

# Legal Theory

## I. Basic Theory of Law

1. The origin of law is an inevitable product of human society' s development to a certain stage, the emergence of private ownership, and the formation of class opposition.
2. The concept of law refers to the sum of behavioral norms that are established or recognized by the state, reflecting the will of the ruling class, and enforced by state power.
3. The essence of law is manifested in its reflection of the ruling class' s will while also reflecting the objective laws of social development.
4. The characteristics of law include state will, normativity, enforceability, universal binding force, and procedural nature.
5. The sources of law primarily include statutory law, customary law, case law, and treaty law.
6. The value of law is mainly reflected in order value, freedom value, justice value, and efficiency value.
7. The functions of law are manifested in regulatory function, evaluation function, predictive function, and educational function.
8. The implementation of law includes law-abiding, law enforcement, justice, and legal education.

## II. Theory of Legal Relations

9. Legal relations are social relations regulated by legal norms, essentially a unity of rights and obligations.
10. Legal subjects refer to organizations or individuals who can participate in legal relations and have rights and obligations under the law.
11. The object of legal relations refers to the target of rights and obligations of legal subjects, including things, behaviors, and intellectual achievements.
12. The content of legal relations refers to the interdependent and corresponding rights and obligations between legal subjects.
13. Legal facts refer to objective circumstances that can cause legal relations to arise, change, or terminate.
14. Legal capacity refers to the qualification of legal subjects to enjoy rights and bear obligations under the law.

## III. Theory of Legal Norms

15. Legal norms refer to behavioral rules established or recognized by the state that stipulate rights, obligations, and legal consequences.

16. The logical structure of legal norms includes three basic elements: hypothesis, disposition, and sanction.
17. The effectiveness of legal norms includes temporal effect, spatial effect, and personal effect.
18. Legal norm conflicts occur when different legal norms contradict each other in regulating the same object.

#### **IV. Theory of Legal Responsibility**

19. Legal responsibility refers to the adverse consequences that actors should bear for violating legal provisions.
20. Civil liability refers to the adverse consequences that civil subjects should bear for violating civil obligations, mainly including stopping infringement and compensating for losses.
21. Criminal responsibility refers to the legal sanctions that criminals should bear for committing crimes, manifested as specific penalties.
22. Administrative responsibility refers to the legal consequences that administrative counterparts should bear for violating administrative law provisions.

### **Part Two: Constitutional Law Basics**

#### **I. Basic Constitutional Theory**

23. Constitution is the fundamental law that stipulates the basic state system and citizens' fundamental rights and obligations.
24. The supreme legal effect of the constitution is reflected in it being the basis for making other laws.
25. The basic principles of the constitution include the principle of people's sovereignty, the principle of fundamental rights protection, and the rule of law.
26. National character refers to the fundamental attributes and basic characteristics of the state established by the constitution.

#### **II. Basic Rights and Obligations of Citizens**

27. Personal freedom rights refer to citizens' rights not to be illegally infringed upon, restricted, or deprived of personal freedom.
28. Political rights refer to citizens' rights to participate in state administration and social affairs management.
29. Economic rights refer to the basic rights citizens enjoy in economic activities.
30. Social rights refer to the basic rights citizens should enjoy in social life.

### **III. State Institutions**

- 31. The people's congress system is our country's fundamental political system.
- 32. The National People's Congress is the highest state power organ.
- 33. The State Council is the highest state administrative organ.
- 34. The Central Military Commission is the state's highest military leadership organ.
- 35. People's courts are the state's judicial organs.
- 36. People's procuratorates are the state's legal supervision organs.

## **Part Three: Civil Law Basics**

### **I. General Principles of Civil Law**

- 37. Civil subjects include natural persons, legal persons, and unincorporated organizations.
- 38. Civil capacity begins at birth and ends at death for natural persons.
- 39. Civil legal acts are acts by civil subjects to establish, change, or terminate civil legal relations.
- 40. Agency system is a legal system where agents conduct civil legal acts in the name of the principal.

### **II. Property Law**

- 41. Property rights are rights where right holders have direct control and exclusive rights over specific property according to law.
- 42. Ownership is the most complete right in property rights, including possession, use, benefit, and disposal powers.
- 43. Usufructuary right refers to the right to possess, use, and benefit from others' property according to law.
- 44. Security interest refers to the security rights that creditors enjoy over specific property of debtors or third parties.

### **III. Contract Law**

- 45. A contract is an agreement establishing, changing, or terminating civil rights and obligations between equal subjects.
- 46. The principle of contract freedom means parties have the right to independently decide on concluding contracts according to law.

- 47. The effective conditions of contracts include subject qualification, true expression of intent, legal content, and compliance with required form.
- 48. Breach of contract liability refers to the civil liability that parties should bear for not performing contractual obligations.

#### **IV. Tort Law**

- 49. Tortious acts refer to acts that illegally infringe upon others' civil rights and interests.
- 50. The constituent elements of tort liability include illegal act, damage consequence, causation, and fault.

### **Part Four: Criminal Law Basics**

#### **I. Basic Principles of Criminal Law**

- 51. The principle of legally prescribed punishment for a specified crime means only acts explicitly stipulated by law constitute crimes and punishments.
- 52. Criminal responsibility age refers to the minimum age required for bearing criminal responsibility.
- 53. Justifiable defense refers to defensive actions taken to protect state, public interests, personal or others' personal, property, and other rights from ongoing illegal infringement.
- 54. The elements of crime include subject, object, subjective aspect, and objective aspect.

#### **II. Specific Crimes**

- 55. Intentional crime refers to crime where one knows their behavior will cause harmful social consequences and desires or allows such consequences to occur.
- 56. Negligent crime refers to crime where one should have foreseen that their behavior might cause harmful social consequences but failed to do so due to carelessness, or having foreseen but believing they could be avoided.
- 57. Crime preparation refers to the preparation of tools and creation of conditions for committing a crime.
- 58. Attempted crime refers to acts that have begun to carry out a crime but failed to be completed due to factors independent of the criminal's will.

#### **III. Penalty System**

- 59. Principal penalties include public surveillance, detention, fixed-term imprisonment, life imprisonment, and death penalty.
- 60. Supplementary penalties include fines, deprivation of political rights, and confiscation of property.

## **Part Five: Procedural Law Basics**

### **I. Basic Principles of Procedure**

- 61. Procedural legal relations are various procedural legal relationships formed during litigation activities.
- 62. Procedural principles are basic rules that run through litigation activities.
- 63. Jurisdiction refers to the system of different levels of courts accepting cases according to their division of work.

### **II. Civil Procedure**

- 64. Civil procedure is the legal process for resolving civil disputes.
- 65. Conditions for filing a lawsuit include plaintiff qualification, defendant determination, specific litigation requests, and falling within court jurisdiction.
- 66. Evidence must go through cross-examination before it can serve as a basis for fact-finding.

### **III. Criminal Procedure**

- 67. Criminal procedure refers to state activities pursuing criminal responsibility of criminal suspects and defendants.
- 68. Investigation refers to activities by public security organs and procuratorates investigating and collecting evidence for criminal cases according to law.
- 69. Prosecution refers to activities by procuratorates filing public prosecution against criminal cases to courts according to law.

### **IV. Administrative Procedure**

- 70. Administrative procedure refers to activities where citizens, legal persons, or other organizations file lawsuits to courts believing administrative organs have infringed upon their legal rights and interests.
- 71. Defendants in administrative litigation can only be specific administrative organs.
- 72. The scope of cases accepted in administrative litigation is clearly stipulated by law.

## **Part Six: Legal Professional Ethics**

- 73. Legal professional ethics are moral standards regulating the professional behavior of legal practitioners.
- 74. The core of judicial professional ethics is justice and integrity.
- 75. The core of procuratorial professional ethics is objectivity, fairness, and seeking truth from facts.

## **Part Seven: Legal Methods**

- 76. Legal interpretation is the activity of clarifying the meaning of legal norms.
- 77. Legal reasoning is the thinking process of reaching legal conclusions using logical methods.
- 78. Legal argumentation is the process of proving the correctness of legal claims.

## **Part Eight: Rule of Law Theory**

- 79. Rule of law refers to governing the state according to law.
- 80. Governing the country according to law refers to the state governance strategy of extensively using legal means to manage state affairs.
- 81. The fundamental difference between rule of law and rule by man lies in whether law is regarded as the highest authority.

## **Part Nine: Legal Culture**

- 82. Legal culture is the sum of a nation's legal traditions and legal concepts.
- 83. The characteristic of traditional Chinese legal culture is the combination of moral leadership and supplementary punishment, and the integration of courtesy and law.
- 84. Western legal culture is characterized by individualism and rights-orientation.

## **Part Ten: Legal Practice**

- 85. Legal professions include judges, prosecutors, lawyers, and other specialized legal workers.
- 86. Legal documents refer to various documents with legal significance.
- 87. Legal negotiation is the process of reaching legal agreements.

## **Key Examination Points Summary**

- 88. The distinction between legal norms and other social norms lies in having state coercive force as guarantee.
- 89. Our country's legal system consists of three levels: legal departments, legal parts, and legal norms.
- 90. Civil law regulates personal relations and property relations between equal subjects.
- 91. The task of criminal law is to punish crimes and protect the people.
- 92. Administrative law regulates relations between administrative subjects and administrative counterparts.

93. Procedural law is procedural, while other departmental laws are substantive.
94. Legal interpretation includes legislative interpretation, judicial interpretation, and administrative interpretation.
95. Legal reasoning includes deductive reasoning, inductive reasoning, and analogical reasoning.
96. The value goals of law are freedom, justice, order, and efficiency.
97. The functions of legal responsibility include punishment, prevention, compensation, and education.
98. The basic requirements of rule of law construction are having laws to follow, following laws strictly, strictly enforcing laws, and investigating violations of law.
99. The core of modern rule of law is human rights protection.
100. The characteristics of legal profession are the unity of professionalism, sociality, and ethics.