



RAMA UNIVERSITY

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FACULTY OF JURIDICAL SCIENCES

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Lecture-25



Lecture –25:- Jurist of the Realist school of Jurisprudence

Scandinavian Realism

In contrast to American Realism, the approach used by Scandinavian realists to law is more abstract and philosophical. It sharply opposes the metaphysical concepts of law. **Scandinavian realists** had an essential role in opposing natural law theories.

Axel Hagerstorm (1868-1939)

The founder of Sweden's realist movement. As a philosopher, he was outspoken in his criticism of the law's foundational principles. The flaws in legal reasoning and writing are often discussed in his writings. There have been several efforts by jurists to identify the empirical basis for rights, but he rejects all of them.

He emphasized the psychological importance of doing the right thing. "One fights more effectively if one feels that one is fighting for what is right," he asserts. In his search for the origins of rights, he delved deep into Greek and Roman legal systems. He held that contemporary law, like ancient law, is ceremonial.

Law and ritual are like whiskey and its bottles," he claims. In order to sip the whiskey, one must first remove the bottle. In Hagerstorm's mind, there was no such thing as good or evil. There is no such thing as objective values, according to him.

Karl Olivecrona (1897-1980)

Olivercrona believes that there is no need for a clear definition of the law. The nature of law, on the other hand, needs a hypothesis about what it is, therefore he decided to explore the law instead. Rather than assuming, he insisted on investigating the facts.

"Binding forces behind the law" and "binding forces" were concepts he opposed. Furthermore, he emphasized that such binding force is not based on the "intent of the State" or the terrible consequences that would follow if the law is violated.

Alf Ross (1899-1976)

Jurist Alf Ross of Denmark was interested in the moral nature of law. It was his interpretation of the law that was based on the realities of society. For him, it's all about judge-made laws and America's way of doing things. Norms of conduct and Norms of procedure were categorized by him as two distinct types of legislation or standard. He raised doubts about the legislation's legitimacy and disbelief in applying social realities to the interpretation of the law.

A.V. Lundstedt (1882- 1957)

According to him, justice is nothing more than an abstract concept that is nothing more than imagination. When it comes to studying law, he thought that only physical facts should be examined. As a result, he mocked ideas like rights, responsibilities, and the application of the law. He opposed the concept of laws being designed to accomplish justice, and he referred to such laws as ‘material law’.

According to him, rather than focusing on what is right or wrong, judges should consider what is best for society as a whole. In lieu of justice, he used the word social welfare.

Drawback of the Realist School of Jurisprudence

- Reduce the significance of legal texts and jurisdictions.
- Dispute the validity of the law’s binding power.
- Customs are not taken into consideration.
- The importance of legislation enacted by judges has been overemphasized.
- Realists have placed an excessive amount of emphasis on litigation and the human aspect of the law, and they have been completely unaware of the vast majority of the law that does not even come before the courts for judgment purposes, according to the critics.

Conclusion

One of the most significant effects of the Industrial Revolution has been an increase in the need for human contact. To achieve fairness, it was determined that a balance must be struck between the general well-being of society and the preservation of individual liberty. As a result, many people believe that society affects an individual’s life in positive ways and vice versa. The many sociological approaches to the study of law may be considered to be based on this. Legal realism is one such social approach. Court decisions are studied by realists, who also evaluate the human element involved in delivering them.