=12

- (a) Contractual Obligation and Tortious Obligation
- (b) Movable property and Immovable property
- (c) Civil liability and Criminal liability.

7. Discuss the important changes which took place in the Indian legal system after the independence. 12

Or

Write explanatory notes on :

6×2=12

- (a) Elements of possession
- (b) Merits and demerits of legislation.

Total number of printed pages-4

19 (Sem-III) JUPR

2016

JURISPRUDENCE

Paper : 3·3

Full Marks : 80

Time : Three hours

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

1. Fill in the blanks with appropriate answers given in the brackets : $1 \times 10 = 10$

(a) "Of Law in General" was written by _____ (Savigny / Bentham)

(b) _____ called jurisprudence as formal science of positive law. (Holland / Salmond)

(c) _____ school of jurisprudence is also known as Functional school. (Realist / Sociological)

Contd.

- (d) _____ divided sources of law into formal and non-formal sources of law. (Salmond/Bodenheimer)
- (e) For the American Realist school, _____ are the ultimate lawmakers. (Legislatures/ Judges)
- (f) Theory of 'social solidarity' was developed by _____. (Jeremy Bentham/Duguit)
- (g) A time-barred debt is an example of _____. (perfect right/imperfect right)
- (h) According to _____, law is the product of *Volksgeist*. (the Naturalists/ Savigny)
- (i) Rights having economic significance are known as _____. (proprietary rights / positive rights)
- (j) The President of India is _____. (corporation aggregate / corporation sole)

2. Write short notes on :

2×5=10

- (a) Persuasive precedents

- (b) Bentham's concept of sovereign
- (c) Judgment *per incuriam*
- (d) *Vinculum juris*
- (e) Concept of *Dharma*.
3. Write a critical note on the evolution of jurisprudence. Put forward your argument in favour of jurisprudence as a dynamic science. 12

Or

Discuss the merits and demerits of important sources of law. 12

4. Critically examine John Austin's Imperative Theory of law. 12

Or

Compare John Austin's Theory with the theory of Savigny. 12

5. Explain Roscoe Pound's Theory of Social Engineering. Point out the merits and demerits of Roscoe Pound's Theory. 6+6=12

Or

Discuss HLA Hart's concept of law a system of rules. 12

6. "Rights and duties are necessarily correlative".— Elucidate.

Add a note on Austin's concept of absolute duties. $6+5=12$

Or

Distinguish between : $4 \times 3 = 12$

- (a) Immediate possession and mediate possession
- (b) Possession and ownership
- (c) *Ratio decidendi* and *obiter dicta*.

7. Discuss how the Constitution of India has changed the Indian Jurisprudence. 12

Or

Write explanatory notes on :

- (a) Jural Correlatives as per Hohfeld's Theory.
- (b) Reformatory Theory of Punishment.

$6+6=12$

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19 (3-III) J.UPR 3-3

2015

JURISPRUDENCE

Paper : 3-3

Full Marks : 80

Pass Marks : 32

Time : Three hours

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

1. Fill in the blanks : 1×10=10
- (a) According to _____, jurisprudence is the study of first principles of civil law. (Austin/Salmond)
- (b) According to _____, the two branches of jurisprudence are Censorial Jurisprudence and Expository Jurisprudence. (Bentham/Holland)
- (c) Kelsen described law as a _____. (formal science/normative science)
- (d) Obligation means duty _____. (*in rem/ in personam*)

Contd.

(e) _____ demands emancipation, equality and liberation for women. (Feminism/Positivism)

(f) Sociological school of jurisprudence is also known as _____. (functional school/Philosophical school)

(g) _____ is the chief exponent of the Historical School of Jurisprudence. (Austin/Savigny)

(h) An example of Corporation aggregate is _____. (a company/The President of India)

(i) _____ of the Constitution of India contain the rights which are compatible with human rights. (Parts III and IV/Part III)

(j) Modern Indian legal system is _____ (mainly based on the English legal system/not at all based on the English legal system)

2. Write short notes on the following :

(a) Grundnorm

(b) Roscoe Pound's "Jural Postulates"

2×5=10

(c) Jural contradictories

(d) Precedent

(e) "Shruti"

3. Discuss the nature and scope of jurisprudence. 12

Or

Discuss the important theories of punishment. 12

4. Explain Savigny's theory of "Volksgeist." What are the main defects of Savigny's theory? 8+4=12

Or

Critically examine Jeremy Bentham's Utilitarian theory. Compare Jeremy Bentham's Positivist theory with Austin's theory. 8+4=12

5. Write an essay on American Realism. 12

Or

Write explanatory notes : (**Any two**)

6×2=12

(a) Scandinavian Realism

(b) Concept of "Social Engineering."

(c) Concept of "Social Solidarity."

6. Define different kinds of "Person." Explain the term "lifting the veil" and the circumstances under which "lifting the veil" is permissible. 6+6=12

Or

"Possession is nine points of the law."—
Elucidate. 12

7. Discuss the important changes which took place in the Indian legal system after the independence. 12

Or

Explain the following :

(a) Sources of law

(b) The concept of Dharma

Total number of printed pages 2

19(1) JUPR-I (O) 1-3

2014

**JURISPRUDENCE & LEGAL
METHODS**

(Old Course)

(Jurisprudence-I)

Paper : 1-3

Full Marks : 80

Time : Three hours

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

Answer any five questions.

1. Discuss definitions of jurisprudence given by different jurists. 16
2. Explain the term 'Sources of Law'. Discuss the merits and demerits of different sources of law. 16
3. Discuss John Austin's Imperative Theory of Law. 16

Contd.

4. Write an essay on Roscoe Pound's theory of 'Social Engineering'. 16
5. Distinguish between the ideas of the Positivist School and the Historical School. 16
6. Explain the term 'Justice'. Discuss the merits and demerits of 'Justice According to Law'. 16
7. Give an account of the history of Prerogative writs in India and their importance under the Constitution of India. 16
8. Discuss the history of legal profession in independent India. 16
9. Write notes on the following : (*any two*)

8×2=16

(a) Legal Services Authorities Act, 1987

(b) Delegated Legislation

(c) American Realism