
JURISPRUDENCE: THE EYE OF LAW

Hitanshu Chhillar, Bennett University, Greater Noida

ABSTRACT

The science or philosophy of law is known as jurisprudence. Jurisprudence examines the origins, functions, and character of law, as well as the link between law and other topics. The privacy issue essentially erupted in the twenty-first century with the necessity for data privacy regulations and civil rights of privacy for all individuals, regardless of sexual orientation. Privacy is a crucial aspect of life and liberty, and it is a basic right guaranteed by the Constitution. It exists in all people, regardless of class, socioeconomic status, gender, or sexual orientation. It is essential for the development of one's self, integrity, and dignity. Every legal system has laws that bestow power and laws that impose duties. When society grows in population, diversity, and complexity, it needs social and legal supervision. Legal institutions that are founded and governed by various laws typically fulfil social tasks. The legal system serves as a bridge between societal aspirations and social realities. Similarly, the creation of the notion of Jurisprudence has given rise to a plethora of laws, regulations, and legislations by which civilised society might pursue justice and dharma. This article discusses the nature, origins, and importance of jurisprudence, among other things. It also distinguishes between law and morals, the nature of law, the origins of law, and the many types of law, among other things.

INTRODUCTION

The science or philosophy of law is known as jurisprudence. Jurisprudence examines the origins, functions, and character of law, as well as the link between law and other topics. According to history, man developed law inside society to control their interaction in many aspects such as commercial conditions.

According to the Oxford English Dictionary, jurisprudence is defined as the knowledge or abilities in law, the science that deals with human laws in general, the philosophy of law, and the system or body of law. Jurisprudence might thus be characterised as a methodical and scientific research into the law. In its most basic form, jurisprudence is the explication of the broad principles upon which practical rules of law are built. It is concerned with external norms of behaviour that people are obligated to follow.

Jurisprudence is the science that conveys legal information to humans. Jurisprudence is the scientific and philosophical study of the social phenomena of law and justice in general. It includes research, hypotheses, and speculations on law and justice conducted using knowledge and theoretical tools from several disciplines. Hence, understanding of jurisprudence addresses queries such, "What is law?" How do the judges make their decisions? How does the law influence society? What is natural justice, and what are its basic requirements?

Jurisprudence is derived from the Latin term 'Juris and prudentia,' where juris means law and right, respectively, and prudentia means knowledge or skills of law, knowledge of skills of law.

Therefore, it is wise to say that jurisprudence is the eye of the law. The fact that the eyes are one of the most vital parts of the human body backs up the notion. Nearly all human actions and motions are only possible because of them. Man cannot accomplish any task until he can see correctly. That example, when jurisprudence is referred to as the eye of law, it is because law functions in the same way as eyes do in the human body. For example, interpreting the law is a tough undertaking that cannot be accomplished without a vast understanding of jurisprudence. Jurisprudence is also the eye of law since it is the grammar of law, shedding light on the essential concepts and principles of law. Jurisprudence teaches lawyers and legislators how to use legal terms correctly by providing clear and unambiguous vocabulary, which is critical for their pleading and legislative tasks. It also improves the consistency and

precision of legal terminology. As stated above, from the notion of jurisprudence, the following philosophers worked hard to examine jurisprudence in depth;

Importance of Jurisprudence

Jurisprudence study may have an impact on modern sociopolitical discourse while also being impacted by other ideologies. It helps to make the complexity of the law more understandable and reasonable, which can assist to enhance legal practise. Its study helps pupils rationalise their ideas and prepares them for a civil existence.

Knowledge of the law and legal precepts enables citizens to tackle any challenge in human affairs fearlessly and courageously.

The logical investigation of legal topics broadens lawyers' perspectives and sharpens their logical approach. It assists them in removing their rigidity and formalism and teaches them to focus on social reality and the functional parts of the law.

It has been described as "the eye of the law."

It assists judges and lawyers in determining the real meaning of legislation approved by the legislature by offering interpretation.

It may be advantageous for lawmakers to comprehend the intricacies of law and legal precepts, which is vital in legislation-making.

Theories of Legal Philosophers on Jurisprudence

1. Jeremy Bentham's theory of utilitarianism

Bentham was the first academic to investigate what constitutes law. Expositorial (law as it is) and censorial (law as it should be) approaches were the two forms of law that he outlined (law as it ought to be). He claimed that under the Expositorial method, law is studied as it is, as a command of the sovereign, whereas the censorial approach looks at what the law should be. Law, according to Bentham, is "an assemblage of signs declaring a will formed or chosen by the Sovereign in a State, concerning the behaviour to be observed in a specific instance by a certain person or class of individuals, who in the case in question are or are assumed to be under to his authority." Consequently, in his opinion, law is the sovereign's order. Jeremy went

on to say that while no action is inherently immoral, the evil that results from it is. He considered punishments for criminals, stating that an offender's punishment should be based on utilitarian principles, aiming to raise the total of the community's pleasure. It must be proven that punishing the person will assist to avert greater communal harm. Excessive punishment is wasteful and should be avoided. Punishment should serve as a deterrence. According to Jeremy Bentham's beliefs, jurisprudence is the eye of law, as demonstrated by the discussion. In terms of sanctioning offenders, Bentham stated that punishment should serve as a deterrent to offenders from committing subsequent offences.

2. John Austin's theory of positivism

According to John Austin, jurisprudence is only concerned with positive laws (law as it is) and has nothing to do with their virtue or badness. Positive law is law imposed on political inferiors by political superiors. Austin agreed with Bentham that law is, in actuality, a Sovereign's mandate. There are two parts to Austin's Jurisprudence: general and theoretical jurisprudence. This element attempts to investigate numerous issues such as what constitutes punishment. Sanctions are motivated by the fear of 'evil,' which will almost certainly occur if a mandate is ignored. Professor Hart has questioned this view, claiming that the concept of law as "orders supported by the fear of application of punishment" is insufficient. There are numerous laws in which neither order nor danger exists. That is to say, academics might express their perspectives on certain legal matters and critique others using the light shed by jurisprudence. Jurisprudence is thus the legal sight.

3. Cicero and Salmond on jurisprudence

Cicero defined jurisprudence as a philosophical part of legal science. He considered law as the state's thinking, and in order for freedom to triumph, everyone must obey the law. Justice and injustice are assessed by the law. According to him, the study of law is based on the principles of genuine justice; without true justice, the norms of positive law are meaningless. He continues, "Men join together in the State in an act of collaboration." The law must lead and safeguard the state. On the other hand, Salmond described jurisprudence as the study of law. Salmond split jurisprudence into general and specialised jurisprudence. Specialized jurisprudence deals with a specific department or subset of the doctrines, whereas generic jurisprudence covers the complete corpus of legal doctrines. Salmond defines special jurisprudence as the following:

- Legal exposition is the process of explaining the contents of a current or previous legal system.
- Legal history, which examines the legal historical context and its evolution.
- The science of legislation primarily related to Jeremy Bentham and his utilitarianism philosophy, according to which the objective of any legislation is to describe the law as it should be. It discusses the ideal of the legal system and the reason for its existence.

Nature of Jurisprudence

Jurisprudence is the scientific and philosophical study of law. It is not a system of norms imposed by the judiciary or the legislature. It comprises of legal philosophy, the goal of which is not to create new laws but to study current rules and concepts. So, jurisprudence is a systematic inquiry of law because it examines the origins and nature of law in early civilization. As a result, jurisprudence is the eye of the law. The scope and objective of jurisprudence is to influence and govern human behaviour via the use of ideal laws or model laws. All ideas about human order and behaviour in the State and society are included in the field of law.

Jurisprudence is the law's eye, as evidenced by the following jurisprudence implications:

i. It sharpens the logical, legal reasoning and professional skills of a lawyer

A lawyer's practical practise involves new challenges arising from the interpretation and implementation of many laws in his actions. As a result, in order to hasten his actions, it is vital to address such issues. A lawyer may perform his task efficiently with alternative legal channels of thinking in his head if he has cosmic understanding of jurisprudence. A practising lawyer is restricted, if not by a definition of law, then by how judges and other authorities who implement the law understand the law. A smart lawyer understands when to argue solely on the basis of statutes and precedents, when to reinterpret laws or differentiate precedents, and when to appeal to policy, justice, or the judge's good judgement.

ii. Jurisprudence trains critical thinking

Jurisprudence develops critical thinking skills, as well as the ability to employ correct legal terminology and speech. That is to say, understanding of jurisprudence enables individuals to

look not just forward, but also sideways and around them, and to see that answers to contemporary legal problems must be sought via a study of current societal demands, rather than in the wisdom of the past. This is effectively demonstrated. The defendants in the case of Speluncan Explorers were found guilty of murder and given the death penalty by the Court of General Instances of the County of Stowfield. They made the choice to file an appeal. The four defendants were among five people who died after being trapped within the cave when the avalanche happened. During the attempt to rescue them, ten guys were killed. On the twentieth day, the explorers spoke with the labourers outside the cave, requesting that they consume the flesh of one of themselves in order to survive. No one was allowed, so they threw a die and one of them was slain and devoured by others. They were charged with the offence after being rescued. Ascertaining positive law and natural law, Justice Forster reasoned in favour of the accused. He contended that because the explorers were cut off from civilization, positive law no longer applied to them. As a result, devouring one of them for the sake of survival was natural law, and they were not subject to positive rules. He went on to say that since 10 men perished during the rescue, and 10 men were killed to save 5 men, then can't 1 man be sacrificed to save 4? Doing what is required for survival should not result in punishment. Judge Foster went on to remark that a man might violate the wording of the law without violating the law itself. The phrase simply states that killing in self-defence is justified, but it is not recommended in statutes. Hence, according to this line of reasoning, jurisprudence is the eye of law.

iii. Jurisprudence also has an educational value

Jurisprudence also has educational significance since it has its own intrinsic interest and importance as a subject of serious scholarship and investigation; researchers in

Jurisprudence contribute to the evolution of society by having ramifications throughout the whole legal, political, and social school of thought. One of the responsibilities of this topic is to build and explain notions that help to make the intricacies of law more understandable and reasonable. This subject believes that theory may aid to enhance practise. Jurisprudence assists judges and attorneys in determining the real meaning of laws issued by legislators by offering interpretation guidelines; understanding of jurisprudence enhances interpretation of legislation written by legislators and hence facilitates the administration of justice. It is difficult to comprehend diverse laws without knowledge of jurisprudence.

iv. Study of jurisprudence is also an opportunity for lawyers

Jurisprudence is also a chance for attorneys to put theory and practise together. Jurisprudence is concerned with human intellect in relation to social existence. With jurisprudence expertise, a lawyer may apply law while also keeping in mind societal demands and developments in linked and pertinent fields such as sociology, economics, philosophy, and so on. Modern jurisprudence is concerned with the social purpose of law rather than its form. Jurisprudence is the eye of law; understanding of jurisprudence is required for a lawyer in his practical activity. Jurisprudence trains the intellect to think in legal ways. It provides a key to the resolution of numerous civil law laws that would otherwise appear unique and unaccountable. Hence, without such understanding, no lawyer, no matter how distinguished, can truly assess the significance of the assumptions upon which his topic is founded.

CONCLUSION

Jurisprudence is derived from the Latin term 'Juris and prudentia', meaning law and right. It is the eye of the law, as it is the grammar of law and teaches lawyers and legislators how to use legal terms correctly. Philosophers have worked hard to examine jurisprudence in depth, such as Jeremy Bentham's theory of utilitarianism, which states that law is an assemblage of signs declaring a will formed or chosen by the Sovereign in a State, concerning the behaviour to be observed in a specific instance by a certain person or class of individuals, who in the case in question are or are assumed to be under to his authority.

Jeremy Bentham, John Austin, Cicero and Salmond all believed that jurisprudence is the eye of law, and that punishment should serve as a deterrent to offenders from committing subsequent offences. Bentham's theory of positivism states that law is a Sovereign's mandate, and Austin's Jurisprudence consists of two parts: general and theoretical. Cicero's view is that law is the state's thinking, and that justice and injustice are assessed by the law. Salmond's view is based on the principles of genuine justice, and that the law must lead and safeguard the state. Jurisprudence is the scientific and philosophical study of law, which is not a system of norms imposed by the judiciary or the legislature.

It is a systematic inquiry of law because it examines the origins and nature of law in early civilization. Its scope and objective is to influence and govern human behaviour via the use of ideal laws or model laws, and its implications include sharpening the logical, legal reasoning

and professional skills of a lawyer. Jurisprudence is essential for a lawyer to perform their task efficiently. It helps them understand when to argue solely on the basis of statutes and precedents, when to reinterpret laws or differentiate precedents, and when to appeal to policy, justice, or the judge's good judgement. It also trains critical thinking skills, as well as the ability to employ correct legal terminology and speech.

Understanding of jurisprudence enables individuals to look not just forward, but also sideways and around them, and to see that answers to contemporary legal problems must be sought via a study of current societal demands. This is demonstrated by the defendants in the case of *Speluncean Explorers*, who were found guilty of murder and given the death penalty.

The four defendants were among five people who died after being trapped in a cave during an avalanche. On the twentieth day, they requested that they consume the flesh of one of themselves in order to survive. They were charged with the offence after being rescued, and Justice Forster reasoned in favour of the accused. Judge Foster argued that devouring one of them for the sake of survival was natural law, and should not result in punishment. Jurisprudence also has an educational value, as it states that killing in self-defence is justified, but it is not recommended in statutes.

Jurisprudence is a subject of serious scholarship and investigation that contributes to the evolution of society. It helps to build and explain notions that help to make the intricacies of law more understandable and reasonable. It assists judges and attorneys in determining the real meaning of laws issued by legislators by offering interpretation guidelines. It is also an opportunity for lawyers to put theory and practise together. Jurisprudence trains the intellect to think in legal ways and provides a key to the resolution of numerous civil law laws that would otherwise appear unique and unaccountable. Without understanding, no lawyer can truly assess the significance of the assumptions upon which his topic is founded.

References

1. <https://www.legalserviceindia.com/legal/article-2171-a-brief-outline-about-the-basicconcepts-of-jurisprudence.html#:~:text=Nature%20of%20Jurisprudence%3A-,Jurisprudence%20is%20the%20eye%20of%20law.,rules%20of%20law%20are%20based.>
2. <https://www.nullapoena.de/stu/explores.html>
3. <https://www.lawnotes.in/jurisprudence>
4. Salmond, J (1920). *Jurisprudence*, 6th ed. Sweet and Maxwell, Limited, 3, Chanocey Lane, W.C. 2. Law publishers, London.