



# RAMA UNIVERSITY

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## FACULTY OF JURIDICAL SCIENCES

**Course : B.A LL.B/BB.A LL.B**

**Semester :IInd**

**SUBJECT: Jurisprudence**

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**LECTURE: 3**

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**Assistant Professor**

# Lecture-14



## Unit -3

### Lecture –14:- Sociological school

#### **INTRODUCTION**

The idea of Sociological School is to establish a relation between the Law and society. This school laid more emphasis on the legal perspective of every problem and every change that take place in society. Law is a social phenomenon and law has some direct or indirect relation to society. Sociological School of Jurisprudence focuses on balancing the welfare of state and individual was realized.

In the words of Ehrlich, “At the present as well as at any there time, the centre of gravity of legal development lies not in legislation, nor in the juristic decision, but in society itself. ”

Sociological School of Jurisprudence studies the relationship between the law and sociology. Every problem or concept has two different aspects. One is sociological view and other is a legal aspect. For example Sati.

The main subject matter of sociology is Society. Sociology is the study of society, human behavior, and social changes. And jurisprudence is the study of law and legal aspect of things. The Sociological school of Jurisprudence advocates that the Law and society are related to each other. This school argues that the law is a social phenomenon because it has a major impact on society.

August Comte (1798-1857) was a French Philosopher. The term “Sociology” was first used by the Comte and he described Sociology as a positive science of social facts. He said that Society is like an organism and it could progress when it is guided by Scientific Principles. Thus, he makes great efforts to use the law as a tool by which human society maintains itself and progresse

#### **Characteristics of the Sociological School of Law:**

1. The Sociological School of Law lays more emphasis on the functional aspect of law rather than its abstract content.
2. They consider law as a social institution which is inextricably linked with other scientists and the direct impact of law on society with its formation according to social

needed.

3. The Sociological School of Law completely ignores the commandment of positivism i.e. Sovereign and historical jurisprudence as well.

4. Sociological jurists describe the concept of law in various ways such as functional aspect of law or defining law with reference to court decisions and Judgment with realistic view of law.

5. Sociological jurists are more concerned when it comes to work the function of the law rather than the nature of the law.

Montesquieu, Auguste Comte, the chief exponent of sociological jurisprudence, French thinkers like Albert Spencer, Ihering, Ehrlich, Duguit, Roscoe Pound etc. Auguste Comte is considered the father of the Sociological School of Law.

### **Reasons for the Emergence of the Sociological School:**

Laissez-Faire is the most important reason for the creation of the sociological school of jurisprudence. It refers to the policy of minimum governmental interference when it comes to dealing with the economy, the society or the individuals. According to the Britannia dictionary, “Laissez-faire is the policy of minimum governmental interference in the economic affairs of individuals and society.”

- It is due to the increasing importance of the practice of Laissez-Faire that this law rose to existence. However, due to the development and growth of laissez-faire, there seems to be a greater relevance and focus on individual growth. The Sociological school came out as a reaction against the laissez-faire because sociological school advocates the balance between the welfare of the state and individual interest.
- Pragmatists as well as progressives were melioristic in orientation and shared an optimistic faith in the capacity of the social sciences to help identify justice and the public good, and the best means to achieve them. The basis of the socio-legal school is formed by the ideas of pragmatism, which are expressed in the functional and instrumental approach to the law.