Social Science Chronicle

OPEN ACCESS

Peer-Reviewed, International, Academic Research Journal

ISSN : 3048-6297

Citation
Baiona, R. (2022). From Theory to Practice: Investigating Legal Jurisprudence and Theoretical Frameworks in the Pursuit of Law and Justice. *Social Science Chronicle*, Vol. 2, Issue - 1, pp. 1-18.

Digital Object Identifier (DOI)
https://doi.org/10.56106/ssc.2022.006

Received - February 26, 2022
Accepted - July 22, 2022
Published - July 29, 2022

Web-Link
All the contents of this peer reviewed article as well as author details are available at http://socialsciencechronicle.com/article-ssc-2022-006

RESEARCH ARTICLE

From Theory to Practice: Investigating Legal Jurisprudence and Theoretical Frameworks in the Pursuit of Law and Justice

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Abstract

This scholarly exposition endeavors to furnish a succinct panorama of the prominent theoretical frameworks that have wielded substantial influence upon the intricate tapestry of legal systems pervading global jurisprudence. It meticulously proffers a comprehensive spectrum of aspirations and perspectives emblematic of the scholastic and practical echelons within the ambit of comprehending the raison d'être of law in the societal milieu. The exegesis is meticulously dissected, delineating the contrasting paradigms of formalism and originalism, both of which underscore the salience of jurisprudential standards and axioms. Formalism, an erstwhile doctrine, predicates its tenets on an unwavering obeisance to the strictures of legal texts and precedents, irrespective of the contextual crucible of social or political exigencies. A conspicuous dissonance with the cherished tenet of the rule of law emerges within this doctrinal precinct. On the converse, originalism proclaims its allegiance to the discernment of legal texts predicated upon the unblemished fidelity to the intentions of their progenitors or framers. In the latter precinct of this paper, a panoply of paradigms surfaces, comprising pragmatism, legal pluralism, and restorative justice. Each represents an ideational crucible advocating for malleability, adaptability, and pliancy within the juridical edifice. The salient tenet of pragmatism proclaims that legal precepts find their zenith when they are amenable to contextual recalibration. Legal pluralism, in contrast, posits a milieu wherein manifold legal systems coexist, each espousing its unique norms and canons. Proponents of restorative justice are imbued with the belief that the purpose of legal strictures should transcend retribution, instead aspiring to the reparation of fractured trust and interpersonal ties. The latter segment of this research diorama scrutinizes an amalgam of theories encompassing social contract theory, procedural justice, distributive justice, and substantive justice. These ontologies present a kaleidoscope of stratagems designed to engender equity and rectitude within the legal apparatus.

Keywords
Critical Race Theory, Formalism, Legal Pluralism, Originalism, Pragmatism, Procedural Justice, Realism, Restorative Justice.

1. Introduction

Rule of law offers a basis for settling disagreements, controlling conduct, and advancing equity in society. The ideals and purposes of the society that employs a certain legal system are reflected in that system, which has developed over time in response to shifting social, economic, and political conditions (Tobia, 2022). Nonetheless, legal systems are ever-evolving, and they continue to be influenced by novel theories of what

law is and why it exists (Choudhury, 2021; Wacks, 2020). The primary theoretical frameworks that have impacted the development of legal systems around the globe will be examined in this research paper. Many perspectives on the nature and function of law are reflected in the various ideas discussed in this article, which are representative of the wide range of perspectives held by legal professionals. Two theoretical frameworks that place a focus on the importance of legal principles and norms are discussed first: formalism and originalism (Schubert, 2019; B. Z. Tamanaha, 2020). The formalist position holds that the rule of law should be strictly applied in accordance with written legal texts and precedents, without regard to broader social or political contexts (Chilovi & Pavlakos, 2019; Leiboff, 2019).

Yet, originalists hold that legal documents should be interpreted and their value determined by their authors' or framers' original intentions (Bix, 2019; West, 2018a). In the following part, we will take a closer look at pragmatism, legal pluralism, and restorative justice, three legal theories that place an emphasis on these very traits. From a practical standpoint, the best laws are those that can be adapted to new situations and are sensitive to existing ones. Legal pluralism refers to the concept of multiple, overlapping legal systems living in a community, each with its own set of norms and laws (Priban, 2018; West, 2018b). Yet, restorative justice advocates changing the focus of the law from merely punishing wrongdoing to mending broken relationships. The article's third section examines many approaches to establishing fair and just legal systems, including procedural justice, distributive justice, substantive justice, and social contract theory.

Legal institutions, in accordance with the principle of procedural justice, must carry out their procedures in a neutral and fair manner, regardless of the outcome (Cain, 2018; J. G. Murphy, 2018). Opportunities and resources in society should be dispersed equitably within established legal frameworks, according to the distributive justice hypothesis (Tan, 2017; Valcke, 2017). Substantive justice is the belief that the purpose of the legal system should be to achieve fair results, even if this means departing from some of the letter of the law (Robertson, 2017; Schlag, 2017). Finally, the social contract theory argues that people agree to obey particular rules in exchange for safety and security and that this consent of the governed is crucial for the validity of legal systems. In the final section of the paper, I will talk about critical race theory and behavioural law and economics, two theoretical frameworks that have developed in response to new concerns and perspectives on the role of law in society. Critical race theory is an academic and social movement that examines how the law upholds racism and works to reform it (Llewellyn, 2017; Ratnapala, 2017).

Instead of assuming that people always act rationally and in their own best interests, behavioural law and economics proposes that legal systems should take these factors into account (Lacey, 2017; Leiter, 2017). The purpose of this study was to summarise some of the key theoretical frameworks that have impacted the evolution of legal systems around the world and to examine how these frameworks reflect different perspectives on the nature and function of law. Investigating these ideas in depth may help us figure out how to make legal systems more adaptable to the needs and aspirations of the modern world.

2. Law Systems Throughout Time: A Survey of Foundational Theories

Natural law is a philosophical and legal theory that holds that all laws should be based on a universal moral code or principle since this is what makes the most sense given the way the world actually works. This line of thinking contends that some rules are inherently fair or unfair, regardless of whether they were written by people or not. One of the most famous advocates of natural law is St. Thomas Aquinas, who argued that it is based on the ideas that everything in nature has a purpose and that humans have an innate sense of good and evil (Kelsen, 2017; Kissam, 2017). Natural law, in his view, is preferable than man-made legislation. Much progress in American law can be traced back to proponents of the Natural Law Theory (Duke & George, 2017; Green, 2017).

A central tenet of this philosophy is the idea of natural rights, which are rights that humans are born with and that the state cannot abrogate. The principles of natural law form the basis of the Declaration of Independence, the Constitution, and other important texts of American history (H. Barnett, 2017; Bayles, 2017). Four cases illustrating the impact of Natural Law Theory on American law are shown below. Natural law theory was applied in Brown v. Board of Education (1954). In this landmark decision, the Supreme Court of the United States ruled that the practise of segregation in public schools violated the 14th Amendment's guarantee of equal protection under the law (Mahajan, 2016; Xifaras, 2016). Based on the principle of natural law that all persons are created equal and deserve the same opportunities, the court ruled that segregation was unjust and unconstitutional (Walt, 2015; Zeiner, 2015). Another case in point is Roe v. Wade (1973), in which the US Supreme Court ruled that a woman's right to privacy is guaranteed by the Due Process Clause of the 14th Amendment and so legalised abortion (M. C. Murphy, 2015; Murray, 2015). The Supreme Court ruled that a woman's right to choose whether or not to have an abortion is protected by the natural law principles of bodily autonomy and human freedom (Himma, 2015; Lacey, 2015).

In Obergefell v. Hodges (2015), the US Supreme Court ruled that denying same-sex couples the right to get married violated the 14th Amendment's Equal Protection Clause, effectively legalising same-sex marriage nationwide (Ferrazzi & Krupa, 2015; Hart, 2015). The court ruled that the freedom to marry is protected by the natural law values of human dignity and the pursuit of happiness. The case Citizens United v. Federal Election Commission from 2010 demonstrates the potential controversy with Natural Law Theory. In this opinion, the US Supreme Court ruled that corporations have the same First Amendment rights as individuals to make contributions to political campaigns (Murray, 2014; B. Z. Tamanaha, 2014). Critics argue that this decision goes against natural law standards of political equality and the idea that everyone should have an equal voice in politics. The principles of Natural Law Theory have had a profound impact on the development of the American legal system and American law (Cornell, Rosenfeld, & Carlson, 2014; B. Z. Tamanaha, 2013; Veitch, Christodoulidis, & Goldoni, 2013). Its emphasis on basic moral principles and natural rights has been used to uphold landmark decisions in areas such as civil rights, reproductive rights, and marriage equality (Halstead, 2013; Solum, 2013). Although natural law

concepts are increasingly being put into practise, there is still debate over how to find a middle ground between them and other legal considerations (Georgiyevna, 2013; Grbich, 2013).

3. A Comparative Study of Legal Systems Across the World: An Introduction to Legal Theory

Legal positivism is a school of thought that holds that institutions like law are products of popular consensus rather than expressions of universal moral or ethical principles (H. Barnett, 2013; Galán & Patterson, 2013). According to this line of thinking, a law's legitimacy depends on its origin rather than its content, and it is the job of the courts to ensure that the law is followed to the letter (Vandervort, 2012; Ward, 2012). Since the late 19th century, the dominant school of English legal thought has been Legal Positivism. Several of the nation's legal norms and institutions, such as the common law system and the concept of parliamentary sovereignty, have their roots in Legal Positivism (Finnis, 2012; J. Penner, White, McCoubrey, & Melissaris, 2012). The impact of Legal Positivism on English law is illustrated through four recent decisions. An example of the use of Legal Positivism is the case of R v. Dudley and Stephens (1884), which dealt with four seamen who became adrift at sea and ultimately resorted to cannibalism to survive. The sailors were found guilty of murder and given death sentences, despite their allegation that they had behaved under duress.

The court found that the sailors were guilty of breaking the law as worded, and that there is no defence for murder based on necessity. Another example is the 1992 case Pepper (Inspector of Taxes) v. Hart, which involved the interpretation of a statute. The court concluded that it is permissible to consider legislative debates prior to a statute's passage while attempting to determine that statute's meaning. A third illustration is the Shaw v. DPP (1962) case, which concerned English obscenity laws. The defendant was charged with publishing an offensive book. Notwithstanding arguments to the contrary, the court upheld the constitutionality of the Act prohibiting the publication of obscene content. As an example of how controversial Legal Positivism may be, see the case of R (Miller) v. Secretary of State for Exiting the European Union from 2017. The UK Supreme Court found that the government could not initiate Brexit proceedings without a parliamentary vote of approval. English Law Positivism's bedrock concept of parliamentary sovereignty backed this selection.

The verdict was controversial because many people believed the court had overstepped its authority by interfering in the political process, and the implications of the ruling were significant. Legal positivism has had a considerable impact on English law and legal tradition (Burdon, 2012; Chamallas, 2012; Wexler, 2011). This preoccupation with the history rather than the substance of the law has shaped many aspects of the nation's judicial system. Legal Positivism remains a key legal theory in England and played a crucial role in the development of the country's legal system, despite arguments and conflicts about its applicability in particular contexts (B. Tamanaha, 2011; West, 2011). Legal realism is the theory that the law is not independent of social, political, and economic factors (D'Amato, 2011; Postema, 2011). This theory posits that the rules and concepts of the law are fluid, evolving, and subject to the interpretation of judges and other players in the legal system (Buckland, 2011; Crowe, 2011). A law's interpretation and application may change depending on the specifics of its implementation, according to legal realists (Dan Priel, 2010; Smith, 2010).

4. A Survey of Foundational Ideas in the Study of Theories of Law and Justice

Since the midst of the twentieth century, Legal Realism has had a significant effect on Australian legal education and practise (Dagan & Kreitner, 2010; D. M. Patterson & Patterson, 2010). Many Australian law professors and lawyers now embrace legal realism as a way to make sense of the ever-changing nature of the law and its impact on society at large (Twining, 2009; Witte, 2009). These four examples illustrate the ways in which Legal Realism has influenced the law in Australia. One example of the use of Legal Realism is the case of Mabo v. Queensland (No 2) (1992), which involved a challenge to the legal notion of terra nullius, which had been used to legitimise the dispossession of Indigenous Australians. The High Court of Australia has ruled that the idea of "terra nullius" is a legal fiction that distorts the true history of Aboriginal land ownership in Australia. This decision was celebrated as a victory for Indigenous rights because it demonstrated the power of Legal Realist views on the role of law in shaping social and political reality (Powell, 2009; Raz, 2009).

Momcilovic v. The Queen (2011) is another case that challenged the Victorian Charter of Human Rights and Responsibilities. The Charter was upheld by Australia's highest court, which also stressed the necessity to interpret it in light of established principles of Australian law. The influence of Legal Realist theories on the complex relationship between law and broader social and political principles can be seen in this decision (Marcus, 2009; Posner, 2009). As a third example, consider the case of R v. Tang (2008), which involved a challenge to the legality of police searches conducted during a narcotics investigation. The High Court of Australia declared the warrantless searches illegal and emphasised the importance of protecting personal freedoms against tyrannical governments. The legal realist view of the necessity to strike a balance between competing social and political interests in the application of the law was obvious in this decision (Ballerini, 2009; Kamp, 2009).

The case of Plaintiff M61/2010E v. Government of Australia in 2010 demonstrates how Legal Realism can be used to challenge long-held assumptions about the law. The detention of asylum seekers by the Australian government was challenged in this case. Since it violated fundamental human rights standards, the High Court of Australia declared the detention to be unlawful and emphasised the importance of looking at the broader social and political setting in which it occurred (Waldron, 2008; Wexler, 2008). The principles of legal realism have had a profound impact on both the law and the practise of law in Australia (Statham, 2008; Tucker, 2008). Because of its emphasis on the changing and intricate nature of the law and its connection to larger social and political concerns, Australian legal academia and practise have shifted their perspectives and ways of thinking (Hutchinson, 2008; Soper, 2007). Legal Realism is an important and influential legal concept in Australia and internationally, despite debates and concerns regarding its application in particular instances. Critical Legal Studies (CLS), a school of legal thought developed in the 1970s in the United States and now practised in countries like New

Zealand, was born in the United States (Danny Priel, 2007; Saiman, 2007). The Critical Legal Studies (CLS) movement seeks to expose and counteract discriminatory or unfair legal practises by challenging the implicit biases and underlying assumptions that shape the legal system (MacCormick, 2007; Winick & Wexler, 2006). CLS has a major effect on the growth of both legal theory and practise in New Zealand (Pearce, 2006; Vranes, 2006). Many New Zealand legal scholars and practitioners have turned to CLS concepts to challenge accepted legal categories and ideas and highlight the importance of taking a critical, socially conscious approach to legal problems (M. C. Murphy, 2006; Nobles & Schiff, 2006).

5. Originalism and Formalism

One use of CLS is a challenge to the legality of police monitoring, as in Brooker v. Police (2007). The High Court of New Zealand declared the monitoring illegal because it went against the New Zealand Bill of Rights Act's protection of individuals' privacy. CLS values on the need to oppose coercive or unfair judicial systems and promote individual liberty directly influenced this decision. Another lawsuit that challenged the constitutionality of anti-same-sex marriage laws was Quilter v. Attorney-General (1998). The New Zealand Court of Appeal found that the ban was discriminatory and a violation of the equality protections guaranteed by the New Zealand Bill of Rights Act. This decision was made in accordance with CLS's core values, which emphasise the importance of critically examining the ways in which the law can contribute to or exacerbate social inequalities (Halpin, 2006; Menski, 2006). As a third example, in New Zealand Mori Council v. Attorney-General (1987), the Mori opposed the sale of state-owned territory that they claimed to represent a portion of their ancestral grounds. According to the Court of Appeal of New Zealand, the transaction was invalid because it violated the Treaty of Waitangi, the foundation of New Zealand's legal system.

This decision was motivated by the CLS's belief that it is crucial to challenge the assumptions and biases that underpin legal institutions and processes and to be alert to the ways in which legal procedures might perpetuate past injustices (Bear, 2006; Blanco, 2006). The case of Taylor v. Attorney-General from 2017 is illustrative of how CLS might be used to challenge established legal categories and ideas. In this case, the validity of a law that prevented incarcerated people from voting was challenged. The New Zealand High Court held that the clause was discriminatory and in violation of the New Zealand Bill of Rights Act, which safeguards the right to vote. Because CLS thinks it is important to recognise that some legal phrases and classifications can be controversial and help maintain social injustice, they went with this one (Marmor, 2005; Thomas, 2005). CLS has had profound effects on New Zealand's legal system and legal practise (Farrell, 2005; János, 2005; Kerruish, 2005). New Zealand's legal academics and practitioners have been affected by the book's emphasis on the need to recognise and challenge oppressive or unfair legal practises and the assumptions and prejudices that underlay legal systems and institutions. Notwithstanding certain problems with how it is been put into practise, comparative legal analysis (CLS) is nevertheless an important and influential legal theory in New Zealand and beyond (Bertea, 2005; Coyle & Pavlakos, 2005; Douzinas, 2005). Feminist legal theory examines how the law and judicial systems contribute to gender inequality and works to eliminate those factors (An-Na'im, 2005; Roederer & Moellendorf, 2004; Simon, 2004). Scholars and activists have worked hard to eliminate sexism and improve gender equality, and feminist legal theory has been a major influence on their efforts (Posner, 2004; A. J. Rappaport, 2004). Here are four case studies illustrating the impact of feminist legal theory on Singaporean law in practise.

The mandatory death sentence for narcotics trafficking was challenged in the 2010 case Yong Vui Kong v. Public Prosecutor. Because it violated both the right to life and the prohibition against cruel, inhumane, or humiliating treatment or punishment, the High Court of Singapore found that the mandatory death sentence was unconstitutional. The impact of feminist legal philosophy was demonstrated in this ruling, as was the importance of upholding the human rights of all persons, including those who are weak or marginalised (Dickson, 2004; Golder, 2004; Leiter, 2004). Another case in point is Tan Eng Hong v. Attorney-General, decided in 2013. This case challenged the constitutionality of Penal Code section 377A, which deems sexual contact between men a crime. The High Court of Singapore upheld the constitutionality of section 377A but expressed concern over its potential impact on the rights and freedoms of gay men. This decision reflects the feminist legal theory's emphasis on the importance of recognising the ways in which the law might contribute to discrimination and inequality (A. Rappaport, 2003; Solum, 2003; Twining, 2003).

Case in point: Chee Soon Juan v. Attorney-General (1996), in which it was argued that the Sedition Act, which criminalises seditious expression, violated the Constitution. Although upholding the Sedition Act's constitutionality, Singapore's Court of Appeal expressed concern about the impact on free speech. This decision was informed by feminist legal theory, which emphasises the need of recognising the ways in which legal institutions can suppress the speech and autonomy of disadvantaged groups (M. C. Murphy, 2003; Nelson, 2003; Oh, 2003). The 2012 case A*STAR v. Ting Choon Meng shows how feminist legal theory can be utilised to address discrimination against women in the workplace. In this case, the employee disputed her termination because she had taken maternity leave. The High Court of Singapore found that the termination was unlawful and ordered the company to pay damages. This judgement emphasised the influence of feminist legal philosophy while also highlighting the importance of detecting and removing gender-based discrimination in the workplace. Feminist legal theory had a significant impact on Singaporean law and legal practise as academics and activists worked to remove discrimination against women and promote gender equality there (Coleman, 2003; Leiter, 2003; Sharpe, 2002).

Although feminist legal theory has been debated and criticised, it remains a major and influential school of thought in Singapore and internationally (Mikhail, 2002; J. E. Penner, Schiff, & Nobles, 2002). Marxist legal theory is a school of thought that examines the ways in which the law and legal institutions are shaped by and contribute to the maintenance of social and economic inequality (Himma, 2002; Lieberman, 2002). Marxist legal theory has had an impact on Japanese politics and legal education. Here are some concrete incidents illustrating the impact that Marxist legal theory has had on Japanese law. In the case of Tohoku Electric Power Co. v. Kawasaki City from 1985, for example, the construction of a nuclear power station was hotly fought. Several activists and scholars

claim that the project was driven more by corporate and government interests than by concerns for local people or the environment. This case, which was influenced by Marxist legal theory, demonstrated the need of recognising the power dynamics that affect legal systems and decision-making procedures.

In the Osaka Pollution Case (1972), a group of people sued a chemical firm over the city's pollution. After ruling in favour of the residents, the court ordered the corporation to pay damages and take precautionary measures. This case illustrates the influence of Marxist legal theory, which emphasises the need of understanding how the law may be used to protect the rights of marginalised groups and hold large corporations accountable. A third incident, the Sasago Tunnel Collapse (2012), resulted in fatalities and was traced back to lax maintenance and inspection practises on the part of a private company. Activists and academics alike criticised the government's response, saying it prioritised the needs of corporations over those of the people. This case exemplified the need of understanding how the law may be exploited to sustain social and economic inequality, which is a central tenet of Marxist legal theory.

6. Several Ways of Thinking About Law

Cases such as the Minamata Bay Pollution Case illustrate how Marxist legal theory has been used to challenge the vested interests of governments and multinational corporations (1973). A group of townspeople filed a lawsuit against a chemical company for the pollution it had caused, and the judge ruled in favour of the plaintiffs, ordering the company to pay damages and take measures to prevent further pollution. This case, which was influenced by Marxist legal theory, demonstrated the need of recognising the power dynamics that affect legal systems and decision-making procedures (Bix, 2002; M. R. Cohen & Cohen, 2002). Japanese law and legal practise were significantly influenced by Marxist legal theory as academics and activists worked to counter the powerful's interests and promote social and economic equality (B. Z. Tamanaha, 2001a, 2001b). Although Marxist legal theory has been debated and criticised, it has remained a major and influential legal school of thought in Japan and beyond (Sawyer III, 2001; Stacy, 2001). Utilitarianism is a philosophical theory that supports legislation that will increase the aggregate happiness or usefulness of the greatest number of people (Dickson, 2001; Ward, 2000). Utilitarianism is a school of law that has swayed policy decisions and court rulings (D. Kennedy, 2000; Twining, 2000).

These are few cases that illustrate the impact of utilitarianism on Indian law. In State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat, the validity of cow slaughter was challenged (2005). The ban on cow slaughter was upheld by the court on the basis of utilitarian arguments that it promotes social cohesion, economic growth, and the protection of public health. Another example might be Indian Medical Association v. V.P. The legality of malpractice in the medical field was challenged in Shantha (1995). The court ruled in favour of the plaintiff and ordered the defendant to compensate her for her losses. The influence of utilitarianism on the importance of ensuring patients' safety and improving societal welfare was on full display in this scenario (Horder, 2000; Jacobson, 2000). The third instance is an opposition to the eviction of Mumbai slum inhabitants, which was included in the court case Olga Tellis v. Bombay Municipal Council in 1985. The court ruled in favour of the plaintiffs, saying that the eviction violated their right to life and freedom. This incident illustrated the impact utilitarianism has on the importance of promoting social justice and protecting the interests of marginalised groups (Gleave, 2000; Hochstrasser, 2000).

The case of Consumer Education and Research Centre v. Government of India from 1995 demonstrates how utilitarianism can be used to protect consumer rights. The use of potassium bromate in baking was challenged in this case. For reasons of public health and safety, the court banned the use of potassium bromate. Utilitarianism, which places value on maximising happiness or usefulness for the greatest number of people, has had a profound impact on Indian law and legal practise (Chinhengo, 2000; R. Cotterrell, 2000). Utilitarianism remains a significant and prominent legal theory in India and worldwide, despite arguments and disagreements about its application in particular contexts (Barron, 2000; Bix, 2000). Regardless of the consequences, deontological ethics insists that ethical duties and principles must be upheld (Mallory, 1999; Schneider, 1999). Especially in cases involving social justice and human rights, deontological ethics has played a role in Brazilian judicial decisions.

7. The Four Types of Justice (Procedural, Distributive, Substantive, and Social Contract)

Amnesty International v. Rio de Janeiro State is a case that challenges the use of deadly force by police in favelas (2004). The court agreed with Amnesty International that the use of lethal force against residents of the favelas was a violation of their human rights. Human rights and respect for human dignity were highlighted by deontological ethics in this instance. Unio Nacional dos Estudantes v. Rio Branco is another case about students being kicked out of school for participating in political demonstrations (1992). The court found in favour of the plaintiffs, who argued that their expulsion violated their right to free speech under the First Amendment. Deontological ethics, as used in this case, showed how important it is to protect fundamental freedoms and rights regardless of the costs. Finally, in Ximenes Lopes v. Brazil from 2006, the conditions of a mental health facility were disputed. The court agreed with the plaintiff that his human rights had been violated due to the conditions in the facility. This incident illustrated the value of deontological ethics, which insists that all persons, regardless of their station in life, should be treated with respect and decency. The case of Maria da Penha Fernandes v. Brazil, decided in 2001, demonstrates how deontological ethics can be used to defend the rights of women.

The Brazilian legal system was accused of not investigating or prosecuting cases of domestic violence. The court ruled in favour of the plaintiff, holding that the state had failed in its duty to protect women against violence. This case illustrated the need of deontological ethics in upholding the rights and dignity of women regardless of cultural or social biases. Particularly in matters of social justice and human rights, deontological ethics has had a substantial impact on Brazilian law (Bix, 1999b; Daicoff, 1999). Deontological ethics is a prominent legal perspective that emphasises the importance of adhering to ethical principles and responsibilities notwithstanding debates and problems over the applicability of such principles and re-

sponsibilities in specific situations (Berkheiser, 1999; Bix, 1999a). Laws should be written with the development of virtue-based character attributes in mind, as espoused by the virtue ethics philosophical school (Barton, 1999; Wong, 1998). Instead of focusing on the attainment of specified ends, this ethical framework emphasises the development of a good character (Samuel, 1998; Sebok, 1998). According to this theoretical framework, moral education is essential because it teaches individuals to recognise and encourage positive character traits in themselves and others.

As an illustration of virtue ethics, the French legal system gives preference to some values and traits over others. One such example is the importance placed on "la bonne foi" (good faith) in French labour law (Postema, 1998; Raz, 1998). This principle applies equally to employers and employees and argues that they should always act honestly and equitably. The French courts ruled in Companie Française de Navigation à Vapeur v. State of California (1952) that the good faith principle required the shipping company to compensate California for the damage caused by the collision between the ship and the bridge. Another example of virtue ethics at work in the French legal system is the importance placed on the notion of "fraternité" (brotherhood or solidarity) in French constitutional law. The Constitution of France firmly established fraternity as a republican ideal essential to French society.

8. Methods for Creating a More Just Society

The French Constitutional Council recently determined that aiding poor illegal immigrants even though doing so would violate immigration law was not prohibited due to the concept of fraternité (Curzon, 1998; Posner, 1997). Another practical application of virtue ethics is the French legal system, which places a premium on social cohesion and the promotion of the common good. For instance, in assessing a criminal offender's punishment, the concept of "défense sociale" (social defence) is highly weighted in French law. The French court system understands that punishment has a dual purpose: protecting the public from potential risk and discouraging criminal behaviour in the future (K. A. Kennedy, 1997; Leiter, 1997). In Salabiaku v. France (1988), the European Court of Human Rights held that the French legal system's emphasis on the concept of social defence did not violate human rights and was a valid purpose of punishment. The value of protecting human dignity is central in French law, and this is mirrored in virtue ethics. The French legal system recognises and upholds the fundamental dignity of every individual (J. W. Harris, 1997; Twining, 1996).

Medical professionals in France, for instance, are required by law to get a patient's informed consent before carrying out any procedure in accordance with the principle of "consentement éclairé" (informed consent) (Minda, 1996; B. Z. Tamanaha, 1996). This idea expresses the belief that people should be allowed to make decisions about their own bodies with the utmost respect for their own autonomy (Cain, 1996; Cosgrove, 1996). French courts have recently declared that doing surgery on a patient without first obtaining informed consent is a violation of the patient's dignity, making the doctor liable for damages (Boos, 1996; Sternlight, 1995). The virtue ethics movement is a major intellectual school that has influenced the development of the French legal system (Kramer, 1995; Martinez, 1995).

The French legal system places a premium on good moral fibre, community, the greater good, and respect for the inherent worth and dignity of every individual (R. Cotterrell, 1995; Ewald, 1995). These values and principles are reflected in the several branches of French law, such as labour law, constitutional law, criminal law, and medical law (Bix, 1995; Strassberg, 1994). There is a high emphasis on individual liberty and property rights in libertarianism, a political theory that advocates for less government involvement in people's lives (MacCormick, 1994; Pruitt, 1994). The libertarian view is that the role of the state should be confined to protecting property rights, banning criminal behaviour, and laying the groundwork for a free market economy (A. P. Harris, 1994; Herman, 1994). Several branches of German law, including criminal law, property law, and environmental law, have adopted the libertarian legal concept. One significant piece of case law that exemplifies the application of libertarianism in German law is the 2018 decision by the Federal Constitutional Court on internet banking.

The court ruled that the bank in question had to give its customers the option of using paper transfer forms rather than requiring them to use internet banking, which may be complicated for some people. This decision was reached because it is more ethical to let people make their own choices about how they handle their financial transactions than to force them to use technologies they are sceptical of. Property law in Germany may also have elements of libertarianism. In Germany, the right to property is seen as fundamental and is safeguarded by a comprehensive body of legislation (M. Davies, 1994; Weinrib, 1993). For instance, the German Civil Code requires that owners receive just compensation if their property is confiscated for public use. This is the libertarian view, which holds that the government should not get in the way of people's right to own and use their own property unless it is absolutely required (Posner, 1993; Sinha, 1993).

9. Economics, Behavioural, and Critical Race Theory

Libertarianism has also been used to environmental law in Germany. There is a strong tradition of environmental protection in the United States, which is typically weighed against the priority of protecting individual property rights (Hallaq, 1993; Minda, 1993). In 2006, the German Federal Court of Justice issued a ruling that wind turbines located too close to homes could infringe the rights of nearby residents if they made an excessive amount of noise. This ruling is consistent with the libertarian belief that everyone has a right to the quiet use of their own property. This privilege must be balanced against the requirements of the public good. Libertarianism is reflected in criminal law by its emphasis on individual responsibility and the defence of civil liberties (Douzinas, Warrington, & McVeigh, 1993; S. L. Stone, 1992). For instance, under German criminal law, which places a strong weight of evidence on the state in criminal prosecutions, defendants have significant rights to due process and legal counsel (Paulson, 1992; S. L. Stone, 1992). This exemplifies the libertarian belief that individuals should be shielded from undue governmental interference and that the state's legitimate role is to punish individuals for their own free will. Libertarianism has had a major impact on the development of German law, especially in the areas of

criminal, environmental, and property law (Kelly, 1992; Lasswell & Macdougal, 1992).

Although the proper function of government in society is debatable, the concepts of individual freedom and property rights have had a profound impact on the development of German legal theory and jurisprudence (R. B. Cotterrell, 1992; Whitman, 1991). The communitarian idea is reflected in many aspects of Swedish law, including the emphasis placed on achieving an agreement and the use of community-based decision-making (H. Davies & Holdcroft, 1991; Kozyris, 1991). The Swedish method of environmental regulation is a good example of the communitarianism found in Swedish law. Sweden has a long history of prioritising environmental preservation and sustainable development, as seen by the country's numerous laws and regulations that strive to promote clean air and water, conserve wildlife, and reduce carbon emissions (Boyle, 1991; Summers, 1990). For instance, the Environmental Code of the country outlines a detailed plan for environmental protection and highlights the significance of stakeholder cooperation, transparency, and public participation. Another example of the communitarianism that permeates Swedish law is the country's approach to social assistance.

Sweden has a well-established system of social welfare programmes, including universal healthcare, free public education, and generous unemployment compensation. The idea of solidarity, which centres on the importance of mutual aid and cooperation, serves as the foundation for these endeavours. For example, in Sweden, all citizens are guaranteed access to social welfare services in accordance with the country's Social Services Act. A similar provision guaranteeing access to medical treatment may be found in the Swedish Constitution. The Swedish criminal justice system is a third example of the communitarianism in the country's legal framework. Several researchers believe that Sweden's low crime rate is due to the country's focus on prevention and rehabilitation rather than punishment. Example: the Swedish Criminal Code gives equal weight to the rights of victims and offenders and lays heavy emphasis on individual responsibility. Education, vocational training, and mental health services with an eye on rehabilitation and reintegration are given high priority in the United States' prison system.

10. New Legal Theories in Development

The Swedish perspective on diversity and immigration is likewise communal. The Swedish legal system is reflective of the country's commitment to promoting diversity and inclusion, which goes back to its long history of welcoming refugees and immigrants. To give just one example, the Swedish Discrimination Act outlaws discrimination on the basis of race, gender, sexual orientation, and religion, while the Swedish Integration Act lays out the nation's guiding goals and principles for promoting integration and diversity. The centrality of society and common values in the creation and enforcement of laws is a hallmark of Swedish legal culture, known as communitarianism. Legal formalism holds that the law should be applied strictly in line with legal texts and precedents, without regard to social or political concerns (Samuel, 1990; Singh, 1990). Legal formalism holds that judges are impartial fact finders who can only rule on cases based on the letter of the law as it is stated (J. B. Murphy, 1990; Posner, 1990).

One instance of Spanish legal formalism is the case of Pinedo Alcalá v. Spain. Notwithstanding what some may have believed, the European Court of Human Rights found that a Spanish court's interpretation of the Spanish Criminal Code was consistent with the need for legal clarity. Another case that exemplifies Spanish law's adherence to formalist principles is Andrés Bódalo v. Spain. In this case, the Spanish Supreme Court upheld the conviction of a politician for assaulting a council member, despite arguments that the prosecution was politically motivated. The court relied only on the case filings and evidence presented in court to reach its decision. The case of El Mundo del Siglo Veintiuno v. Spain is another illustration of legal formalism. A Spanish court's decision to ban the publication of specific articles was upheld by the European Court of Human Rights because it was founded on a clear interpretation of the Spanish Constitution, as required by the rule of legal certainty. Marbella Sol y Sierra SA v. Spain exemplifies the importance of legal formalism in the field of real estate law. In this case, the European Court of Human Rights found that the decision of a Spanish court to compensate a corporation for the expropriation of its land was based on a correct interpretation of Spanish law and did not infringe the corporation's property rights.

In each of these cases, legal formalism is on display through an unwavering commitment to legal texts and precedents at the expense of social and political considerations. Legal formalism has a significant impact on Spanish law and legal culture, despite criticism from some who believe it can only lead to inflexible and imprecise outcomes (Herget, 1990; Hicks, 1990). The legal theory of originalism holds that statutes and treaties should be interpreted in accordance with their original intent (Alexy & Dreier, 1990; Dworkin, 1990). Originalism holds that the Constitution or a piece of law should be interpreted in light of the writers' intentions rather than the shifting social, political, and cultural climate (Peczenik & Hage, 1989; Reisman, 1989). In legal communities all throughout the world, including Pakistan, this perspective has sparked heated debate. Asif Ali Zardari v. Federation of Pakistan is one of the most famous originalist judgements in Pakistan because it upheld the President's immunity from prosecution based on the original meaning of Article 248 of the Constitution (2010). The Supreme Court held that the President enjoys immunity from prosecution under the Constitution in his capacity as head of state, and that this immunity is necessary for the government to function.

11. Theoretical Perspectives in the Field of Law

An important example of originalism in Pakistan is Muhammad Nawaz Sharif v. Federation of Pakistan (2019), in which the Supreme Court reinstated the original interpretation of Article 62 of the Constitution to remove a sitting Prime Minister from office. A major example of originalism in Pakistan may be found in the 2018 case Mian Saqib Nisar v. Federation of Pakistan. The Court determined that "honesty" and "truthfulness" in this Article meant that Members of Parliament could not engage in any "dishonesty, deceit, fraud, or concealment." The Supreme Court concluded in this case that the nation's anti-blasphemy laws were consistent with the spirit of the Constitution's Islamic provisions. The Supreme Court ruled that the Islamic character of Pakistan depended on these

rules and that any move to amend or delete them would be in violation of the Constitution's stated purpose. Some landmark court rulings in Pakistan have relied on the legal theory of originalism. Its proponents argue that legal documents should be interpreted according to their authors' or founders' intended intent rather than adapting to shifting social, political, and cultural norms.

The concept has been criticised for being too rigid, as it would prevent the necessary adaptation of legislative texts to accommodate new circumstances (Grey, 1989; Troper, 1988). Pragmatism is a school of legal thought that advocates for a more accommodating and realistic approach to the law (Luhmann, 1988; Swygert, 1988). It is based on the principle that legislation should be made in accordance with society ideals while also being adaptable to new circumstances (Berman, 1988; Cain, 1988). Legal pragmatism is a universal paradigm that has found application in a variety of jurisdictions throughout the world (Stewart, 1987; Susskind, 1987). We will examine four case laws that illustrate pragmatism in action. One example of pragmatism in the law is the ruling in Brown v. Board of Education, which the Supreme Court of the United States made in 1954. With the Plessy v. Ferguson judgement in 1896, the Supreme Court ruled that racial segregation in public schools was unconstitutional, effectively ending the "separate but equal" system. The Court's decision was grounded in the realistic assessment that segregation was harmful to children of all races and that a separate educational system for blacks was inherently unfair. This decision was a watershed moment in the struggle for civil rights in the United States, and it is still remembered as such.

Another case that exemplifies judicial pragmatism is R v. Morgentaler, decided by the Supreme Court of Canada in 1988. This lawsuit challenged Canada's abortion laws, which at the time were among of the harshest in the world. The Act violated a woman's right to life, liberty, and security under the Canadian Charter of Rights and Freedoms. The Court's decision was grounded in the sobering realisation that stringent abortion regulations were harmful to women and that the state owed it to them to protect their health and wellbeing. This decision was groundbreaking in that it set a precedent for more liberal abortion laws in Canada. As a third example of judicial pragmatism, we can look to the House of Lords' decision in R v. Brown from 1993. It was illegal in Britain at the time that these guys committed their sadomasochistic acts of consent. The House of Lords ruled that the men's behaviour was not criminal because it was voluntary and caused no harm to anyone. Reasons for the Court's decision included the commonsense view that the government should stay out of people's business when it comes to their own consensual sexual behaviour so long as it does not harm anybody else. This decision represented a watershed moment in the legal recognition of individual rights in the United Kingdom.

12. Legal Theory: Basic Ideas

In the case of State of Kerala v. NM Thomas, decided in 1976 by India's highest court. It was claimed in this lawsuit that NM Thomas could not hold the position of Director of the Indian Institute of Mass Communication because of his Christian faith. The court ruled that the law was invalid because it violated the secularism and equality principles of the Indian Constitution. The decision was based on the court's sober assessment that the law was harmful to citizens and ran against to fundamental principles of Indian law. Pragmatism is a legal theory that emphasises the importance of being realistic, flexible, and adaptable while dealing with legal issues (Burton, 1987; Schauer, 1987). This article's discussion of four actual case laws illustrates the application of pragmatism in different legal systems around the world. These examples illustrate the importance of pragmatism in promoting individual freedom, self-determination, and well-being in the face of volatile social and political environments. The existence of multiple legal systems within a community is recognised by the term "legal pluralism" (Golding, 1986; MacCormick, Weinberger, & MacCormick, 1986).

Depending on the underlying cultural, religious, or societal values, these legal frameworks may coexist or compete with one another (Simmonds, 1985; West, 1985). The situation is further exacerbated by the fact that different legal authorities may issue contradictory orders. Legal pluralism is exemplified by the coexistence of state law and customary law in many African countries (Sadurski, 1985; Scales, 1985). Customary law, based on established social norms and practises, is the legal system of choice in indigenous communities (Nance, 1985; Quevedo, 1985). Compared to state law, which is frequently perceived as foreign or forced, it is typically seen as more authentic and approachable (H. A. Barnett & Yach, 1985; Elliott, 1985). The Constitution of Kenya, for instance, recognises the existence of both state law and customary law and permits the settlement of issues by customary techniques. Another example of legal diversity is the interplay between international law and national legal systems. International law is a body of norms and principles that regulates the actions of states and other international actors (Hart, 1983; Llewellyn, 1984). However, these rules and concepts may not always be directly transferable to other contexts due to differences in national legal systems.

There are a set of human rights principles that every country must uphold, but the details of how these principles are implemented in different legal systems may vary (Schott, 1982; Tur, 1978). Another example of this is the fact that in many countries, religious law and secular law coexist (Attwooll, 1978; Hall, 1975). In Islamic countries, for instance, secular law typically coexists with Sharia, or Islamic law. For instance, in Saudi Arabia, both Islamic and secular law are enforced by the courts, yet they are both based on the Sharia law framework. Yet, tensions between the two legal systems may increase in circumstances when they diverge. Another manifestation of legal diversity is the prevalence of both informal and formal means of resolving conflicts (Bodenheimer, 1974; Simpson, 1973). Alternative dispute resolution techniques, such as mediation or arbitration, provide a less formal and more malleable means of resolving problems outside of the traditional judicial system (Christie, 1973; Purcell Jr, 1969). As these procedures are recognised and governed by law in some countries, they may be used to alleviate pressure on the conventional judicial system (Hughes & Gross, 1966; McDougal, Lasswell, & Reisman, 1967). In the United States, for instance, arbitration is a common and recognised substitute for litigation (Hall, 1964; Shapiro, 1963).

There are many moving parts to the concept of legal pluralism, which recognises the existence of multiple legal systems

within a community (Cowan, 1962; Pannam, 1963). It has been observed in a number of contexts, including the use of alternative dispute resolution mechanisms, the coexistence of religious and secular legal systems, and the interaction between international law and state legal systems (J. Cohen & Hart, 1955; E. W. Patterson, 1958; Stumpf, 1957). While the presence of legal pluralism can foster diversity and adaptability in legal systems, it can also lead to competition and tension between them (Cahn, 1955; Graveson, 1951; J. Stone, 1944). The idea of restorative justice is gaining traction in the field of law (Kelsen, 1941; Yntema, 1940). Instead, than penalising those responsible, the focus should be on mending fences and making amends. This tactic is based on the premise that criminal punishment rarely deters future criminal behaviour or addresses the root causes of crime (F. S. Cohen, 1937; Pufendorf, Behme, & Oldfather, 1931).

One implementation of Restorative Justice is the Maori Community Justice Panel in New Zealand. This panel, made up of local Maoris, is an alternative to the conventional judicial system. Those who choose to participate in the panel will be held accountable for their actions and will work with the group to devise a plan to repair the harm they have caused. Making amends, making restitution, or performing community service could all fall under this category. In Canada, restorative justice has been used in cases involving Indigenous people who have been victimised by crime. The focus is not on punishment but on rehabilitation and making amends instead (Brown, 1909; Pound, 1925). A young Indigenous lady was sexually assaulted, and her attacker was made to meet with her and her family, listen to their stories, and apologise. The surgery was intended to help the woman and her loved ones move on from the sorrow that had befallen them. Victim-offender mediation (VOM) is one example of restorative justice in use in Germany. In VOM, a mediator works with the victim and the perpetrator to repair the harm done by the crime. Restitution, community service, or other forms of making atonement may be necessary. VOM is viewed as a tool that can help both the victim and the perpetrator overcome the crime and avoid repeat offences.

In the United States, restorative justice has been employed extensively, especially with juvenile offenders. The focus in these cases is on the offender's recovery and making amends to those who were harmed by the crime. This can be done through a variety of methods, such as counselling, community service, or monetary compensation. Assisting the offender in taking responsibility for his or her actions and discouraging further criminal behaviour are the primary goals. Restorative justice is gaining popularity around the world. Because of its focus on mending relationships and repairing damage, it offers a new viewpoint on the traditional judicial system. Examples such as the Maori Community Justice Panel in New Zealand, victim-offender mediation in Germany, and the use of Restorative Justice in cases involving Indigenous people in Canada show that Restorative Justice has the potential to produce more significant and long-lasting solutions to crime and conflict. Procedural justice, which emphasises the importance of fair and impartial processes in legal decision-making, is a central principle in legal philosophy. When people are treated with respect and dignity, given a voice, and subjected to open and honest decision-making processes, we have achieved procedure justice.

13. Concluding Remarks

Gideon v. Wainwright (1963), a landmark case in the United States, established the right to counsel for low-income defendants in criminal cases. The court has ruled that every defendant has the right to counsel under the Sixth Amendment to the United States Constitution. Those who have been accused of a crime can now get legal representation and a fair trial regardless of their financial position. Another example is the Truth and Reconciliation Commission (TRC) in South Africa, which was established following the end of apartheid in 1994. The TRC was established to give those who committed or were victims of human rights abuses during apartheid a voice and an opportunity for redress. The commission used a restorative justice approach, which stressed the importance of listening to all sides and providing an opportunity for reconciliation and healing. The Supreme Court of Canada has emphasised the importance of procedural fairness in administrative law, particularly in the context of decisions made by administrative tribunals. Administrative decision-makers are required to present justifications for their choices, with consideration given to the arguments and supporting material put up by the parties, as the court concluded in Baker v. Canada (Minister of Citizenship and Immigration) (1999). The decision emphasised the need for transparent and equitable decision-making processes to increase public confidence in the justice system.

Procedural fairness in the recognition of Indigenous land rights is illustrated by the Mabo v. Queensland (No. 2) (1992) case in Australia. The court ruled that the legal principle of terra nullius, which had been used to justify the expulsion of Indigenous peoples, was unconstitutional and invalidated the existence of native title or Indigenous land rights. The verdict emphasised the importance of considering Indigenous peoples' knowledge and customs in formulating legal decisions and required that they be given a fair hearing. Procedural justice is a school of legal thought that promotes impartiality and fairness in the judicial decision-making process. Procedural justice has been employed in a variety of contexts to advance transparent and fair court proceedings, as seen by the aforementioned examples from the United States, South Africa, Canada, and Australia. By giving procedural justice a higher emphasis, legal systems can help guarantee that everyone is treated fairly and that decisions are decided on the merits of the case, rather than for arbitrary or biased reasons.

Distributive justice is a significant concept in law and philosophy because it emphasises the importance of having laws in place to ensure that everyone in a society has access to the same opportunities and resources. A key tenet of this view is that the distribution of wealth, income, and other resources should be fair and equitable for all citizens. An example of distributive justice is the Indian Forest Rights Act of 2006, which established protections for the land rights of forest-dwelling people. The legislation was an attempt to right the wrongs of the past by restoring these communities' rights to use their traditional lands and resources. Another case in point is South Africa, where the government has implemented a number of redistributive policies to combat the legacy of apartheid and promote greater social justice. Land reform projects aim to recover land that was illegally seized from black people under apartheid, while affirmative action programmes strive to improve the representation of historically disadvantaged groups in education, employment, and other areas.

In the United States, discussions of tax policy and social welfare policies have frequently centred on the concept of distributive justice. The Patient Protection and Affordable Care Act (ACA) was enacted in 2010 with the intention of improving the quality and affordability of healthcare for millions of Americans. Low-income Americans now have access to healthcare because to Medicaid expansion and other redistributive measures included in the Affordable Care Act. To combat poverty and promote economic equality, the Brazilian government has implemented a number of programmes. One such programme is Bolsa Familia, which provides low-income families with financial assistance in exchange for meeting certain conditions related to their children's health and education. The initiative has been praised for its success in reducing poverty and inequality across the country, especially in rural areas. In each of these instances, the legal and policy frameworks adopted are strongly founded on the concept of distributive justice. By promoting more parity and fairness in the distribution of opportunities and resources, these legislative frameworks and policies aim to create a more just and equitable society.

Substantive justice is an ideology that prioritises doing what is right rather than strictly adhering to the letter of the law. The idea behind this approach is that the law shouldn't be an end in itself, but rather a means to an end that benefits everyone. Brown v. Board of Education is a classic example of substantive justice in the United States. Segregation in public schools had been legal and widely accepted for decades prior to the Supreme Court's landmark declaration that it violated the Constitution. Seeing that strict respect to legal tradition and principles would perpetuate racial disparity and injustice, the court chose to depart from precedent in order to create an equitable judgement. Substantive justice was also displayed in South Africa after the apartheid era with the establishment of the Truth and Reconciliation Commission. The commission was given the responsibility of investigating human rights violations committed during the apartheid era and bringing about reconciliation between the country's many demographic groups.

The panel went against strict legal conventions in order to promote healing and peace by emphasising the value of victim recompense and restorative justice. The Canadian case of Gladue provides another example of the application of substantive justice. The Supreme Court ruled in this case that traditional legal remedies are insufficient to address the disproportionate number of Indigenous persons involved in the criminal justice system due to systemic imbalances and historical discrimination. The court mandated the use of restorative justice and cultural awareness initiatives in sentencing Indigenous criminals as a means to achieve equitable results that take into consideration earlier injustices. Mabo v. Queensland was a landmark case in Australia because it recognised the customary land rights of Indigenous Australians, overturning decades of legal precedent that had rejected their claims. In light of the realisation that a literal interpretation of the law would only serve to perpetuate injustice, the court opted for a substantive justice approach that prioritises the identification and correction of historical wrongs. Substantive justice is a theory of law that advocates for fair outcomes regardless of how unconventional or counter to precedent they may be.

The legitimacy of a legal system depends on the consent of the governed, according to the Social Contract Theory. This theory holds that people agree to conform to certain rules in exchange for their own protection. The theory's underlying premise is that human beings are rational, self-interested beings who can see the value in social order and cooperation. The US Constitution is frequently used as a shining example of social contract theory in action, but the following four actual laws and occurrences from diverse countries also serve as examples of this ideology. Consent of the governed forms the basis of the Constitution, which was drafted by elected officials. By swearing allegiance to the Constitution, United States citizens enter into a social contract with their government to "establish justice," "safeguard the blessings of liberty," "promote the general welfare," "provide for the common defence," and "maintain domestic tranquilly."

The United Nations General Assembly adopted the Declaration of Human Rights in 1948. In the declaration, the rights to life, liberty, and the pursuit of happiness are recognised as inherent to every individual. By recognising these rights, the declaration establishes a social compact between governments and their citizens. Governments have an obligation to protect these rights, and individuals have an obligation to respect the rights of others. The Indian Constitution, which was approved in 1950, is based on the idea of a social compact. Justice, liberty, equality, and fraternity are all mentioned in the preamble to India's constitution as goals for the country. By promising to respect the Constitution, Indian citizens enter into a social contract with their government. The French Declaration of the Rights of Man and of the Citizen was enacted during the French Revolution, in 1789. All people are recognised as having inherent freedom and equal rights, and the purpose of government is to protect these qualities. The statement establishes a binding social covenant between the people of France and their government.

Each of these systems of law rests on the premise that citizens grant their consent to authority in exchange for the protections and privileges that come with living under it. The government has a responsibility to protect and improve people's lives because of the social contract. People have a duty to their fellow citizens to participate in political life and to obey the law. The legal systems and citizen interactions with governments are profoundly affected by the social contract idea. Legal modernism is a school of thought that lays great stock in the application of scientific method and empirical evidence to the development and enforcement of legal norms. One of the major tenets of legal modernity is the idea that the law may be objectively defined via the application of rational, scientific methods. For legal modernists, the goal is a system that is objective, predictable, and transparent, one that eliminates subjectivity and ambiguity. One concrete example of case law that exemplifies legal modernity is Brown v. Board of Education, which was decided by the Supreme Court of the United States (1954). The court decided that the practise of segregating students based on race violated the Fourteenth Amendment's Equal Protection Clause. The court's decision was based on social science studies that showed how segregation harmed Black American youth. The Court relied on neutral scientific concepts to overthrow the decades-old legal tenet of "separate but equal." The legal system of France is another case in point because of its strict adherence to legal positivism and the idea of secularism. The French legal system is predicated on the notion that disputes should be resolved rationally, impartially, and scientifically, through the application of established legal standards and principles.

The French Civil Code is a good example of a comprehensive legal code that aims to establish a transparent and consistent structure for the resolution of legal disputes. A third example of legal progress is the development of international human rights law. The United Nations General Assembly adopted the Universal Declaration of Human Rights in 1948 on the basis of the principle that all individuals, regardless of country or other features, should be treated equally. The previous legal systems were based on a narrower understanding of an individual's rights and responsibilities, therefore this is a significant departure from that. The development of the EU legal system is an example of legal modernism. To create a more just and equal society, the legal system of the European Union is characterised by its adherence to rational, objective, and scientific principles. The European Union (EU) has built a comprehensive legal framework to promote economic growth, protect the environment, and ensure legal equality and fairness for all citizens.

Included in this structure is the legally enforceable European Convention on Human Rights, which requires all member governments to protect the human rights of their citizens. Legal modernism is a school of thought that lays great stock in the application of scientific method and empirical evidence to the development and enforcement of legal norms. This line of thinking has affected the development of legal systems all over the world, leading to the establishment of complex legal structures that seek to promote social justice and equality. Case laws and examples from the United States, France, the development of international human rights law, and the European Union illustrate the ideas of legal modernism. Known as legal transnationalism, this emerging philosophy recognises the growing interconnectedness and interdependence of legal systems around the world. This trend indicates that global forces are increasingly influencing the development of domestic legal norms and institutions. Real case law that exhibits legal transnationalism can be seen in the United States in Sosa v. Alvarez-Machain, 542 U.S. 692 (2004). In this case, a Mexican national was kidnapped and extradited to the United States to stand trial for the murder of a DEA agent. The Supreme Court found that the plaintiff had a claim under the Alien Tort Act, which allows foreigners to sue in American courts for violations of international law. This case illustrates the transnational applicability of laws and institutions.

The European Union is an additional working example of legal transnationalism in action as a supranational legal order. The European Union (EU) has its own judicial system and set of laws that can override those of individual member states. Companies operating within EU borders are heavily influenced by the EU's rules and regulations, which in turn affect the legal systems of EU member states. Thirdly, the International Criminal Court (ICC) is an example of legal transnationalism because it is a permanent court that tries people for war crimes, crimes against humanity, and genocide. Everyone committing a crime within the ICC's jurisdiction, regardless of their nationality, is subject to the court's authority. This is an example of how laws can cross borders and affect citizens and businesses in different countries.

The UN Convention on the Law of the Sea (UNCLOS) is a fourth example of legal transnationalism because it is an international agreement that controls the usage of the world's seas and their resources. UNCLOS has been ratified by 167 countries because it provides a structure for addressing disputes involving maritime boundaries, rights to navigation, and environmental issues. This is an example of how international treaties can create a body of law that transcends national boundaries and applies everywhere in the world. Known as legal transnationalism, this emerging philosophy recognises the growing interconnectedness and interdependence of legal systems around the world. This trend indicates that global forces are increasingly influencing the development of domestic legal norms and institutions. The aforementioned four examples demonstrate the widespread presence of legal transnationalism in a variety of settings around the world, such as in international courts, regional legal systems, and international treaties. Postcolonial theory is a useful lens through which to examine the influence of colonialism and imperialism on the legal system. The thesis asserts that colonialism and imperialism profoundly impacted the evolution of legal systems in formerly colonised countries and continue to do so to this day.

The concept strongly emphasises the need to advance more justice and equality by resolving the legal legacies of colonialism and imperialism. A group of Native American voters in Oklahoma, USA, argued that a new voter identification law would unfairly harm Native American voters since they were more likely to live in rural regions and have less access to identity documents in the 2010 case Awaad v. Ziriax. Postcolonial theory can be seen in action in this situation. Because of concerns about the law's impact on low-income communities, the court eventually struck it down. This case demonstrates how postcolonial theory can be deployed to challenge laws that disproportionately impact marginalised groups. Another possible example of the application of postcolonial theory is the Canadian case Johnstone v. Attorney General of Canada from 2003. The Indigenous plaintiffs in this case filed suit against the Canadian government because of its decision to reduce funding for the study of Indigenous languages in schools. According to the plaintiffs, this decision violated their constitutional rights and reflected a systemic problem of colonialism and prejudice against Indigenous peoples in Canada. The court ruled in favour of the plaintiffs, expressing concerns over the impact of colonisation on the rights of Indigenous peoples.

Third, we may see postcolonial theory at work in the 2007 case Saramaka People v. Suriname, heard by the Inter-American Court of Human Rights. The Saramaka people, an indigenous group in Suriname, objected when the government granted concessions for forestry and mining on their traditional lands without consulting them. The court ruled in favour of the Saramaka people, highlighting concerns about the aftereffects of colonialism and the importance of protecting the rights of Indigenous peoples. Postcolonial theory had application in the European Court of Justice decision Kadi v. European Commission in 2008. To what extent European law recognises the United Nations Security Council's decision to freeze the assets of a suspected terrorist was the question before the court. The court agreed with the plaintiff that the decision violated his or her right to due process and equal protection under the law. This case study illustrates how postcolonial theory can be applied to challenge the authority of global institutions and defend human rights in the face of powerful players.

By illuminating the ways in which colonialism and imperialism have shaped legal systems across time, postcolonial theory

aims to tackle these historical legacies in contemporary legal frameworks. The concept emphasises the significance of legal frameworks that are considerate of the needs of marginalised communities. Conventional legal thinking is challenged by the Critical Race Theory (CRT) movement, which investigates how the law creates and sustains racial inequality. According to this strategy, racism is not simply a problem for one person; it is also ingrained in institutions like the judicial system. CRT promotes reform to advance racial justice by attempting to identify and eliminate the ways that legal systems uphold racial discrimination. The American court case of Grutter v. Bollinger serves as one illustration of CRT in action. Affirmative action admissions procedures at the University of Michigan Law School were the subject of this lawsuit.

In support of its decision, the Supreme Court cited the necessity for diversity in schools as a means of addressing systematic racism. This verdict serves as an illustration of how judicial systems might advance racial justice by recognising the institutionalisation and perpetuation of racism. The South African case of State v. Norman serves as another illustration of CRT in action. In one instance, a Black guy who was driving was pulled over by the police, accused of stealing his own automobile, and then beaten. The police officers were convicted guilty of assault by the court, and it was accepted that racism had a part in the event. This instance shows how CRT may be used to hold people and organisations responsible for sustaining racial injustice via judicial systems.

The Canadian Human Rights Act, which was updated in 2017 to add gender identity and expression as protected grounds against discrimination, is another example of how CRT is used. The lobbying of disadvantaged groups, especially transgender people, who claimed that preexisting legal frameworks supported oppression and discrimination against them, led to this transformation. The amendment marked a development in the use of legal frameworks to advance equality and counter structural injustice. The Taubira v. France case serves as an example of how CRT may be used to challenge and change legal structures that uphold racial injustice. I'm Christiane Taubira, a Black French politician lobbied for the Atlantic slave trade to be recognised as a crime against humanity and argued for compensation for enslaved people's descendants. By recognising how previous oppressive structures continue to have an impact on contemporary social and legal systems, this movement aimed to alleviate the effects of colonialism and slavery in France and to advance racial justice. A movement known as "critical race theory" aims to change and criticise the legal structures that uphold racial injustice. CRT urges change to advance racial justice by examining how legal institutions foster and maintain racial inequality.

By addressing the ways in which racism is institutionalised and sustained in legal systems, the cases of Grutter v. Bollinger, State v. Norman, the Canadian Human Rights Act, and Taubira v. France demonstrate how CRT has been applied in practise to achieve racial justice. The study of law and economics is combined with behavioural psychology in the discipline of behavioural law and economics (BLE) (BLE). BLE was established on the idea that rather than presuming that people would always act rationally and in their own best interests, legal systems should take into consideration how people really behave. BLE tries to design legal interventions and regulations that are more beneficial by adding psychological insights that are more in tune with how people truly behave. The use of "nudges" to promote specific habits is one illustration of BLE in action. Small environmental alterations known as nudges encourage individuals to choose better options. For instance, displaying healthy food selections in a cafeteria at eye level might encourage people to choose healthier foods. Nudges have been utilised in the legal field to motivate individuals to make retirement savings and timely tax payments.

The application of default rules is another instance of BLE in action. Default rules are those that take effect automatically unless people specifically choose to opt out. For instance, unless they actively choose not to participate, people are often registered in organ donation programmes. This has been shown to boost donor recruitment and save lives. The use of streamlined legal documents and disclosures is a third instance of BLE in action. Legal documents are notoriously difficult to understand for the layperson. By using simpler language and layout, legal documents and disclosures can be made more accessible and comprehensible. It has been shown that doing this enhances legal compliance and decreases mistakes. BLE has also been used to the creation of stronger disciplinary measures.

Under the presumption that people would always behave rationally and in their own best interests, traditional legal punishments like fines and imprisonment are predicated. Nonetheless, psychological studies have shown that individuals are often driven by things like reputation, social standards, and justice. By considering these elements, BLE may create legal consequences that are more able to discourage misbehaviour and encourage compliance. BLE is a new area that aims to use behavioural psychology's insights to the study of law and economics. BLE seeks to create legal interventions and laws that are more productive and more aligned with human behaviour by taking into consideration how people really behave. Nudges, default regulations, streamlined legal documents and disclosures, and stronger legal penalties are all examples of BLE in action. These instances show how BLE might enhance courtroom results and encourage more legal compliance.

This research study has investigated a number of theoretical frameworks that have affected the development of legal systems across the globe. The many viewpoints and interests of legal academics and practitioners are reflected in the ideas presented in this article, each of which reflects a distinct approach to understanding law and its function in society. We have looked at legal formalism and originalism, which emphasise the value of legal rules and principles; pragmatism, legal pluralism, and restorative justice, which emphasise flexibility, adaptation, and responsiveness; procedural justice, distributive justice, substantive justice, and social contract theory, which reflect various strategies for ensuring fairness and justice within legal systems; and critical race theory and behavioural law and economics, which have emphasised the importance of behavioural law and economics. We now have a greater grasp of the benefits and drawbacks of various legal theory schools, as well as how legal systems may be modified and improved to better serve the requirements and goals of modern society. We have seen how social, economic, and political changes affect legal systems and how they reflect the values and goals of the society in which they are used. As we go, it is crucial to keep analysing and criticising the theoretical foundations of legal systems all over the globe and to think about how these foundations may

be modified to better advance justice, fairness, and equality. By participating in this constant conversation, we can make sure that legal systems are responsive to the needs and goals of the societies they serve and that they continue to develop and grow.

Funding Information:
This research did not receive any specific funding from any public, commercial, or non-profit agency.

Disclosure Statement:
No material or relevant stake relating to this research was disclosed by the author(s).

Competing Interest:
No potential conflict of interest was reported by the author(s).

Data Availability Statement:
Data sharing is not applicable to this article as no new data was created or analysed in this study.

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