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Topic: Business and the Constitution

Subtopic: The Role of Judicial Review

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Creation Date: November 18, 2018

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### Multiple-Choice Question Type

<question type="mc">

1. The clearest definition of “judicial review” is \_\_\_\_\_.

- a. judging which court cases have arrived at verdicts based on legal technicalities, rather than the facts of the case.
- b. determining the accuracy of rulings in current court rulings.
- c. determining the success or failure of legal rulings in various past court rulings.
- d. determining the constitutionality of laws and actions made by the legislative and executive branches.

Analysis:

- a. Incorrect. “Judicial review” allows the judicial branch of government oversight on the laws and actions of the other branches; it allows the judicial branch to determine whether laws and actions of other branches are constitutional or not.
- b. Incorrect. “Judicial review” allows the judicial branch of government oversight on the laws and actions of the other branches; it allows the judicial branch to determine whether laws and actions of other branches are constitutional or not.
- c. Incorrect. “Judicial review” allows the judicial branch of government oversight on the laws and actions of the other branches; it allows the judicial branch to determine whether laws and actions of other branches are constitutional or not.
- d. Correct. “Judicial review” allows the judicial branch of government oversight on the laws and actions of the other branches; it allows the judicial branch to determine whether laws and actions of other branches are constitutional or not.

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Level of difficulty: Easy

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2. What are the origins of judicial review in the United States?

- a. Judicial review was written into the U.S. Constitution originally.
- b. Judicial review was established by the Supreme Court in 1803 in Marbury v. Madison
- c. Judicial review was established in the 1972 as part of a wave of skepticism brought on by the Watergate scandal.

d. Judicial was taken from old English law and dates back to the mid-1500s.

Analysis:

a. Incorrect. In Marbury v. Madison in 1803 the Supreme Court stated, "it is emphatically the providence and duty of the Judicial Department to say what is law."

b. Correct. In Marbury v. Madison in 1803 the Supreme Court stated, "it is emphatically the providence and duty of the Judicial Department to say what is law."

c. Incorrect. In Marbury v. Madison in 1803 the Supreme Court stated, "it is emphatically the providence and duty of the Judicial Department to say what is law."

d. Incorrect. In Marbury v. Madison in 1803 the Supreme Court stated, "it is emphatically the providence and duty of the Judicial Department to say what is law."

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Level of difficulty: Medium

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3. Which of the following is NOT an example of judicial review?

a. a defense attorney arguing that their client was nowhere near the scene of the crime

b. an assisted suicide organization bringing the legality of their proposed actions to court

c. a state court hearing an appeal from a woman convicted to kidnapping in a lower court

d. the Supreme Court determining the whether a law is legal

Analysis:

a. Correct. The defense attorney is not arguing the legality of the law or the accuracy of a prior judicial ruling. All other options are examples of judicial review.

b. Incorrect. The defense attorney is not arguing the legality of the law or the accuracy of a prior judicial ruling. All other options are examples of judicial review.

c. Incorrect. The defense attorney is not arguing the legality of the law or the accuracy of a prior judicial ruling. All other options are examples of judicial review.

d. Incorrect. The defense attorney is not arguing the legality of the law or the accuracy of a prior judicial ruling. All other options are examples of judicial review.

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Level of difficulty: Medium

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4. When do the actions of various agency actions come under judicial review?

a. As soon as they are enacted they are brought before a judicial review board.

b. The first time those regulations are brought into court they are subject to review.

- c. The law or action must have been implemented and the subject of the action has to request judicial review of a court.
- d. Whenever the court deems it is time for a judicial review.

Analysis:

- a. Incorrect. In order for a judicial review to occur, the law or action must have been implemented, and the subject of the action must request a judicial review of the court.
- b. Incorrect. In order for a judicial review to occur, the law or action must have been implemented, and the subject of the action must request a judicial review of the court.
- c. Correct. In order for a judicial review to occur, the law or action must have been implemented, and the subject of the action must request a judicial review of the court.
- d. Incorrect. In order for a judicial review to occur, the law or action must have been implemented, and the subject of the action must request a judicial review of the court.

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Level of difficulty: Medium

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5. What is meant by the “exhaustion doctrine,” or “exhaustion rule?”

- a. A party seeking judicial review must try all other administrative remedies first.
- b. A party may not bring a law or action up for judicial review if the law or action is set to expire within “a timeline not to exceed two years.”
- c. Any individual (or corporation) is limited to pursue no more than 4 judicial reviews in any given 2 year period.
- d. One a judicial review has concluded, no such ruling will take effect until all current reserves of any effected product have completed one full production cycle.

Analysis:

- a. Correct. Any party seeking judicial review must first exhaust all administrative remedies first.
- b. Incorrect. Any party seeking judicial review must first exhaust all administrative remedies first.
- c. Incorrect. Any party seeking judicial review must first exhaust all administrative remedies first.
- d. Incorrect. Any party seeking judicial review must first exhaust all administrative remedies first.

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Level of difficulty: Medium

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6. Which statute specifically stipulates judicial review as a check on the actions, and limitation on the power of federal agencies?

- a. the Sarbanes-Oxley Act
- b. the Recovery Act
- c. the Administrative Procedure Act
- d. the Federal Arbitration Act

Analysis:

- a. Incorrect. The Administrative Procedure Act stipulates judicial review as a check on the actions, and limitation on the power of federal agencies by requiring basic fairness in areas not regulated by unless specifically stipulated by Congress.
- b. Incorrect. The Administrative Procedure Act stipulates judicial review as a check on the actions, and limitation on the power of federal agencies by requiring basic fairness in areas not regulated by unless specifically stipulated by Congress.
- c. Correct. The Administrative Procedure Act stipulates judicial review as a check on the actions, and limitation on the power of federal agencies by requiring basic fairness in areas not regulated by unless specifically stipulated by Congress.
- d. Incorrect. The Administrative Procedure Act stipulates judicial review as a check on the actions, and limitation on the power of federal agencies by requiring basic fairness in areas not regulated by unless specifically stipulated by Congress.

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Level of difficulty: Medium

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7. The Administrative Procedure Act holds that courts should “hold unlawful and set aside” agency actions that are found to be “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.” Which of the following would NOT be a condition for finding an action “arbitrary or capricious?”

- a. The agency has failed to consider a relevant factor in creating their action.
- b. The agency has changed its prior policy despite the existence of contraindications.
- c. The agency has failed to provide a rational explanation for the decision.
- d. The agency has changed its prior policy without justification.

Analysis:

- a. Incorrect. The agency could reasonably have created an action in the face of some contraindications if those contraindications were overwhelmed by other, more compelling information.
- b. Correct. The agency could reasonably have created an action in the face of some contraindications if those contraindications were overwhelmed by other, more compelling information.
- c. Incorrect. The agency could reasonably have created an action in the face of some contraindications if those contraindications were overwhelmed by other, more compelling information.

d. Incorrect. The agency could reasonably have created an action in the face of some contraindications if those contraindications were overwhelmed by other, more compelling information.

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Level of difficulty: Medium

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8. Judicial review offers the judicial branch of government all of the following except \_\_\_\_\_.

- a. the ability to exercise oversight over legislative actions.
- b. the ability to exercise oversight over governmental agencies.
- c. the ability to exercise oversight over international treaties.
- d. the ability to exercise oversight over executive actions.

Analysis:

- a. Incorrect. Judicial review offers oversight over administrative rule, investigations, adjudications – actions of the legislative and executive branches and governmental agencies.
- b. Incorrect. Judicial review offers oversight over administrative rule, investigations, adjudications – actions of the legislative and executive branches and governmental agencies.
- c. Correct. Judicial review offers oversight over administrative rule, investigations, adjudications – actions of the legislative and executive branches and governmental agencies.
- d. Incorrect. Judicial review offers oversight over administrative rule, investigations, adjudications – actions of the legislative and executive branches and governmental agencies.

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Level of difficulty: Easy

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### **True/False Question Type**

<question type="true-false">

9. In order to have an administrative rule, investigation, or adjudication brought to judicial review, the individual or corporation initiating this review must have been directly harmed by this administrative rule, investigation, or adjudication.

T

Correct. This statement is true. Only an individual or corporation who has been directly harmed by an administrative rule, investigation, or adjudication can initiate a judicial review.

F

Incorrect. This statement is true. Only an individual or corporation who has been directly harmed by an administrative rule, investigation, or adjudication can initiate a judicial review.

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Level of difficulty: Medium

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