

1

The rule of law asserts that law, is based upon fundamental principles which can be discovered, but which cannot be created through an act of will.

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(A)  
) True

Answer:  
(A) True

(B)  
) False

Feedback:

The rule of law is intended to be a safeguard against arbitrary governance, whether by a totalitarian leader or by mob rule. Thus, the rule of law is hostile both to dictatorship and to anarchy

2

Which of the following cases used s 3 to extend the rights of same-sex partners to inherit a statutory tenancy under the Rent Act 1977 and shows how the HRA can permit lower courts to avoid previous and otherwise binding decisions of the House of Lords?

(A) Mendoza v Ghaidan (2002)

Answer:

(A) Mendoza v  
) Ghaidan  
(2002)

(B) Re S (2002)

(C) R v A (2001)

(D)  
) Brown v Stott (2001)

Feedback:

Mendoza v Ghaidan is of particular interest in the fact that it shows how the HRA can permit lower courts to avoid previous and otherwise binding decisions of the House of Lords. It also clearly shows the extent to which s 3 increases the powers of the judiciary in relation to statutory interpretation.

(E) R v Rezvi (2002)

3

Which case first set out the foundations for how the issue of supremacy and conflicts with UK domestic law should be resolved?

(A) Thoburn v Sunderland City Council (2002)  
EWHC 195 Admin

Answer:

(B) Costa v ENEL (6/64)

(E) Van Gend  
) en Loos  
(26/62)

(C) Rewe-Zentral AG v  
Bundesmonopolverwaltung für Branntwein  
(C-120-78)

Feedback:

The case of Van Gend en Loos (26/62) set out the foundations for how the issue of supremacy should be resolved. The European Court of Justice declared that the spirit of the treaty requires member states to give full effect to community laws

(D)  
) McCarthy's Ltd v Smith (1981) QB 199

(E) Van Gend en Loos (26/62)

4

Which of the following principles does the rule of law encompass?

(A) The rights of individuals are determined by legal rules and not the arbitrary

Answer:

(A) The rights of  
individuals are

behaviour of authorities

determined by legal rules and not the arbitrary behaviour of authorities

- (B) The police and the government are the only two branches not subject to the law

(C) There can be no punishment unless a court decides there has been a breach of law

- (C) There can be no punishment unless a court decides there has been a breach of law

(D) Everyone, regardless of your position in society, is subject to the law.

- (D) Everyone, regardless of your position in society, is subject to the law.

- (E) Those higher up in society such as judges and politicians are less likely to receive a punishment for breaking the law

**Feedback:**

The rule of law involves: the rights of individuals are determined by legal rules and not the arbitrary behaviour of authorities, there can be no punishment unless a court decides there has been a breach of law and everyone, regardless of your position in society, is subject to the law.

5

**Which of the following statements did Dicey believe in, in regards to the rule of law?**

**Answer:**

- (A) Supremacy of ordinary law

(A) Supremacy of ordinary law

- (B) Discretionary powers should be exercised in an arbitrary manner

(D) Equality before the law

- (C) Supremacy of criminal law

- (D) Equality before the law

**Feedback:**

Dicey believed in equality before the law : the fact that no person is above the law, irrespective of rank or class and supremacy of ordinary law : the fact that the English constitution was the outcome of the ordinary law of the land and was based on the provision of remedies by the courts rather than on the declaration of rights in the form of a written constitution

- (E) Equality before the police

6

**FA von Hayek was a severe critic of the interventionist State in all its guises. His criticism was founded on two bases - what were they?**

**Answer:**

- (A) Equality

(B) Efficiency

- (B) Efficiency

(C) Morality

- (C) Morality

- (D) Justice

**Feedback:**

Hayek was a severe critic of the interventionist State in all its guises, from the fascist right wing to the authoritarian left wing and encompassing the contemporary welfare State in the middle. His criticism was founded on two bases: efficiency and morality

- (E) Supremacy

7

Match up the following to the role that they play

(A) Legislature	(a) )	The power to consider proposals for new laws and amendments to existing law	
(B) Executive	(b) )	To administer justice through the courts and tribunals by interpreting and applying the law	<b>Answer:</b> (A) Legislature=> The power to consider proposals for new laws and amendments to existing law (B) Executive=> The power to govern the country and handle the day-to-day control and running of the state
(C) Judiciary	(c) )	The power to govern the country and handle the day-to-day control and running of the state	(C) Judiciary=> To administer justice through the courts and tribunals by interpreting and applying the law
(D) Queen	(d) )	To undertake constitutional and representational duties and plays a part in State functions in Britain	(D) Queen=> To undertake constitutional and representational duties and plays a part in State functions in Britain

8

What are the key rules which Dicey believed underpins the doctrine of parliamentary sovereignty?

Answer:

9

Consider some of the key anti-terrorist measures and prominent cases in relation to human rights

Answer:

10

The Rule of Law, in its most basic form, is the principle that \_\_\_\_ is above the law

Answer:

=no one

11

In analysing Dicey's version of the rule of law, it can be seen that it venerated \_\_\_\_ equality at the expense of substantive equality

Answer:

=formal

12

Tension exists between the rule of law and \_\_\_\_

Answer:

=parliamentary sovereignty

13

The idea of the \_\_\_\_ is posited on the existence of three distinct functions of government (the legislative, executive and judicial

**functions) and the conviction that these functions should be kept apart in order to prevent the centralisation of too much power**

**Answer:**

=separation of powers

**14**

**\_\_\_ prevents the executive from trying to influence the judges**

**Answer:**

=Judicial independence

**15**

**In which of the following cases did the defendant in a case of alleged rape claimed that the provisions of the YJCEA 1999 were contrary to Art 6 of the ECHR to the extent that they prevented him from putting forward a full and complete defence?**

(A) Brown v Stott (2001)

(B) O'Halloran v UK (2007)

(C) Sheldrake v Director of Public Prosecutions (2004)

(D) R v A (2001)

(E) R v Rezvi (2002)

**Answer:**

(D R v A  
) (2001)

**Feedback:**

In R v A , the defendant in a case of alleged rape claimed that the provisions of the YJCEA 1999 were contrary to Art 6 of the ECHR to the extent that they prevented him from putting forward a full and complete defence

**16**

**Which concept allows for countries to deal with particular problems in the context of their own internal circumstances?**

(A) Statement of contrary

(B) Declaration of incompatibility

(C) Freedom of movement

(D) Incompatible statement

(E) Margin of appreciation

**Answer:**

(E Margin of  
) appreciation

**Feedback:**

The ECtHR also recognised the concept of 'a margin of appreciation', which allows for countries to deal with particular problems in the context of their own internal circumstances

**17**

**The rule of law does not favour one type of governance and is therefore has no aversion to dictatorship and to anarchy**

(A) True

**Answer:**

(B) False

(B  
) False

**Feedback:** The rule of law is intended to be a safeguard against arbitrary governance, whether by a totalitarian leader or by mob rule. Thus, the rule of law is hostile both to dictatorship and to anarchy

18

**Some statutory offences place a reverse burden on the defendant**

**Answer:**  
(A) True

(A  
) True

(B  
) False

**Feedback:** This statement is correct, in Lord Bingham's opinion such reversals in the normal burden of proof are 'not in themselves objectionable, but may be so if the burden is one which a defendant, even if innocent, may in practice be unable to discharge'

19

**It is the job of the judiciary to uphold the rule of law**

**Answer:**  
(A) True

(A  
) True

(B  
) False

**Feedback:** The role of the judiciary is to administer justice through the courts and tribunals by interpreting and applying the law which has been made by the legislature and implemented by the executive

20

**The three organs of the state remain separate and without any overlaps**

**Answer:**  
(B) False

(A  
) True

(B  
) False

**Feedback:** It is quite clear to see that there are overlaps between the personnel. There are also government ministers who are members of the cabinet, i.e. the executive, and members of parliament, the legislature.

21

**In the UK all laws have equal status**

**Answer:**  
(A) True

(A  
) True

(B  
) False

**Feedback:** In the UK there is no distinction between laws of fundamental importance, for example, those dealing with constitutional issues, and those which are less important, for example, Sunday trading. All laws have equal status

22

**The Human Rights Act can never be repealed**

**Answer:**  
(B) False

(A True

)

(B False  
)

**Feedback:** The HRA 1998 is not entrenched. This means that it can be repealed, along with any other act of parliament. However, convention rights are not affected, as they are not in themselves part of the HRA 1998. The UK would still be bound by convention rights in international law, even if the HRA 1998 was repealed

23

**In the case when a declaration of incompatibility is made, the act remains valid and must be applied by the courts in the case that a decision is being made on**

(A True  
)

**Answer:**  
(A) True

(B False  
)

**Feedback:** The government may then take remedial action, through delegated legislation, to bring an end to the contradiction or incompatibility, as outlined in section 10 HRA 1998

24

**Which piece of legislation has for the first time recognised this centrality in the form of a statutory provision?**

(A) Criminal Justice Act 2003

(B) Constitutional Reform Act 2005

(C) Civil Evidence Act 1995

(D Criminal Justice and Immigration Act  
) (CJIA) 2008

(E) Serious Crime Act 2007

**Answer:**  
(B Constitutional  
) Reform Act 2005

**Feedback:**

the Constitutional Reform Act 2005 has for the first time recognised this centrality in the form of a statutory provision

25

**Who first stated that the UK had no such thing as administrative law as distinct from the ordinary law of the land?**

(A) Lord Bingham

(B) FA von Hayek

(C) EP Thompson

(D AV Dicey  
)

(E) Lord Donaldson

**Answer:**  
(D AV  
) Dicey

**Feedback:**

According to AV Dicey in An Introduction to the Study of the Law of the Constitution (1885), the UK had no such thing as administrative law as distinct from the ordinary law of the land

26

**Which theorist suggested that it would be impossible in**

**practical terms for law to consist solely of general rules?**

- (A) AV Dicey
- (B) Joseph Raz
- (C) EP Thompson
- (D) FA von Hayek
- (E) Franz Neumann

**Answer:**  
(B) Joseph Raz

**Feedback:**

Joseph Raz recognised the need for the government of men as well as laws, and that the pursuit of social goals may require the enactment of particular, as well as general, laws. Indeed, he suggested that it would be impossible in practical terms for law to consist solely of general rules.

**27**

**Who said that the law must be accessible and so far as possible intelligible, clear and predictable?**

- (A) Lord Bingham
- (B) Lord Donaldson
- (C) Lord Woolf
- (D) AV Dicey
- (E) Joseph Raz

**Answer:**  
(A) Lord Bingham

**Feedback:**

Lord Bingham made this statement. The reasoning behind this requirement is that if everyone is bound by the law they must be able without undue difficulty to find out what it is, even if that means taking advice from their lawyers. Equally the response should be sufficiently clear that a course of action can be based on it

**28**

**Which organ of the state has the power to make legislation?**

- (A) Legislature
- (B) Executive
- (C) Judiciary
- (D) Civil Service
- (E) Queen

**Answer:**  
(A) Legislature

**Feedback:**

The legislature has the power to consider proposals for new laws and amendments to existing law, as well as being able to repeal and enact legislation after a prescribed process of debate and scrutiny. In the UK, parliament is the law-making body, or legislature. It has the power to make primary and secondary legislation

**29**

**Joseph Raz was an advocate of which approach to the rule of law?**

- (A) Contextual
- (B) Strict

**Answer:**  
(C) Formal

**Feedback:**

Raz's concept of the rule of law is not concerned with the content of law, but whether or not law has been passed in the correct manner. He was an advocate of the formal

(C) Formal

(D) Substantive  
)

approach

(E) Informal

**30**

**The courts are required to use methods of \_\_\_\_ to render, as far as possible, UK law in line with the ECHR rights**

**Answer:**

=statutory interpretation