

AN ANALYSIS FOR CONSIDERATION THE IMPACT OF SCHOOL OF CONTEMPORARY JURISPRUDENCE ON FUTURISTIC CIVILISATION

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ABSTRACT

Examine the Concept of the School of Contemporary Jurisprudence and Estimating the picture of Futuristic Civilisation from the philosophical view of Contemporary Jurisprudence.

Keywords- Jurisprudence, Contemporary Jurisprudence, School of Contemporary Jurisprudence, Philosophy of Contemporary Jurisprudence.

INTRODUCTION

In this article, we have to examine, what is Jurisprudence. historical journey of Jurisprudence, the importance of Jurisprudence for Civilisation. Estimating draws the picture of Futuristic Civilisation from the philosophical view of Contemporary Jurisprudence

We are all accustomed to the meaning of the law. Several questions come to our mind, such as what could be the reason behind the system of Democracy, Judiciary, and law-making process, or why should there be a legal system in the society or how the rule of law came into effect, etc. These various answers are given by Jurisprudence. Jurisprudence is considered the study of the law in theoretical and philosophical aspects. It shows us the correct way of studying the law. In this Journey, a new edge of Jurisprudence has been added as the School of Contemporary Jurisprudence

WHAT IS JURISPRUDENCE?

We all well acknowledge that the term 'Jurisprudence' is derived from the Latin word '*jurisprudential*', which means the knowledge of the law. If the word *jurisprudential* is dissected into *Juris* and *prudential*, *Juris* means law and *prudential* means skill. There is no such definite definition of Jurisprudence. However, various jurists have defined the term Jurisprudence. Jeremy Bentham is considered the Father of Jurisprudence. According to him, Jurisprudence is a set of philosophical principles and various interpreted theories. This eventually shows us the concept of law. According to Austin, the appropriate subject for Jurisprudence is the existing laws or the positive law. He was the first philosopher and jurist who considered Jurisprudence as a science. Keeton has defined Jurisprudence as the study and systematic arrangements of the general principles of law.

Jurisprudence throws light on the basic principles of law. It shows us the correct path to finding the reason behind the rules of law and understanding their concept. It also helps the judges and lawyers in deriving the proper interpretation of the laws. The study of Jurisprudence brings clarity to understanding the concept of law.

Significance of Jurisprudence

It gives a multidimensional approach to the system of present Civilisation. At times, a huge gap is observed between the law and its application in society. Jurisprudence helps in such cases. It helps in bringing logic to the rules of law so that the application in society can be beneficial for the people. It also shows us the connection of law with subjects such as philosophy, economics, psychology, politics, Social Science and Political Science etc. People, especially judges and lawyers, get a better understanding of the concept of law through the study of Jurisprudence. It also helps the authorities to understand how and when any reformation is required.

Evolution of Jurisprudence

The origin of Jurisprudence is in the Roman civilization. The Romans were quite interested to find out the meaning and the nature of the law. However, at that time the research was quite limited regarding the concept of law. It was also observed that the Greek civilization was also trying to understand the concept of law. Philosophers like Plato, Socrates, Aristotle, etc. have given many references regarding the concept of law. With the fall of these civilizations, the Christian States emerged. However, with the emergence of secular States, various new theories came up proposed by John Locke, Rousseau, Blackstone, Hugo, etc, with concepts and evolution of law. During the 17th century, the positive approach towards law saw the light.

DIFFERENT APPROACHES TOWARDS THE STUDY OF JURISPRUDENCE

a. Classical Theory

This theory associates Jurisprudence with various legal theories proposed by different eminent jurists and philosophers. Some of the theories are:

b. Roman theory

It stated that the rule of law and morality were interlinked and connected. However, this theory was criticized on the basis that they had mixed up the concepts of justice and morality. This theory does not hold any importance in the contemporary world.

c. Greek theory

This theory mainly focused on the system of natural law and justice.

d. Affirmative theory

This theory focused on the development of secularism. The ideas of individualism arose. The functions of the State were limited. Three natural rights were guaranteed to every citizen, they are- the right to life, the right to liberty, and the property rights. In this theory, it was believed that law was made by either the State or any sovereign. This theory holds a lot of importance even in today's world in the study of Jurisprudence. It is believed that this theory is quite appropriate for the democratic States.

d. Rationalist theory

This theory emerged as a consequence of the Industrial Revolution. This Revolution changed the economic conditions of Europe. The poor economic conditions and unemployment all over led to several issues. These issues, eventually, questioned the appropriateness of the reformatory theory. It was also questioned whether the reformatory theory is appropriate enough in a democracy. Thus, the concepts of collectivism and socialism started to emerge. The rationalists gave immense power to the state. This theory is popular in almost all welfare States.

e. Modern theory

This theory tried to create dominance over the socialist concepts. It tried to give importance to the positive approach towards the law. This modern theory believed that the study of Jurisprudence should rest upon the positive approach and have a strict boundary. The study of Jurisprudence should not go beyond a limited boundary in a socialistic approach. This theory received both popularity and criticism. It was criticized on the basis that if the study of Jurisprudence only focuses upon a positive approach and a limitation is set out, then the actual purpose of Jurisprudence might fail.

DIFFERENT SCHOOLS OF JURISPRUDENCE

The different approaches or theories regarding Jurisprudence have led to the formation of different schools of Jurisprudence. The different schools of Jurisprudence are:

a. Philosophical school or Natural school

The philosophical school of Jurisprudence mainly focuses on the aim that the law intends to achieve. It tries to decode the reason behind the establishment of the legal system. Grotius, Immanuel Kant, Hegel were the notable jurists of this school. They further stated that the law is for the benefit of the people. According to Grotius, moral ethics in natural law was prevalent for all irrespective of whether someone is Christian or not. Grotius, Locke, and Rosseau stated that the social contract was important in the life of humans.

b. Historical school

The historical form of school mainly focuses on the customs, traditions, ethics, etc followed by people from immemorial time. The origin of the historical school of Jurisprudence is believed to be the evolution of law since long back. Savigny, Henry, and Edmund are considered the notable jurists of this form of school. Savigny is known as the father of the historical school of Jurisprudence. He has given the Volksgeist theory, which shows that law is based upon the free will of the common people. This theory further states that the evolution of law happens with the growth of nations, and law dies with the dissolution of nations. The heart of this theory is the consciousness of people.

c. Realist school

The origin of the realist school is in American Jurisprudence. The realist school mainly focuses on the practical view rather than abstract ideologies. It is more concerned about what the court may do rather than ideologies present behind the general rules of law. This school believes in the social investigation regarding studying the functions of law. Oliver Holmes, Karl Llewellyn are some of the notable jurists of this school.

d. Sociological school

The sociological school of Jurisprudence is the amalgamation of the thoughts of various jurists. This form of school regards law as a social function. This form of school tries to analyse the expressions of people, the laws of society, and the relation between law and society. Montesquieu, Auguste, Comte Spencer, Herber, etc. are the chief exponents of this theory.

e. Analytical school

The origin of the analytical school of Jurisprudence dates back to the 19th century. The emergence of this school is from civil law. This form of school is based upon a positive approach towards law. The purpose of the analytical school of law was to understand the principles of law without reference to a historical approach and also to gain a proper understanding of the fundamentals of law. This form of school emphasized the laws “as it is”.

The analytical school provided us with precision in legal thinking, and scientific terms, and excluded such areas that go beyond the scope of the law. The chief exponents of this school are Jeremy Bentham, John Austin, Salmond, Holland, Hart, etc. Bentham proposed the imperative theory of law and also drew distinctions between social desirability and logical necessity. Austin, on the other hand, did not support the latter part. According to him, Jurisprudence is the formal analysis of the concept of law. His division of Jurisprudence into general and particular Jurisprudence was based on a positive outlook towards law.

ROLE OF JURISPRUDENCE IN PRESENT DEMOCRATIC, JUDICIAL, SOCIAL, AND POLITICAL STRUCTURE

If we have to count the

- a. what are Human Rights,
- b. Means of State,
- c. Judiciary System,
- d. means of Constitutions,
- e. Civil laws and Criminal laws,

All such are examples of basic intellectualism, which are required for our present Democratic, Judicial, Social and Political Structure, being awarded by Jurisprudence. in terms of

- a. The concept of Human rights has been deprived of Natural Jurisprudence
- b. The Civilisation law has been deprived of Analytical Jurisprudence, Historical and Social Jurisprudence.
- c. Present Judicial System/Structure of more explore by Realistic Jurisprudence

Therefore, I am on the point that the Jurisprudence is supreme and the actual soul of the Democratic and Judiciary System. Jurisprudence is also prime for social science as well as political science. Jurisprudence is a prime pillar of our present Civilisation.

SCHOOL OF CONTEMPORARY JURISPRUDENCE

Recently the present Democratic structure and Judiciary system has been denied on the grounds that -

- a) The Parliament/Legislative Assembly cannot be considered as absolute representative session of the Republic of State, because the individual interest of an elected person (MP/MLA/Mayor) never be the same as the collective interest of the Republic of State.
- b) Judiciary System - The School of Contemporary Jurisprudence also denied the Judiciary System of State being an independent body of Democratic Structure, a serious challenge to the basic principle of the present Judiciary system by-
 - i. Judiciary of any State does not undertake the election process, hence never considered as an independent body of the State. The Judges/Bench can never be treated as an independent Judiciary Body,
 - ii. on the ground that the Court cannot be treated as an independent Judiciary Body because the Court/Judges, Judges are also present under the State. Let's work in the case of State vs. Republic, the decisions can be full of bias.
 - iii. The present Bar-Bench and three-layer Lower Court, High Court and Supreme Court is a decentralized Judicial system, the speedy Justice is not possible through this centralized processing Structure. The present Judiciary system is not suitable for States with large populations.

Therefore, as per the School of Contemporary Jurisprudence,

- a. The Parliament or legislative cannot be considered as an absolute representation of the Republic of State.
- b. Judiciary system is being a part of the Govt of the State and not to be considered as independent body.

From my point of view the above criticism grounds seem to be fair and valid, most likely, this opinion will be acceptable by the general public as well as the group of hon'ble Jurists, philosophers, Social and Political Scientists.

The school of Contemporary Jurisprudence propounded by an Indian jurist Mr. Deepak Sharma (often referred to as the father/founder of Contemporary Jurisprudence). He has valid challenged the basic tenets of the existing Judiciary and Democratic Jurisprudence.

In Contemporary Jurisprudence, the power of formation of law has been divided into two representation sessions of Parliament Govt and Society Representatives. The first time proposed the Direct representation of Societal representation in Parliament in the role of opposition. Based on the above legislation,

The proposed Democratic System in Contemporary Jurisprudence

The Democratic System Shall be changed as an Elected person shall form the Govt. and our council president shall perform the role of Opposition in Parliament or Legislative assemble.

Let's take an example, suppose, a group of farmers, Workers, Technicians, Entrepreneurs, Students, etc. are being part of the Republic of State, Every Group in this class has been called as Society, in Contemporary Jurisprudence the representation of such groups to be mandatory before Parliament and play the opposition of Parliament, where such groups demand to resolve their problems and Govt shall be liable for solutions of problems,

The Proposed Judiciary System in Contemporary Jurisprudence

The judiciary system is part of the State, but has been completely refused to consider the present Judiciary as an independent body, The above Statement holds some validity, which cannot be completely denied up to initio. For Societal presentation, a new Officer as Chartered law officer has been introduced being considered an independent officer in the form of a Societal representative. On this incident, Deepak Sharma has also proposed centralized trial proceedings called J.I.T (Just in Trial) proceedings. Just in Trial (J.I.T.) is claimed to be the world's first centralized trial system, J.I.T. It is claimed to be 25 times faster and 20 times more transparent than the current bar-bench trial proceedings system. (The complete Details of JIT are still not available in the public domain therefore more exploration is not possible).

CONCLUSION

1. The present Democratic and Judiciary System are a product of Jurisprudence, if any change is made in Jurisprudence, it shall affect for Democratic, Judicial and social as well as political Structure. Jurisprudence is a prime pillar for our present Civilisation.

2. Contemporary Jurisprudence provides an additional edge for Jurisprudence. Contemporary Jurisprudence shall increase the degree of Democracy as well as the efficiency, effectiveness, accountability, and transparency of the present Judicial System.
 - a. the present Structure of Parliament is being considered as the Republic of State shall be changed, and the role of politicians as absolute Govt shall be removed from Parliament. In Govt only Elected persons on the grounds of capability, of how much they are capable of benefiting the State, to counter Govt decisions The representatives of Society as presentative of Students, workers, entrepreneurs, etc, they shall be empowered to fight for development policies, and Govt shall be bound for implementation of Development policies as per there election manifesto. In that case, only capable persons to file their nomination for election, the capitalist funding shall be blacklisted in the election or the role of black money shall be ended in the election process.
 - b. The Bench shall not be supreme for finalising the Judgement, as per the theory of Contemporary Jurisprudence, Courts are mentioned as State body not independent Body of State, therefore present trial proceeding and other Cort proceeding has been denied in Contemporary Jurisprudence. The Just in Trial (J.I.T) an innovative Court procedure System has been introduced, which has been claimed as 25 times faster and 20 times more efficient by Deepak Sharma, in which blind review opinion shall be mandatory by Chartered Law officer, whereas Chartered Law officer is being declared as Member of Society, which is more professional in comparison of Bench or Judges. The J.I.T shall be based on a Centralised Judiciary System. Therefore, a large level of change is expected after J.I.T implementation.
 - c. As per my opinion, the entire political system/Structure shall be changed, because the role of politicians shall be ended. Most probably only the professional person having the capability of designing the development policy towards in welfare of society shall be elected and formed the Govt, whereas in opposition the representative of Society (representatives of the

Students, Workers, industrialists, etc.) shall be in the role of opposition for monitor the performance of Govt, corruption, Crime, policy of Govt.

- d. After considering the both of Concept in present Scenario, the present Societal divided into economic class, Caste, Religion etc. shall be more emphasis on their professional class, as member of Working class, Entrepreneur Class, Professional class, Contemporary Jurisprudence has been designed for Parliamentary representation of Society, therefore a different race for getting membership by professionalism shall be replace by present Society Shape, on ground that Economical benefits by Human Resource Economic System.

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