Legal Environment 8th edition Beatty Solutions Manual

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Solution and Answer Guide

Beatty/Samuelson/Abril, *The Legal Environment*, 8e, 2022, 9780357634448; Chapter 1: Introduction to Law

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Multiple Choice Questions

1. The United States Constitution is among the finest legal accomplishments in the history of the world. Which of the following influenced Franklin, Jefferson, and the rest of the Founding Fathers?
   A. English common-law principles
   B. The Iroquois' system of federalism
   C. Both A and B
   D. None of the above

   Answer: C. Both English common-law principles and the Iroquois' system of federalism shaped the Constitutional framers' ideas.

2. Which of the following parts of the modern legal system are "borrowed" from medieval England?

   A. Jury trials
   B. Special rules for selling land
   C. Following precedent
   D. All of the above

   Answer: D. Countless parts of our modern system originated in Merry Olde England.

3. Union organizers at a hospital wanted to distribute leaflets to potential union members, but hospital rules prohibited leafleting in areas of patient care, hallways, cafeterias, and any areas open to the public. The National Labor Relations Board (NLRB), a government agency, ruled that these restrictions violated the law and ordered the hospital to permit the activities in the cafeteria and coffee shop. What kind of law was it creating?
   A. A statute
   B. Common law
   C. A constitutional amendment

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D. Administrative regulation

Answer: D. The NLRB, as an agency, creates regulations. Congress creates statutes, and judges shape the common law.

4. If the Congress creates a new statute with the president's support, it must pass the idea by a _____ majority vote in the House and the Senate. If the president vetoes a proposed statute and the Congress wishes to pass it without their support, the idea must pass by a _____ majority vote in the House and the Senate.
   A. simple; simple
   B. simple; two-thirds
   C. simple; three-fourths
   D. two-thirds; three-fourths

   Answer: B. More than 50 percent to pass initially (a simple majority), two-thirds if an override is necessary.

5. Dr. Martin Luther King, Jr., wrote "An unjust law is no law at all." As such, "One has … a moral responsibility to obey unjust laws." Dr. King's view is an example of:
   A. legal realism.
   B. jurisprudence.
   C. legal positivism.
   D. natural law.

   Answer: D. It is an example of the natural law theory of jurisprudence.

Case Questions

1. Lance, an Internet hacker, stole 15,000 credit card numbers and sold them on the black market, making millions. Police caught Lance, and two legal actions followed, one civil and one criminal. Who will be responsible for bringing the civil case? What will be the outcome if the jury believes that Lance was responsible for identity thefts? Who will be responsible for bringing the criminal case? What will be the outcome if the jury believes that Lance stole the numbers?
   Answer: The civil cases will be brought by the victims of identity theft, and the outcome of a successful case against Lance would be some type of monetary award for damages suffered. The criminal case will be brought by state prosecutors and the outcome would be imprisonment for Lance.
2. As *The Oculist's Case* indicates, the medical profession has faced large number of lawsuits for centuries. In Texas, a law provides that, so long as a doctor was not reckless and did not intentionally harm a patient, recovery for "pain and suffering" is limited to no more than $750,000. In many other states, no such limit exists. If a patient will suffer a lifetime of pain

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after a botched operation, for example, they might recover millions in compensation. Which rule seems more sensible to you—the "Texas" rule, or the alternative?
Answer: Answers will vary.

3. **You Be the Judge: WRITING PROBLEM** Should trials be televised? Here are a few arguments to add to those in the chapter. You be the judge.
Arguments against Live Television Coverage: We have tried this experiment and it has failed. Trials fall into two categories: Those that create great public interest and those that do not. No one watches dull trials, so we do not need to broadcast them. The few that are interesting have all become circuses. Judges and lawyers have shown that they cannot resist the temptation to play to the camera. Trials are supposed to be about justice, not entertainment. If a citizen seriously wants to follow a case, they can do it by reading online news reports or the daily newspaper.
Arguments for Live Television Coverage: It is true that some televised trials have been unseemly affairs, but that is the fault of the presiding judges, not the media. Indeed, one of the virtues of television coverage is that millions of people now understand that we have a lot of incompetent people running our courtrooms. The proper response is to train judges to run a tight trial by prohibiting grandstanding by lawyers. Access to accurate information is the foundation on which a democracy is built, and we must not eliminate a source of valuable data just because some judges are ill-trained.
Answer: For most of the "You Be the Judge" writing problems, we provide the case citation and holding. For this question, of course, there is no definitive answer.

4. Leslie Bergh and his two brothers, Milton and Raymond, formed a partnership to help build a fancy saloon and dance hall in Evanston, Wyoming. Later, Leslie met with his friend and drinking buddy, John Mills, and tricked Mills into investing in the saloon. Leslie did not tell Mills that no one else was investing cash or that the entire enterprise was already bankrupt. Mills mortgaged his home, invested $150,000 in the saloon—and lost every penny of it. Mills sued all three partners for fraud. Milton and Raymond defended on the ground that they did not commit the fraud, only Leslie did. The defendants lost. Was that fair? By holding them liable, what general idea did the court rely on? What Anglo-Saxon legal custom did the ruling resemble?
Answer: The partners are indeed liable. *Bergh v. Mills*, 763 P.2d 214 (Wyo. 1988). That is the essence of a partnership: All partners are liable for the acts of any partner committed in the partnership's normal business. This is the general idea of collective responsibility. It relates to the "tithing" of English legal history, in which all tithing members were legally responsible for the conduct of the others.
5. The father of an American woman killed in the Paris terrorist attacks sued Twitter, Facebook, and YouTube, alleging the sites knowingly allow ISIS terrorists to recruit members, raise money, and spread extremist propaganda. The sites defended themselves by saying that their policies prohibit terrorist recruitment and that, when alerted to it, they quickly remove offending videos. What type of lawsuit is this—criminal or civil? What responsibilities, if any, should social media sites have for the spread of terrorism?
Answer: The case is a civil case, but answers will vary as to the scope of the responsibilities social media sites should have for the spread of terrorism.

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Discussion Questions

1. In the 1980s, the Supreme Court ruled that it is legal for protesters to burn the American flag. This activity counts as free speech under the Constitution. If the Court hears a new flag burning case in this decade, should it consider changing its ruling, or should it follow precedent? Is following past precedent something that seems sensible to you: always, usually, sometimes, rarely, or never?
   Answer: Answers will vary.
2. When should a business be held legally responsible for customer safety? Consider the following statements, and consider the degree to which you agree or disagree:
   a. A business should keep customers safe from its own employees.
   b. A business should keep customers safe from other customers.
   c. A business should keep customers safe from themselves. (Example: an intoxicated customer who can no longer walk straight.)
   d. A business should keep people outside its own establishment safe if it is reasonable to do so.

   Answer: Answers will vary.

3. In his most famous novel, *The Red and the Black*, the French author Stendhal (1783–1842) wrote: "There is no such thing as 'natural law': this expression is nothing but old nonsense. Prior to laws, what is natural is only the strength of the lion, or the need of the creature suffering from hunger or cold, in short, need." What do you think? Does legal positivism or legal realism seem more sensible to you?
   Answer: Natural law should be a question in the back of our minds throughout the course, because it is a reminder of morality, and law without morality is despotism. Nonetheless, Stendhal is obviously correct that both strength and need help to create law. The important thing for this course is continually to apply moral principles to the rules you study, and make your own determinations about whether natural law really plays a role.

4. Before becoming a Supreme Court justice, Sonia Sotomayor stated in a speech to students: "I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life." During her Senate confirmation proceedings, this statement was heavily probed and criticized. One senator said that the focus of the hearings was to determine whether Judge Sotomayor would "decide cases based only on the law as made by the people and their elected representatives, not on personal feelings or politics." (Sotomayor convinced many of her critics, because the Senate confirmed her by a vote of 68–31.) Should judges ignore their life experiences and feelings when making judicial decisions?
   Answer: Answers will vary.

5. The late Supreme Court Justice Antonin Scalia argued that because courts are not elected representative bodies, they have no business determining certain critical social issues. He wrote:
   Judges are selected precisely for their skill as lawyers; whether they reflect the policy views of a particular constituency is not (or should not be) relevant. Not surprisingly then, the Federal Judiciary is hardly a cross-section of America. Take, for example, this Court, which consists of

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only nine men and women, all of them successful lawyers who studied at Harvard or Yale Law School. Four of the nine are natives of New York City. Eight of them grew up in east- and west-coast States. Only one hails from the vast expanse in-between. Not a single Southwesterner or even, to tell the truth, a genuine Westerner (California does not count). Not a single evangelical Christian (a group that comprises about one quarter of Americans), or even a Protestant of any denomination. To allow [an important social issue] to be considered and resolved by a select, patrician, highly unrepresentative panel of nine is to violate a principle even more fundamental than no taxation without representation: no social transformation without representation.

Do you agree?

Answer: Answers will vary.

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Instructor Manual

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Purpose and Perspective of the Chapter

The purpose of this chapter is to describe the history of the common law, the various branches of government, different schools of jurisprudence, and how to analyze a case.

Cengage Supplements

The following product-level supplements provide additional information that may help you in preparing your course. They are available in the Instructor Resource Center.

- Transition Guide (provides information about what's new from edition to edition)
- Test Bank (contains assessment questions and problems)
- Solution and Answer Guide (offers textbook solutions and feedback)
- PowerPoint (provides text-based lectures and presentations)
- Guide to Teaching Online (provides technological and pedagogical considerations and resources for teaching online)
- MindTap Educator Guide (describes assets in the MindTap platform with a detailed breakdown of activities by chapter with seat time)

Chapter Objectives

The following objectives are addressed in this chapter:

1. Define *business law*.
2. Describe the origins of the American legal system.
3. Describe theories of punishment as they apply to the legal system.
4. Describe theories of jurisprudence.
5. Explain the creation and development of the common law.
6. Explain the creation and development of statutory law.
7. Differentiate between procedural and substantive laws.
8. Identify the state, federal, and international governing bodies that create law.
9. Identify the ways that specific regulations affect business.
10. Identify resources and methods that are used by legal professionals to research the law.
11. Locate a primary source of law based on a given legal citation.
12. Explain how common law and civil law systems differ.

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Key Terms

Precedent: The tendency to decide current cases based on previous rulings

Common law: Judge-made law

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Statute: A law created by a legislature

Criminal law: Law that prohibits certain behavior for the benefit of society

Civil law: Law that regulates the rights and duties between parties

Jurisprudence: The philosophy of law

Sovereign: The recognized political power, whom citizens obey

Plaintiff: The party who is suing

Defendant: The party being sued

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What's New in This Chapter

The following elements are improvements in this chapter from the previous edition:

- No changes in this chapter.

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Chapter Outline

I. Exploring the Law (1-1)

a. The Role of Law in Society (1-1a)

- The law cuts across nearly every aspect of life, especially at work.
- The law is essential; every society throughout history has had a system of laws.
- Since the law plays a large role in everyone's life, it is all the more important to learn about it.

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b. Origins of Our Law (1-1b)

- **English Roots**
  - (1) There was a division of land into shires, administered by sheriffs.
  - (2) A group of ten men formed a tithing. If any of the ten caused injury to another, or damaged the king's property, all ten would be responsible. (Note, this was a precursor to partners sharing liability in a partnership.)
  - (3) **Precedent** is a doctrine that requires judges to decide current cases based on previous rulings.
  - (4) **Common law** is made up of cases that themselves are based on precedent.
- **Law in the United States**
  - (1) The colonists brought the common law tradition to what would become the United States.
  - (2) As time passed, the law was adapted to the change from agrarian to urban industrial society.

II. Sources of Contemporary Law (1-2)

a. **United States Constitution (1-2a)**

i. **Branches of Government**

(1) Government is divided into three separate branches to reduce concentration of power:

(a) Legislative, which creates laws,
(b) Executive, which enforces laws, and
(c) Judiciary, which interprets laws.

ii. **Checks and Balances**

(1) Each branch can check the power of the others.

(a) The president can veto legislation passed by Congress.
(b) Congress can impeach the president.
(c) The president appoints judges approved by the Senate.

iii. **Fundamental Rights**

(1) These rights are guaranteed by the Constitution. Some include:

(a) Freedom of speech.
(b) Freedom of religion.
(c) Freedom from unlawful search and seizure.

b. **Statutes (1-2b)**

i. A **statute** is a law created by the legislature.

c. **Common Law (1-2c)**

i. It is made up of the accumulation of cases based on precedent.

d. **Court Orders (1-2d)**

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i. Orders issued by a court that can place obligations on a party or compel a party to do or refrain from an action.

e. **Administrative Law (1-2e)**
   i. These laws are regulations created by administrative bodies. Administrations such as the Environmental Protection Agency (EPA) and the Internal Revenue Service (IRS) are themselves created by Congress.

f. **Treaties (1-2f)**
   i. These agreements are between two or more sovereign countries. The president makes treaties, but they must be approved by the Senate by a two-thirds vote.

III. Classifications (1-3)

g. **Criminal and Civil Law (1-3a)**
   i. **Criminal Law** prohibits certain behavior for the benefit of society.
   ii. **Civil law** regulates the rights and duties between parties.

h. **Law and Morality (1-3b)**
   i. Law is related to morality in some ways, but not in others.
      (1) For example, laws based on religious discrimination versus laws prohibiting murder.

IV. Jurisprudence (1-4)

i. **Jurisprudence** is the philosophy of law.

j. **Legal Positivism (1-4a)**
   i. The law is whatever the **sovereign** says it is.

k. **Natural Law (1-4b)**
   i. St. Thomas Aquinas stated that an unjust law is not a law at all and can be disobeyed.

l. **Legal Realism (1-4c)**
   i. This theory is not focused on the law as written but examines who enforces the law and what is the process used for enforcement.

V. Working With the Book's Features (1-5)

a. **Analyzing a Case (1-5a)**
   i. Cases are at the center of the law and illustrate legal controversies.
   ii. **Analysis**
      (1) Note the parties: **Plaintiff**, Karl Huehn is suing the **Defendant**, The Pub Zone.
      (2) The issue is the question the court is trying to answer.

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(3) Each party brings different arguments to court—each argument is the specific party's answer to the issue.

b. **Exam Strategy (1-5b)**
   i. This feature shows students how to analyze cases and legal issues.
c. **You Be the Judge (1-5c)**
   i. These are cases where the holding is omitted. Students are encouraged to find each sides' arguments and attempt to answer the issue in the case.

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Discussion Questions

You can assign these questions several ways: in a discussion forum in your LMS, as whole-class discussions in person, or as a partner or group activity in class.

1. Discussion: Question of enforcement. ([**Sources of Contemporary Law (1-2)**]
   a. Writing prompt asking students, while it is agreed that the executive branch has the power to enforce laws, what if a president decides to order the Environmental Protection Agency (EPA) to not enforce a clean water regulation?
   b. Would this be a within the president's power? What is the extent of enforcement?
      i. Answer defending the president: The executive has the discretion to decide what and where to enforce any law passed by Congress.
      ii. Answer against the president: The executive has interfered with the power that Congress delegated to the EPA.

2. Discussion: Jurisprudence in action. ([**Jurisprudence (1-4)**]
   a. Writing prompt asking students to apply the various schools of jurisprudence to a fact pattern.
   b. A city passes a law against loitering. It reads, "The following shall be deemed loiterers, people begging, traders in stolen property, people wandering around from place to place without a lawful purpose and habitual loafers and punished upon conviction by a fine of $500.00 and or 30 days' imprisonment." How would a legal positivist view obeying this law? How would issues of vagueness play a role in the analysis? Would a natural law theory consider this an unjust law? How could legal realism examine the enforcement and process behind this law?
      i. The Legal Positivist school could argue this law passed by the sovereign is legal; however, there would likely be problems with

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enforcement. What is a lawful purpose? How many times is one deemed habitual in terms of loafing?

ii. Natural Law theorist could argue that this law is unjust based on vagueness, citing the issues noted above regarding lawful purpose, etc.

iii. Legal Realist could argue that this law's true purpose is to deem various actions as loitering. A legal realist would look at who exactly is this law enforced against, i.e., the young, immigrants, etc.

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Additional Activities and Assignments

1. **MindTap:** Why Does the Legal System Matter to Me?
    a. Consider your perspective on key legal concepts.
2. **MindTap:** Reading: Introduction to Law
    a. Read the chapter here. Highlight and make notes to help you study for an exam.
3. **MindTap:** Learn It: The Origins of the American Legal System
    a. Get familiar with one of the key concepts from the chapter.
4. **MindTap**: Learn It: Theories of Jurisprudence
    a. Get familiar with one of the key concepts from the chapter.
5. **MindTap:** Learn It: Branches of Government
    a. Get familiar with one of the key concepts from the chapter.
6. **MindTap**: Check Your Understanding: Introduction to Law
    a. Test your understanding of the facts, themes, and concepts covered in the chapter.
7. **MindTap:** Case Problem Analysis: Sources of Law
    a. Read a short scenario case, analyze fact patterns, and answer questions to gain a deeper level of critical analysis and understanding.
8. **MindTap:** Brief Hypotheticals: Brief Hypotheticals: Introduction to Law
    a. Assess your ability to apply legal concepts to hypothetical scenarios.
9. **Research Project:**
    a. Ask students for their views on each jurisprudential school.
    b. Have students apply jurisprudential ideas to hypotheticals.

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