



RAMA UNIVERSITY

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FACULTY OF JURIDICAL SCIENCES

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LECTURE: 3

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Assistant Professor

Lecture-17



Lecture –17:- Jurist of the Sociological School of Jurisprudence

Jurist of the Sociological School of Jurisprudence:

Leon Duguit (1859-1928)

Leon Duguit was a French Jurist and leading scholar of Droit Public (Public Law). He was greatly influenced by the Auguste Comte and Durkheim. He gave the theory of Social Solidarity which explain the social cooperation between individuals for their need and existence. Duguit's theory was based upon Auguste Comte's statement that "the only right which man can possess is the right towards his duty." Social Solidarity Social Solidarity is the feeling of oneness. The term 'Social Solidarity represents the strength, cohesiveness, collective consciousness and viability of the society.' Leon Duguit's **Social Solidarity** explain the interdependence of men on his other fellow men. No one can survive without depending on other men. Hence the social interdependence and cooperation are very important for human existence. The objective of the law is to promote Social solidarity between individuals. And Leon Duguit considered that law as bad law which does not promote social solidarity. Further, he also said that every man had the right and duty to promote social solidarity. For Example, in India, the codified laws are followed by everyone. Hence, it promotes Social Solidarity. **Importance of Duguit's theory:**

1. Over emphasis was given on duties rather than rights.
2. 2. The direction towards mutual cooperation among individuals in society.
3. Law as an instrument of social solidarity to promote justice.

Criticism:

1. 'Social Solidarity' a Natural Principle
2. Social Solidarity to be Decided by Judges:
3. He Confuses 'is' with 'Ought'
4. He Overlooked the Growing State Activity
5. Inconsistencies in the Theory:

Another weakness of Duguit's theory is its inconsistency at several places. On the one hand, he expresses faith in the biological evolution of society, and on the other hand, he vigorously attacks the idea of collective personality. He denied any personality to state or group distinct from the individuals who constitute it.

Social Solidarity

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Sociology of law

Sociology of law studies sociology from the legal point of view. In India, Sociology of law is a recent field of inquiry. Indian advocates of Sociological jurisprudence are P.B Gajendragakhar, and Upendra Baxi views society from the legal point of view.

The Sociology of law is the interdisciplinary approach or sub-discipline of sociology. It views the society from the legal side. And explains the interdependence of Society and law. Sociology law explains the interdependence of the law and society. Podgorecki has listed the following functions of the sociology of law:

- (1) The sociology of law aims at grasping law in its working;
- (2) it is to provide expert advice for social engineering;
- (3) The sociology of law makes an attempt to shape its studies so as to make them useful for practical applications.
- (4) The sociology of law struggles with reality.

Thus, the sociology of law aims at the understanding of legal and social phenomena, whereas the main concern of the traditional approach to jurisprudence is to undertake analytical-linguistic studies.