

Introduction to Law

2019-2020 Fall Semester Final Exam Answers Key
27th December of 2019 at 15.00

1- What is the rule of law? What are the *sine qua non* requirements of the rule of law? (20 points)

The rule of law is a state that respects human rights and establishes a just order of law whereby these rights are protected and maintained. The sine qua non requirements for the rule of law are:

- Actions and functions of the state must conform to law and constitution.
- The state and administration must be responsible for their actions and damages.
- There must be an effective right to legal remedies.
- There must be an independent jurisdiction to protect rights and freedoms.

2- Which of the human right is cannot be limited? Why? (10 points)

Freedom from torture and inhuman or degrading treatment cannot be limited. It is directly related to human dignity. There isn't any exception for torture in human rights conventions and torture cannot be legitimated in any condition.

3- What is your opinion on the universality of human rights and cultural relativism? (15 points)

The theory of universality of human rights has grown from the assumption that all human beings are equal and born with certain inalienable rights. It argues equality of every human being, and human rights are supposed to be valid in all times and places, quite independently of the particular culture each person was born into. However cultural relativism began to spread in the early 20th century as a reaction to universalism, and as a response to Western cultural predominance. No universal and objective standard could be appealed to in resolving disagreement about the identity and comparative importance of values. In my opinion,

4- What are the main differences between public law and private law? (15 points)

Public law embraces those rules which regulate the relations between private individuals and the state, the structure and operation of governmental departments, as well as relations between states and states. Private law regulates the relationship between private persons. It also includes the state where it acts in the capacity of a private person.

5- What are the differences between a law (statute) and a constitution? (16 points)

There are some differences between a law (statute) and a constitution.

- 1- Constitutions are made by a constituent power when laws are enacted by ordinary parliaments.
- 2- Normatively constitution is superior to law.
- 3- Amending a constitution is harder than amending a law.
- 4- Contents are different. Constitutions include the rules on the structure and functions of the state, as well as protecting human rights and freedoms. On the other hand, laws regulate a specific issue for a social need, for instance, taxing, crime and punishment, education, health, etc.

6- Fill in the blanks (24 points)

- 1- *The act of thought by which from two given premises we proceed to a third premise is* **sylogism**.
- 2- *A gap in the law is filled through the application of a rule used in similar cases is* **analogy**.
- 3- *An argument derived from the opposite of the meaning of a legal rule is* **argumentum a contrario**.
- 4- *The legal principle that one is considered innocent until proven guilty is* **presumption of innocence**.
- 5- *The person in possession of the movable property is presumed to be its owner is* **presumption of ownership**.
- 6- *The parties, when dealing with each other, acted honestly and did not engage in any deceptive acts is* **good faith**.
- 7- *This method of interpretation seeks only to ascertain the meaning of words in the legal provisions is* **textual (literal) interpretation**.
- 8- **Civilian** countries which include continental Europe, Latin America countries, Turkey and Japan.



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