



RAMA UNIVERSITY

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FACULTY OF JURIDICAL SCIENCES

Course : LL.B. Ist Semester

SUBJECT: Jurisprudence

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LECTURE: 1

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Lecture-3



Scope of Jurisprudence

Lecture – 3: Scope of Jurisprudence

Scope of Jurisprudence

The scope of jurisprudence has widened considerably over the years. Commenting on the scope of jurisprudence Justice P.B.Mukherjee observed, “Jurisprudence is both an intellectual and idealistic abstraction as well as the behavioural study of man in society. It includes political, social, economic and cultural ideas. It covers the study of man in relation to society.” This makes the distinction between law and jurisprudence amply clear. It, therefore, follows that jurisprudence comprises the philosophy of law and its object is not to discover new rules but to reflect on the rules already known.

Whereas, Austin was the only one who tried to limit the scope of jurisprudence. He tried to segregate morals and theology from the study of jurisprudence.

Approaches to the study of Jurisprudence

There are two ways to study it-

1. Empirical– Facts to Generalization.
2. A Priori– Start with Generalization in light of which the facts are examined.

Significance and Utility of the Study of Jurisprudence

1. This subject has its own intrinsic interest and value because this is a subject of serious scholarship and research; researchers in Jurisprudence contribute to the development of society by having repercussions in the whole legal, political and social school of thoughts. One of the tasks of this subject is to construct and elucidate concepts serving to render the complexities of law more manageable and more rational. It is the belief of this subject that the theory can help to improve practice.
2. Jurisprudence also has an educational value. It helps in the logical analysis of the legal concepts and it sharpens the logical techniques of the lawyer. The study of jurisprudence helps to combat the lawyer’s occupational view of formalism which leads to excessive concentration on legal rules for their own sake and disregard of the social function of the law.

3. The study of jurisprudence helps to put the law in its proper context by considering the needs of the society and by taking note of the advances in related and relevant disciplines.
4. Jurisprudence can teach the people to look if not forward, at least sideways and around them and realize that answers to a new legal problem must be found by a consideration of present social needs and not in the wisdom of the past.
5. Jurisprudence is the eye of law and the grammar of law because it throws light on basic ideas and fundamental principles of law. Therefore, by understanding the nature of law, its concepts and distinctions, a lawyer can find out the actual rule of law. It also helps in knowing the language, grammar, the basis of treatment and assumptions upon which the subject rests. Therefore, some logical training is necessary for a lawyer which he can find from the study of Jurisprudence.
It trains the critical faculties of the mind of the students so that they can dictate fallacies and use accurate legal terminology and expression.
6. It helps a lawyer in his practical work. A lawyer always has to tackle new problems every day. This he can handle through his knowledge of Jurisprudence which trains his mind to find alternative legal channels of thought.
7. Jurisprudence helps the judges and lawyers in ascertaining the true meaning of the laws passed by the legislators by providing the rules of interpretation. Therefore, the study of jurisprudence should not be confined to the study of positive laws but also must include normative study i.e. that study should deal with the improvement of law in the context of prevailing socio-economic and political philosophies of time, place and circumstances.
8. Professor Dias said that “the study of jurisprudence is an opportunity for the lawyer to bring theory and life into focus, for it concerns human thought in relation to social existence.”

SELF-TEST QUESTIONS

S.N O	Question	Option (a)	Option (b)	Option (c)	Option (d)
1	What is the fundamental problem in finding an analogy of Austin's political sovereign in India's Constitution?	Austin's sovereign cannot be identified	Austin's political sovereign in turn, does not himself habitually obey some other person or persons	Austin's concept is radically flawed	both (b) and (d)
2	Since Hart asserts that there is 'no necessary connection between law and morality', what then, is the difference between Hart's Inclusive Legal Positivism and Exclusive Legal Positivism?	Inclusive Legal Positivism does not completely discount the possibility of interface between law and morality	There's no difference as such between the two	The former rejects conventional morality while the latter rejects critical morality	The former rejects critical morality while the latter rejects conventional morality
3	The functional approach to understanding Law is best explained as:	A key to morality of law	an evolution of the society by social and economic circumstances	Divine infallibility of the law-maker	a code of conduct that man has devised

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4	One way to grapple with the problem of conflicting claims over limited resources according to Amartya Sen would be:	Adopt socialism	The communist approach to distribution	Ensure justice is served irrespective of means	Replace 'obsession with justice' with an aim of reducing Injustice
5	Who among the following scholars is not a proponent of Legal Positivism?	Ronald Dworkin	John Austin	Joseph Raz	H. L. A. Hart

Answers: 1-(d),2-(a), 3-(b),4-(d),5-(a)