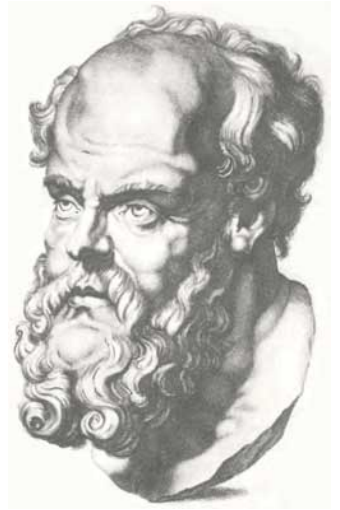


Theories and Concepts of Law



Part A: Ancient and Medieval Theories of Law

Read pages 68-77 and answer the following questions.

1. Define the following terms:

jurisprudence
natural law
positive law
dialectic

2. Now, in your own words (seriously!), differentiate between natural and positive law.

3. Identify the following laws as either natural law (NL) or positive law (PL) in origin.

_____ Parents protecting their offspring

_____ Incest

_____ J walking

_____ Voting age

_____ Laws against same-sex marriage

_____ Loitering

Socrates and Plato

4. Read “Case: The Trial of Socrates” and answer Q#1-4 p.72

5. Explain the statement “there is a moral imperative in the law, and it must guide people in right living”.

6. a. According to Plato, when may an individual be considered just?

b. How does a person achieve this state of justice?

c. When is a state considered just? How does it achieve this?

7. Give Plato’s definition of justice.

Aristotle

8. How does the process of rationalism differentiate Aristotle from Plato?

9. How did Aristotle differ from Plato on his ideas of education as the saving grace of humans? Explain with reference to his three classes and the role of law.

10. Whose view of natural law do you favour -Aristotle’s or Plato’s? Why?

11. Aristotle and Plato agreed about the moral purpose of law. Explain.

St. Thomas Aquinas

12. Identify and explain Aquinas’s four kinds of law.

13. What is the ultimate authority on earth, according to Aquinas? Why?

14. What is Aquinas’s position on obeying just and unjust laws?

Part B: English Theorists

Read pp.77-79 and answer the following questions

1. What was different about the Age of Reason then the days of the ancient and medieval thinkers?

2. What has become of the “moral purpose of law”?

Hobbes

3. Briefly describe Hobbes perception of the world.

4. Why does Hobbes believe that people should surrender their rights to a king or government?

Locke

5. What does Locke recommend his *Two Treatises of Government*?

6. What natural rights did Locke speak of? How would these be protected?

7. How are Locke’s ideas evident in the *Declaration of Independence*?

8. What role do you think Locke’s ideas had on the American and French Revolution?

Jeremy Bentham and John Austin

9. Describe Bentham philosophy of utilitarianism.

10. Why did Austin believe that it was a bad idea to judge a law by it moral or religious basis?

11. What was the greatest virtue of positive law, according to Austin?

Part C: Modern and Contemporary Theories of Law

Read pp.80-88 and answer the following questions

1. Answer Questions 1-4 under Check your Understanding on page 88

2. According to Selznick , when will a country achieve justice?

3. Does a dictatorship have a good quality of law? Explain

4. How does the concept of the restraint of power work in Canada’s legal system? (pp 88-89)

