



THE HONORABLE SOCIETY OF KING'S INNS
JURISPRUDENCE

ANNUAL EXAM PAPER 2006
Wednesday 24 May - 2.30 p.m. to 5.30 p.m.

Lecturer: David Langwallner
Extern: The Hon Mr Justice B McMahon

DO 4 OUT OF 8 QUESTIONS. ALL QUESTIONS CARRY EQUAL WEIGHT. STUDENTS SHOULD BE CAREFUL NOT TO ATTEMPT BOTH PARTS OF THE INTERNAL CHOICES IN QUESTIONS 4 AND 6.

1: Whose account of positivism do you find most convincing and why? Whose account of positivism do you find least persuasive and why?

2: Critically analyse the theory of natural law presented by John Finnis. In your answer it is necessary inter alia to address the following issues:

- (i) Does Finnis contend that an unjust law is not a law?
- (ii) Is the account of natural law presented by Finnis compatible with positivism?
- (iii) What has Finnis to say about the eight good of marriage?

3: *Because just as good morals, if they are to be maintained, have need of the laws, so the laws, if they are to be observed, have need of good morals.*

Niccolo Machiavelli

Discuss the jurisprudential significance of this statement.

4: Whose vision of Justice do you find more compelling and why that of Roberto Unger, Robert Nozick or John Rawls?

OR

Do you find the theory of adjudication presented by Ronald Dworkin a convincing account of what judges do do and what judges ought to do?

5: A case presents itself at bar as to whether constitutional recognition should be given to the right to die in the context of euthanasia. The facts concern a terminally ill patient who wishes to die with the assistance of her husband. The patient has three children who stand to inherit considerable sums of money and has set aside a considerable portion of money to be given to charity. Judge Westerposner has just been appointed to the bench as a leading law and economics specialist.

- (i) File a Jurisprudential draft opinion on behalf of Judge Westerposner.
- (ii) How might Judge Lang a natural lawyer and rights based lawyer respond?

It is expected in this answer that you critically analyse the various nuances of the law and economics movement.

6: Judge Barking, a strict traditionalist and politically conservative Supreme Court justice, has been invited to conduct a review of the education syllabus of the Kings' Inns. He alights on Jurisprudence and finds that Karl Marx, Antonio Gramsci and Jacques Derrida are a part of the syllabus. Are we teaching these students half baked radicalism and political philosophy masquerading as Jurisprudence he snorts! He invites representations from the student body as to what relevance the study of Marx, Gramsci and Derrida has to Jurisprudence. How would you respond?

OR

To what extent is the Critical Legal Studies movement the hybrid progeny of the earlier schools of Jurisprudence of Marxism and Legal Realism.

7: *It is the law of nature that woman should be held under the dominance of man*

Confucius

How might a feminist scholar of Jurisprudence respond to such a remark?

8: With reference to at least two book and two films from the prescribed list on the syllabus discuss the relevance of the study of literature and film to the study of jurisprudence.
