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Chapter 1: Introduction to Law and Legal Process

MULTIPLE CHOICE

1. Which school of thought holds that law is "the command of a sovereign"?
   a. positive-law school of legal thought
   b. natural-law school of legal thought
   c. legal-realist school of thought
   d. critical legal studies school of thought
   e. ecofeminist school of legal thought
   ANS: A DIF: Easy REF: Section 1.2

2. In a well-ordered society under the rule of law,
   a. there is usually a strong relationship between what is morally right and what the laws require.
   b. almost every moral wrong is addressed by some sort of law.
   c. the law corrects for violations of criminal law but not uninvited harms and broken promises.
   d. people with more wealth and power can usually avoid accountability.
   e! All of the above are correct.
   ANS: A DIF: Easy REF: Section 1.1

3. Which of the following statements are true about the rule of law?
   a. All nation-states today honor the rule of law.
   b. The rule of law can help build trust in everyday public interactions.
   c. Historically, civilizations that have thrived have emphasized the rule of law.
   d. The rule of law can help build trust in everyday public interactions, and historically, civilizations that have thrived have emphasized the rule of law.
   e. All nation-states today honor the rule of law, and historically, civilizations that have thrived have emphasized the rule of law.
   ANS: E DIF: Moderate REF: Section 1.1

4. According to the legal-realist school of thought,
   a. precedent is more important than moral argumentation or reason.
   b. law is based on politics and is thus never neutral.
   c. wives, children, land, and animals are valued as economic resources.
   d. the social context of law is critically important.
   e. the male dominance of both nature and women shapes much of the law.
   ANS: D DIF: Easy REF: Section 1.2

5. Which of the following is/are perspectives that influence the critical legal studies school of thought?
   a. Precedent is more important than moral arguments.
   b. distributive justice theory
   c. dominator culture and patriarchy
   d. precedent is more important than moral arguments and distributive justice theory
   e. distributive justice theory and dominator culture and patriarchy
   ANS: B DIF: Moderate REF: Section 1.2

6. Dominator culture is
   a. one in which man is charged with making all that he controls economically productive.

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b. largely defined by the ideal of peaceful co-existence between humanity and nature.
c. influenced by the economist Karl Marx.
d. more important to legal realists than the formal application of precedent to current or future legal disputes.
e! All of the above are correct.
ANS: A DIF: Easy REF: Section 1.2

7. The historical school of law
a. believed that precedent would be more important than moral arguments.
b. stated that the social context of law was more important.
c. stressed the need for certain laws and doctrines to be altered in order to remain current.
d. emphasized the longstanding domination of men over both women and the rest of the world.
e. influenced the emergence of critical legal studies.
ANS: A DIF: Easy REF: Section 1.2

8. The _____ would use the law to overturn the hierarchical structures of domination in modern society.
a. historical school of law
b. critical legal studies school of thought
c. legal-realist school
d. natural law school of thought
ANS: B DIF: Easy REF: Section 1.2

9. Which of the following is true of civil cases?
a. The plaintiff brings the case and the defendant must answer.
b. Their purpose is to maintain order in society.
c. Their purpose is to deter serious wrongdoing.
d. Proof must be beyond reasonable doubt.
e. Remedies include fines, jail, and forfeitures.
ANS: A DIF: Easy REF: Section 1.3

10. Which of the following is true of criminal cases?
a. Guilty defendants are usually given some form of punishment.
b. Proof depends upon preponderance of evidence.
c. A defendant must answer or lose by default.
d. Proof depends upon preponderance of evidence, and guilty defendants are usually given some form of punishment.
e. Proof depends upon preponderance of evidence, and a defendant must answer or lose by default.
ANS: A DIF: Moderate REF: Section 1.3

11. If there is no state statute, the court will have to make up a rule, known as:
a. stare decisis
b. a case of first impression
c. supremacy
d. judicial review
e. ordinance
ANS: B DIF: Easy REF: Section 1.4

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12. Which of the following is true about statutes?
    a. They are more important than treaties or conventions.
    b. Under most treaties, the President of the United States may end the treaty whenever they choose.
    c. Statutes generally take precedence over case law.
    d. They are more important than treaties or conventions, and under most treaties, the President of the United States may end the treaty whenever they choose.
    e. Under most treaties, the President of the United States may end the treaty whenever they choose, and statutes generally take precedence over case law.
    ANS: C DIF: Easy REF: Section 1.4

13. Which of the following is true about administrative agencies?
    a. The Constitution expressly provides for administrative agencies.
    b. Agency regulations do not have the same force of law as a statute.
    c. The U.S. Supreme Court has upheld the delegation of power to create federal agencies.
    d. Administrative agencies only exist at the federal level.
    ANS: C DIF: Moderate REF: Section 1.4

14. A code-law system
    a. is used to resolve particular cases, usually by judges and a jury.
    b. recognizes the use of precedents in judicial cases.
    c. is one where all the legal rules are in one comprehensive legislative enactment.
    d. is used to resolve particular cases, usually by judges and a jury, and recognizes the use of precedents in judicial cases.
    e. is used to resolve particular cases, usually by judges and a jury, and is one where all the legal rules are in one comprehensive legislative enactment.
    ANS: C DIF: Moderate REF: Section 1.5

15. In the *Harris v. Forklift Systems* case, the Supreme Court
    a. ruled that whether an environment is hostile or abusive can be determined solely by the rule of 72.
    b. ruled that an employee had to prove severe psychological injury in order to win a Title VII sexual harassment claim.
    c. ruled that Title VII comes into play only if the harassing conduct has led to a serious nervous breakdown.
    d. raised the bar and made hostile-working environment claims under Title VII more difficult to win.
    e. reversed the judgment of the Court of Appeals that a plaintiff had to show severe psychological injury to prevail in a hostile work environment claim under Title VII.
    ANS: E DIF: Moderate REF: Section 1.6

16. In what way is public law different from private law?
    a. It can be created by private individuals in their dealings with the public.
    b. Public law includes corporate law, whereas private law does not.
    c. Public law deals with issues affecting all of society.
    d. It can be created by private individuals in their dealings with the public, and public law includes corporate law, whereas private law does not.
    e. Public law deals with issues affecting all of society and includes corporate law, whereas private law does not.

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ANS: C DIF: Moderate REF: Section 1.3

17. Which of these is an example of substantive (versus procedural) law?
    a. your right to a fair trial
    b. the right to answer a civil complaint filed against you
    c. your right to confront witnesses against you in a legal proceeding
    d! None of the above are correct.
    ANS: D DIF: Moderate REF: Section 1.3

18. Which of these is an example of procedural law rather than substantive law?
    a. your right to a jury trial in any criminal proceeding
    b. a state law protecting employees from discrimination based on their size or body weight
    c. a federal law prohibiting cruise lines from discharging ballast water within three miles of the U.S. coastline
    d. your right to a jury trial in any criminal proceeding and a state law protecting employees from discrimination based on their size or body weight
    e. your right to a jury trial in any criminal proceeding and a federal law prohibiting cruise lines from discharging ballast water within three miles of the U.S. coastline
    ANS: A DIF: Easy REF: Section 1.3

19. How do judges make law?
    a. by deciding what legislators meant in the words of a statute where parties to a lawsuit interpret the meaning of those words differently
    b. by considering whether state or federal legislation violates the U.S. Constitution
    c. by advising legislatures, both state and federal, on the wording of proposed statutes
    d. by deciding what legislators meant in the words of a statute where parties to a lawsuit interpret the meaning of those words differently, and by considering whether state or federal legislations violates the U.S. Constitution
    e. by deciding what legislators meant in the words of a statute where parties to a lawsuit interpret the meaning of those words differently, and by advising legislatures, both state and federal, on the wording of proposed statutes

    ANS: D DIF: Moderate REF: Section 1.4

20. Regarding "direct democracy" versus "representative democracy," we know that
    a. a representative democracy is a system of government where citizens elect representatives to vote on laws on their behalf.
    b. a direct democracy is where citizens vote on every issue themselves.
    c. the U.S. is not a direct democracy.
    d! All of the above are correct.
    ANS: D DIF: Easy REF: Section 1.4

TRUE/FALSE

21. "Critical legal studies" scholars accept the premise that law is objectively fair in distributing goods among members of society.
    ANS: F DIF: Easy REF: Section 1.2

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22. "Procedural due process" requires that when a state legislature passes a law, it must be fair to the majority of people in that state.
ANS: F DIF: Moderate REF: Section 1.3

23. The positivist school of legal thought relies on social context and the actual behavior of the principal actors who enforce the law.
ANS: F DIF: Easy REF: Section 1.2

24. According to natural law theory, a citizen would be morally justified in demonstrating civil disobedience of a positive law that violates natural law.
ANS: T DIF: Easy REF: Section 1.2

25. According to contract law, promise-breaking without a legal excuse would be unethical.
ANS: T DIF: Easy REF: Section 1.3

26. If a competitor lies about your product, your remedy would be in contract, not tort.
ANS: F DIF: Easy REF: Section 1.3

27. Substantive legal rules tell us how to act with one another, and how to act with regard to the government.
ANS: T DIF: Easy REF: Section 1.3

28. The Constitution prescribes that the president has the veto power to override any legislation, but the House and Senate can override a presidential veto with a two-thirds vote in each chamber.
ANS: T DIF: Easy REF: Section 1.4

29. Common law consists of decisions by courts that involve interpretation of statutes, regulations, and treaties.
ANS: F DIF: Easy REF: Section 1.5

30. "Common law" originated with decisions by judges in England.
ANS: T DIF: Easy REF: Section 1.5

31. A holding is the court's complete answer to an issue that is critical to deciding the case and thus gives guidance to the meaning of the case as a precedent for future cases.
ANS: T DIF: Easy REF: Section 1.5

32. One alternative to the common-law legal system is the civil law system based in Roman and Napoleonic law.
ANS: T DIF: Easy REF: Section 1.5

33. State and federal statutes that prohibit discrimination on the basis of race or gender are essentially legislative exceptions to the common-law employment-at-will rule.
ANS: T DIF: Easy REF: Section 1.6

34. According to the case *Harris v. Forklift Systems*, the Supreme Court, an employee need not prove severe psychological injury in order to win a Title VII sexual harassment claim.
ANS: T DIF: Easy REF: Section 1.6

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35. When Congress delegates authority to an administrative agency, it can leave guidelines for agency action so vague that the agencies can do almost anything they want.
ANS: F DIF: Easy REF: Section 1.6

36. Civil law systems are typically seen in countries that were once under British colonial rule.

ANS: F DIF: Easy REF: Section 1.6

ESSAY

37. What are the functions of law?
ANS:
In a nation, the law can serve to:

- Keep the peace and ensure public safety.
- Maintain the status quo.
- Preserve individual rights.
- Protect minorities against majorities.
- Promote social justice.
- Provide for orderly social change.
- Regulate markets to be more competitive and more fair.

DIF: Moderate
REF: Section 1.1

38. Explain the main sources of law in the United States.
ANS: The main sources of law in the United States are:
- Constitutions—both state and federal: Constitutions are the foundation for a state or nation's other laws, providing the country's legislative, executive, and judicial framework.
- Statutes and agency regulations: Statutes are legislative directives, having the form of general rules that are to be followed in the nation-state or its subdivisions. Statutes are controlling over judicial decisions or common law but are inferior to (and controlled by) constitutional law. Both the federal government and the states have created administrative agencies. An agency only has the power that the legislature gives it. Within the scope of that power, an agency will often create regulations, which have the same force and effect as statutes.
- Judicial decisions: Common law consists of decisions by courts (judicial decisions) that do not involve interpretation of statutes, regulations, treaties, or the Constitution. Courts make such interpretations, but many cases are decided where there is no statutory or other codified law or regulation to be interpreted. United States law comes primarily from the tradition of English common law.

DIF: Moderate
REF: Section 1.4

39. Do you think that the laws in your country reflect the basic moral values of the people? Why or why not?
ANS:

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Student answers will vary considerably. While not harming others, not taking their property, or keeping promises may be fairly universal across legal systems, students will likely find particular laws or policies as "unfair," "wrong," "immoral," or opposed to the values of the majority of citizens. The overturning of *Roe v. Wade* in the Dobbs decision (2022) could provide a basis for saying that certain state laws do not reflect the moral values of the majority.
DIF: Hard
REF: Section 1.5

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