

EXAM I

~~PHILOSOPHY~~ PHILOSOPHY OF LAW, Sp'05, Emmachild

NAME _____

DIRECTIONS: Answer three of the following questions. Do not answer extra questions, and do not omit any part of a question. Your answers must be clear, to the point and must demonstrate a working knowledge of specific philosophical and legal terminology. CLEARLY LABEL AND NUMBER THE QUESTIONS YOU ARE ANSWERING. BE SURE TO DEFINE ALL PHILOSOPHICAL AND LEGAL TERMS.

- 1) a. Carefully explain Aquinas' defense of the importance of basing human laws on Divine, Eternal and Natural laws. Be sure to include his four reasons for Divine Laws.
b. Regarding the letter from Ginny Yingling, analyze the issue raised according to Aquinas. That is, would he, in your view, support Ms. Yingling's argument?
- 2) a. In the dialogue between Socrates and Crito, select two points on which they disagree; describe their disagreement.
b. Carefully explain why Socrates must be labeled an Absolutist, while Crito can be labeled a Relativist.

QUESTIONS 3 AND 4 CANNOT BOTH BE ANSWERED.

- 3) "Law is a command of a lawgiver which obliges society."
a. This quote is the definition of law according to Positivism. Explain carefully.
b. Carefully explain why Positivism is opposed to basing laws on Morality, being sure to include a discussion of the "penumbra."
- 4) a. Carefully explain why Positivism is consistent with Utilitarianism.
b. Regarding the article on Immigrants, particularly the comments by Carlos Canales, show how Hart might support the cause of the Immigrants, both legal and illegal.
- 5) "Judges are simply 'living oracles' of law. They are merely 'the speaking law.' Their function is purely passive. They are 'but the mouth which pronounces the law.'"
a. Carefully explain why Formalism (Beale) would support this definition of law; while Realism (Frank) would deny this definition of law.
b. With whom (Frank or Beale) do you agree and why? Explain carefully, defending—not merely stating your reasons.
- 6) a. Carefully distinguish between West's "Separation Thesis" and "Connection Thesis."
b. Give an example of a law which, in your view, reflects each of these views. (If you cannot think of a law which reflects the "Connection Thesis," as West believes these don't exist, describe a change one could make in a current law so that it would reflect this thesis.)
- 7) a. Carefully explain Dworkin's three types of Civil Disobedience.
b. Regarding the ad from ConsumerFreedom.com, explain how Dworkin might be able to defend the actions of PETA.
c. Would you agree or disagree with Dworkin's defense in this case? Explain carefully.