

Name:	
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, May, 2019
Course: Jurisprudence

Programme: B.Tech., LL.B. (Hons.) IPR/Cyber Law
Time: 03 hrs.
Course Code: LLBL 203

Semester: X
Max. Marks: 100

SECTION A (attempt all)

S. No.		Marks	CO
Q 1	What are the two branches of realist school?	2	CO 1
Q 2	What are the different kinds of precedent?	2	CO 1
Q 3	What are the attributes of Austin's sovereign?	2	CO 1
Q 4	Who propounded the concept of natural law with variable content?	2	CO 1
Q 5	What is the meaning of stare decisis et non quieta movere?	2	CO 1

SECTION B (attempt all)

Q 6	What are absolute duties? Explain with examples and justifications.	10	CO 2
Q 7	What are the advantages of legislation as a source of law? Explain with suitable examples along with the limitations of legislation as a source of law.	10	CO 2

SECTION-C (attempt all)

Q 9	What is Social Engineering? Explain, how it balances the conflicting interests? Refer to relevant examples to justify the importance of Social Engineering.	10	CO 3
Q 10	Discuss the co-relation of rights and duties. Compare and analyze the views of Austin and Duguit regarding co-relation of rights and duties.	10	CO 2

SECTION-D (attempt all)

Q 12	Indian courts have been sensitive to the issues of human rights, environmental conservation, public amenities and many more. They have expanded many legal rights to empower the people. On several occasions, they filled in the gaps where executive officials were not discharging their responsibility. On many occasions the gaps in the law or conflicts in the legal provisions were also set right by the courts. They have added a number of rights within the rights mentioned in the constitution and other	25	CO 3
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	<p>laws. They have held several enactments unconstitutional; they have made many of the directive principles enforceable, despite the letter of the law that the directives shall not be enforceable through courts. In light of these, is it appropriate to conclude:</p> <ul style="list-style-type: none"> i) That judges do make law? ii) Evaluate the Indian legal system for its acceptance towards Realist School? iii) Also examine the role of active Indian Judiciary in maintaining sanctity of the other sources of law. <p>Justify your answer by appropriate examples and relevant case laws.</p>		
<p>Q 13</p>	<p>A crime took place in a state capital city. It led to death of one person and many got injured. The incident created headlines and police and government were under pressure to solve the case at the earliest. Somehow the police traced the criminals and the suspects and all of them were arrested. The arrested persons included one young boy also who was from an educated family. The family made several efforts to save the child from arrest but the matter had got so highlighted and media covered that the boy had to be arrested. In the first 24 hours of arrest, he was in custody along with many senior and dreaded criminals. He talked to all of them and became friendly with many of them. Next day, the boy was released by the magistrate because he was juvenile; and many of the others were also granted bail. After coming out of jail their friendship continued and grew further. The child was later found involved in some serious offence committed by his criminal friends. After some days the child was arrested and when his mother visited him in the prison, he told her that he had learnt the ways to manage the law and the legal process and will soon be out.</p> <p>The mother filed a writ petition seeking bail for the child and pleaded that the prison system is incapable of reforming young offenders. Rather they are learning more criminality. Therefore imprisonment of young children and especially under-trials is an infringement of their fundamental Right to Life.</p> <p>Decide the case in the light of the conflicting applications of reformatory and deterrent theories of punishments, with specific reference to Juvenile Justice.</p>	<p>25</p>	<p>CO 3</p>

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SECTION A (Attempt all)

S. No.	Question	Marks	CO
Q 1	Who said, “the only right a man can possess is the right to do his duty”?	2	CO 1
Q 2	Nuremberg Trial marks specific application of which school?	2	CO 1
Q 3	Internal aspect of law is associated with the concept of which jurist?	2	CO 1
Q 4	What are the three stages of reform in a progressive society, as laid down by Henry Maine?	2	CO 1
Q 5	What are the elements of possession?	2	CO 1

SECTION B (Attempt all)

Q 6	Can we file a case against the prime minister for an act under such capacity? Give reasons for your answer. Explain by referring to the essentials and kinds of personality.	10	CO 2
Q 7	What is Austin’s view about International Law? How far is it different from Hans Kelsen’s idea about international law?	10	CO 1

SECTION-C(Attempt all)

Q 9	What are the essentials of a valid custom? Is there any branch of Indian law, in which customs override statutory law? Explain with examples and decided cases.	10	CO 3
Q 10	What is ‘Natural Law with variable Content’? Discuss its relevance in the present day Indian Legal System	10	CO 2

SECTION-D (Attempt all)

Q 12	<p>Mr. 'X' and Ms. 'Z' were married according to the rituals. After marriage 'Z' was managing the household so efficiently that 'X' was able to live a very convenient and respectable life. He was very happy and worked harder in his business. The business grew exponentially and they became very rich. 'X' attained a high status in the society and got a chance to join politics. With increasing of money and power 'X' became more ambitious and started dropping the values. His wife opposed this change of choices and they developed sour relations. This gap between the husband and wife grew to such an extent that 'X' felt that 'Z' is an obstacle in his growth. One day rift increased so high that the husband killed the wife. He cut the body into small pieces and threw it into tandoor. The maid working in the house saw it and informed the police. Initially 'X' tried to manage everything by illegal means and by using his political connections but media and opposition made it a point and finally 'X' was arrested, tried and punished. Court awarded him death penalty which was not reversed or commuted in appeals also.</p> <p>Finally, his father filed a petition challenging death penalty as violative of the fundamental right to life. The petition claimed that the purpose of punishment is to reform the offender and not to take revenge by killing him. Different human rights instruments were also referred to for support to the petition.</p> <p style="padding-left: 40px;">Decide the case by justifying on the following points:</p> <ul style="list-style-type: none">i) Purpose of punishmentii) Proportion of wrong done and the amount of punishmentiii) Permissibility of death penalty in light of the human rights jurisprudenceiv) Support your answer by referring to appropriate theory of punishment and also by referring to case laws.	25	CO 3
Q 13	<p>In country 'I' reservation on the basis of caste was permitted as protective discrimination, for certain duration. The duration for applicability of reservation was getting over and the beneficiary population was demanding extension of reservation. Earlier the courts had turned down reservation on the basis of caste and after constitutional amendment it was implemented. Now when the duration was getting over, the policy again came into debate. After due studies of the outcome of reservation, the government decided to extend it for some more time so as to fulfill the purpose for which it was implemented.</p> <p>This invited the fury of adversely affected population and they started demonstrations and agitation which later turned violent. To emphasize their demand of discontinuing</p>	25	CO 3

reservation, people went to the extent of committing suicide amidst demonstration. This unruly scene continued for several days and normal life and routine were affected.

Finally a number of petitions were filed in various High Courts and in the Supreme Court challenging the governmental policy on reservation. All such cases were clubbed and were heard in one petition. The issues included:

- i) Whether reservation on the basis of caste is permissible under the existing constitutional scheme?
- ii) Whether there should be any upper limit on the proportion of seats reserved?
- iii) Whether there should be reservation in promotions; as a person in government job is not necessarily backward?
- iv) Whether benefit of reservation should be permissible for the families who have become capable enough to contest openly with the unreserved candidates?
- v) What should be the criteria of judging whether a candidate/family has become so capable?

In this case, there is a clear conflict of interests. Apply the principle of social engineering as propounded by Prof. Roscoe Pound, and justify the role of law as an instrument for balancing the conflicting interests. Decide the issues in the case and justify your decision on all the issues. Support your answer by decided cases considering that country 'I' has laws similar to India.