

LJU4801

October/November 2016

LEGAL PHILOSOPHY

Duration 2 Hours

80 Marks

EXAMINERS

FIRST

SECOND

MRS SR SMITH

PROF IJ KROEZE

Closed book examination

This examination question paper remains the property of the University of South Africa and may not be removed from the examination venue

This paper consists of 7 pages

QUESTION 1 – MULTIPLE CHOICE QUESTIONS

INSTRUCTIONS

Please write the answers in your answer book as follows

Q1.1 – 1

Please ensure your handwriting is neat.

You must **NOT** answer the Multiple Choice answers on a mark reading sheet.
Answer them in your answer book.

[TURN OVER]

Question 1.1

Choose the correct answer:

Natural Law can be defined as

- (1) the idea that there is an immaterial, pre-political set of rules
- (2) the idea that there is a real, pre-political, metaphysical set of rules
- (3) the idea that there are political yet metaphysical rules
- (4) the idea that metaphysical gods made political rules

Question 1.2

Indicate whether the following statement is true or false.

The state according to Aquinas is part of God's design for the world

- (1) True
- (2) False

Question 1.3

Choose the correct answer:

Early modern legal thinking rose out of the era of

- (1) Renaissance, Reformation and World War One
- (2) Renaissance, Reformation and Revolution
- (3) Renaissance, Revolution and 9/11
- (4) Renaissance, Reformation and the fall of the Western Roman Empire

Question 1.4

A Hobbesian social contract can be described as

- (a) Starting from a peaceful state of nature
- (b) Starting from a violent state of nature
- (c) Results in handing over self-governing power to the state
- (d) Results in handing over self-governing power to an absolute sovereign
- (e) Protects the right to revolt

Choose the correct answer:

- (1) Only (a) and (c) are correct
- (2) Only (b), (c) and (e) are correct
- (3) Only (a), (c) and (e) are correct
- (4) Only (b) and (d) are correct

[TURN OVER]

Question 1.5

Kayamandi Town Committee v Mkhwaso 1991 2 SA 630 (C) is an example of

- (1) a realist and sociological approach
- (2) an empirical, rationalist approach
- (3) a feminist approach
- (4) deconstruction

Question 1.6

Choose the correct answer.

The process of Constructive Interpretation involves the steps

- (1) Rules → Weight → Fit → Tradition → Principle
- (2) Principle → Weight → Fit → Tradition → Rules
- (3) Rules → Fit → Weight → Tradition → Principle
- (4) Principle → Tradition → Weight → Fit → Rules

Question 1.7

Indicate whether the following statement is true or false

Rawls' process of rational deliberation is an example of a social contract

- (1) True
- (2) False

Question 1.8

According to Critical Legal Studies the origin of the indeterminacy of law lies in,

- (1) Arbitrary exercises of power
- (2) The nature of human existence itself
- (3) Politics
- (4) The maximin strategy

[TURN OVER]

Question 1.9

Frug suggests that the law encodes the female body by

- (a) Maternalization
- (b) Rationalization
- (c) Terrorization
- (d) Sexualisation

Choose the correct answer:

- (1) Only (b), (c) and (d) are correct
- (2) Only (a) and (c) are correct
- (3) Only (b) and (c) are correct
- (4) Only (a), (c) and (d) are correct

Question 1.10

Which of the following are common themes in legal philosophy

- (a) Individual v community
- (b) Law and morality
- (c) The source of values
- (d) Quantum Physics

Choose the correct answer:

- (1) Only (b), (c) and (d) are correct
- (2) Only (a) and (c) are correct
- (3) Only (b) and (c) are correct
- (4) Only (a), (b) and (c) are correct

(10 marks)

PLEASE TURN OVER TO NEXT PAGE!

[TURN OVER]

Question 2 – ESSAY QUESTIONS**INSTRUCTIONS.**

Read the following article and the twitter responses and then answer the questions below.

Answer all the questions Please read ALL the questions carefully before attempting an answer to make sure that you answer the question correctly.

Please clearly indicate the question number at the beginning of your answer.

Please ensure your handwriting is neat.

PLEASE TURN TO THE NEXT PAGE

[TURN OVER]

Blesserfinder: Matching you with a sugar daddy near you¹

[Radio] 702's Xolani Gwala spoke of a new social media trend called 'Blesserfinder', social media platforms where girls are allegedly matched with rich 'benefactors' in exchange for sex

The trend apparently started on social media, where unemployed women were posting about their expensive lifestyles, claiming they had been 'blessed' This apparently lead to users on these platforms asking the girls who their 'blessers' were

Is this just a harmless phenomenon, or something more?

This ignited a massive reaction from listeners and expressing their shock at this phenomenon

Twitter user 1 - @gwalax This blesser thing speaks a lot also on the socio-economic status of country It's a fight of Hunger vs Morality

Twitter user 2 - @gwalax all the people 'shocked' at blessers are LIARS Prostitution is the oldest profession they're being self-righteous

Twitter user 3 - @gwalax no point in discussing 'values' if we don't look @ the gendered nature of our society's injustice when we make reference to blessers

Question 2 1

Twitter User 3 suggests that the gendered nature of society needs to be considered when thinking about this 'Blesserfinder' trend Write an essay in which you discuss what gender is according to non-essentialist feminists, including the ideas of Mary-Joe Frug You must also discuss how this 'Blesserfinder' trend confirms gender stereotypes of men and women (20)

Question 2 2

Twitter User 2 suggests that the 'Blesserfinder' trend is another form of prostitution In South Africa prostitution is a crime in terms of the Sexual Offences Act 23 of 1957 According to the positivist theory of adjudication, is the South African position on prostitution law or morality? (10)

¹ Gwala X "Blesserfinder Matching you with a sugar daddy near you" <http://www.702.co.za/articles/12596/blesserfinder-matching-you-with-a-sugar-daddy-near-you> Date of use 25 May 2016) Twitter users names have been removed, however spelling and grammar is kept the same

Question 2.3

Discuss the African idea of sage philosophy. Despite this traditionally being a role reserved for men, can you think of women who have acted as South African sage philosophers? (10)

Question 2.4

Twitter user 1 argues that the 'Blesserfinder' trend is a result of socio-economic circumstances. Rawls tries to resolve socio-economic differences through rational deliberation. Discuss this process and the resulting three principles of justice. You must also discuss the inclusion of these principles in the South African Constitution and case law. (20)

Question 2.5

Discuss the characteristics of late modern thinking. You do not need to refer to the article to answer this question. (10)

(70 marks)

(80 marks total)