

Introduction to Legal Theory

Introduction to Legal Theory – Study Notes

1. What Is Legal Theory?

- **Definition:** A branch of jurisprudence that examines the nature, sources, purposes, and functioning of law.
 - **Purpose:**
 - Explains *why* laws exist and *how* they operate.
 - Provides a framework for interpreting statutes, cases, and legal institutions.
 - Guides lawmakers, judges, scholars, and practitioners in applying and reforming the law.
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2. Major Schools of Thought

School	Core Idea	Key Proponents	Typical Questions
Natural Law	Law reflects universal moral principles discoverable by reason.	Aquinas, Locke, Finnis	<i>Is there a higher law that limits positive law?</i>
Legal Positivism	Law is a set of rules created by recognized authorities; validity is separate from morality.	Austin, Hart, Raz	<i>What makes a rule legally valid?</i>
Legal Realism	Law is shaped by social, economic, and psychological forces; judges' decisions are often indeterminate.	Oliver Wendell Holmes Jr., Karl Llewellyn	<i>How do facts and bias affect outcomes?</i>
Critical Legal Studies (CLS)	Law perpetuates power structures and social hierarchies; it is inherently political.	Roberto Unger, Duncan Kennedy	<i>Who benefits from the current legal order?</i>
Law and Economics	Legal rules can be analyzed using economic efficiency and cost-benefit principles.	Richard Posner, Guido Calabresi	<i>Does a rule maximize social welfare?</i>

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Feminist Jurisprudence	Law reflects patriarchal assumptions; seeks gender equality and inclusion.	Catharine MacKinnon, Robin West	<i>How does law affect gender relations?</i>
Legal Pluralism	Multiple legal orders coexist (state law, customary law, religious law).	John Griffiths, Sally Engle Merry	<i>How do overlapping systems interact?</i>

3. Fundamental Concepts

Concept	Explanation	Example
Normativity	Law prescribes behavior; it tells us what we <i>ought</i> to do.	Traffic statutes require drivers to stop at red lights.
Authority	Legitimacy granted to a rule-making body (e.g., legislature).	Parliament enacts criminal codes.
Binding Force	The obligatory power of law over subjects.	A court order must be obeyed under threat of contempt.
Interpretation	The process of giving meaning to legal texts.	Judges use <i>plain meaning</i> , <i>intent</i> , or <i>purposive</i> approaches.
Rule of Law	Principle that all persons and institutions are subject to law.	No one is above the constitution.
Legal Reasoning	Deductive, inductive, and analogical methods used to apply law.	Applying precedent (<i>stare decisis</i>) to a new case.

4. Sources of Law

1. **Constitutions** – Fundamental legal framework; supreme source.
2. **Statutes/Legislation** – Enacted by legislative bodies.
3. **Regulations** – Issued by administrative agencies under statutory authority.
4. **Case Law/Jurisprudence** – Judicial decisions that interpret and apply law.
5. **Customary Law** – Long-standing practices recognized as binding.
6. **International Law** – Treaties, conventions, and customary norms between states.

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5. Methods of Legal Analysis

1. Doctrinal (Black?Letter) Method