



RAMA UNIVERSITY

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FACULTY OF JURIDICAL SCIENCES

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LECTURE: 3

NAME OF FACULTY: Ms. Kaneez Fatima

Assistant Professor

Lecture-6



Lecture – 6: Natural Law theory and its relating to Indian laws

Natural Law theory and its relating to Indian laws :-

Natural Law theory and its influence in Indian laws relating to Fundamental rights { Article 14,19 and 21 } and case laws relating to it:- In Indian laws especially in Indian constitution there has been a largely impact of natural law theory. The articles like Article 14,19and 21 has been widen widely interpreted in the Indian scenario especially by the Indian judiciary. This could be found through the case laws.

In the case of Air India V/S Nargis Mirza the Supreme Court had struck down the Air India and Indian Airlines regulations on the retirement and pregnancy bar on the services of air hostess as unconstitutional on the ground that the regulations were arbitrary and unconstitutional under Article 14 of the Indian constitution. Now if one analyzes Stammler’s four point principle with special reference to “principles of respect” : 1) the content of the person’s volition must not be against the arbitrary will of another. Thus in this case the natural law theory has been applied by Indian Judiciary.

In the case of Maneka Gandhi V/S Union of India the meaning and content life and personal liberty under article 21 of Indian constitution came up for consideration and the supreme court held that the law established by the state should be just fair and reasonable . If one analyses the judgement one would find reference of LOCKE’S theory whereby the natural rights of man such as right to life, liberty and property remained with him. So in Meneka Gandhi case also the natural law theory principles could be evolved. In case of Indian Express Newspaper V/S Union of India the theory of Rousseau in which he mentioned of freedom and liberty (freedom of speech and expression) has been applied, the Rousseau’s theory of freedom of speech and expression was said to be natural right of every citizen by the Supreme court which is also been conferred upon under Article 19 of Indian constitution, wherein the freedom of speech and expression is said to be among the basic right of a human being to live in a society with dignity. To guarantee and promote fundamental rights and freedoms of the citizens and the respect for the principles of the democratic state based on rule of law.

ADM Jabalpur V/S Shivakant Shukla

The popular Habeas Corpus case ADM Jabalpur V/S Shivakant Shukla is one of the important cases when it comes to rule of law. In this case the question was whether there was any rule of law in india apart from article

21. This was in context of suspension of enforcement of Art. 14, 21 and 22 during the proclamation of emergency. The answer is even in absence of article 21 of constitution the right to life and liberty of a person could not be deprived without authority of law. Without such sanity of life and liberty the distinction between lawless society and one governed by laws would cease to have meaning. Thus in this case Stammer's four point principle with special reference to "principles of respect" : 1) the content of the person's volition must not be against the arbitrary will of another. Thus in this case the natural law theory has been applied by Indian Judiciary. Moreover the fundamental rights conferred under Indian constitution have a large base in natural law theory. Almost all the fundamental rights conferred under Indian constitution relates to natural law as all the fundamental right are the basic rights of a human being which the natural law theory tries to confer upon the society since age of Greeks. All the thinking of those theorists under natural law theory have influenced Indian laws to a large extent, not only fundamental right but even many more provisions under Indian constitution are influenced by the natural law theory.