



RAMA UNIVERSITY

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FACULTY OF JURIDICAL SCIENCES

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Assistant Professor

Lecture-20



Lecture – 20 : Philosophical school of Jurisprudence

Philosophical School

The philosophical or moral school concerns itself mainly with the connection of law to specific thoughts which law is intended to accomplish. It tries to explore the reasons for which a particular law has been established. It isn't related to its recorded or scholarly substance. The eminent law specialists of this school are **Grotius (1583-1645), Immanuel Kant (1724-1804) and Hegel (1770-1831)**. These law specialists see law neither as the discretionary order of a ruler nor concerning the making of recorded need. To them, the law is the result of human reason and its motivation is to hoist and praise human identity.

New speculations supporting the sway of the state were propounded by pragmatist Polito-legitimate masterminds. For example, Machiavelli, Jean Bodin. Because of these advancements, transient expert of the Church and the natural religious law got a genuine blow.

Lastly, it dwindled offering approach to inherent privileges of man and the state. The natural law hypothesis propounded by **Grotius, Locke and Rousseau** altered the current organisations and held that '**social contract**' was the premise of the general public. Hobbes utilised natural law hypothesis to propagate reactionary development and legitimize business as usual for the safeguarding of harmony and insurance of people from never-ending struggle and disarray. Thus, the views of Scholars represent the **Philosophical thought** of the School itself.

Grotius

Hugo Grotius (1583–1645), a well known legal scholar in the **Dutch Republic and established frameworks for universal law**, in light of natural law. Grotius expelled the natural law from the locale of good scholars and made it the matter of lawyers and thinkers, by declaring that by their very nature, natural laws were definitive in themselves, with or without confidence in God.

He held that the ethical morals of natural law connected to all social and sane creatures, Christian and non-Christian alike. **Grotius** additionally advanced the idea of “**Simply War**” as a war which was required by natural, national and celestial law in specific situations.

Hobbes

Thomas Hobbes discovered the **social contractual hypothesis** of legal positivism. He proclaimed that all men could concur that what they looked for (**bliss**) was liable to dispute, yet that a comprehensive accord could conform to what they dreaded (savage demise on account of another, and loss of freedom and individual property). Natural law was characterized as how a sound person, looking to endure and flourish, would act.

It could be found by thinking about mankind’s natural rights, prior understandings had determined **natural rights** by thinking about natural law. As Hobbes would like to think, the primary way that natural law could win was by all men submitting to the directions of a sovereign. A definitive source of law currently turned into the sovereign, who was in charge of making and upholding laws to oversee the conduct of his subjects.

Locke

John Locke (1632–1704) is among the most **persuasive political thinkers** of the difficult period. He safeguarded the case that men are commonly free and equivalent against claims that God had made all individuals naturally subject to a ruler. He contended that individuals have rights, for example, the privilege to life, freedom, and property that has an establishment autonomous of the laws of a specific culture.

Locke utilized the case that men are naturally free and equivalent as a significant aspect of the defense for understanding real political government as an after effect of a social contract where individuals in the **condition of nature** restrictively exchange a portion of their rights to the legislature so as to all the more likely guarantee the steady, agreeable happiness regarding their lives, freedom, and property. Locke additionally protects the guideline of dominant party rule and the division of administrative and official forces.