



FACULTY OF JURIDICAL SCIENCES

COURSE: LL.M 1 Year

Semester: IInd

GROUP: 1. Constitutional and Administrative Law

2. Corporate and Business Law

3. Criminal and Security Law

SUBJECT: : LAW AND JUSTICE IN A

GLOBALISING WORLD

SUBJECT CODE: LLM 201

NAME OF FACULTY: Ms. Anjali Dixit, Assistant Professor

Lecture- 11



LECTURE 11: Relationship between law and morality

Relationship between law and morality:

“The state is founded on the minds of its citizens, who are moral agents”, says; Professor R.N. Gilchrist, “...A bad people means a bad state and bad laws”. It is true that law is the subject of study in Political Science and morality is the subject-matter of Ethics, yet there is a close affinity between the two.

Here we are to deal with the close intimacy found between law and morality. Law and morality are complementary to each other. Ethics teaches citizens the code of conduct.

It shows them the distinction between truth and a falsehood. It makes us aware of the wrongness and rightness of our actions. Ethics enables us to think in moral terms and upgrades us in moral terms. It helps us in raising our moral standard. Laws framed by the state also aim at the same.

The ultimate end of the state lies in promoting the welfare of the people. The state aims life. Political Science also enables individuals to come out as good citizens, individual can become an ideal citizen only when he follows the Code of conduct by morality. So there is a close affinity between law and morality.

Ideal citizens are to be an ideal state. A state can become an ideal state only when it operates through ideal laws of morality. Morality is the basis of ideal laws. If the state operates through ideal laws which are based on morality, it will help the emergency of an ideal state.

For example, laws framed with a purpose of eliminating such evils and malpractices as drinking of wine, gambling, theft, dacoity and murder are moral laws. They arouse our sentiment of morality and enable us to become ideal citizens. Only those laws which are based on morality remain permanent.

A state within moral laws cannot make a progress. In a state where crimes are given impetus people will remain busy in committing crimes and will not be able to think of their own progress. As a result, they will degenerate into the primitive savage. In this connection, Plato has very aptly remarked, “The best state is that which is nearest in virtue to the individual. If any part of the body politic suffers, the whole body suffers”.

A bad state will have bad citizens and a good state will have good citizens. So it is the sole function of the state to keep a good standard of morality. This is the reason why the Government of India is trying its best to eliminate the evil of untouchability. It has already framed laws against untouchability.

It is rather a sin to adopt the policy of discrimination on the grounds of caste and creed, colour and race, clans and tribes, groups and classes. The government is taking measures to prohibit the drinking of wine. Drinking is a sin and at the same time, it is illegal and child marriages were prohibited.

The foregoing discussion makes it very clear that law and morality are very closely related to each other. One is the complement of the other. Gettell maintains that the law which are not in accordance with the moral concept of the people cannot be possibly applied and the laws sanctity....” Generally, laws are the image of morality.

Democracy does not generally have any such law as opposed to morality. Wilson has very correctly observed that the law of a state is the result of the development of morality in the state. This is the reason why the sovereign law-making authority pays due attention to the code of the intimacy between law and morality that “the margin between the illegal and immoral is not clear”.

“We regard the state”, says Maclver, “as the condition of morality. The state and law continually affect both public opinion and actions; in its turn law reflects public opinion and thus acts as the index of moral progress”.

S.NO	Question	Option (a)	Option (b)
1.	In law, man is considered as a person because he has a free will. In morals, we have to do with determining the will towards the good.	True	False
2.	Law considers man only in so far as he lives in community with others; morals give a guide to lead him even if he were alone	True	False
3.	Law governs the will (external behavior) morals seeks a free determination towards the good.	True	False
4.	Law talks about strict liability i.e. even if there is no fault but morals excuse the person if there is no fault.	True	False
5.	Four cardinal principles of H.L.A. Hart: Importance 2. Immunity from Deliberate Change. 3. Voluntary Character of offences 4. Forms of Moral Pressures.	True	False

Answers: 1-(a),2-(a), 3-(a),4-(a),5-(a)