



RAMA UNIVERSITY

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FACULTY OF JURIDICAL SCIENCES

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Lecture-4



**Jurisprudence -Relationship of Jurisprudence with other
Social science**

Lecture – 4 : Jurisprudence -Relationship of Jurisprudence with other Social science

Social Sciences

Relationship of Jurisprudence with other Social Sciences

1. Sociology and Jurisprudence- There is a branch called as Sociological Jurisprudence. This branch is based on social theories. It is essentially concerned with the influence of law on the society at large particularly when we talk about social welfare. The approach from sociological perspective towards law is different from a lawyer's perspective. The study of sociology has helped Jurisprudence in its approach. Behind all legal aspects, there is always something social. However, Sociology of Law is different from Sociological Jurisprudence.
2. Jurisprudence and Psychology- No human science can be described properly without a thorough knowledge of Human Mind. Hence, Psychology has a close connection with Jurisprudence. Relationship of Psychology and Law is established in the branch of Criminological Jurisprudence. Both psychology and jurisprudence are interested in solving questions such as motive behind a crime, criminal personality, reasons for crime etc.
3. Jurisprudence and Ethics- Ethics has been defined as the science of Human Conduct. It strives for ideal Human Behavior. This is how Ethics and Jurisprudence are interconnected:
 - a. Ideal Moral Code This could be found in relation to Natural Law.
 - b. Positive Moral Code- This could be found in relation to Law as the Command of the Sovereign.
 - c. Ethics is concerned with good human conduct in the light of public opinion.
 - d. Jurisprudence is related with Positive Morality in so far as law is the instrument to assert positive ethics.
 - e. Jurisprudence believes that Legislations must be based on ethical principles. It is not to be divorced from Human principles.

f. Ethics believes that No law is good unless it is based on sound principles of human value.

g. A Jurist should be adept in this science because unless he studies ethics, he won't be able to criticize the law.

h. However, Austin disagreed with this relationship.

4. Jurisprudence and Economics- Economics studies man's efforts in satisfying his wants and producing and distributing wealth. Both Jurisprudence and Economics are sciences and both aim to regulate lives of the people. Both of them try to develop the society and improve life of an individual. Karl Marx was a pioneer in this regard.

5. Jurisprudence and History- History studies past events. Development of Law for administration of justice becomes sound if we know the history and background of legislations and the way law has evolved. The branch is known as Historical Jurisprudence.

6. Jurisprudence and Politics- In a politically organized society, there are regulations and laws which lay down authoritatively what a man may and may not do. Thus, there is a deep connected between politics and Jurisprudence.

Concept of Basic Norm

In Kelsen's works, one can find language to the effect that the presupposition of the 'Basic Norm' is essential to make possible the interpretation of the subjective sense of certain important facts. It is important to note that Kelsen makes it clear, in a number of places that one need not presuppose the Basic Norm.

In particular, Kelsen notes that the anarchist need not see the actions of legal officials as "naked power". This is in accordance with the legal system being for them not more than the "gunman situation writ large"

Kelsen states, "Pure Theory strongly emphasizes that the statement that the subjective meaning of the law-creating act is also its literal meaning – the statement, which is, that law has objective validity – is only a possible explanation of that act, not an essential one".

Kelsen adds that the Pure Theory aims simply to increase the level of consciousness of what all jurists are doing (for the most part unwittingly) when, in thinking of their object of inquiry, they understand the positive law as a right and valid system, which is, as a norm, and not merely as factual contingencies of motivation".

Concept of Normative system

Hans Kelsen's jurisprudence work focused on the normative nature of law. He believes that the law necessarily contains norms. Furthermore, it requires a different approach from the descriptive, empirical approach.

Kelsen's approach assumes that there is a sharp divide between "should" statements and "is" statements. No one can conclude about what he should do, from his statements about what is the matter. This concept of not accepting 'ought to be' statements as 'is' statements is widely accepted in modern times.

The significance of the human distinction between "should" and "is" is evidence that for every normative conclusion, there must be at least 1 normative premise. (For example, about what one should do or a value).

In the context of a normative system such as law (or religion or morality), each statement of what one should (or should not) do require justification from a more general or basic statement. Such statements move upward through the normative hierarchy until a fundamental normative base is reached.

In Kelsen's understanding of the "science" of norms, every "ought" claim implies the foundational norm of that normative system. Furthermore, the result is that each standard system is independent of every other standard system.

The normative system with its foundational criteria is essentially different from the normative system of a particular moral system or religion. However, this does not exclude parliamentarians from being influenced by the content of another normative system, such as practical means or applications.