

Explain briefly Aquinas' idea of natural law.

What are some key differences between a modern positivist, such as Hart, and Bentham and Austin?

How is judicial decision-making like a 'chain novel' for Dworkin?

What are two different consequentialist justifications for punishment?

In what ways are the different schools of realism skeptical?

What are Weber's typologies of law?

What are two things Critical Race Theory and feminist approaches have in common?

What are two ideas that Critical Legal Studies shares with Marxism?

What are the differences between Maine and Savigny's conceptions of history?

What are some key differences between Rawls' and Nozick's ideas of justice?

Question 11

Shapiro has stated that 'although it is not a particularly inspiring or romantic description, the law is, in the end, an instrument' (*Legality*, 2011). Critically discuss this statement. Is the law an instrument? What could the law be an instrument for? Consider at least three theoretical perspectives.

Question 12

Dworkin has stated that '[rights](#) cannot be understood as things people have, come what may, no matter what general justification for political decisions is in play. We construct political theories as a package, and the rights that package assigns individuals must vary with what else is in the package' (1984). Critically discuss this statement. What does Dworkin suggest here about the nature of rights? What are at least two other ideas about the nature of rights? Which perspective best reflects the role of rights in law?

Topic 2

Is Aquinas' theory of natural law a restraint on unjust laws being enacted?

What are some of the criticisms that can be leveled at Finnis' account of natural law? How persuasive are they?

How does Fuller's account of 'inner morality' differ/resemble Finnis' account of natural law? Which do you find more persuasive?

Topic 3

How does positivism differ from natural law theory?

What are the main elements of Bentham's positivist account of law? Virtues and limits?

How do Bentham and Austin differ in respect of:

Topic 4

How does the positivism of Hart differ from that of Bentham and Austin?

Is modern positivism insensitive to moral questions?

In what respects does Kelsen's *Grundnorm* differ from Hart's 'rule of recognition'?

It has been argued that the division between positivism and natural law is 'rarely revealing of any important truth' (MacCormick). Do you agree?

Topic 5

How is Dworkin similar and/or different from positivists? From natural law theorists?

How does Dworkin's thinking relate to the operation of the doctrine of precedent and common law principles of statutory interpretation?

What are the strengths and limitations of Dworkin's theory of equality?

Topic 6

How do the two schools of realism relate to positivism?

How does American realism relate to Scandinavian realism?

How does realism relate to Dworkin?

Topic 7

What does Pound mean by 'law in books' and 'law in action'? Can these two concepts be recognised?

How compelling are Weber's typologies?

What is the Marxist view of law?

What is Foucault's conception of power?

Durkheim:

What holds society together

Connection between morality and law, there must be a moral commitment present

Topic 8

How does historical and anthropological jurisprudence relate to the other schools of thought you have studied?

Does the arc of the common law represent a movement from 'status' to 'contract'?

To what extent does 'native title' in the common law represent a development of anthropological jurisprudence?

What is meant by 'legal pluralism'? What are some examples?

Topic 9

What are the differences between Aristotle and Kant's views on justice?

What are the differences between the views on justice held by utilitarians, economic theorists, Rawls and Nozick?

What theory of justice best encapsulates notions of 'natural justice' in administrative law?

Topic 10

Are rights and duties correlative?

Are rights 'nonsense upon stilts'?

To what extent are rights universal or culturally determined?

How applicable is rights discourse to animal welfare?

Should rights be protected in a Bill of Rights?

Topic 11

Australia is one of the world leaders at 'illegal downloads'. What are the main theoretical positions surrounding obeying the laws? Do any of these provide a justification for obeying or disobeying these rules?

What are the main theoretical justifications for punishing breaches of the law? What consequences do these philosophical positions suggest should flow for breaching these download rules?

Topic 12

What are the main tenets of Critical Legal Studies (CLS)?

What aspects of legal approaches - in particular precedent, statutory interpretation, fundamental [rights](#) - do postmodernism and CLS call into question and why?

Are CLS and postmodernism nihilistic or constructive? In what ways?

What do we mean by 'law is politics'?

Why does Derrida believe that 'law is not justice'?

Topic13

What are the different broad feminist paradigms (liberal etc)?

What is the rationale of critical race theory?