Module 1 – Introduction

What is Legal Theory

- Legal theory, also known as <mark>jurisprudence</mark>, is the theoretical study of law, legal systems and processes and law in society
- It has historically been studied by philosophers and lawyers, but in modern times by social scientists as well
- Explanatory legal theory
    - What is law? Why create law? What are the consequences of law?
- Normative legal theory
    - What should the law be? Should we obey laws? Why do we punish people?
- Critical legal theory
    - Varied challenges to traditional knowledge and beliefs about law's rationality, universality, impartiality, and relationship with political and economic power

Categories of Jurisprudence

- Theory can be defined by **purpose** (as noted):
    - Explanatory theory
    - Normative theory
    - Critical theory
- Or by **fundamental assumptions:**
    - Natural law
    - Positivism
    - Legal realism
    - Sociological jurisprudence
    - Historical/anthropological legal theory
    - Critical legal theory
- Or by **scope:**
    - Grand theory – what is law?
    - Mid-range theory – what is a legal obligation?

- Specific doctrine – contractual agreement
- Or by substantive focus: