

Chapter 1

1.1 Self Check

Why does the complexity of the definitions of law vary so much?

It varies because of its different usage in different situations. For example, there are different types of laws: criminal and civil laws, which can be tried in courts, and moral laws, which cannot.

1.2 Self Check

1. Explain the historical significance of the common law.

The common law has provided the foundation of modern American and English criminal law. Even though most modern laws are statutorily derived, they generally have at least some common law background and influence.

2. Why is statutory law taking the place of common law in many situations?

Statutory law allows lawmakers to create laws to address current crime issues and public outcry against such issues, rather than being forced to wait and depend upon judicial opinion. Another important reason is the principle of legality, a core concept of American criminal law that holds that no one can be punished for an act that was not defined as criminal before the person did the act.

1.3 Self Check

1. Which do you prefer, retributive theory or utilitarian theory? Why?

Your answer should indicate a clear understanding of each philosophy. Be sure that you do not confuse the retributive theory with vengeance, as the two are somewhat different.

2. Do you think that retributive theory is better for some crimes than utilitarian theory? For which crimes, and why?

Some people feel that retributive theory is better for more serious crimes, especially those committed by chronic offenders. This could include murder, rape, and sexual offenses against children, because these are very serious crimes and offenders who commit such crimes are a serious danger to the community. On the other hand, some may support the utilitarian theory because they feel that such offenders will get the harsh punishments they deserve under this philosophy, since it serves the greatest good.