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Chapter 2: Theories of Law and Justice

Test Bank

Multiple Choice

1. Identify from below, the figure who is associated with Utilitarianism.
A. Bentham
B. Black
C. Kant
D. Marx
Ans: A
Cognitive Domain: Knowledge
Answer Location: Utilitarianism
Difficulty Level: Easy

2. Society developing through various socioeconomic stages and concentrating on the transition from capitalism to communism is best associated with which figure?
A. Marxism
B. Legal Realism
C. Legal Positivism
D. Utilitarianism
Ans: A
Cognitive Domain: Knowledge
Answer Location: Classical Sociological Theorists
Difficulty Level: Easy

3. Max Weber discussed three different types of authority. Identify the example below that falls in the charismatic authority category.
A. Hebrew prophets such as Ezekiel
B. Pharaohs
C. Feudal lords
D. Patriarchs
Ans: A
Cognitive Domain: Comprehension
Answer Location: Classical Sociological Theorists
Difficulty Level: Medium

4. Identify which one of the following describes Weber's definition of formal irrational thought.
A. Decisions are made by charismatic and traditional authority on a case by case basis and are guided by ethical, religious, and political considerations.
B. Decisions are made by charismatic and traditional authorities and are based on principles drawn from nonlegal, political, and religious sources.

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C. Established procedures are employed by charismatic or traditional authorities and decisions are irrationally derived without explanation and are based on divine revelations or personal insight.
D. Decisions are based on logical analysis of legal rules found in legal sources; universal rules are set in written documents and applied in uniform fashion.
Ans: C
Cognitive Domain: Comprehension
Answer Location: Formal Irrational Thought
Difficulty Level: Medium

5. The President of the United States of America would be an example of a leader who engages in what type of thought according to Weber?
A. formal rational thought
B. formal irrational thought
C. substantive rational thought
D. substantive irrational thought
Ans: A
Cognitive Domain: Comprehension
Answer Location: Formal Rational Thought
Difficulty Level: Medium

6. Scholars who view legal decisions as being explained by extra-legal factors, such as a judge's experiences and prejudices, fall under which of the following philosophies?
A. legal realism
B. critical race theory
C. functionalism
D. legal behavioralism
Ans: A
Cognitive Domain: Comprehension
Answer Location: Legal Realism
Difficulty Level: Medium

7. The historic figure, Roscoe Pound, argued that law should be evaluated based on the results it achieves, rather than based on the logical consistency of legal rules. This is known as _____.
A. legal behavioralism
B. functionalism
C. sociological jurisprudence
D. legal formalism
Ans: C
Cognitive Domain: Comprehension
Answer Location: Sociological Jurisprudence
Difficulty Level: Medium

8. August Comte and Talcott Parsons would be classified as _____.
A. functionalists

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B. legal behavioralists
C. feminists
D. liberatarianists
Ans: A
Cognitive Domain: Knowledge
Answer Location: Functionalism
Difficulty Level: Easy

9. Critical Legal Studies contains which of the following themes?
A. marginality, antiformalism, and trashing
B. marginality, antiformalism, and race
C. marginality, utopian reform, and gender
D. marginality, ideology, and race
Ans: A
Cognitive Domain: Comprehension
Answer Location: Critical Legal Studies
Difficulty Level: Medium

10. In Critical Legal Studies, contradiction refers to _____.
A. law reflecting an underlying philosophy that favors the wealthy
B. revealing a gap between the assumptions underlying the law and social reality
C. the fact that there is no correct answer
D. no consistent values underlying the approach to legal issues
Ans: D
Cognitive Domain: Comprehension
Answer Location: Critical Legal Studies
Difficulty Level: Medium

11. In Critical Legal Theory, antiformalism refers to _____.
A. most people not consulting the law in their interpersonal relationships
B. law not being a logical and rational system of reasoning
C. the application of principles from one area to another area
D. there not being a single correct answer in legal practice
Ans: B
Cognitive Domain: Comprehension
Answer Location: Critical Legal Studies
Difficulty Level: Medium

12. In Critical Legal Studies, marginality refers to _____.
A. most people not consulting the law in their interpersonal relationships
B. law reflecting the underlying philosophy that favors the wealthy
C. law reflecting the underlying philosophy that favors the existing economic system
D. the gap between the assumptions underlying the law and social reality
Ans: A
Cognitive Domain: Knowledge
Answer Location: Critical Legal Studies

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Difficulty Level: Easy

13. Identify which one of the following uses statistics to test whether there is a correlation between the personal characteristics of judges and the content of their judicial opinions?
A. legal functionalism
B. legal formalism
C. critical race theory
D. judicial behavioralism
Ans: D
Cognitive Domain: Comprehension
Answer Location: Legal Behavioralism
Difficulty Level: Medium

14. Government should be limited to combating crime, protecting private property, enforcing contracts, and safeguarding the national defense. This statement best fits with which of the following?
A. critical race theory
B. feminism
C. legal behavioralism
D. libertarianism
Ans: D
Cognitive Domain: Comprehension
Answer Location: Libertarianism
Difficulty Level: Medium

15. A divine lineage leader, such as a Pharaoh, would be an example of a leader who engages in what type of thought according to Weber?
A. substantive rational thought
B. substantive irrational thought
C. formal rational thought
D. formal irrational thought
Ans: D
Cognitive Domain: Knowledge
Answer Location: Classical Sociological Theorists
Difficulty Level: Easy

16. According to Weber, the Buddhist Emperor Ashoka would be an example of a leader who engages in what type of thought?
A. substantive irrational thought
B. substantive rational thought
C. formal irrational thought
D. formal rational thought
Ans: B
Cognitive Domain: Comprehension
Answer Location: Classical Sociological Theorists

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Difficulty Level: Medium

17. Which of the following describes Weber's definition of substantive rational thought?
A. Procedures are employed by charismatic or traditional authorities but decisions are irrationally derived without explanation and are based on divine revelation or personal insight.
B. Decisions are made by a charismatic and traditional authority on a case by case basis and are guided by ethical, religious, and political considerations rather than on the basis of general rules.
C. Decisions based on logical analysis of legal rules found in legal sources; universal rules set in written documents and applied in uniform fashion.
D. Decisions are made by charismatic and traditional authorities and are based on principles drawn from nonlegal, political, and religious sources; there is a concern over consistency—religious, ethical, or political ideals.
Ans: D
Cognitive Domain: Analysis
Answer Location: Classical Sociological Theorists
Difficulty Level: Hard

18. "Law should maximize the greatest good for the greatest number of individuals." This statement best falls under _____.
A. Categorical Imperative
B. Legal Realism
C. Sociological Jurisprudence
D. Utilitarianism
Ans: D
Cognitive Domain: Knowledge
Answer Location: Utilitarianism
Difficulty Level: Easy

19. Law is the command of the sovereign, an order accompanied by a threat to impose a disability or punishment for disobedience. This definition of law is known as _____.
A. natural law
B. utilitarianism
C. legal positivism
D. legal realism
Ans: C
Cognitive Domain: Comprehension
Answer Location: Legal Positivism
Difficulty Level: Medium

20. "There is in fact a true law, namely right reason, which is in accordance with nature, applies to all men and is unchangeable and eternal," is a definition of natural law by which philosopher?
A. Aquinas
B. Cicero

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C. Austin
D. Bentham
Ans: B
Cognitive Domain: Comprehension
Answer Location: Natural Law
Difficulty Level: Medium

21. Health care should be devoted to the young rather than old because they are more likely to give a greater contribution to the future of the country (due to longer life expectancy). This is an example of what view of law?
A. legal realism
B. utilitarianism
C. legal positivism
D. legal behavioralism
Ans: B
Cognitive Domain: Comprehension
Answer Location: Utilitarianism
Difficulty Level: Medium

22. Society developing through various socioeconomic stages and concentrated on the transition from capitalism to communism. Which of the following best fits the statement above?
A. Marxism
B. legal realism
C. legal positivism
D. utilitarianism
Ans: A
Cognitive Domain: Knowledge
Answer Location: Classical Sociological Theorists
Difficulty Level: Easy

23. The Communist Manifesto was written by _____.
A. Émile Durkheim
B. Karl Marx
C. Max Weber
D. Thomas Aquinas
Ans: B
Cognitive Domain: Knowledge
Answer Location: Classical Sociological Theorists
Difficulty Level: Easy

24. Max Weber discussed three different types of authority. Which example falls in the traditional authority category?
A. Theodore Roosevelt
B. Hebrew prophets such as Ezekiel
C. President of the United States

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D. Pharaohs
Ans: D
Cognitive Domain: Comprehension
Answer Location: Classical Sociological Theorists
Difficulty Level: Medium

25. Max Weber discussed three different types of authority. Which example falls in the rational-legal authority category?
A. Theodore Roosevelt
B. Hebrew prophets such as Ezekiel
C. President of the United States
D. Pharaohs
Ans: D
Cognitive Domain: Comprehension
Answer Location: Classical Sociological Theorists
Difficulty Level: Medium

26. Which of the following describes Weber's definition of substantive irrational thought?
A. Decisions are made by a charismatic and traditional authority on a case by case basis and are guided by ethical, religious, and political considerations rather than on the basis of general rules.
B. Established procedures are employed by charismatic or traditional authorities and decisions are derived without explanation and are based on divine revelation or personal insight.
C. Decisions are made by charismatic and traditional authorities and are based on principles drawn from nonlegal, political, and religious sources; there is no concern over consistency.
D. Decisions are made based on logical analysis of legal rules found in legal sources; universal rules set in written documents and applied in uniform fashion.
Ans: A
Cognitive Domain: Analysis
Answer Location: Classical Sociological Theorists
Difficulty Level: Hard

27. Which of the following describes Weber's definition of formal rational thought?
A. Established procedures are employed by charismatic or traditional authorities although decisions are irrationally derived without explanation and are based on divine revelation or personal insight.
B. Decisions based on logical analysis of legal rules found in legal sources; universal rules set in written documents and applied in uniform fashion.
C. Decisions are made by a charismatic and traditional authority on a case by case basis and are guided by ethical, religious, and political considerations rather than on the basis of general rules; there is no concern with consistency.
D. Decisions are made by charismatic and traditional authorities and based on principles drawn from nonlegal, political, and religious sources; there is concern with religious, ethical, and political ideals.

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Ans: B
Cognitive Domain: Analysis
Answer Location: Classical Sociological Theorists
Difficulty Level: Hard

28. A Muslim judge (khadi justice) would be an example of a leader who engages in what type of thought according to Weber?
A. formal irrational thought
B. formal rational thought
C. substantive irrational thought
D. substantive rational thought
Ans: C
Cognitive Domain: Comprehension
Answer Location: Classical Sociological Theorists
Difficulty Level: Medium

29. Oliver Wendell Holmes Jr.'s philosophy ("the life of law has not been logic, it has been experience," or, rather, that judges are not prejudice free in decision making) became known as _____.
A. legal formalism
B. legal realism
C. legal behavioralism
D. legal functionalism
Ans: B
Cognitive Domain: Knowledge
Answer Location: Legal Realism
Difficulty Level: Easy

30. Talcott Parsons theorized that in order to survive and prosper, social systems and subsystems must satisfy four functional imperatives. Which selection below refers to the law performing an integrative function by settling disputes and maintaining order?
A. integration
B. latency
C. goal attainment
D. adaptation
Ans: B
Cognitive Domain: Analysis
Answer Location: Functionalism
Difficulty Level: Hard

31. In Critical Legal Studies, the term "trashing" refers to _____.
A. the revealing of the gap between the assumptions underlying the law and social reality
B. the underlying philosophy that favors the wealthy and the existing economic system
C. the application of principles from one area to another area (e.g., the democratic principles should be extended from the public sphere to the workplace)

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D. most people not consulting the law in their interpersonal relationship
Ans: A
Cognitive Domain: Knowledge
Answer Location: Critical Legal Studies
Difficulty Level: Easy

32. In Critical Legal Studies, flippability refers to _____.
A. most people failing to consult the law in their interpersonal relationships
B. law reflecting an underlying philosophy that favors the existing economic system
C. law reflecting an underlying philosophy that favors the wealthy
D. the law does not have a single correct answer
Ans: D
Cognitive Domain: Comprehension
Answer Location: Critical Legal Studies
Difficulty Level: Medium

33. Which of the following are traits of critical race theory?
A. narrative form of expression, flippability of law, and focus on gender and law
B. narrative form of expression, concern with public policy reform, and focus on gender and law
C. narrative form of expression, concern with public policy reform, and focus on race and law
D. narrative form of expression, flippability of law, and focus on race and law
Ans: C
Cognitive Domain: Comprehension
Answer Location: Critical Race Theory
Difficulty Level: Medium

34. Which subgroup of feminism challenges the notion that men and women are the same and advocates a transformation and feminization of the legal doctrine?
A. intersectional feminism
B. liberal feminism
C. cultural feminism
D. dominance feminism
Ans: C
Cognitive Domain: Comprehension
Answer Location: Feminist Jurisprudence
Difficulty Level: Medium

35. Which subgroup of feminism emphasizes reforming the system so it is equal?
A. liberal feminism
B. dominance feminism
C. intersectional feminism
D. cultural feminism
Ans: A
Cognitive Domain: Comprehension

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Answer Location: Feminist Jurisprudence
Difficulty Level: Medium

True/False

1. Cultural feminism emphasizes the interaction of race and gender and how that impacts women.
Ans: F
Cognitive Domain: Comprehension
Answer Location: Feminist Jurisprudence
Difficulty Level: Medium

2. The three classical sociological theorists are Weber, Marx, and Kant.
Ans: F
Cognitive Domain: Knowledge
Answer Location: Classical Sociological Theorists
Difficulty Level: Easy

3. Judicial behavioralism uses statistics to test whether there is a correlation between the personal characteristics of judges and the content of their judicial opinions.
Ans: T
Cognitive Domain: Comprehension
Answer Location: Legal Behavioralism
Difficulty Level: Medium

4. Legal positivism is concerned with the goodness or badness of legal rules.
Ans: F
Cognitive Domain: Knowledge
Answer Location: Legal Positivism
Difficulty Level: Easy

5. Legal realism is the idea that legal rules are the product of logical analysis and that the outcome of cases is dictated by the mechanical application of legal rules.
Ans: F
Cognitive Domain: Comprehension
Answer Location: Legal Realism
Difficulty Level: Medium

6. Mechanical solidarity is found in large scale diverse societies with an economic division of labor.
Ans: F
Cognitive Domain: Comprehension
Answer Location: Classical Sociological Theorists
Difficulty Level: Medium

7. Laws that use the power of the state to promote virtue are called morals legislation.

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Ans: T
Cognitive Domain: Knowledge
Answer Location: Libertarianism
Difficulty Level: Easy

8. Indeterminancy refers to the flippability of law.
Ans: T
Cognitive Domain: Knowledge
Answer Location: Critical Legal Studies
Difficulty Level: Easy

9. Cultural feminism emphasizes the interaction of race and gender and how that impacts women.
Ans: F
Cognitive Domain: Comprehension
Answer Location: Feminist Jurisprudence
Difficulty Level: Medium

10. Roscoe Pound wrote the Communist Manifesto and believed that the law serves the interest of the industry.
Ans: F
Cognitive Domain: Knowledge
Answer Location: Classical Sociological Theorists
Difficulty Level: Easy

11. In formal irrational thought, decisions are based on logical analysis of legal rules found in legal sources.
Ans: F
Cognitive Domain: Comprehension
Answer Location: Classical Sociological Theorists
Difficulty Level: Medium

12. Utilitarianism is guided by the idea that individuals in their personal lives act to maximize their pleasure and minimize their pain.
Ans: T
Cognitive Domain: Comprehension
Answer Location: Utilitarianism
Difficulty Level: Medium

13. An individual obeyed because of what are viewed as his or her extraordinary qualities either based on supernatural or heroic powers of connection with God have feudalistic authority.
Ans: F
Cognitive Domain: Knowledge
Answer Location: Classical Sociological Theorists
Difficulty Level: Easy

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14. Roscoe Pound is the writer of “The Division of Labor” and a theorist who explored social solidarity, the glue that keeps society together.
Ans: F
Cognitive Domain: Knowledge
Answer Location: Classical Sociological Theorists
Difficulty Level: Easy

15. Judicial behavioralism uses statistics to test whether there is a correlation between the personal characteristics of judges and the content of their judicial opinions.
Ans: T
Cognitive Domain: Comprehension
Answer Location: Legal Behavioralism
Difficulty Level: Medium

Essay

1. Define and explain the core principle of libertarianism and its relationship to individual freedom.
Ans: The core principle of libertarianism is the maximization of individual freedom. According to libertarianism, individuals possess the right to do whatever they want and to use their personal property however they choose so long as they do not interfere with the freedom of other individuals or harm other individuals. Libertarians believe government should be limited to combating crime, protecting private property, enforcing contracts, and safeguarding the national defense.
Cognitive Domain: Analysis
Answer Location: Libertarianism
Difficulty Level: Hard

2. Describe and summarize the movement known as American legal realism.
Ans: American legal realism was a movement that argued that the focus should be actual functioning of the law. Realism united a diverse group of scholars, all of whom believed legal decisions were explained by extra-legal factors, such as a judge’s experiences, prejudices, and psychology and powerful social interests and forces, rather than by legal logic or precedent. Scholars accordingly should focus on the “real” reasons that explain the decisions of judges and juries.
Cognitive Domain: Analysis
Answer Location: Legal Realism
Difficulty Level: Hard

3. Define feminist jurisprudence and summarize the common theme found.
Ans: Feminist jurisprudence was developed by scholars who concluded CLS was not adequately addressing the “gendered” nature of the law and legal system. Feminist legal scholars are dedicated to documenting how the law has been used to subordinate women. There are various approaches to feminist legal theory, all of which are

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committed to reformulating the approach of the law to gender and all share a concern with the role of the law in subordinating women to men.
Cognitive Domain: Analysis
Answer Location: Feminist Jurisprudence
Difficulty Level: Hard

4. Define and discuss critical race theory (CRT) and summarize its origin.
Ans: Critical race theory (CRT) focuses on race and the law. CRT grew out of CLS and shares the view that the law is neither neutral nor objective but rather is a mechanism for supporting the dominance of powerful economic and political interests. CRT differs from CLS in that race is viewed at the center of American law and views law as a primary mechanism to perpetuate racism, which it views as a permanent and deeply embedded aspect of American society rather than the product of isolated, discriminatory decisions. CRT views the law as a mechanism for supporting and perpetuating racism in virtually every area of American life, questions whether law has the capacity to modify patterns of discrimination and segregation that is deeply embedded, and is more concerned than CLS with public policy reform.
Cognitive Domain: Analysis
Answer Location: Critical Race Theory
Difficulty Level: Hard

5. Explain the main aspects of sociological jurisprudence and identify its founder.
Ans: Roscoe Pound (1879–1964), professor of general jurisprudence at Harvard Law School, first articulated the ideas that formed the foundation of *sociological jurisprudence* in 1906 in an address to the American Bar Association. He argued law should be evaluated based on the "results it achieves" rather than based on the logical consistency of legal rules. The true purpose of the law was to make people's lives easier and happier. He rejected the notion of law as a "slot-machine" in which the judge pulls the lever and a logically consistent decision emerges from the machine. Pound wanted the law to be engaged in "social engineering," directed at solving societal problems rather than focusing on the logical consistency between legal rules.
Cognitive Domain: Analysis
Answer Location: Sociological Jurisprudence
Difficulty Level: Hard

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