

PASS MOCK EXAM – FOR PRACTICE ONLY

Course: Laws 1000D Facilitator: Nick Paul
Dates and locations of mock exam take-up:

Wednesday Dec, 7, 2011 from 12:00 – 2:00 in Canal Building 2400

Wednesday Dec. 7, 2011 from 4:00 – 6:00 in Canal Building 2202

Thursday Dec. 8, 2011 from 11:00 – 1:00 in Canal Building 2202

Thursday Dec. 8, 2011 from 6:00 – 8:00 in Canal Building 3400

IMPORTANT:

It is **most beneficial** to you to write this mock midterm **UNDER EXAM CONDITIONS**. This means:

- Complete the midterm in 2 hours.
- Work on your own.
- Keep your notes and textbook closed.
- Attempt every question.

After the time limit, go back over your work with a different colour or on a separate piece of paper and try to do the questions you are unsure of. Record your ideas in the margins to remind yourself of what you were thinking when you take it up at PASS.

The purpose of this mock exam is to give you practice answering questions in a timed setting and to help you to gauge which aspects of the course content you know well and which are in need of further development and review. Use this mock exam as a *learning tool* in preparing for the actual exam.

Please note:

- Come to the PASS session with your mock exam complete. There, you can work with other students to review your work.
- Often, there is not enough time to review the entire exam in the PASS session. Decide which questions you most want to review – the facilitator may ask students to vote on which questions they want to discuss.
- Facilitators do not bring copies of the mock exam to the session. Please print out and complete the exam before you attend.
- Facilitators do not produce or distribute an answer key for mock exams. Facilitators help students to work together to compare and assess the answers they have. If you are not able to attend the PASS session, you can work alone or with others in the class.

GOOD LUCK!

1. Which of the following is a key aspect of the “Rule of Law”?
 - a. State Sovereignty
 - b. Everyone is equal before the law.
 - c. The Prime Minister has absolute power.
 - d. What goes around comes around.

2. Which of the following is **NOT** an argument posed by McThea and Shaffer in their article *For Reconciliation*?
 - a. Conflicts take place in community and are not limited to the individual parties
 - b. Law does not equal justice
 - c. Court processes formally balance inequalities
 - d. “Resolution” must give way to “reconciliation”

3. The province of Ontario attempts to pass criminal law legislation. This is an example of what?
 - a. Parliamentary supremacy
 - b. Intra Vires jurisdiction
 - c. Ultra Vires jurisdiction
 - d. Inter-Jurisdictional Immunity

4. Which of the following is **NOT** one of Nils Christie’s critiques of modern legal systems?
 - a. Lawyers steal conflict.
 - b. Criticizes the assumption that formal legal dispute resolution through the courts is better than informal types of resolution.
 - c. The victim gets left out of dispute resolution in the criminal system.
 - d. Modern legal systems are too complex to accommodate only one type of legal system, and need to be broken down into several different structures.

5. Which of the following statements is **FALSE**:
 - a. In Natural Law, if a law is unjust, it doesn’t need to be followed.
 - b. In Natural Law, there is an inherent link between law and morality
 - c. In Natural Law, if laws are put in place by the proper procedure, then they are legitimate and must be followed.
 - d. In Natural Law, the higher principles are unchanging and inarguable since they match the core principles of society.

6. The new test of harm established in R. v. Labaye dictates that you must prove which of the following?
 - a. The conduct at issue causes harm or presents a significant risk of harm to individuals or society in a way that undermines or threatens to undermine a value reflected in and formally-endorsed through the Canadian Charter of Rights and Freedoms
 - b. The conduct at issue must be conform to what we would allow other Canadians to be exposed to
 - c. That the harm or risk is of a degree that is incompatible with the proper functioning of society

- d. All of the above
 - e. Both (a) and (c)
7. Which of the following is considered a disadvantage of the Marxist approach?
- a. Immoral law may still be valid law
 - b. Inequality is limited to economic inequality, law is only ever a tool of oppression and maintains inequality
 - c. no coherent vision of what the law ought to be
 - d. No firm agreement as to how law should be understood or how law should be addressed
8. Which of the follow best describes Critical Legal Studies?
- a. Studies the content in which laws emerge and are applied
 - b. Reveals the fundamental illusions on which the legal system is built and maintained
 - c. Law maintains a system of racial and gender inequalities
 - d. Law can be determined through human reason
9. Legal Realism is an example of what kind of approach to law?
- a. Internal
 - b. External
 - c. Intrinsic
 - d. Extrinsic
10. Which of the following is **NOT** a component of the proportionality test developed in *R. v. Oakes*?
- a. Law must be carefully crafted to achieve objective and not be arbitrary
 - b. Law must be a proportionality between effects of the measure and objective
 - c. Law must impair the right as little as possible
 - d. Law must be interpreted using the mischief rule only
11. Durkheim had two types of solidarity, _____ and _____.
- a. Repressive, optimistic
 - b. Mechanical, organic
 - c. Restitutive, pessimistic
 - d. Mechanical, repressive
12. Which of the following statements is **TRUE**:
- a. Legal Realism states that judges don't just "find the law", they "formulate it"
 - b. Legal Realism is an internal perspective of law
 - c. Legal Realism believes that judges are completely neutral
 - d. Legal Realism assumes judges have no personal notions of justice, and rely strictly on precedent or rules.
13. Which two tests were developed to deal with issue of obscene material versus freedom of expression in *R. v. Butler*?
- a. Freedom of expression scale and obscenity measure

- b. Community standards test and the degradation/dehumanization test
 - c. Constitutional freedom test and the tolerance scale
 - d. Morality rating and freedom of will test
14. When interpreting legislation, Judges use three common law rules:
- a. Plain Meaning (Literal), silver and mischief
 - b. Plain Meaning (Literal), golden and mischief
 - c. Conflict, golden and consensus
 - d. Utilitarian, definitive and conflict
15. The Doctrine of Stare Decisis refers to:
- a. Deciding like cases alike
 - b. innocent until proven guilty
 - c. right to a fair trial
 - d. freedom of speech
16. Which of the following is not common to both Alternative Dispute Resolution (ADR) and Restorative Justice?
- a. Focuses on reconciliation rather than liability
 - b. Diverts cases from the formal justice system
 - c. Normally found in criminal law
 - d. Involves all parties, including the victim
17. Which theorist was associated with the Conflict approach?
- a. Weber
 - b. Marx
 - c. Fiss
 - d. Durkheim
18. Lakin Inc. is suing Evil Corp. for not providing a product that she had previously purchased. According to Galanter's types of litigants, this situation is likely to involve:
- a. Repeat User v. One Shotter
 - b. One Shotter v. One Shotter
 - c. Repeat User v. Repeat User
 - d. One Shotter v. Repeat User
19. An important point to remember regarding Section 1 of the Canadian Charter of Rights and Freedoms is:
- a. Some rights are subject to override
 - b. Rights are absolute and inarguable
 - c. Charter Rights were deliberately described in broad language
 - d. Charter Rights are not absolute
20. Which of the following is an assumption of the feminist approach?
- a. Justice system reflects 'shared values' in society, everyone is equal before the law.
 - b. Justice system supports power imbalances between men and women

- c. "No one really believes in law anymore"
 - d. The justice system is part of a whole series of structures that maintain systemic inequalities (social, economic, political)
21. Which of the following is **NOT** one of the principles of the constitution?
- a. Democracy
 - b. Protection of minorities
 - c. Rule of law/Constitutionalism
 - d. Hierarchical
 - e. Federalism
22. The British North America Act established three branches of government. What were they?
- a. Legislative, Executive and Judiciary
 - b. Federal, Provincial and Municipal
 - c. Parliamentary, Senatorial and Administrative
 - d. Federal, Provincial and Judiciary
23. Section 33 of the Charter--the Notwithstanding clause--is a provision which lets you override certain provisions of the Charter. When invoked its usage must be renewed every ____ years. This is known as the Sunset clause.
- a. 3
 - b. 2
 - c. 10
 - d. 5
 - e. 1
24. Which level of court has the currently has the ability to bind all other levels?
- a. Privy Council
 - b. Supreme Court of Canada
 - c. Ontario Superior Court
 - d. Ontario Court of Appeal
25. Which of the following is the liberal critique of ADR (Alternative Dispute Resolution)?
- a. ADR is "second class justice" because it is not committed to Rule of Law, due process, or the adversarial trial process
 - b. Dulls resistance and mobilizes communities to just maintain the status quo
 - c. ADR suppresses and depoliticizes gender inequalities in the family
 - d. ADR is a Trojan horse
26. What does POGG stand for?
- a. Peace, order and Good Government
 - b. Property, Ordinance and Good Government
 - c. Peace, Order and God Governed
 - d. Peace, Organization and God Governed

27. *Edwards v. Canada (Attorney General)* [1930], also known as the Persons Case, went all the way to the Judicial Committee of the Imperial Privy Council. This case established that Canadian women had the same rights as Canadian men with respect to positions of political power. It also established one other important doctrine of constitutional interpretation known as the:
- Growing Organism Doctrine
 - Living Tree Doctrine
 - Multiple Interpretations Doctrine
 - Absolute Precedent Doctrine
28. Which of the following cases dealt with the interpretation of legislation concerning what the meaning of a gun was?
- "The Persons Case"
 - Rizzo & Rizzo Shoes* (SCC 2001)
 - R. v. Hasselwander* (SCC 1993)
 - R. v. Scott* (BCCA 2001)
29. Mill would have supported which of Pierre Trudeau's famous statements?
- "there must remain a realm of private morality and immorality which is, in brief and crude terms, not the laws business"
 - "It is not feasible to require any society to permit its own destruction by that which, whether rightly or wrongly, it honestly believes to be in error in case it may be mistaken"
 - " This runs against the principles of equality and dignity of all human beings"
 - "The law has no business in the bedrooms of the nation"
30. Devlin argued that we may not need common _____ but common _____.
- Morality; religion
 - Religion; morality
 - Politics; laws
 - Laws; politics
31. Lakin accepts that her overall goal in life is to attain lots of money. Therefore, she attends university in hopes of acquiring a high paying job. According to Merton's Strain Theory what is Lakin?
- Innovator
 - Ritualist
 - Conformist
 - Retreatist
32. Who has to agree in order to amend the constitution as a part of the amendment formula which was laid out in the *Constitution Act 1982*?
- 7 provinces making up 75% of the population
 - 7 provinces making up 50% of the population
 - 5 provinces making up 75% of the population
 - 5 provinces making up 50% of the population

33. Which sections of the *Constitution Act 1867* outlines the division of powers?
- Section 89 and 90
 - Section 91 and 92
 - Section 41 and 42
 - Section 71 and 72
34. The right that parties have to decide how their case will be structured and progress through the court system is referred to as:
- Adjudication
 - Adversary System
 - Party Autonomy
 - Party Prosecution
35. What condition did Mill argue was necessary for the state to infringe on individual freedom?
- The state may only interfere on people's freedoms to prevent harm to others
 - The state may only interfere on people's freedoms to protect its own interests
 - The state may only interfere on people's freedoms to set boundaries and limits
 - The state may only interfere on people's freedoms to protect them from themselves.
36. The Canadian Charter of Rights and Freedoms was introduced by:
- The Statute of Westminster
 - The Constitution Act 1982
 - The British North America Act
 - The Charter Act
37. Which of the following is described by Daly as a limit of Restorative Justice?
- A sincere apology is difficult to achieve
 - Restorative Justice is not a cure all
 - Fairness is easier to achieve than resotritivness
 - Both a and c
 - All of the above
38. The statement "law is an unbiased reflection of social harmony" would best reflect which perspective?
- Conflict
 - Feminist
 - Consensus
 - Realist
39. _____ theorists would argue that the content of the law is more important than the process with which the law is implemented, whereas _____ theorists would argue that the form is more important than the content.
- Natural Law; Positive Law
 - Positive Law; Natural Law
 - Conflict; Consensus

- d. Consensus; Conflict
40. What was the legal significance of *R. v. Dudley and Stephens*?
- a. Established women as persons according to legislation
 - b. Authoritative case for common law defense of necessity
 - c. Established the reasonable limits proportionality test
 - d. Authoritative case for the concept of the Rule of Law
41. AV Dicey suggests that laws are historically and socially contingent and that we must understand them as the result of a valid process. Which of the following theories does this fall under?
- a. Legal Realism
 - b. Natural Law
 - c. Marxist Approaches
 - d. Legal Positivism
42. In the article *Bargaining in the Shadow of the Law: The Case of Divorce*, Mnookin argues that most situations take place in the “shadow of the law”. What does this statement refer to?
- a. The law serves as an external pressure to encourage people to resolve their own disputes
 - b. Case precedent creates a ‘shadow’ of past decisions that is present in all future cases
 - c. The law must proactively cast its ‘shadow’ to all disputes in an effort to resolve them before they escalate.
 - d. Divorce proceedings should be the responsibility of a specialized court to speed up the process.
43. Which of the following is considered an influence on lawmaking?
- a. Legislators
 - b. Lobbyists
 - c. Politics
 - d. a and c
 - e. All of the above
44. What are the two limitations of precedent described by Patrick Atiyah in his article *The Doctrine of Precedent*?
- a. Multiple judges and multiple reasons
 - b. The strict view and the loose view
 - c. Ratio Decidendi and Obiter Dicta
 - d. The shadow of the law and the Doctrine of Stare Decisis
45. What argument does Moore propose regarding the Drug Treatment Court (DTC)?
- a. DTC’s are too easy on offenders
 - b. DTC’s are not as effective as the traditional court
 - c. DTC’s are the worst of both worlds

- d. DTC's are more adversarial and thus can create a more hostile environment for the defendant
46. Which of the following statements is **FALSE**:
- a. According to Galanter, Repeat Players often have an advantage because they have accumulated experience with the legal system
 - b. According to Galanter, Repeat Players often have an advantage because they can manipulate the passivity and delay inherent in the legal system
 - c. According to Galanter, Repeat Players often have an advantage because they never seek to change a rule, only to obtain a result
 - d. According to Galanter, Repeat Players often have an advantage because they often build informal relationships with institutional players
47. Section 33 of the Canadian Charter of Rights and Freedoms describes the _____, which allows parliament to _____.
- a. Reasonable Limits; allow the law to operate notwithstanding the Charter
 - b. Notwithstanding Clause; allow the law to operate notwithstanding the Charter
 - c. Reasonable Limits; state that Charter rights are not absolute and are subject to reasonable limits
 - d. Notwithstanding Clause; state that Charter rights are not absolute and are subject to reasonable limits
48. Which of the following are the two principles of the adversarial system according to Brooks?
- a. Neutral and Passive
 - b. Manners and Merit
 - c. Party Prosecution and Party Autonomy
 - d. Reconciliation and Party Prosecution
49. Which of the following is a model of Legal Aid in Canada?
- a. Legal reconstruction
 - b. Legal services
 - c. Judicare
 - d. The Canadian Coalition for Legal Access
 - e. Both b and c
50. Based on the spectrum of Dispute Resolution Mechanisms, which is the most informal and least costly dispute resolution mechanism?
- a. Adjudication
 - b. Mediation
 - c. Arbitration
 - d. Negotiation
51. Which of the following is **NOT** considered a benefit of the Legal Services Model?
- a. There is a focus on problem prevention
 - b. Clients have the freedom to choose their lawyer
 - c. Offers a wide range of services

- d. all of the above are benefits
52. What did Chief Justice McLachlin argue in her speech regarding access to justice?
- Even middle-class Canadians are increasingly getting 'frozen out' of judicial system due to cost and complexity
 - Justice is accessible to all who are willing to seek it.
 - Legal Aid is a valid solution for everyone to access justice
 - Middle class Canadians are increasingly having more access to the judicial system as the cost and complexity have been decreasing.
53. What does the concept of the King's Peace refer to in contemporary Canadian law?
- The victim of an offense deserves full compensation from the state
 - The state is the actual victim in criminal offences due to the violation of societal peace
 - In civil matters, the state must step in to promote ADR and peaceful resolution
 - The state must not interfere with the matters of individuals and must promote the peaceful resolution of disputes outside of court.
54. Which of the following was **NOT** a critical element of Weber's definition of law?
- Pressure or threats must be external and come from some other source
 - The law must involve coercion or force
 - Those who enforce the law must have an official staff role
 - Law is a living tree capable of change and growth
55. In 1982 the patriation of the Canadian constitution took place. What two important changes were implemented at this time?
- Ability to amend the constitution and the Canadian Charter of Rights and Freedoms
 - The Canadian Charter of Rights and Freedoms and Federalism
 - Federalism and the Rule of Law
 - Ability to amend the constitution and Peace Order and Good Government
56. What was the legal significance of the case of *Roncarelli v. Duplessis*?
- Established women as persons according to legislation
 - Authoritative case for common law defense of necessity
 - Established the reasonable limits proportionality test
 - Authoritative case for the concept of the Rule of Law
57. In the article *This Case System: Precedent*, Llewellyn describes two views on precedent. The _____, which is the narrowest view of a decision and is used to _____ and the _____, which is a broad view and is used to _____.
- Loose view, cast off unwelcome precedent; strict view, capitalize on welcome precedent
 - Strict view, capitalize on welcome precedent; loose view, cast off unwelcome precedent

- c. Strict view, cast off unwelcome precedent; loose view, capitalize on welcome precedent
 - d. Loose view, capitalize on welcome precedent; strict view, cast off unwelcome precedent
58. Which of the following is **NOT** one of the founding laws in Canada?
- a. Aboriginal Law
 - b. French Civil Law
 - c. British Common Law
 - d. Spanish Inquisitorial Law
59. According to Vago & Nelson, Law is:
- a. authoritative; reactive; interested in problem-solving; able to adopt an artificial black/white view of the world; instrumental; and has no need to question the founding assumptions
 - b. Powerless to protect you, but it can punish you
 - c. authoritative; reactive; interested in problem-solving; able to adopt an artificial black/white view of the world; instrumental; and questions the founding assumptions
 - d. A tool of repression
60. Judicial lawmaking, also known as common law, involves a judge interpreting any given statute. Which of the following is **NOT** a problem which arises from this method of lawmaking?
- a. Reversal
 - b. Misinterpretation
 - c. Legitimacy
 - d. Explanation
61. When interpreting a Canadian statute, a judge must keep a set of rules in mind, including: The Plain Meaning Rule, The Golden Rule, the Mischief Rule. Which of the following completes the set of rules?
- a. Modern Approach
 - b. The Rule in Heydon's Case
 - c. The Literal Rule
 - d. Stare Decisis
62. Which of the following is **NOT** a style of law that Black describes?
- a. Penal
 - b. Compensatory
 - c. Therapeutic
 - d. Civil
 - e. Conciliatory
63. Which of the following sentences best describes a conflict-based perspective on law?
- a. Society requires law to help prevent conflicts

- b. Society is characterized by conflict and held together by coercion
 - c. Law is an unbiased reflection of social consensus
 - d. Law perpetuates gender inequalities within society
64. Which the following would **NOT** describe law under the consensus perspective?
- a. Law is used by groups to maximize their interests
 - b. Law strengthens social order and stability
 - c. Law reflects a set of shared values and goals
 - d. Law is about harmony and compromise
65. Hoebel suggests that law performs four main functions in all societies. Which the following is **NOT** one of those functions?
- a. Actively pursues trouble cases
 - b. Adapts to societal changes
 - c. Defines relationships
 - d. Allocates authority
 - e. Deals with trouble cases as they arise
66. Which theorist claims there has been a shift from mechanical to organic solidarity?
- a. Fitzgerald
 - b. Derpheim
 - c. Marx
 - d. Durkheim
67. *R. v. Dudley & Stephens* (1884) was concerned with which legal defence?
- a. Duress
 - b. Mistake of fact
 - c. Necessity
 - d. Insanity
68. Which of the following cases dealt with the obscenity provision in the Criminal Code of Canada?
- a. *Labaye v. Butler*
 - b. *R. v. Butler*
 - c. *Butler vs. Butler*
 - d. *R. v. Latimer*
69. *Roncarelli v. Duplessis* (1959) was concerned with what?
- a. The de facto rights of an executive to exercise public function to deliberately halt the construction plans on private property
 - b. Whether drug addicts should have action to safe injection centres
 - c. The de facto rights of an executive to exercise public function to deliberately destroy the vital business interests of a citizen
 - d. Whether Duplessis had the right to seek an injunction against Roncarelli
70. Canadian law draws on what type of French law?
- a. Civil

- b. Common
- c. Private
- d. Public

71. Which of the following is **NOT** one of Galanter's 4 strategies for reform?

- a. Rule change
- b. Limit the involvement of Repeat Players
- c. Improved legal facilities
- d. Improved legal services (quality and quantity)
- e. Improved strategic position of the 'have not's'

72. _____ refers to the reasons for the decisions, while _____ refers to information outside the decision.

- a. Ratio Decidendi; Obiter Dicta
- b. Obiter Dicta; Ratio Decidendi
- c. Mens Rea; Actus Reus
- d. Actus Reus; Mens Rea

73. Fiss outlines reasons why settlement is a bad thing. Which of the following is **NOT** one of them?

- a. Parties may be unequal in wealth, power and expertise
- b. Difficult to ensure judicial enforcement of a settlement
- c. Parties might settle but leave justice undone
- d. May result in a 'peace at all costs' mentality
- e. All of the above are reasons given by Fiss to be against settlement

74. Which of the following is **NOT** a merit of Administrative Law

- a. Speed
- b. Informality
- c. Flexibility
- d. Expertise
- e. All of the above

75. Which of the following are principle sources of law in Canada?

- a. Books of authority and statutes
- b. Case Law and Statutes
- c. Custom and Case Law
- d. Custom and Statutes