

And exam report 2007
Dip II (18)

General Report in Jurisprudence:

Overall the quality of scripts in what was a very good class was quite high. This class was a pleasure to teach and were largely very interested in the subject and provided perceptive, witty and intelligent contributions in every class. Moreover, the paper set although it provided considerable choice, was a challenging test which gave the good student an opportunity to excel and provided the weaker student with latitude to pass. Most students fared well and provided me with well researched, intelligent and at times imaginative scripts. There was, in certain scripts, evidence of considerable and wide reading and a welter of sources was at times used. This year for the first time I set a compulsory question and I found that it greatly assisted my ability to determine the overall level of a student. In particular the form of compulsory question I set highlighted the precise level of the overall knowledge of a subject a student had. In this respect I believe that this innovation of setting a compulsory question should be maintained.

I now turn to the analysis of individual questions:

Question 1: Compulsory

This question based on a fictitious problem was designed to test the students overall knowledge of the subject. I have become increasingly concerned of the phenomenon of cherry picking where a student selects 4 topics and prepares model answers and hopes they come up. In this respect the compulsory question assists me in gauging the overall quality of a student. I found, in general, the question was well answered and students were able to outline the fundamentals of law and economics, positivism and Dworkin. If there are criticisms sometimes the analysis of law and economics was over schematic and at times the analysis of Dworkin was unsophisticated. In particular I was looking for the analysis of the positivist and mildly feminist judge to note that given that the rule was unclear, the rule then ran out and the judge could use his discretion to provide a caring response (per Carol Gilligan). Really good students had no difficulty noting this point.

Question 2:

This question was not particularly well answered. Although I gave considerable scope for disparate responses the thrust of Murray CJ's remarks was to focus on issues of principle and policy. Thus I was expecting an analysis of legal realism and Dworkin's thought. At times students dodged or skirted over these substantive issues. Good students dealt with them head on.

Question 6/B:

The question on Frank was in general reasonably well answered. Student during class were very interested in his focus on trial courts and the prejudices and imperfect recollections of the various actors in the trial process and I found the answers were well thought through. Although it must be said that I would have preferred a greater in depth reading of some of his writings than were evident in many scripts.

Question 6/A:

Question 5 on Dworkin was answered only averagely. The reason for this in essence is that the question put the student on the spot. They could not merely generally outline and address Dworkin in terms of the policy/principle analysis but they were confronted with five specific stipulations which were there to determine their precise understanding of the jurist. Some of these questions and stipulations were canvassed in depth in the joint seminar we ran in class with Dr. Doyle from Trinity and their inclusion in the exam paper was designed to ascertain in which students were paying attention and attending class or getting notes from classes they missed. I found that students who had done their homework did superbly well in this question.

Question 5

As a natural lawyer most students elected either Aquinas or Finnis and there were some compelling answers. However, some students conducted a general survey of natural law rather than focusing on a specific jurist as required by question and other students were overly schematic in response. A common failing was to list off the eight basic goods of Finnis rather than to subject them to critical analysis.

Question 4:

The question on Hart was reasonable well answered with most students making a number of salient points. However, some students provided a general analysis of Hart without focusing on the three specific requirements of the question, the internal point of view, and the rule of recognition and the open texture of rules. Students who, in addition, to providing an overview dealt with these three points did very well.

Question 3:

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This question asked the student to compare and contrast three separate accounts of justice. I have asked a similar question before and have noted that by asking the student to assess and contrast differing accounts of justice by differing jurists you weed out the cherry pickers. In particular some students would analyse two accounts well but would neglect or quickly dispatch the other account. In this context the weak link was Unger who was, in general, not well answered.

Question 7/A:

The question on Marxism and its relationship with the CLS movement was not particularly well answered. The crucial weakness, in many responses, was that although Marx and indeed other Marxists were well assessed the student then did not apply this assessment to the CLS movement as stipulated and required by the question. The relevance of Marxism for the CLS movement (central to the question) was not particularly well addressed.

Question 7/B:

Very few students attempted this question and it did seem to me in class that post modernist ideas daunted some. However, those students who did do this question often did particularly well. They showed a grasp of the movement as a whole and also a particularly fine analysis of Foucault and Derrida.

Question 8:

This question gave the student cope who had taken an interest in a particular topic that was not featured in the paper to convince me why it should have been on the paper. Most students opted for an analysis of feminism. I had my doubts about this approach particularly in light of the fact that feminism made a small appearance in Question 1 but given that feminism as a whole had not been examined I permitted the student latitude in this respect. This question was largely well answered as it often displayed the students in depth knowledge of a particular jurist.

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