

The Legal Environment of Business, 7e (Kubasek)

Chapter 2 Introduction to Law and the Legal Environment of Business

- 1) The purpose of the North American Free Trade Agreement (NAFTA) is to _____.
- A) codify international treaties with the countries that are part of the agreement
 - B) increase immigration quotas in the countries that are part of the agreement
 - C) lower trade barriers within the countries that are part of the agreement
 - D) defend coastal borders of the countries involved in trade, and are part of the agreement

Answer: C

Diff: 1

Topic: Introduction

- 2) The Asian-Pacific Economic Cooperation (APEC) forum is discussing the creation of an economic free trade zone that would extend from _____.

- A) Chile to China
- B) the United States to China
- C) China to Singapore
- D) Japan to China

Answer: A

Diff: 1

Topic: Introduction

- 3) Which of the following statements is a feature of the study of the legal environment of business?

- A) It is designed to maximize enrollment at schools of law throughout the United States.
- B) It develops an understanding that the law is dynamic, not static.
- C) It encourages the search for the one true answer to each legal question.
- D) It is based on the Platonic system of social control.

Answer: B

Diff: 1

Topic: Definition of the Legal Environment of Business

- 4) Which of the following is a feature of the study of the legal environment of business?

- A) It is arbitrary and capricious.
- B) It involves theoretical legal problems.
- C) It excludes ethical considerations.
- D) It is interdisciplinary.

Answer: D

Diff: 1

Topic: Definition of the Legal Environment of Business

5) Which of the following schools of jurisprudence is characterized by the existence of values that are unchanging because their source is absolute?

- A) natural law school
- B) positivist school
- C) sociological school
- D) American realist school

Answer: A

Diff: 1

Topic: Definition of Law and Jurisprudence

6) Which of the following is true of a natural law school?

- A) It has existed since 300 B.C. and bases law on certain unchanging value judgments.
- B) It focuses on environmental concerns, such as toxic waste and air quality.
- C) Its source of law is contemporary community opinion and customs.
- D) It teaches that the legislature is the primary source of all law.

Answer: A

Diff: 2

Topic: Definition of Law and Jurisprudence

7) A natural law school teaches that _____.

- A) good laws depend on good judges
- B) law, ethics, and morality should remain separate
- C) one has a moral responsibility to disobey an unjust law
- D) the U. S. Constitution is the highest legal authority in the United States

Answer: C

Diff: 2

Topic: Definition of Law and Jurisprudence

8) Which of the following statements is an argument raised by critics of a natural law school?

- A) It requires sophisticated quantitative methodology, relying too heavily upon statistical methods.
- B) It is based primarily upon the European rather than American legal thinking.
- C) It is overly subjective in a nation of differing cultures and moral values.
- D) It is designed for communist and socialist political systems.

Answer: C

Diff: 2

Topic: Definition of Law and Jurisprudence

9) Which of the following schools of jurisprudence states that the source of law is the sovereign?

- A) natural law school
- B) positivist school
- C) sociological school
- D) American realist school

Answer: B

Diff: 1

Topic: Definition of Law and Jurisprudence

10) The positivist school of law states that _____.

- A) certain legal values that are unchanging exist because their source is absolute
- B) certain legal values that can be judged by human reason exist and once determined, they supersede any form of human law
- C) law is a closed logical system in which correct legal decisions are reached solely by logic and the use of precedents
- D) a legislator or a judge can determine law by making an inventory of community interests

Answer: C

Diff: 2

Topic: Definition of Law and Jurisprudence

11) Juan, a lawyer, argues that morals have no say in determining legal decisions and extralegal factors must be ignored by judges when determining violations of the law. Juan is an adherent of the _____.

- A) critical legal studies school of law
- B) sociological school of law
- C) American realist school of law
- D) positivist school of law

Answer: D

Diff: 3

Topic: Definition of Law and Jurisprudence

12) Which of the following schools of law is criticized for creating a static jurisprudence because it does not take into account social and ethical factors?

- A) the sociological school
- B) the American realist school
- C) the positivist school
- D) the natural law school

Answer: C

Diff: 2

Topic: Definition of Law and Jurisprudence

13) Which of the following arguments has been made by legal scholars when criticizing the positivist school of law?

- A) It is impossible to remain positive about everything when there is so much negativity in the world.
- B) The positivist school is irrational and not founded in logic.
- C) The positivist school ignores the importance of precedence.
- D) The positivist school adopts a view that is too narrow and literal-minded.

Answer: D

Diff: 2

Topic: Definition of Law and Jurisprudence

14) Which of the following schools of jurisprudence believes that the source of law is contemporary community opinion and customs?

- A) critical legal studies school
- B) sociological school
- C) American realist school
- D) positivist school

Answer: B

Diff: 1

Topic: Definition of Law and Jurisprudence

15) The posted speed limit on the interstate near Omar's house is 60 miles per hour, but no one ever gets a ticket unless they drive over 70 miles per hour. One morning, Omar receives a ticket for going 68 miles per hour. He is outraged and believes that a true injustice has occurred. Based on the scenario, Omar adheres to the _____.

- A) feminist school of law
- B) sociological school of law
- C) positivist school of law
- D) natural law school

Answer: B

Diff: 3

Topic: Definition of Law and Jurisprudence

16) Which of the following is true of the sociological school of law?

- A) It is parallel to the positivist school of law and shares the same chief tenets.
- B) Adherents of the sociological school seek to change the law by surveying case precedents and statutory law.
- C) The sociological school requires a legislator or judge to make an inventory of community interests.
- D) This school of law is very predictable with regard to individuals and businesses.

Answer: C

Diff: 2

Topic: Definition of Law and Jurisprudence

17) Which of the following is a difference between the sociological school of law and the positivist school of law?

- A) The positivist school of law states that morals should not be considered in making legal decisions, whereas the sociological school of law advocates the use of morals in making legal decisions.
- B) The source of law of the sociological school is the sovereign, whereas the source of law of the positivist school is contemporary community opinion and customs.
- C) The sociological school of law looks at actual human behavior and values, whereas the positivist school of law insists that the focus should remain on statutes and precedents.
- D) Adherents have criticized the sociological school of law for being too narrow and literal minded, whereas the positivist school of law has been criticized for being too unpredictable.

Answer: C

Diff: 2

Topic: Definition of Law and Jurisprudence

18) Which of the following arguments has been made by critics of the sociological school of law?

- A) Sociology is not relevant to law, and so its views can be ignored.
- B) The sociological school has proposed a view of law that is rigid and uncompromising.
- C) The sociological school places too great an emphasis on quantitative data rather than experienced gut reactions.
- D) The sociological school makes the law unpredictable, since community standards change over time.

Answer: D

Diff: 2

Topic: Definition of Law and Jurisprudence

19) The American realist school of law believes that _____.

- A) the source of law is contemporary community opinion and customs
- B) morals are separate from law and should not be considered in making legal decisions
- C) classical economic theory and empirical methods must be applied to all areas of law in order to arrive at decisions
- D) the source of law is actors in the legal system and scientific analysis of their actions

Answer: D

Diff: 1

Topic: Definition of Law and Jurisprudence

20) Which of the following is true of the American realist school of law?

- A) It sees law as part of society and a means of enforcing political and social values.
- B) It says that judges and legislators should use an inventory of community interests to familiarize themselves with the community's standards and mores.
- C) It believes that morality is important to determine whether discrimination exists when a business pays workers differently on the basis of their sex, race, religion, or ethnic origin.
- D) It is the same as the sociological school because it focuses on the larger community to determine the meaning of law.

Answer: A

Diff: 2

Topic: Definition of Law and Jurisprudence

21) Which of the following would prove to be most helpful to a disciple of the American realist school?

- A) a scientific study of plea bargaining in the courtroom
- B) a law passed to show the importance of morality in cases of discrimination
- C) a quantitative analysis of statistical data about county government expenditures
- D) a study of the community interests and standards

Answer: A

Diff: 1

Topic: Definition of Law and Jurisprudence

22) The _____ school of law seeks to connect what happens in the legal system to the political-economic context within which it operates.

- A) sociological
- B) critical legal studies
- C) American realist
- D) positivist

Answer: B

Diff: 1

Topic: Definition of Law and Jurisprudence

23) Adherents of critical legal jurisprudence believe that _____.

- A) morality is important to determine whether discrimination exists when a business pays workers differently on the basis of their sex, race, religion, or ethnic origin
- B) law is a mix of legal and nonlegal beliefs that have been constructed by the community to rationalize their way of life
- C) law reflects a cluster of beliefs that convince human beings that the hierarchical relations under which they live and work are natural and must be accommodated
- D) classical economic theory and empirical methods must be applied to all areas of law in order to arrive at decisions

Answer: C

Diff: 1

Topic: Definition of Law and Jurisprudence

24) According to the critical legal studies school of law, members of society's elite have constructed an interlocking system of beliefs that _____.

- A) opposes existing religious order
- B) contradicts political rulings meant for the lower classes
- C) focuses on advancements in infrastructure
- D) reinforces established wealth and privilege

Answer: D

Diff: 1

Topic: Definition of Law and Jurisprudence

25) What is the primary argument raised by traditional critics of the critical legal studies school?

- A) Critical legal theorists have constructed an essentially negative position without developing concrete strategies to bring about improvements.
- B) Critical legal theorists tend to base their pronouncements on female-dominated scholarship.
- C) Critical legal theorists pay too much attention to law without considering the effects of morality.
- D) Critical legal theorists tend to downplay the interaction between statutory and common law.

Answer: A

Diff: 2

Topic: Definition of Law and Jurisprudence

26) Julia believes that the current jurisprudence reflects a male legislature and judicial system, and that women's views are underrepresented. Based on this scenario, she belongs to the _____ school of law.

- A) feminist
- B) positivist
- C) critical
- D) law and economics

Answer: A

Diff: 3

Topic: Definition of Law and Jurisprudence

27) Carlos believes that most court decisions and legal doctrines are best understood as efforts to promote an efficient allocation of resources in society. Carlos adheres to the _____.

- A) natural law school
- B) positivist school of law
- C) sociological school of law
- D) law and economics school of law

Answer: D

Diff: 3

Topic: Definition of Law and Jurisprudence

28) Which of the following accurately illustrates the chronological process of a bill becoming a law?

- A) affirmative vote by both houses of Congress, referral to a committee, bill is marked up, subcommittee approval
- B) referral of bill to a subcommittee, approval by the subcommittee and larger committee, affirmative vote by both houses of Congress, president's signature
- C) president's signature, bill is marked up, subcommittee hearings, affirmative vote by both houses of Congress
- D) passage of bill by Senate, passage of bill by House of Representatives, Senate-House Conference Committee reconciles differences, referral to subcommittee

Answer: B

Diff: 2

Topic: Sources of Law

29) What happens once the full House and Senate have each passed a version of a bill?

- A) If the House and Senate versions are substantially similar, the Senate version goes to the president for his signature or veto.
- B) The two versions of the bill go back to the applicable subcommittees in both the House and Senate to reconcile the differences and create a single version for signature or veto by the president.
- C) The House and Senate versions are both sent to the president for signature or veto of the version he finds best suited to meeting the needs of the country.
- D) Both, the House and Senate versions, are sent to a Senate-House Conference Committee for reconciliation and then a single version is returned to the full House and Senate for a vote.

Answer: D

Diff: 2

Topic: Sources of Law

30) What happens if the president does not sign a bill that has been passed by both houses of Congress?

- A) It can never become law.
- B) It does not become law unless it goes back to both houses and gets a two-thirds vote.
- C) It can become law even if the Congress adjourns before the 10-day period has elapsed.
- D) It can become law since it has been passed by the Congress.

Answer: B

Diff: 2

Topic: Sources of Law

31) When a president vetoes a bill, what vote is necessary to override his veto?

- A) A two-thirds majority of both the house of Representatives and the Senate can override his veto.
- B) A two-thirds majority of either the house of Representatives or the Senate can override his veto.
- C) A four-fifths majority of both houses can override his veto.
- D) No vote can overturn the president's veto.

Answer: A

Diff: 1

Topic: Sources of Law

32) When does a pocket-veto occur?

- A) when the president does nothing upon receipt of a bill from Congress
- B) when the president takes no action within 10 days of receiving the bill from Congress and Congress adjourns within those 10 days
- C) when the president vetoes a bill from Congress during a lame-duck session and the Congress adjourns immediately thereafter
- D) whenever the president vetoes a bill

Answer: B

Diff: 2

Topic: Sources of Law

33) _____ constitute a compilation of our federal and state case law.

- A) Attachments
- B) Testimonials
- C) Reporters
- D) Garnishments

Answer: C

Diff: 1

Topic: Sources of Law

34) Where would one be able to find the documentation of the contents of a Congressional debate?

- A) U.S. reports
- B) Congressional Record
- C) Congressional Daily News
- D) Title 3 of the Code of Federal Regulations

Answer: B

Diff: 1

Topic: Sources of Law

35) Judicial review is _____.

- A) the power to reorganize the panel of Supreme Court judges
- B) the power to determine whether a statute is constitutional
- C) the power to change the working of the federal courts
- D) the power given to the Senate to amend laws

Answer: B

Diff: 1

Topic: Sources of Law

36) The right of judicial review gives the _____.

- A) U.S. Supreme Court the ultimate power to check the excesses of either the legislative or the executive branch
- B) state courts the ultimate power to check the excesses of the judicial branch
- C) state courts the ultimate power to check the excesses of the executive branch
- D) U.S. Supreme Court the ultimate power to check the excesses of the administrative agencies

Answer: A

Diff: 1

Topic: Sources of Law

37) Which of the following is true of the Restatements of the Law?

- A) They have the full force and effect of any other federal statute or regulation.
- B) They are often relied upon by the courts when making decisions.
- C) They are based on previous case decisions issued by the U.S. Supreme Court.
- D) They cover only the legal subjects of contracts, torts, and agency.

Answer: B

Diff: 2

Topic: Sources of Law

38) The executive branch of the government is composed of the _____.

- A) various administrative agencies
- B) House of Representatives and the Senate
- C) president, the president's staff, and the cabinet
- D) federal and state courts

Answer: C

Diff: 1

Topic: Sources of Law

39) Congress has delegated the authority of making rules governing the conduct of business and labor in certain areas to the _____.

- A) federal courts
- B) House of Representatives and the Senate
- C) U.S. president
- D) administrative agencies

Answer: D

Diff: 1

Topic: Sources of Law

40) Which of the following is true of administrative agencies?

- A) Their purpose is to create regulations that guide the functions of the executive branch.
- B) Their authority to issue regulations comes directly from the President.
- C) They regulate business in areas such as employment, trade, and safety.
- D) They do not constitute a branch of the government.

Answer: C

Diff: 2

Topic: Sources of Law

41) Statutory law is made by the _____ branch of the government.

- A) legislative
- B) executive
- C) judicial
- D) administrative

Answer: A

Diff: 1

Topic: Sources of Law

42) Which of the following is true of criminal law?

- A) The purpose of criminal law is purely punitive.
- B) An act that is a misdemeanor in one state could be a felony in another state.
- C) It does not believe in rehabilitation of offenders or restitution to victims.
- D) It is the law governing litigation between two private parties.

Answer: B

Diff: 2

Topic: Classifications of Law

43) Brian pointed a gun at Ray and took Ray's wallet which contained \$10,000. Brian has been accused of robbery, the taking of the property of another by force or fear. Based on this scenario, which of the following statements is true?

- A) Brian will be the defendant in a civil suit brought by the government.
- B) Brian will not be tried in a criminal court because he did not shoot Ray.
- C) Brian will be charged with robbery by Ray, the victim of the robbery.
- D) Brian will be charged with robbery by the government.

Answer: D

Diff: 3

Topic: Classifications of Law

44) Which of the following crimes is a misdemeanor?

- A) drunken driving
- B) rape
- C) arson
- D) armed robbery

Answer: A

Diff: 1

Topic: Classifications of Law

45) _____ deals with the relationship of government to individual citizens.

- A) Property law
- B) Civil law
- C) Private law
- D) Public law

Answer: D

Diff: 1

Topic: Classifications of Law

46) Which of the following can be classified as public law?

- A) contracts
- B) torts
- C) criminal law
- D) property law

Answer: C

Diff: 1

Topic: Classifications of Law

47) _____ covers the process by which individuals or businesses can redress grievances against regulatory agencies such as the FTC and the SEC.

- A) Administrative law
- B) Constitutional law
- C) Civil law
- D) Criminal law

Answer: A

Diff: 1

Topic: Classifications of Law

48) Which of the following can be classified as private law?

- A) administrative law
- B) property law
- C) constitutional law
- D) criminal law

Answer: B

Diff: 1

Topic: Classifications of Law

49) Which of the following best describes a private law?

- A) a law dealing with the enforcement of contracts and torts between two businesses
- B) a law requiring a local zoning board to conduct a hearing before approving a request to change the zoning assigned to a particular parcel of land
- C) a law defining burglary as the breaking and entering of the property of another with the intent to commit a felony
- D) a law requiring police officers to have probable cause when requesting a search warrant

Answer: A

Diff: 2

Topic: Classifications of Law

50) _____ sets forth the rules of enforcing substantive rights in a court of law.

- A) Public law
- B) Constitutional law
- C) Private law
- D) Procedural law

Answer: D

Diff: 1

Topic: Classifications of Law

51) The study of the legal environment includes the study of the administrative law process and the role of businesspeople in that process.

Answer: TRUE

Diff: 1

Topic: Definition of the Legal Environment of Business

52) The United States, Canada, and Mexico created the North American Free Trade Agreement (NAFTA) to lower trade barriers among themselves.

Answer: TRUE

Diff: 1

Topic: Introduction

53) An important function of the World Trade Organization is to lower trade barriers.

Answer: TRUE

Diff: 1

Topic: Introduction

54) Since the pace of economic globalization has slowed in recent years, there is less reason to be concerned about political and economic developments in other countries.

Answer: FALSE

Diff: 1

Topic: Introduction

55) American law is not dynamic; rather, its precepts are "written in stone."

Answer: FALSE

Diff: 1

Topic: Definition of the Legal Environment of Business

56) According to the American jurist Oliver Wendell Holmes, law is grounded in theory rather than experience.

Answer: FALSE

Diff: 1

Topic: Definition of the Legal Environment of Business

57) Jurisprudence is the science or philosophy of law, or law in its most generalized form.

Answer: TRUE

Diff: 1

Topic: Definition of Law and Jurisprudence

58) Plato believed that law is a rule of conduct, a contract, or an ideal of reason.

Answer: FALSE

Diff: 1

Topic: Definition of Law and Jurisprudence

59) Hobbes believed that law is the command of the sovereign.

Answer: TRUE

Diff: 1

Topic: Definition of Law and Jurisprudence

60) Disciples of the positivist school would argue that when Congress has not acted on a matter, the Supreme Court has no power to act on that matter.

Answer: TRUE

Diff: 1

Topic: Definition of Law and Jurisprudence

61) The feminist school bases legal precedent only on cases involving plaintiffs and defendants who were female.

Answer: FALSE

Diff: 1

Topic: Definition of Law and Jurisprudence

62) Some proponents of the feminist school have argued that the First Amendment was authored by men and is presently interpreted by male-dominated courts to allow pornographers to make large profits.

Answer: TRUE

Diff: 1

Topic: Definition of Law and Jurisprudence

63) The U.S. constitution has one indirect and three direct sources of law.

Answer: TRUE

Diff: 1

Topic: Sources of Law

64) The source of Congress's legislative powers comes from Article 1, Section 1 of the U.S. Constitution.

Answer: TRUE

Diff: 1

Topic: Sources of Law

65) A pocket-veto occurs whenever the president signs a bill into law.

Answer: FALSE

Diff: 1

Topic: Sources of Law

66) Legal opinions published on the Internet have no precedential value.

Answer: FALSE

Diff: 1

Topic: Sources of Law

67) Statutory law is the law made by the legislative branch of government.

Answer: TRUE

Diff: 1

Topic: Classifications of Law

68) Civil law is the law governing litigation between two private parties.

Answer: TRUE

Diff: 1

Topic: Classifications of Law

69) Property law falls under public law.

Answer: FALSE

Diff: 1

Topic: Classifications of Law

70) Procedural law sets forth the rules for enforcing substantive rights in a court of law.

Answer: TRUE

Diff: 1

Topic: Global Dimensions of the Legal Environment of Business

71) State the top 10 reasons for studying the legal environment of business.

Answer:

1. Becoming aware of the rules of doing business.
2. Familiarizing yourself with the legal limits on business freedom.
3. Forming an alertness to potential misconduct of competitors.
4. Appreciating the limits of entrepreneurship.
5. Being able to communicate with your lawyer.
6. Making you a more fully informed citizen.
7. Developing an employment-related skill.
8. Exploring the fascinating complexity of business decisions.
9. Providing a heightened awareness of business ethics.
10. Opening your eyes to the excitement of the law and business.

Diff: 2

Topic: Definition of Law and Jurisprudence

72) Explain the characteristics of the natural law school.

Answer: For adherents of the natural law school, which has existed since 300 B.C., law consists of the following concepts: (1) There exist certain legal values or value judgments (e.g., a presumption of innocence until guilt is proved); (2) these values or value judgments are unchanging because their source is absolute (e.g., nature, God, or reason); (3) these values or value judgments can be determined by human reason; and (4) once determined, they supersede any form of human law.

Diff: 2

Topic: Definition of Law and Jurisprudence

73) State the steps in determining law based on the sociological school of law.

Answer: Followers of the sociological school propose three steps in determining law:

1. A legislator or a judge should make an inventory of community interests.
2. Judges and legislators should use this inventory to familiarize themselves with the community's standards and mores.
3. The judge or legislator should rule or legislate in conformity with those standards and mores.

Diff: 2

Topic: Definition of Law and Jurisprudence

74) List the various steps involved in the legislative process.

Answer:

Step 1: A bill is introduced into the U.S. House of Representatives or Senate by a single member or by several members. It is generally referred to the committee of the House or Senate that has jurisdiction over the subject matter of the bill.

Step 2: Let's briefly follow through the House of Representatives a bill proposing to deregulate the trucking industry by doing away with the rate-making power of the Interstate Commerce Commission (ICC). This bill would be referred to the House Committee on Energy and Commerce, which, in turn, would refer it to the appropriate subcommittee.

Step 3: The House subcommittee holds hearings on the bill, listening to testimony from all concerned parties and establishing a hearing record.

Step 4: After hearings, the bill is "marked up" (drafted in precise form) and then referred to the subcommittee for a vote.

Step 5: If the vote is affirmative, the subcommittee forwards the bill to the full House Energy and Commerce committee, which either accepts the subcommittee's recommendation, puts a hold on the bill, or rejects it. If the House committee votes to accept the bill, it reports the bill to the full House of Representatives for a vote by all members.

Step 6: If the bill is passed by the House of Representatives and a similar bill is passed by the Senate, the bills go to a Senate—House Conference Committee to reconcile any differences in content. After compromise and reconciliation of the two bills, a single bill is reported to the full House and Senate for a vote.

Step 7: If there is a final affirmative vote by both houses of Congress, the bill is forwarded to the president, who may sign it into law or veto it. When the president signs the bill into law, it becomes known as a statute, meaning it is written down and codified in the United States Code. In the event of a presidential veto, a two-thirds vote of the Senate and House membership is required to override the veto. If the president takes no action within 10 days of receiving the bill from Congress, the bill automatically becomes law without the president's signature.

Diff: 2

Topic: Sources of Law

75) Compare and contrast criminal law and civil law.

Answer: Criminal law comprises those federal and state statutes that prohibit wrongful conduct such as arson, rape, murder, extortion, forgery, and fraud. The purposes of criminal law are punitive (punishing offenders by imprisonment or fines), rehabilitative (rehabilitating offenders), and restitutive (making restitution to victims). The plaintiff in a criminal case is the United States, State X, County X, or City X, representing society and the victim against the defendant, who is most likely to be an individual but may also be a corporation, partnership, or single proprietorship. The plaintiff must prove beyond a reasonable doubt that the defendant committed a crime. Crimes are generally divided into felonies and misdemeanors. In most states, felonies are serious crimes (e.g., rape, arson, and criminal fraud) that are punishable by incarceration in a state penitentiary. Misdemeanors are less serious crimes (e.g., driving while intoxicated) that are usually punishable by shorter periods of imprisonment in a county or city jail or by fines. An act that is a misdemeanor in one state could be a felony in another state.

Civil law comprises federal and state statutes governing litigation between two private parties. Neither the state nor the federal government is represented in most civil cases. Rather than prosecutors, there are plaintiffs, who are usually individuals or businesses suing other individuals or businesses (the defendants) to obtain compensation for an alleged breach of a private duty.

Diff: 2

Topic: Classifications of Law

76) Discuss how one determines whether a law is just or unjust.

Answer: A just law is a manmade code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of the writings of Saint Thomas Aquinas, an unjust law is a human law that is not rooted in eternal and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. An unjust law is a code that a majority inflicts on a minority but that is not binding on the majority itself. In contrast, a just law is a code that a majority compels a minority to follow that it is willing to follow itself. This is sameness made legal. An unjust law is a code inflicted upon a minority that that minority had no part in enacting or creating because they did not have the unhampered right to vote.

Diff: 3

Topic: Definition of Law and Jurisprudence

77) Discuss how the executive branch is a source of law in two ways.

Answer: The executive branch is a source of law in two ways:

Treaty Making: The president has the power, subject to the advice and consent of the Senate, to make treaties. These treaties become the law of the land, on the basis of the Supremacy Clause of the U.S. Constitution (Article VI), and supersede any state law. When President Carter entered into a treaty returning the Panama Canal Zone to the nation of Panama under certain conditions, it became the law of the land, and the treaty provisions superseded any federal or state laws inconsistent with the treaty.

Executive Orders: Throughout history, the president has made laws by issuing executive orders. For example, President Reagan, by virtue of an executive order, ruled that all executive federal agencies must do a cost-benefit analysis before setting forth a proposed regulation for comment by interested parties. The executive order as a source of law is also used by state governors to deal with emergencies and budget functions. Often, a governor will call out the National Guard or, in some states, implement particular aspects of the budget by executive order.

Diff: 2

Topic: Sources of Law