



RAMA UNIVERSITY

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FACULTY OF JURIDICAL SCIENCES

Course : LL.B. 1st Semester

SUBJECT: Jurisprudence

SUBJECT CODE: LLB 301

LECTURE: 20

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Lecture-20



Lecture -20: Sources of Law

Introduction Law-Definition

In the words of Thurman Arnold: “Obviously, law can never be defined. With equal obviousness, however, it should be said that the adherents of the legal institution must never give up the struggle to define law, because it is an essential part of the ideal that it is rational and capable of definition. Hence, the verbal expenditure necessary in the upkeep of the ideal of ‘law’ is colossal and never ending. The legal scientist is compelled by the climate of opinion in which he finds himself to prove that an essentially irrational word is constantly approaching rationality.”

A similar view is expressed by Lord Lloyd: “Since much juristic ink has flowed in an endeavor to provide a universally acceptable definition of law, but with little sign of attaining that objective.”

R. Wollheim points out that much of the confusion in defining law has been due to the different types of purpose sought to be achieved.

Morris writes: “To a zoologist, a horse suggests the genus mammalian quadruped, to a traveler a means of transportation, to an average man the sports of kings, to certain nations an article of food” Morris writes: “To a zoologist, a horse suggests the genus mammalian quadruped, to a traveler a means of transportation, to an average man the sports of kings, to certain nations an article of food.” Likewise, law has been variously defined by various individuals from different point of view and hence there could not be and is not any unanimity of opinion regarding the real nature of law and its definition. There is a lot of literature on the subject of law and spite of that, different definitions of law have been given.

Various schools of law have defined law from different angles. Some have defined it on the basis of nature. Some concentrate mainly on its sources. Some define it in terms of its effect on society. There are others who define law in terms of the end or purpose of law. A definition which does not cover various aspects of law is bound to be imperfect.

According to Justinian: “Law is the king of all mortal and immortal affairs, which ought to be the chief, the ruler and leader of the noble and the base and thus the standard of what is just and unjust, the commander to animals naturally social to what they should do, the forbider of what they should not do.”

Ulpian defined law as “the art or science of what is equitable and good.” Cicero said that law is “the highest reason implanted in nature”.

Pindar called law as “the king of all, both mortals and immortals.”

Demosthenes wrote: “Every law is a gift of God and a decision of sages.”

Again, “this is law to which all men yield obedience for many reasons and especially because every law is a discovery and gift of God and at a same time the decision of the wise men, a rightening of transgressions, both voluntary and involuntary, and a common covenant of a State, in accordance with which it beseeches all men in the State to lead their lives.”

Blackstone writes: “Law in its most general and comprehensive sense signifies a rule of action and is applied indiscriminately to all kinds of actions, whether animate or inanimate, rational or irrational. Thus, we say the laws of gravitation, optics or mechanics, as well as the laws of nature and nations.”

The view of Kant was that law is “the sum total of the conditions under which the personal wishes of one man can be combined with the personal wishes of another man in accordance with the general law of freedom.”

Hegal defines law as “the abstract expression of the general will existing in or for itself.” Kelsen defines law as the depsychologised command.

Though Kelsen defines law in terms of command, he uses the term differently from Austin. The sovereign of Austin does not come into the picture in the definition of law given by Kelsen. Ehrlich includes in his definition of law all the norms which govern social life within a given society. Pound defines law as “a social institution to satisfy social wants.”

According to Bentham: “Law or the law, taken indefinitely, is an abstract or collective term, which when it means anything, can mean neither more nor less than the sum total of a

number of individual laws taken together” Salmond defines law as “the body of principles recognized and applied by the State in the administration of justice.”

SELF-TEST QUESTIONS

S.N O	Question	Option (a)	Option (b)	Option (c)	Option (d)
1	Who said that Primary and Secondary Rules. Law and morality are complimentary and supplementary of each other.	Leon Duguit	Sir Henry Maine	H.L.A.Hart	Karl Marx
2	Who said that Law is an instruments used by economically ruling class to keep subordinate class in subjection. It is a means to exploit weaker class.	Karl Marx	Leon Duguit	Sir Henry Maine	Edmund Burke
3	Who wrote "Law and Morals (1926)"?	Herbert Spencer	Hugo Grotius	Roscoe Pound	Francois Geny
4	Pound's legal philosophy was centred round	Practical aspect of law	Social aspect of law	Functional aspect of law	Applicable aspect of law
5	Private Interests are	Individual's interest of personality	Interests of domestic relations of husband and wife	Interests of subsistence	All of these

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