



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

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Lecture- 12



LECTURE 12: Difference between Law and Morality

Difference between Law and Morality:

(1) There is a marked distinction between law and morality. The first point of difference is that laws are enforced by the state whereas canons of morality are followed at the call of institution. If one disobeys the commands of law or violates the laws, he is liable to be punished by the state but if one fails to observe the scruples of morality, he is not liable to be awarded physical punishment. The severest punishment that can be awarded to a person for not observing the scruples of morality is his social boycott.

(2) Morality is concerned with both internal and external affairs of man whereas law is concerned only with the external affairs of man. Hence, law punishes only those persons who violate laws by their external actions. For example, law punishes a person only when he commits a theft or dacoity or murder or any other physical crime.

Law cannot punish a person for telling a lie or for abusing some-one. Telling lies, condemning someone, showing disgrace to others, being ungrateful and many other internal actions of man are sins but they are not crimes.

(3) There are many things which are not illegal according to law but are unacceptable to morality. For example, telling lies, showing disgrace to others, feeling greedy, being ungrateful and not helping the poor, are not against the spirit of law.

Not only this, sometimes the adoption of immoral policies by the state for the cause of common welfare is not illegal in the eyes of laws. Machiavelli maintained that even the immoral practices are legal, if they are applied for the benefit of the state.

(4) Similarly, there are many things which are illegal in the eyes of the state but are acceptable to morality. For example, it is not a sin not to keep to the left or to drive the vehicle fast in the market. The fact is that the canons of morality are concerned with the moral duties whereas the laws of the state are concerned with the legal duties.

(5) Another point of distinction between law and morality is that laws are certain and universal and they are universally applicable to all citizens whereas the canons of morality are quite uncertain.

Not only this, many time's different races have different canons of morality in a society. For example, a large number of people think it immoral to eat meat and drink wine. But at the same time, there are people in India who think it quite moral to eat meat and drink wine.

(6) The government should, at first, arouse the moral sentiment of the people and then enforce the laws. The laws which are not based on the sentiment of morality are less effective and less permanent.

For example, Sharda Act is quite ineffective these days. In the end, we can say that morality cannot be thrust upon the state. And it is also clear that law cannot cover all the ground of morality. "To turn all moral obligations", says MacIver, "in legal obligations would be to destroy morality". "There is thus a legal conscience as well as a moral conscience, and they do not always coincide".

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.	Sanctions are invariably imposed for the infringement of a legal obligation	True	False
2.	There is no official sanction for immoral behaviour, although society often creates its own form of censorship	True	False
3.	Law is deliberately changed by Parliament and/or the courts	True	False
4.	Legal principles need to incorporate a degree of certainty	True	False
5.	Morality is invariably much more flexible and variable	True	False

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