

CHAPTER 2

THEORETICAL PERSPECTIVES

Multiple-Choice Questions

1. Which of the following is not a way to categorize specific law and society theories?
  - a. philosophy of law
  - b. lateral
  - c. historical
  - d. Weberian

Answer: B (p. 38)

2. Formal codified law emerges when \_\_\_\_\_.
  - a. a society's social structure becomes too complex for informal customs
  - b. at least two political parties emerge
  - c. the society becomes homogeneous
  - d. societal members agree on social norms

Answer: A (p. 39)

3. In a complex, heterogeneous society \_\_\_\_\_.
  - a. formal norms are not necessary
  - b. civilized behavior replaces law
  - c. formal norms are necessary
  - d. none of the above

Answer: C (p. 39)

4. The relationship between law and society can be described as \_\_\_\_\_.
  - a. inversely related
  - b. reciprocal
  - c. homogenous
  - d. traditional

Answer: B (p. 40)

5. Which of the following is not a level of society described by developmental models?
  - a. psychological maturity
  - b. individual
  - c. community
  - d. social institution

Answer: A (p. 40)

6. The more \_\_\_\_\_ the society, the more \_\_\_\_\_ the legal system.
- a. homogeneous/ heterogeneous
  - b. developed/ developed
  - c. integrated/ differentiated
  - d. complex/differentiated

Answer: D (p. 40)

7. Primitive societies are composed of \_\_\_\_\_.
- a. councils
  - b. elders
  - c. chiefs
  - d. all of these

Answer: D (p. 41)

8. Primitive legal systems are typically found in \_\_\_\_\_.
- a. Europe
  - b. cold climates
  - c. agrarian societies
  - d. complex societies

Answer: C (p. 41)

9. In primitive societies, the emphasis is on \_\_\_\_\_.
- a. legislative law
  - b. codified law
  - c. common law
  - d. statutory law

Answer: C (p. 41)

10. Transitional legal systems are characteristic of \_\_\_\_\_.
- a. early industrial societies
  - b. tribal societies
  - c. hunter-gatherers
  - d. none of the above

Answer: A (p. 42)

11. Which of the following is not a distinct type of status in the transitional legal system?
- a. court-appointed mediators
  - b. litigants
  - c. lawyers
  - d. court officials

Answer: A (p. 42)

12. Which of the following is not a reason that transitional legal system development accelerates?
- a. Laws can be applied systematically to specific circumstances.
  - b. Courts can enact laws by handing down common law.
  - c. The establishment of a Supreme Court.
  - d. none of these

Answer: C (p. 42)

13. A distinctive feature of the modern legal system is/are \_\_\_\_\_.
- a. the proliferation of administrative law
  - b. clear hierarchies of laws
  - c. an increase proportion of statutory law
  - d. all of these

Answer: D (p. 43)

14. Which of the following is not a salient feature of modern law?
- a. uniform rules
  - b. laws that can be changed
  - c. law is localized
  - d. the application of law is impersonal

Answer: C (p. 44)

15. The idea that reason and knowledge can provide the basis for social and legal order is \_\_\_\_\_.
- a. common law
  - b. natural law
  - c. Marx's theory of law
  - d. formal rationality

Answer: B (p. 45)

16. Baron de Montesquieu is best known for which theory?
- a. the spirit of law
  - b. separation of powers
  - c. natural law
  - d. evolution of law

Answer: B (p. 46)

17. Which of the following theorists studied the development of positivist law laid down by the state?

- a. Sir Henry Sumner Maine
- b. Karl Marx
- c. Max Weber
- d. Oliver Wendell Holmes, Jr.

Answer: A (p. 47)

18. Which of the following is not a principal assumption in Marx's theory of law?

- a. Law is a product of evolving economic forces.
- b. Law, as social control, will become more prevalent as society progresses.
- c. Law is a tool used by the upper class to maintain power over the lower class.
- d. none of the above

Answer: B (p. 49)

19. According to the doctrine of dialectical materialism, law is \_\_\_\_\_.

- a. unnecessary in advanced societies
- b. a method of gaining power and wealth
- c. a function of the social norms
- d. a reflection of economic conditions

Answer: D (p. 49)

20. Which of the following is not a distinction used in Weber's typology of law?

- a. formal
- b. rational
- c. irrational
- d. legal

Answer: D (p. 50)

21. Weber's three types of administration of justice include all but which of the following?

- a. empirical justice
- b. professional paramilitary
- c. *Khandi* justice
- d. rational justice

Answer: B (p. 50)

22. Which leader replaced Weber's theory of rational law?

- a. Stalin
- b. Lenin
- c. Hitler
- d. Churchill

Answer: C (p. 51)

23. Emile Durkheim wrote \_\_\_\_\_.

- a. *Mein Kampf*
- b. *The Law of Primitive Man*
- c. *The Division of Labor in Society*
- d. *Justifying Law*

Answer: C (p. 51)

24. Dicey can be credited with which of the following socio-legal theories?

- a. anomie
- b. deterrence
- c. public opinion
- d. shaming

Answer: C (p. 52)

25. Oliver Wendell Holmes, Jr. was a \_\_\_\_\_.

- a. physician
- b. professor
- c. prisoner
- d. Supreme Court justice

Answer: D (p. 53)

26. The theorist considered one of the founders of legal realism is which of the following?

- a. Holmes
- b. Dicey
- c. Marx
- d. Durkheim

Answer: A (p. 53)

27. He wrote *The Law of Primitive Man*.

- a. Marx
- b. Hitler
- c. Hoebel
- d. Durkheim

Answer: C (p. 55)

28. Donald Black contends that law can be measured by \_\_\_\_\_.

- a. the frequency that offenses are prosecuted
- b. the frequency that statutes are enacted
- c. the frequency that punishment is meted out
- d. all of these

Answer: D (p. 56)

29. Which of the following is a key assumption of functionalism?

- a. The system is integrated through key values.
- b. Perfect integration is never attained.
- c. Change is a slow process.
- d. all of these

Answer: D (p. 60)

30. According to conflict criminology, \_\_\_\_\_.

- a. law is a method of domination and social control
- b. law is unnecessary
- c. law is a product of socialist economic systems
- d. law is fundamentally fair

Answer: A (p. 62)

31. Quinney, Chambliss, and Seidman are known for their study of what type of legal approach?

- a. socialist
- b. Marxist
- c. rational
- d. irrational

Answer: B (p. 62)

32. Critical scholars reject law as being \_\_\_\_\_.

- a. only for the wealthy
- b. a tool for a capitalist ruling class
- c. being value-free
- d. too constrictive for society

Answer: C (p. 64)

33. Which of the following is not a predominate theme in feminist legal literature?

- a. women's struggle for equality
- b. the challenge to the concept that law is fair
- c. the prevalence of male bias
- d. increased pragmatism

Answer: D (p. 66)

34. In feminist legal theory, which three methods seek to reveal features of legal concern?

- a. rational, irrational, subjective
- b. practical reasoning, legal rationalism, law of equality
- c. asking the woman question, feminist practical reasoning, consciousness-raising
- d. none of the above

Answer: C (p. 67)

35. Critical race theory is concerned with \_\_\_\_\_.

- a. discrimination
- b. equality
- c. oppression
- d. all of the above

Answer: D (p. 69)

### True/False Questions

- 1. The categorization of legal and sociological theory is subjective and open to question. **T** (p. 39).
- 2. It is easily possible to trace the legal development of a society from primitive to modern. **F** (p. 40)
- 3. In literature, *traditional* law and *primitive* law are often used interchangeably. **T** (p. 41)
- 4. In transitional systems, courts are characterized by common-law decisions. **T** (p. 42)
- 5. The function of law in primitive systems is always different than in transitional systems. **F** (p. 43)
- 6. Few of the structural features of the transitional legal systems are present in modern legal systems. **F** (p. 43)
- 7. The conflict approach to legal theory considers the legal system a method of preserving capitalist relations. **T** (p. 62)
- 8. According to Marx, all societies rest on an economic foundation. **T** (p. 49)
- 9. CRT has roots in American legal realism. **T** (p. 64)
- 10. According to CRT, racism in our legal system will eventually be eliminated. **F** (p. 69)

### Essay Questions

1. Discuss how the concept of “natural law” influenced legal systems. Include a discussion of the origin of natural law, and how it has influenced legal scholars.
2. Describe the evolution of legal systems and compare the function of law, the application of law, and the role of police for each system
3. Compare and contrast Weber’s four ideal types of legal systems, and include examples of each.
4. Compare functionalism and the Marxist approach. Specifically, how do the basic tenets of each differ? What, if any, are the similarities?
5. Compare and contrast the conflict approach and critical legal studies. How are they similar, and how are they different?