

LEGAL PHILOSOPHY (PHL 331/POL 330)

FINAL TAKE-HOME EXAM

Answer **all four** questions below; you should realize that I expect more complete and polished answers on a take-home exam than on an in-class exam.

You **may** work together and hand in a collaborative exam; all names **must** appear on the final version, and **all** signatories to an exam will receive the **same** grade.

The exam **must** be **emailed** to me (profmdwhite@hotmail.com) by **Tuesday, May 18**; late exams will **not** be accepted.

1.
 - a. Explain Coleman's concept of negative positivism, and why he doesn't consider it to be satisfactory.
 - b. According to Coleman, what is Dworkin's main problem with incorporating moral principles in a *socially accepted* rule of recognition?
 - c. How does Coleman's positive positivism (or inclusive positivism) deal with this issue, and how is it compatible with Dworkin's theory of judicial-making?
2.
 - a. Describe the train of thought (as described by Altman) from legal realism's claims of legal indeterminacy, through Dworkin's arguments against them, to the CLS argument against Dworkin.
 - b. Describe the different ways that Dworkin and CLS look at the law that lead to their views on whether there can ever be one "right answer" in any given case.
 - c. According to CLS, why can a judge, acting in the true spirit of Dworkin, nonetheless come to any decision he or she wants?
3.
 - a. Describe the ambiguity (as I saw it, at least) in Dworkin's comments on the Sotomayor hearings.
 - b. What does CLS think of the distinction Dworkin draws between political philosophy and personal political biases, and why?
 - c. Briefly describe the three ways that CLS builds on legal realism.
4.
 - a. Briefly describe textualism, original-intent originalism, and original-meaning originalism.
 - b. What are some problems with intent?
 - c. What are some arguments for textualism/original meaning?