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63/1 (SEM-6) DSE4/PHLHE6046

2024

PHILOSOPHY

Paper : PHLHE6046

(Philosophy of Law)

Full Marks : 80

Pass Marks : 32

Time : Three hours

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

1. Choose the correct answer from the following
(any six): 1×6=6

(a) This theory of punishment is based on the principle – “An eye for an eye, a tooth for a tooth”

(i) Deterrent theory

(ii) Retributive theory

(iii) Preventive theory

(iv) Reformatory theory of punishment

Contd.

- (b) The father of legal positivism is
- (i) John Austin
 - (ii) H. L. A. Hart
 - (iii) Jeremy Bentham
 - (iv) John Stuart Mill
- (c) The Indian Constitution was adopted on
- (i) 26th November, 1949
 - (ii) 24th April, 1973
 - (iii) 24th January, 1950
 - (iv) 26th January, 1949
- (d) Who is the father of fundamental rights in India ?
- (i) Mahatma Gandhi
 - (ii) Sardar Vallabhbhai Patel
 - (iii) B. R. Ambedkar
 - (iv) Jawaharlal Nehru

- (e) The breach of contract means
- (i) Performance of contract by both the parties
 - (ii) Failure of party to perform his obligations
 - (iii) Payment of Compensation due to non-performance
 - (iv) Postponement of the performance of contract
- (f) The Death penalty is also known as
- (i) Capital punishment
 - (ii) Death squads
 - (iii) Execution Methods
 - (iv) Habeas Corpus
- (g) Tort Law is
- (i) Criminal Law
 - (ii) Civil Law
 - (iii) Common Law
 - (iv) Statutory Law

(h) "Law is the command of the sovereign" is said by

- (i) Austin
- (ii) Aristotle
- (iii) Mill
- (iv) Nietzsche

(i) Right to constitutional remedies come under

- (i) Fundamental Rights
- (ii) Legal Rights
- (iii) Constitutional Rights
- (iv) Natural Rights

(j) Which one of the theories of punishment is considered as judicial contribution to social change ?

- (i) Deterrent
- (ii) Preventive
- (iii) Reformative
- (iv) Retributive

2. Answer the following questions : **(any five)**
2×5=10

- (a) What is a common law ?
- (b) What are negative and positive rights ?
- (c) Name the *four* theories of punishment.
- (d) What is a Tort law ?
- (e) What is obligation to law ?
- (f) What is constitutional law ?
- (g) Define breach of contract.

3. Answer **any six** questions from the following :
5×6=30

- (a) Write a short note on capital punishment.
- (b) What are fundamental rights ? What are its significance in our life ?
- (c) What are Hohfeld's Rights ?
- (d) What is legal positivism ? Explain with reference to Hart and Austin.

- (e) What is the law of contract ? Discuss.
- (f) What do you understand by the Preamble of Indian Constitution ?
- (g) Is Death penalty justified as a form of punishment ?
- (h) Write a short note on contract law of blackmail.
- (i) Explain retributive form of punishment.
- (j) Law is the command of the sovereign. Discuss.

4. Answer **any two** of the following :

10×2=20

- (a) Explain Austin's view of legal positivism. How has Hart criticised the theory ?
- (b) What are the main features of contract Law ? Explain.
- (c) Describe the salient features of the Indian Constitution.
- (d) What is the legal aspect of Death Penalty ? Discuss.

5. Answer **any one** of the following questions :

14×1=14

- (a) What is the traditional Natural Law Theory ? Discuss.
- (b) State the various theories of punishment.
- (c) What is a basic structure doctrine of the Indian Constitution ? Discuss.