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## QUESTION 1

Philosopher Denise Meyerson views the Critical Legal Studies (CLS) movement as seeking to debunk orthodox legal theory by exposing its contradictions. However, Meyerson argues that CLS proponents tend to see contradictions where none exist, and that CLS overrates the threat that conflict poses to orthodox legal theory.

According to Meyerson, CLS proponents hold that the existence of conflicting values in the law implies the absence of any uniquely right solution to legal cases. CLS argues that these conflicting values generate equally plausible but opposing answers to any given legal question, and, consequently, that the choice between the conflicting answers must necessarily be arbitrary or irrational. Meyerson denies that the existence of conflicting values makes a case irresolvable, and asserts that at least some such cases can be resolved by ranking the conflicting values. For example, a lawyer's obligation to preserve a client's confidences may entail harming other parties, thus violating moral principle. This conflict can be resolved if it can be shown that in certain cases the professional obligation overrides ordinary moral obligations.

In addition, says Meyerson, even when the two solutions are equally compelling, it does not follow that the choice between them must be irrational. On the contrary, a solution that is not rationally required need not be unreasonable. Meyerson concurs with another critic that instead of concentrating on the choice between two compelling alternatives, we should rather reflect on the difference between both of these answers on the one hand, and some utterly unreasonable answer on the other ?such as deciding a property dispute on the basis of which claimant is louder. The acknowledgment that conflicting values can exist, then, does not have the far-reaching implications imputed by CLS; even if some answer to a problem is not the only answer, opting for it can still be reasonable.

Last, Meyerson takes issue with the CLS charge that legal formalism, the belief that there is a quasi-deductive method capable of giving solutions to problems of legal choice, requires objectivism, the belief that the legal process has moral authority. Meyerson claims that showing the law to be unambiguous does not demonstrate its legitimacy: consider a game in which participants compete to steal the item of highest value from a shop; while a person may easily identify the winner in terms of the rules, it does not follow that the person endorses the rules of the game. A CLS scholar might object that legal cases are unlike games, in that one cannot merely apply the rules without appealing to, and therefore endorsing, external considerations of purpose, policy, and value. But Meyerson replies that such considerations may be viewed as part of, not separate from, the rules of the game.

The author's primary purpose in the passage is to

- A. evaluate divergent legal doctrines
- B. explain how a controversy arose
- C. advocate a new interpretation of legal tradition
- D. describe a challenge to a school of thought
- E. refute claims made by various scholars

Correct Answer: D

The author's primary purpose is closely connected to the main idea. As we've discussed, the author describes Meyerson's challenge to CLS, but the author's own opinion doesn't really come through.

## QUESTION 2

A pesticide producing company states that their unused pesticide that is dumped does not pose a threat to the aquatic life in the surrounding area. If this is correct, then why have local fish been dying in this region? Due to the fact that the

pesticide company is not located in a highly fish populated area, they implicitly admit that the pesticides they produce are relatively dangerous to the nearby aquatic life.

Of the following statements listed below, which one would be most likely to weaken the argument of the author if it were true?

- A. The possibility of pesticides filtering into the local water region was underestimated in the past.
- B. Funds for environmental company clean-up, which concern waste dumps that are poorly run, are reserved for rural regions only.
- C. It would be pointless to locate chemical dumps where they would be most harmful, unless they can be 100% proven safe.
- D. Dumps that are located in areas without large fish populations have fewer government interventions and are also less expensive.
- E. City people are most probable to sue the company if the dumps cause them health problems.

Correct Answer: D

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### QUESTION 3

Opponent of offshore oil drilling: The projected benefits of drilling new oil wells in certain areas in the outer continental shelf are not worth the risk of environmental disaster. The oil already being extracted from these areas currently provides only 4 percent of our country's daily oil requirement, and the new wells would only add one-half of 1 percent. Proponent of offshore oil drilling: Don't be ridiculous! You might just as well argue that new farms should not be allowed, since no new farm could supply the total food needs of our country for more than a few minutes.

Which one of the following, if true, most weakens the drilling proponent's reply?

- A. New farms do not involve a risk analogous to that run by new offshore oil drilling.
- B. Many of the largest oil deposits are located under land that is unsuitable for farming.
- C. Unlike oil, common agricultural products fulfill nutritional needs rather than fuel requirements.
- D. Legislation governing new oil drilling has been much more thoroughly articulated than has that governing new farms.
- E. The country under discussion imports a higher proportion of the farm products it needs than it does of the oil it needs.

Correct Answer: A

Now we get to debunk the debunker -- the proponent's implication that the opponent's argument is ridiculous ain't so hot after all, and perhaps you spotted the problem your first time through: The opponent doesn't pooh-poo the new wells simply because of their measly output, but because such a small amount is "not worth the risk of environmental disaster." What's analogous to this risk in the proponent's farm example? Nothing. The proponent ignores this aspect of the opponent's argument. If, as option [New farms do not involve a risk analogous to that...] has it, new farms pose no such analogous risk, then the supposedly parallel example that's meant to refute the opponent's argument isn't parallel after all, rendering its implication meaningless. If option [New farms do not involve a risk analogous to that...] is true, the first line of the proponent's response can be thrown back at him.

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**QUESTION 4**

Supervisor: Our next budget proposal will probably be approved, because normally about half of all budget proposals that the vice president considers are approved, and our last five budget proposals have all been turned down.

The supervisor's reasoning is flawed because it presumes, without giving warrant, that

- A. the last five budget proposals' having been turned down guarantees that the next five budget proposals will be approved
- B. the vice president is required to approve at least half of all budget proposals submitted
- C. having the last five budget proposals turned down affects the likelihood that the next budget proposal will be turned down
- D. the majority of the last five budget proposals deserved to be turned down
- E. the likelihood that a budget proposal will be approved is influenced by the amount of money that budget proposal requests

Correct Answer: C

The prediction that the next proposal will probably be approved is based on two facts: the last 5 got thumbs down, and "normally about half" get thumbs up. You needn't know the total number of proposals submitted to recognize that option [having the last five budget...] is the problem: The supervisor has no reason to believe that the last 5 turn downs are relevant, in any way, to the next budget decision. If the

V.P. considers each proposal on its own merits only, then the probability of the next one's success is unaffected, at least in the way the supervisor argues.

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**QUESTION 5**

Physician: Heart disease generally affects men at an earlier age than it does women, who tend to experience heart disease after menopause. Both sexes have the hormones estrogen and testosterone, but when they are relatively young, men have ten times as much testosterone as women, and women abruptly lose estrogen after menopause. We can conclude, then, that testosterone tends to promote, and estrogen tends to inhibit, heart disease.

The physician's argument is questionable because it presumes which one of the following without providing sufficient justification?

- A. Hormones are the primary factors that account for the differences in age-related heart disease risks between women and men.
- B. Estrogen and testosterone are the only hormones that promote or inhibit heart disease.
- C. Men with high testosterone levels have a greater risk for heart disease than do postmenopausal women.
- D. Because hormone levels are correlated with heart disease they influence heart disease.
- E. Hormone levels do not vary from person to person, especially among those of the same age and gender.

Correct Answer: D

The question stem is just a wordy way of asking you to identify the logical flaw in the argument. This is a classic case of confusing correlation with causation. Just because X and Y appear together doesn't mean that X causes Y. Here the

physician cites the evidence of high testosterone levels in younger men, and lower estrogen levels in post-menopausal women. The physician then couples this with the fact that men get heart disease earlier, and women get it later, and finally concludes that testosterone promotes heart disease, and estrogen tends to inhibit disease. Looking at this evidence, you can agree that hormone levels and heart disease do seem to be correlated, but does that necessarily mean that these hormones promote or inhibit disease? Might there be other causes? Couldn't the correlation just be coincidence? Once you have identified this flaw (and it should come naturally after having read numerous causal arguments) you should be able to go quickly to correct answer choice [Because hormone levels are correlated...].

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