

08:30

20/10/08

F: HALL

EXAMS OFFICE USE ONLY

University of the Witwatersrand, Johannesburg

Course or topic No(s)

LAWS4004

Course topic names(s)
Paper Number & title

JURISPRUDENCE

Examination / Test* to be held during month(s) of (*delete as applicable)

OCTOBER/NOVEMBER 2008

Year of study
(Art & Science leave blank)

Degrees / Diplomas for which this course is prescribed
(BSc (Eng) should indicate which branch)

LLB

Faculty/ies presenting candidates

COMMERCE, LAW AND MANAGEMENT

Internal examiner(s) and telephone extension number(s)

DR M SWART (ext 78490)
DR D BILCHITZ

External examiner(s)

PROFESSOR I J KROEZE

Special materials required (graph/music/drawing paper maps, diagrams, tables, computer cards, etc)

Time allowance

Course no: LAWS4004 Hours: 2 (TWO)

Instructions to candidates
Examiners may wish to use this space to indicate, inter alia, the contribution made by this examination or test towards the year mark, if appropriate

1. Answer one question from Part A and one question from Part B.

Internal Examiners or Heads of Departments are requested to sign the declaration overleaf

Answer one question from Part A and one question from Part B.

Part A: Mia Swart's Section

Answer one question from this section

Question 1

What is meant by the term “radical indeterminacy” in Critical Legal Studies? How does it compare to the Realist conception of indeterminacy? Discuss.

OR

Question 2

“What connects different theories of transitional justice is the notion of compromise or trade-off.” Discuss.

(20)

Part B: David Bilchitz's Section

Answer one question from this section

Question 1

“The question is not, Can they reason? nor Can they talk? But, Can they *suffer*?” (Jeremy Bentham)

In light of the above quotation, critically discuss whether we have direct duties of justice towards other non-human animals. In your answer, you should consider the adequacy or otherwise of the following theories of value:

- (a) the category approach;
- (b) the rational agency approach;
- (c) the hedonistic utilitarian approach; and
- (d) the capabilities approach.

OR

Question 2

“Utilitarianism cannot adequately deal with the separateness of persons.” (Rawls)

With reference to the above quotation, critically discuss the following questions:

- (a) What are the problems with act-utilitarianism and the motivation for a move to rule-utilitarianism?
- (b) Does rule-utilitarianism succeed in resolving the difficulties of act-utilitarianism?
- (c) In what way does the original position and Rawls's two principles of justice seek to resolve these same difficulties? Does Rawls succeed?

OR

Question 3

“Taxation of earnings from labour is on a par with forced labour.” (Robert Nozick)

Critically discuss Robert Nozick’s theory of justice with reference to the following:

- (a) What is Nozick’s main argument against patterned theories of justice such as that of John Rawls?
- (b) Is this argument convincing?
- (c) Outline and evaluate the main features of Nozick’s theory of justice.
- (d) In light of your argument, provide support for your view concerning whether redistributive taxation can be justified.

(20)

TOTAL MARKS: 40
