

Chapter 01: Introduction to Law

True / False

1. William Blackstone, an English jurist, defined law as “a rule of civil conduct prescribed by the supreme power in a state, commanding what is right, and prohibiting what is wrong.”

- a. True
- b. False

ANSWER: True

2. The common law system is used in most of Europe, Scotland, and Latin America.

- a. True
- b. False

ANSWER: False

3. The primary function of the law is to maintain stability in the social, political, and economic system while simultaneously permitting change.

- a. True
- b. False

ANSWER: True

4. Substantive law creates, defines, and regulates legal rights and duties.

- a. True
- b. False

ANSWER: True

5. The Constitution provides that federal statutes are paramount to state constitutions and statutes.

- a. True
- b. False

ANSWER: True

6. The burden of proof in a criminal case is preponderance of the evidence.

- a. True
- b. False

ANSWER: False

7. The law does not change; it is based on unchanging and universal truths.

- a. True
- b. False

ANSWER: False

8. The main categories of the law are (a) substantive and procedural, (b) public and private, and (c) civil and criminal.

- a. True
- b. False

ANSWER: True

9. Law is an instrument of social control.

- a. True
- b. False

ANSWER: True

10. Under the civil law system, adversaries initiate and conduct litigation.

- a. True
- b. False

ANSWER: False

11. A judge deciding a common law case must look for guidance to similar cases previously decided by that court or superior courts.

- a. True
- b. False

ANSWER: True

12. The United States Constitution establishes the principle of judicial review, which divides the government into three distinct and independent branches: judicial, executive, and legislative.

- a. True
- b. False

ANSWER: False

13. Since the end of the nineteenth century, case law developed from court opinions has been the primary source of new law and ordered social change in the United States.

- a. True
- b. False

ANSWER: False

14. A constitution restricts the powers of the government and specifies the rights and liberties of the people.

- a. True
- b. False

ANSWER: True

15. The Uniform Commercial Code is a federal law that applies to commercial transactions among the states.

- a. True
- b. False

ANSWER: False

16. Laws passed by Congress are the supreme law of the land in the United States and take precedence over other sources of law.

- a. True
- b. False

ANSWER: False

17. The final arbiter as to the constitutionality of laws passed by Congress or by the legislature of a state is the Supreme Court of the United States.

- a. True
- b. False

ANSWER: True

18. The common law system of law uses the inquisitorial system of determining disputes.

- a. True
- b. False

ANSWER: False

19. Rodriguez and Compton asked a court for reformation of their contract based on a mutual mistake. They seek an equitable remedy.

- a. True
- b. False

ANSWER: True

20. The principle of stare decisis gives stability to our system of jurisprudence.

- a. True
- b. False

ANSWER: True

21. Once a court has decided a case, the principle of stare decisis precludes correction of erroneous decisions.

- a. True
- b. False

ANSWER: False

22. Civil law systems, as found in the state of Louisiana and countries such as Scotland, depend on comprehensive legislative enactments.

- a. True
- b. False

ANSWER: True

23. The business law topics of contracts, agency, property, and trusts are governed primarily by the common law.

- a. True
- b. False

ANSWER: True

24. One important source of law in the United States is the Restatement of law.

- a. True
- b. False

ANSWER: False

25. Assume the state of Minnesota has been negotiating with the Canadian government on issues involving acid rain and eventually reaches an agreement with Canadian officials. This is a valid treaty under the United States Constitution.

- a. True
- b. False

ANSWER: False

26. In the United States, treaties are not subject to judicial review.

- a. True
- b. False

ANSWER: False

27. Tate brings an action against Marsheen for damages from trespass to Tate's property. Tate must prove the case by a preponderance of the evidence.

- a. True
- b. False

ANSWER: True

28. All laws are related to morals, but some moral precepts are not enforced by legal sanctions.

- a. True
- b. False

ANSWER: False

29. Business law is primarily public law.

- a. True
- b. False

ANSWER: False

30. Decisions of courts of appeals are published in volumes known as "reports" or

"reporters."

a. True

b. False

ANSWER: True

31. The terms "law" and "justice" are interchangeable.

a. True

b. False

ANSWER: False

Multiple Choice

32. A crime is:

a. a private wrong that necessitates litigation between the victim and the perpetrator.

b. any act prohibited by the government or an omission of an act required by public law and made punishable by the government in a judicial proceeding brought by it.

c. litigation where the injured party sues to recover compensation for the damages and injury sustained as a result of the defendant's wrongful conduct.

d. wrongful conduct as set forth in statutes that constitute the supreme law of the land.

ANSWER: b

33. What is the supreme law of the land in the United States?

a. Federal statutes.

b. Treaties.

c. Case law as developed through the U.S. Supreme Court.

d. The U.S. Constitution.

ANSWER: d

34. Which of the following is not descriptive of the law?

a. It is always prohibitory.

b. It is pervasive.

c. It may be permissive.

d. Its function is to regulate human conduct and relations.

ANSWER: a

35. The courts are likely to provide remedies in all but which of the following cases?

a. A person refuses to return your friend's book.

b. A stranger refuses to help rescue a drowning child.

c. A person pushes a stranger into the lake.

d. A driver maneuvers recklessly on a busy street.

ANSWER: b

36. Which one of the following is NOT true of a suit brought under criminal law?

a. It must be brought by the government.

- b. It may be a state or a federal case.
- c. Proof of guilt must be "by preponderance of the evidence."
- d. Conviction may result in imprisonment.

ANSWER: c

37. Sources of federal law include all but which of the following?

- a. Rules of administrative agencies.
- b. Decisions of federal courts.
- c. Executive orders of the President.
- d. Hearings before the Senate.

ANSWER: d

American jurists _____ and _____ defined law in a functional sense as predictions of the way that a court will decide specific legal questions.

38. American jurists _____ and _____ defined law in a functional sense as predictions of the way that a court will...

- a. Roscoe Pound and Alexander Hamilton
- b. Blackstone and Austin
- c. Roscoe Pound and Benjamin Cardozo
- d. Oliver Wendell Holmes and Benjamin Cardozo

ANSWER: d

39. Courts of equity:

- a. have remained separate court systems in nearly every jurisdiction in the United States.
- b. ordinarily do not involve juries.
- c. in all cases recognized new rights that were not enforceable at common law.
- d. All of these.

ANSWER: b

40. Glenna has been charged with arson of a storage building. The prosecutor must prove Glenna's guilt:

- a. by a preponderance of the evidence.
- b. by the greater weight of the evidence.
- c. beyond a reasonable doubt.
- d. beyond shadow of a doubt.

ANSWER: c

41. The President of the United States has the authority to issue laws, which are called:

- a. Restatements of law.
- b. executive orders.
- c. Constitutional amendments.
- d. codes.

ANSWER: b

42. An example of private law is:

- a. business law.
- b. administrative law.
- c. criminal law.
- d. All of these.

ANSWER: a

The courts in common law systems have developed a body of law that serves as precedent for determination of later controversies. This is called:

43. The courts in common law systems have developed a body of law that serves as precedent for determina...

- a. judge-made law.
- b. case law.
- c. common law.
- d. All of these.

ANSWER: d

44. The decision of an equity court is called a(n):

- a. judgment.
- b. decree.
- c. stare decisis.
- d. inquisition.

ANSWER: b

45. The branch of public law that deals with the various regulatory functions and activities of agencies of the government is:

- a. criminal law.
- b. administrative law.
- c. Constitutional law.
- d. substantive law.

ANSWER: b

46. The common law system is used in:

- a. Australia.
- b. Latin America.
- c. England.
- d. Both Australia and England.

ANSWER: d

47. A constitution:

- a. restricts powers of government.
- b. specifically enumerates certain liberties of the people.

- c. establishes governmental structure.
- d. All of these.

ANSWER: d

48. The person who files or commences a civil lawsuit is the:

- a. plaintiff.
- b. defendant.
- c. prosecuting attorney.
- d. attorney general.

ANSWER: a

Because of the increasing complexity of the social, economic, and industrial life of the nation, the scope of _____ has expanded enormously.

49. Because of the increasing complexity of the social, economic, and industrial life of the nation, the...

- a. common law
- b. administrative law
- c. procedural law
- d. equity

ANSWER: b

50. A court order requiring that a person do or refrain from doing a particular act is known as a(n):

- a. injunction.
- b. maxim.
- c. statute.
- d. executive order.

ANSWER: a

51. The three distinct and independent branches of the United States government are:

- a. the executive branch, the House of Representatives, and the U.S. Senate.
- b. the federal judiciary, the House of Representatives, and the U.S. Senate.
- c. the federal judiciary, the Congress, and the executive branch.
- d. the state government, the federal government, and local government.

ANSWER: c

52. Which of the following is a true statement?

- a. A treaty signed by the president and approved by the Senate has the legal force of a federal statute.
- b. A federal statute may supersede a prior treaty.
- c. Both of these.
- d. Neither of these.

ANSWER: c

The _____ is an orderly compilation of the general common law of the United States, prepared by a distinguished group of lawyers, judges, and law teachers.

53. The _____ is an orderly compilation of the general common law of the United States, prepared by a distinguished group of lawyers, judges, and law teachers.

- a. statute of frauds
- b. Uniform Commercial Code
- c. Maxims
- d. Restatement of Law

ANSWER: d

54. The sources of law in the American legal system include:

- a. state administrative rules.
- b. executive orders.
- c. ordinances.
- d. All of these.

ANSWER: d

55. In which of the following ways does a state constitution differ from the U.S. Constitution?

- a. State constitutions are often more restrictive of rights than the U.S. Constitution.
- b. A state constitution can guarantee rights beyond those provided in the U.S. Constitution.
- c. A state constitution is generally amended less frequently than the U.S. Constitution.
- d. State constitutions tend to be more general than the U.S. Constitution.

ANSWER: b

Tim signs a contract to sell 500 wood pallets for a specified price to Schirmer Industries to be delivered by September 1. In this case:

56. Tim signs a contract to sell 500 wood pallets for a specified price to Schirmer Industries to be delivered by September 1.

- a. Tim has a duty to deliver the goods by September 1.
- b. Schirmer Industries has a right to receive the goods by September 1.
- c. The duties and rights of Tim and Schirmer Industries are correlative.
- d. All of these.

ANSWER: d

57. The source of law best suited to making drastic or comprehensive change is:

- a. common law.
- b. the federal court system.
- c. statutes.
- d. state court decisions.

ANSWER: c

58. Which of the following is NOT considered to be an equitable remedy?

- a. Specific performance.
- b. Injunction.
- c. Reformation.
- d. Money damages.

ANSWER: d

59. The National Conference of Commissioners on Uniform State Laws:

- a. was created by President Bill Clinton to study and report on the Uniform Commercial Code.
- b. is another name for the American Law Institute.
- c. has drafted only five uniform laws: the UCC, the Uniform Partnership Act, the Uniform Limited Partnership Act, the Uniform Probate Code, and the Model Business Corporation Act.
- d. has drafted over 250 uniform laws.

ANSWER: d

60. In reading the title of a case, Smith v. Jones:

- a. Smith is the plaintiff.
- b. Jones is the plaintiff.
- c. the determination of who is the plaintiff depends on the level of the court at which the case is being heard.
- d. it is not always possible to determine from the case title which party is the plaintiff.

ANSWER: d

61. Characteristics of a common law system include which of the following?

- a. A common law system relies heavily on comprehensive legislative enactments and an inquisitorial system of determining disputes.
- b. In a common law system, the judiciary initiates litigation, investigates pertinent facts, and conducts the presentation of evidence.
- c. The common law system prevails in most of Europe and Scotland.
- d. A common law system relies heavily on the judiciary as a source of law and on the adversary system for settling disputes.

ANSWER: d

62. The doctrine of stare decisis means that:

- a. the common law has not been able to evolve in a stable and predictable manner.
- b. decisions can be overruled.
- c. courts adhere to and rely on rules of law that they or superior courts relied on in similar decisions.
- d. courts are not allowed to correct erroneous decisions or to choose among conflicting precedents.

ANSWER: c

63. Which of the following is correct with regard to treaties in the United States legal system?

- a. They have no legal effect.
- b. Under the U.S. Constitution, they must be signed by the President and approved by the U.S. Senate.
- c. They have no effect on business law.
- d. They must be approved by the states before they have the force of law.

ANSWER: b

64. Which of the following is correct regarding the decisions of state trial courts?

- a. They are generally not reported.
- b. They are reported in regional reports.
- c. They are reported in state court reports.
- d. They are binding upon lower courts based upon the principle of stare decisis.

ANSWER: a

65. The category of law that creates, defines, and regulates legal rights and obligations is known as:

- a. substantive law.
- b. procedural law.
- c. Constitutional law.
- d. criminal law.

ANSWER: a

66. Which of the following is correct regarding the English courts of equity?

- a. They were presided over by a judge.
- b. They could only award money damages.
- c. They would issue a decree ordering a defendant to do or to refrain from a specific act.
- d. All of these.

ANSWER: c

67. The party who files an appeal is the:

- a. plaintiff.
- b. appellant.
- c. appellee.
- d. defendant.

ANSWER: b

The _____ is composed of a distinguished group of lawyers, judges, and law teachers who assumed the task of preparing "an orderly restatement of the general common law of the United States."

68. The _____ is composed of a distinguished group of lawyers, judges, and law teachers who

assumed the task ...

- a. New York City Bar
- b. American Law Institute
- c. National Conference of Commissioners on Uniform State Laws
- d. National Reporter System

ANSWER: b

69. A decision of an appeals court in Minnesota would be recorded in the:

- a. state's statutory code.
- b. Minnesota administrative code.
- c. North Western regional reporter.
- d. Federal Supplement.

ANSWER: c

70. Which of the following is not ordinarily a part of a reported opinion?

- a. The essential facts.
- b. The names of the attorneys representing the parties.
- c. What pleadings are material to the issues.
- d. The application of legal principles involved in the case.

ANSWER: b

Essay

71. In the common law system of the United States, the reported opinion in a case provides what specific information that can be used to understand and apply legal analysis?

ANSWER: The reported opinion in a case provides the following specific information that can be used to understand and apply legal analysis: (a) the essential facts, the nature of the action, the parties, what happened to bring about the controversy, what happened in the lower court, and what pleadings are material to the issues; (b) the issues of law or fact; (c) the legal principles involved; (d) the application of these principles; and (e) the decision of the court.

72. Compare and contrast civil and criminal law. Include in your discussion definitions, how the cases are commenced, the purposes of civil and criminal law, the burdens of proof, and principal sanctions.

ANSWER: Civil law defines duties, the violation of which constitutes a wrong against the party injured by the violation. Civil law is part of private law, and a civil lawsuit is brought by the injured party, known as the plaintiff. Purposes of civil law include compensation to the injured party and deterrence of such wrongful action in the future. The plaintiff has the burden of proof, which must be sustained by a preponderance of the evidence. Principal sanctions are monetary damages and equitable remedies, such as a decree ordering specific performance or an injunction ordering the defendant to do or refrain from doing a specified act. Criminal law establishes duties, the violation of which is a wrong against the whole community. Criminal law is part of public law. The government brings the criminal case and has the burden of proving criminal guilt beyond a reasonable

doubt, a significantly higher burden of proof than that required in a civil case. The primary purpose of criminal law is to punish the wrongdoer. Additional purposes include public policy (safeguarding government, human life, or private property), deterrence, rehabilitation, and preservation of peace. Principal sanctions include capital punishment (death), imprisonment, and fines.

73. What is stare decisis? Discuss its role in the American legal system.

ANSWER: Stare decisis ("to stand by the decisions") is the principle that, in reaching a decision, courts should adhere to and apply rules of law decided in prior, substantially similar cases. This principle is followed in the American legal system, and it allows the common law to evolve in a stable and predictable manner. Stare decisis does not preclude courts from correcting erroneous decisions or from choosing among conflicting precedents.

74. What are the various kinds or sources of American law? Discuss how these various types of law interrelate to form the system of law in the United States.

ANSWER: The sources of American law include the U.S. Constitution and the constitutions of the various states; judicial decisions in precedent-setting cases, the common law that has developed over centuries; statutes passed by Congress and by state legislatures; ordinances passed by local legislative bodies, such as city councils; treaties; interstate compacts; executive orders; and administrative rules or regulations adopted by federal and state administrative agencies. The U.S. Constitution is the supreme law of the land, and federal statutes and treaties are paramount to state constitutions and statutes.

75. What is law? Discuss the various definitions of law by legal scholars. What is the relationship between law and morality and between law and justice?

ANSWER: Numerous philosophers and jurists have attempted to define law. American jurists Oliver Wendell Holmes and Benjamin Cardozo defined law as predictions of the way a court will decide specific legal questions. On the other hand, the English jurist Blackstone defined law as a "rule of civil conduct prescribed by the supreme power in a state, commanding what is right, and prohibiting what is wrong." Roscoe Pound, a distinguished American jurist, described law as having multiple meanings, including the legal order, the aggregate of laws or legal precepts, and the judicial process. Law and morality can be viewed as intersecting circles, but they are not concentric. They include some common area, but they are not exactly the same. Law and justice represent separate and distinct concepts. Without law, there can be no justice, but law is no guarantee of justice.

76. You have just been asked to serve as a host for a visitor from France who is very interested in the American legal system and the formation of law in the United States. How would you explain the system of law in this country to your guest?

ANSWER: France has a civil law system, which is based upon the Napoleonic Code, whereas the U.S. has a common law system, which is based on the English common law. The common law depends upon the judiciary as a major source of law and on the adversary system of settling disputes. In an adversary system, the parties, not the court, must initiate and conduct litigation. The courts in a common law system develop a body

of law that serves as precedent for determining later disputes. The strength of common law is its ability to adapt to change without losing its sense of direction.

77. Identify three essential functions of law.

ANSWER: The primary function of law is to maintain stability in the social, political, and economic system while simultaneously permitting change. A second essential function of law is to protect the private ownership of property and to assist in the making of contracts relating to exchanges of property and services. A third function of law is preservation of the state.

78. Explain how the terms civil law and civil law system differ.

ANSWER: "Civil law systems" depend on comprehensive legislative enactments called codes and the inquisitorial system of determining disputes. The term "civil law" defines duties the violation of which constitutes a wrong against the party injured by the violation.