



# RAMA UNIVERSITY

www.ramauniversity.ac.in

## FACULTY OF JURIDICAL SCIENCES

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

**Semester :IInd**

**SUBJECT: Jurisprudence**

**SUBJECT CODE: BAL206/BBL 206**

**LECTURE: 3**

**NAME OF FACULTY: Ms. Kaneez Fatima**

**Assistant Professor**

# Lecture-24



## Lecture – 24: Philosophical school Jurist

### **Oliver Wendell Holmes (1841-1934)**

He made a point of stressing that the practice of law was a combination of both experience and logic. Known for his “bad man’s theory,” Holmes saw law from the standpoint of someone who would commit a crime. As he sees it, the law is for the criminals or the “bad man”. To evaluate what the law really is, one should go to a bad person’s interpretation of it, since they will be able to accurately calculate what the laws enable them to do and work within those bounds.

His emphasis was on the practical and empirical aspects of the law. The primary goal of studying legal history was for him to begin the process of re-evaluating the value of laws that had been formed through time. There must be a clear separation between law and ethics. Holmes’ vision of law put both court and professional lawyers at the center of the legal stage.

### **Jerome N. Frank (1889-1957)**

There are two kinds of realists, Frank said. While one group is skeptical of legal standards ensuring consistency in the law, the other group is skeptical of the establishment of facts before the trial court. Frank admitted that he belonged to the second group.

Frank focuses on the unpredictability of the legal system. He argues that rules and written law are based on the false assumption that the law should be clear. He said that judges and practitioners should recognize the reality that the law is ambiguous and should not rigorously stick to **precedent** and defined rules. He emphasized the necessity of lawmaking by examining the facts of each case in light of the changing societal contexts.

### **Carl N. Llewellyn (1893-1962)**

The term “realism” refers to a shift in legal thinking and practice. When it comes to this approach, legislation is seen as a tool for achieving social goals, and every aspect of the system must be examined for its purpose and impact. Society’s view of the world changes more quickly than the law does.

Realists are skeptical of established legal principles and concepts. It focuses more on what the courts and individuals are really doing. According to Realism, the law is defined as “a broad prediction of what the court will do.”