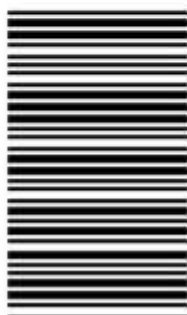


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صبح جمعه

۱۳۹۸/۳/۲۴



جمهوری اسلامی ایران  
وزارت علوم، تحقیقات و فناوری  
سازمان سنجش آموزش کشور

«اگر دانشگاه اصلاح شود، مملکت اصلاح می‌شود.»

امام خمینی (ره)

آزمون ورودی دوره‌های کارشناسی ارشد ناپیوسته داخل - سال ۱۳۹۸

مجموعه حقوق - کد ۱۱۲۶

مدت پاسخگویی: ۱۲۰ دقیقه

تعداد سؤال: ۳۱۰

عنوان مواد امتحانی، تعداد و شماره سؤال‌ها

ردیف	مواد امتحانی	تعداد سؤال	از شماره	تا شماره	ردیف	مواد امتحانی	تعداد سؤال	از شماره	تا شماره
۱	متون حقوق به زبان انگلیسی	۳۰	۱	۳۰	۱۰	حقوق اساسی	۱۵	۱۷۱	۱۸۵
۲	حقوق مدنی	۲۰	۳۱	۵۰	۱۱	حقوق مدنی (تعهدات)	۱۵	۱۸۶	۲۰۰
۳	حقوق تجارت	۱۵	۵۱	۶۵	۱۲	حقوق بین‌الملل خصوصی	۱۵	۲۰۱	۲۱۵
۴	آیین دادرسی مدنی	۱۵	۶۶	۸۰	۱۳	آیین دادرسی کیفری	۱۵	۲۱۶	۲۳۰
۵	متون فقه	۲۰	۸۱	۱۰۰	۱۴	حقوق جزا و آیین دادرسی کیفری	۱۵	۲۳۱	۲۴۵
۶	حقوق جزای عمومی	۱۵	۱۰۱	۱۱۵	۱۵	سازمان‌های بین‌المللی	۱۵	۲۴۶	۲۶۰
۷	حقوق جزای اختصاصی	۲۰	۱۱۶	۱۳۵	۱۶	دروس تخصصی رشته‌های معارف اسلامی و حقوق و حقوق خانواده	۳۵	۲۶۱	۲۹۵
۸	حقوق بین‌الملل عمومی	۲۰	۱۳۶	۱۵۵	۱۷	حقوق ارتباطات	۱۵	۲۹۶	۳۱۰
۹	حقوق اداری	۱۵	۱۵۶	۱۷۰					

استفاده از کتاب قانون مجاز نیست.

این آزمون نمره منفی دارد.

حق چاپ، تکثیر و انتشار سؤالات به هر روش (الکترونیکی و ...) پس از برگزاری آزمون، برای تمامی اشخاص حقیقی و حقوقی تنها با مجوز این سازمان مجاز می‌باشد و با منتقلین برابر مقررات رفتار می‌شود.

۱۳۹۸



« داوطلب گرامی، عدم درج مشخصات و امضا در مندرجات جدول ذیل، به منزله عدم حضور شما در جلسه آزمون است.

اینجانب ..... با شماره داوطلبی ..... با آگاهی کامل، یکسان بودن شماره  
صندلی خود با شماره داوطلبی مندرج در بالای کارت ورود به جلسه، بالای پاسخنامه و دفترچه سؤالات، نوع و  
کد کنترل درج شده بر روی دفترچه سؤالات و پایین پاسخنامه ام را تأیید می‌نمایم.

امضا:

متون حقوق به زبان انگلیسی:

### Reading Comprehension:

**Directions: Read the following six passages and select the answer choice (1), (2), (3), or (4) that best answers each question. Then mark your answer on your answer sheet.**

#### Passage 1:

It has been seen that the essential task of administrative law is to provide a legal control in relation to the exercise of administrative powers conferred on various administrative agencies for all sorts of different purposes. Perhaps the most visible manifestation of this control is an independent judiciary in the shape of the High Court exercising a supervisory role by which it reviews administrative action to ensure that it is not *ultra vires* particular statutory powers or even in excess of prerogative powers. This is the essential character of the subject, but it does not convey the complete picture since administrative law and its rules involve not only a rather negative form of control over the exercise of powers but also a rather more positive aspect. Through its task of interpreting the scope of statutory and other powers, the High Court should be concerned to identify, not only the express limits of the powers, but any realistic implied powers which may not be spelt out quite so clearly. In this way it is possible to avoid a situation where a statutory scheme in an Act of Parliament becomes unworkable. In addition, there will be occasions where the interpretation of the statutory powers will expedite administration or where a mere technical non-compliance with the statutory requirements will not lead to the action being condemned as *ultra vires*.

- 1- The main goal of the passage is to ..... .
  - 1) examine administrative law in perspective
  - 2) examine certain statutory powers *ultra vires*
  - 3) introduce an independent judiciary in the shape of the High Court
  - 4) introduce administrative powers conferred on various administrative agencies
  
- 2- The supervisory role of the High Court ensures that administrative action be kept within the limits of ..... .
  - 1) non-compliance with the statutory requirements
  - 2) both statutory powers and prerogative powers
  - 3) only prerogative powers
  - 4) realistic implied powers

- 3- **When would it be possible to avoid a situation in which a statutory scheme in an Act of Parliament becomes impractical?**
- 1) When the High Court identifies realistic implied powers which are not clearly stated.
  - 2) When the High Court cannot provide a legal control in relation to the exercise of administrative powers.
  - 3) When administrative law cannot provide a legal control in relation to the exercise of administrative powers.
  - 4) When the High Court identifies the express limits of the powers which manifest a rather negative form of control.
- 4- **The word “its” in line 9 refers to .....**
- 1) a rather negative form of control
  - 2) administrative law
  - 3) the exercise of powers
  - 4) the High Court
- 5- **The word “expedite” in line 15 is closest in meaning to .....**
- 1) accelerate
  - 2) stipulate
  - 3) rescind
  - 4) adjourn

**Passage 2:**

Until the Court of Appeal decision in *R v Constanza* (1997), there was some uncertainty as to whether words alone could amount to an assault. *R v Constanza*, a case involving stalking, confirmed that they could. The House of Lords took this approach in *R v Ireland and Burstow* (1997) so that silent phone calls could amount to an assault. The offence would, for example, be committed if a man shouted to a stranger “I’m going to kill you” – there is no need for an accompanying act, such as raising a fist or pointing a gun. The old case of *Meade and Belt* (1823) which had suggested the contrary, must now be viewed as bad law. Some people had gathered around another’s house singing menacing songs with violent language and the judge had said “no words or singing are equivalent to an assault”.

Words can also prevent a potential assault occurring – so, if a person shakes a fist at someone, but at the same time states that they will not harm that person, there will be no liability for this offence. This was the situation in *Tuberville v Savage* (1669). The defendant, annoyed by the comments someone had made to him, put his hand on his sword, which by itself could have been enough to constitute an assault, but also said, “If it were not assize time I would not take such language”, meaning that since judges were hearing criminal cases in the town at the time, he had no intention of using violence. His statement was held to negative the threat implied by putting his hand to his sword.

- 6- **Which of the following is the best title for the first paragraph?**
- 1) The Court of Appeal Decision in *R v Constanza*
  - 2) Accompanying Acts Considered Assaults
  - 3) Words Alone Can Constitute an Assault
  - 4) Serious Cases of Intentional Assaults

- 7- Which of the following is true about the old case of Meade and Belt?
- 1) It involved a group of people raising their fists to threaten someone.
  - 2) It involved the case of no violent words.
  - 3) It is now regarded as bad law.
  - 4) It is still a controversial case.
- 8- What is the main point of the second paragraph?
- 1) It provides a narration to make an exception to the rule in the first paragraph.
  - 2) It suggests that words can stop the occurrence of a potential attack.
  - 3) It acts as an effect for the case of Meade and Belt (1823).
  - 4) It lends further support to R v Constanza case.
- 9- The word "they" in paragraph 2 refers to .....
- 1) no words or singing
  - 2) someone
  - 3) the comments
  - 4) a person
- 10- The word "negative" in paragraph 2 is closest in meaning to .....
- 1) worsen
  - 2) neutralize
  - 3) approve
  - 4) strengthen

### Passage 3:

The common law has long been familiar with the attempt of one party to a contract to insert terms excluding or limiting liabilities which would otherwise be his. The situation frequently arises where a document purporting to express the terms of the contract is delivered to one of the parties and is not read by him. A passenger receives a ticket, stating the terms, or referring to terms set out elsewhere, on which a railway is prepared to carry him or take charge of his luggage. A buyer or hirer signs a document, containing clauses designed for the seller's or owner's protection. Are these terms or clauses part of the contract so as to bind the passenger, the buyer or the hirer, despite his ignorance of their character or even of their existence?

The problems caused by exclusion clauses overlap with those caused by two other emergent themes of modern contract law, the increased use of standard forms contracts and the development of special rules for the protection of consumers. Exclusion clauses are usually, though not necessarily, contained in standard form contracts but they are by no means the only problem which such contracts present for the courts.

Before we turn to consider the particular rules which English law has developed, we should notice that there are divergent views as to what exclusion clauses do. One view is that such clauses go to define the promisor's obligation. According to this view one should read the contract as a whole and decide what it is that the promisor has agreed to do. There is no doubt that this is what the courts sometimes do.

- 11- What is the passage mainly about?
- 1) Excluding terms in contracts
  - 2) Limiting liabilities
  - 3) Particular rules in English law
  - 4) The common law and contract rules
- 12- The word "bind" in paragraph 1 is closest in meaning to .....
- 1) regulate
  - 2) deviate
  - 3) associate
  - 4) obligate

- 13- According to the passage, which of the following are emergent themes of modern contract law?
- 1) Defining the promisor's obligation and the problems caused by exclusion clauses
  - 2) The increased use of standard forms contracts and the problems caused by exclusion clauses
  - 3) Defining the promisor's obligation and the development of special rules for the protection of consumers
  - 4) The increased use of standard forms contracts and the development of special rules for the protection of consumers
- 14- The word "they" in paragraph 2 refers to ..... .
- 1) the courts
  - 2) such contracts
  - 3) exclusion clauses
  - 4) standard form contracts
- 15- The paragraph following the passage will most probably discuss ..... .
- 1) how exclusion clauses have been regarded in another view
  - 2) the significance of reading the contract as a whole
  - 3) divergent views as to what exclusion clauses do
  - 4) what the courts sometimes do

**Passage 4:**

Judges are right to feel uncomfortable about deciding the sorts of questions they are being asked to confront in the birth cases. As Spigelman CJ said, the ethical issues involved are both contestable and contested. But these issues have been legitimately presented to the courts, and in the absence of determinative statutory provisions, they have no alternative but to deal with them as a matter of common law. Judges who think that existing common-law rules and principles determine the contested issues, need look no further than the principle of the priority of the documentary for guidance about how to fulfil their judicial obligation in such cases. But judges who find no determinate answer in the existing materials must look to other principles. My belief is that regardless of how they explain what they are doing, most judges in this situation make a good faith assessment of relevant arguments for and against the various possible answers to the questions they have to decide, and pick the norm that each considers best. The matters that judges take into account include the internal coherence and consistency of the common law in particular, and of the whole body of law more generally; how people ought to behave towards one another, and so on. And this, I would argue, is precisely as it should be, because all these matters are relevant to what the common law should be, just as they are relevant to whether particular norms should be legalized by statute.

- 16- Which of the following statements is correct?
- 1) Judges have no right to feel uncomfortable about decision making when confronted in the birth cases.
  - 2) Judges should make no decisions in the absence of determinative statutory provisions.
  - 3) According to Spigelman CJ, ethical issues should not be presented to the courts.
  - 4) The birth cases are among the cases that are both contestable and contested.