
The Future Of Law From The Jurisprudence Perspective For Example :The Influence Of Science & Technology To Law, AI Law .

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Published: 31/08/2021

How to cite:

Gul. R., EL Nofely, M, O. The Future Of Law From The Jurisprudence Perspective For Example :The Influence Of Science & Technology To Law, AI Law. *Sociological Jurisprudence Journal*. Volume 4 Issue 2. Page 99 - 104. <https://doi.org/10.22225/scj.4.2.2021.99-104>

Abstract

The field of law is as old as the human civilization. In the ancient Holy Scriptures the laws of humans, God made Laws, laws of nature, cultural laws, trade laws etc. have been discussed around the world. Even in the stone ages humans were following certain principles and laws which were the basis of law. The sense of right and wrong, truth and lie, positive and negative and so on is something engraved in the humans. Although there is another aspect that some humans consider the wrong as right and right as wrong. There have been different eras in which the scholars of law have made their valuable contributions in their respective societies and communities. The scholars of law are widely known as jurists of law and their contribution has evolved the philosophy of law which is called the Jurisprudence of law. The world in which we are living has laws which have basis from the contributions of renowned scholars of law from different cultures and parts of the world. This article touches the historical perspective, present scenario and future of law. Especially the use of technology in law has brought a revolutionary change in recent decades. The computers, cell phones, social media, internet as a whole, Google play store applications, laptops, i pods and various other devices have made significant changes in old practices and present day practices in the field of law. The judges, law teachers, professors, lawyers, litigants and all persons associated with them are taking immaculate advantage of technology in the field of law. The research methods and techniques have been made simple. This is a fast world in which we are living. No one has time for anything in this era. With the use of technology many time consuming activities can be performed in minutes and seconds in this era. We are heading in a direction of more human friendly and time saving environment. Although humans in different parts of the world have different cultures, norms, ethics, eating habits, religions, physical appearances and opinions but there are certain norms and international practices which are widely accepted around the world. Probably the future of law cannot be predicted at this moment of time because sometimes what the eyes see cannot be spoken rather it can only be seen with the passage of time.

Keywords: future of law; history of law; jurisprudence; technology in law

I. INTRODUCTION

Jurisprudence is the Philosophy of Law. Before understanding the Jurisprudence first we have to understand what is law? Law is the set of rules which a particular community or number of people are bound to obey. Law has several definitions given by number of jurists. Jurists are persons that hold grip over the subject of jurisprudence which is the philosophy of law as explained above. The definition of jurist vary from place to place. For example in the US a judge is referred as a jurist while in the UK, a barrister or a solicitor is referred as a jurist. In general any person can be jurist if he has sound knowledge of law and he comments on the law. Technically a jurist is a legal scholar. Some of the famous jurists in history were Salmond, Austin, Socrates, Aristotle, Cicero, Thomas Aquinas, William Blackstone, Dr. Allama Iqbal, Molana Modudi, Mary Robinson, Asma Jahangir, Hina Jilani and so on.

In this modern era every state or country generally has three classifications of law which its citizens/nationals and subjects are liable to obey. These include:-

The Constitution

The General Laws

The Special Laws

The Constitution is the main document of law which runs the system of executive, judiciary and the legislature in every country. It the above all other laws of the country. In cases of disputes and ambiguities regarding the interpretation of laws, the constitution holds the overriding effect over all other laws.

The General Laws are the laws which the General Public are liable to obey. They Generally include laws regarding the court procedures, trial procedures, court fee procedures, various kinds of documentations, drafting laws, Government Notifications and Statutes which are applicable on General Public of any country.

The Special Laws are related with any specific area, city, village, town or community. They sometimes have overriding effect on General laws but mostly in cases of contradiction special laws are under the General Laws.

DEFINITION OF JURISPRUDENCE

The word Jurisprudence is originated from the latin word Juris prudentia. The world wide meanings of jurisprudence are “Science of Law” or “Philosophy of Law”.

Some of the famous definitions of Jurisprudence include:-

“ Jurisprudence is a system or body of law”

“Jurisprudence is a body of law dealing with a specific issue”

“The Course of Court decisions as distinguished from legislation and doctrine”

The definition of jurisprudence has seen long history of civilizations and their laws. This word is now an English word but it has latin origin. Similarly the ancient Romans have a big contribution in the field of Jurisprudence. According to Romans there are also few definitions of jurisprudence. The best definition could be “the knowledge of just and unjust”.

According to famous jurist Salmond Jurisprudence is “the Science of principles of civil law”. Similarly another famous definition is that the jurisprudence is “the philosophy of positive law”.

While defining the Jurisprudence it is not possible to leave morality aside. Law and Jurisprudence have strong connection with Morality. Further the morality can be classified as “Morality of Duty” and “Morality of Aspiration” as described by Lon L. Fuller in his book titled “The Morality of Law”. Probably the best book which has arguments and criticism regarding law, Jurisprudence and concepts ancilliary to both is the Concept of Law by H.L.A Hart. It is a good read which clarifies the mind of reader regarding the definition and application of jurisprudence in the practical life.

EVOLUTION OF LAW

The concept of law was existent even before the existence of mankind. There was a concept of reward of good deeds and punishment for disobedience since time immemorial. All the scriptures of the world prohibit mankind from telling lies, cheating, dishonesty, stealing and so on. Similarly the reward of good deeds is mentioned in all scriptures which is the base of law.

Even in the recorded history of humankind the existence of law is there in the early communities that lived on this planet. The Romans, the Greeks, the Indians, the Chinese, the Arabs and all other ancient civilizations have recorded history of laws and their implementation also. The law has evolved through a process of hundreds of thousands of years.

In some cultures the Holy Books have laws which are the basis of their legal systems. In some cultures the law evolved with the historical process of events and the need for such evolution. Morality exists in almost all cultures which is the base of most of the laws. Most of the morality based laws are oral laws but they are still obeyed in many countries of the world.

Through the process of evolution various classifications of laws, statutes, schools of laws, theories of

punishments, concept of separation of power, powers of legislators, interpretation methods of law, practices, procedures, international courts and forums, etc. have emerged. Now from last few decades we have institutions like United Nations Organization, International Court of Justice, World Trade Organization, FATF, FIFA, ICC, etc. which have brought the member countries to such organizations on one platform with same laws for everyone.

Jurisprudence played a vital role in the development and evolution of law throughout the course of history. The great jurists in every era have played important roles in the evolution of law. It is because of their experience and wise minds that we have codified laws in almost all countries of the world which include both the substantive as well as procedural laws.

In the United States the Judges are considered as Jurists of Law. The best qualification in the field of law is called JD (Jurist Doctorate) which is equal to PHD in rest of the world. An American writer named Posner in his book titled “How Judges Think” believes that Judges are on their own in non-routine cases when the conventional materials run out. This thinking clearly indicates how a jurist decides a case while working independently.

LEGAL SYSTEM OF THE WORLD

There are mainly three legal systems existing in the world these days. These include:-

Common Law System

Civil Law System

Islamic Law System

Common Law System

This system originated from England and it is practiced in almost all the countries which were ruled by Great Britain between 16th to 20th Centuries. The procedural law as well as substantive law in most of these countries have the footings from the British Common Law System.

Civil Law System

Civil Law System is mainly practiced in the countries that were colony or subservient to French during the 18th and 19th centuries. This system is very different from the Common Law System and it is relatively less in practice as compared to the other legal systems of the world.

Islamic Law System

There are more than 55 Muslim Countries in the world that are partly practicing the Islamic law System. This system has origin from the Holy Book Quran and the Sunnah of the Prophet Muhammad (Peace Be Upon Him). It remained the system of Muslim Countries under the flag of Khilafat till 1924 when Ottoman Empire ended. Islamic Law System has influence on both Civil and Common Law Systems as most of the Europe remained under Muslim Rule for centuries.

USE OF TECHNOLOGY IN THE FIELD OF LAW

The use of technology is inevitable in every field these days. In the field of law the use of science and technology is there since a long time. There are thousands of statutes that deal with the legalities and illegalities of science procedures, projects and equipment since last few decades. In recent decades the use of computers, printers, networks, smart phones, apps, social media, websites, gadgets, notebooks, tablets, etc. has brought innovation and ease in the field of law.

Now in the present era 90% of the legal drafting is created and managed with the help of computers, laptops, cell phones and through other devices. Typing is a piece of cake with the use of technology in the legal field. Similarly lawyers around the world can correct their grammatical and spelling mistakes in their legal documents with single clicks. Further most of the times the jurists, judges, lawyers and scholars do not need to create new documents rather they open up their previously created legal documents and edit them for their professional requirements. The facility of saving legal documents is because of storage devices readily available these days.

A great facility is the availability of law books online. Although many law books are not available online but the latest ones are usually available online. A wonderful thing about online books is that they help their readers to reach the relevant pages in no time. They open in software programs that allow speedy search to the readers which save a lot of time.

Research work has achieved success in this modern era by the use of technology. Google is very effective in reading anything related to any field of law. There are sayings, pictures, videos, reviews, bookish references, etc. all are available when someone researches anything on Google.

In most of the countries the reported case laws are available on the websites of High and Supreme Courts. For the referencing such case laws are vital for lawyers, judges and litigants facing legal issues. Some resources like these are at times expensive to purchase while most of the content is always available free of cost for the persons requiring them.

SOCIAL MEDIA INFLUENCE IN THE FIELD OF LAW

An innovation in this era further is the social media. Renowned jurists from around the world are making pictures and video clips for facilitating the public. They are publishing such content on platforms like You tube, Facebook, Twitter, Instagram, WhatsApp and so on to facilitate their followers, subscribers and viewers.

Now the legal world is just like a global village. Now the people living in different parts of the world are getting awareness of legal systems and laws around the world. There is a debate of good law and the bad law in many corners around the globe because of comparison between different legal systems.

A positive aspect is that there are thousands of applications available on Google Play Store which are facilitating lawyers, judges and the litigants regarding legal updates, case status, case studies, legal study and so on. Further such applications are interactive at times also. In the similar manner the whole world is moving towards the concept of online courts, e-filing and e-courts. The taxation system is online in almost half of the world. Further a new concept of automated legal systems by the use of technology is emerging which may take over the system in coming decades.

A concept of webinar, online seminars, online sessions is there in the IT world since a decade or so. This concept has achieved major success during the Covid-19 pandemic days. This concept is helping the legal systems throughout the world also. Law Universities and Colleges are switching online offering online classes and sessions through the use of software's like Zoom, Skype, Go to meeting and so on. Similarly the judges in some countries are conducting court hearings over the same software programs. This way the daily routine work has been carried out by keeping social distancing and without infecting thousands of people by working in the routine manner.

COVID-19 LOCKDOWNS

The year 2020 has been a strange year for whole of the world. Suddenly the outbreak of pandemic has badly damaged world economies and billions of people are suffering around the world for the same reasons. Almost whole of the world is facing Lockdowns which is very damaging for businesses. Airline Companies, Industries, Factories, Restaurants, Corporate Offices, Travel Agencies, Hotels, Stores and thousands of other businesses are facing Lockdowns because of which there is massive job cut downs globally. In such like situations probably the only businesses that will survive will be the online businesses.

Although this is not the first time when the world has seen pandemic like Covid-19. Such like pandemics have been part of history and every such pandemic has improved medical as well as living standards of humans after loss of thousands of humans. We in this era are paying the price of human losses because of Covid-19. For the same reasons almost all the countries have ancient laws that deal with situations related with pandemics. Such laws allow the authorities to take control of areas in the best manner possible to help people in cases of such natural disasters.

An aspect is that it is time to technically move in every walk of life. The people that are turning their businesses online during this Covid-19 pandemic are earning good. It seems that the survival of businesses around the world is in making things possible online and by making effective use of technology. This is something direly needed in the field of jurisprudence also.

Courts around the world are focusing on making e-courts, e-filing, electronic evidence modes, online hearings and so on possible. The process of legislation in this regard has taken a new dimension because of Covid-19 pandemic. The world has felt the need of making things possible with social distancing. Obviously the world cannot remain under Lockdowns forever if proper cure and vaccination is not made against Covid-19 for sometime. So best way is to keep people at homes as much as possible and by making things possible online. If courts around the world start operating online, the process of litigation and dispute resolution may become easy.

AL LAW

Artificial intelligence is a wonderful concept which is there since last few decades. We all have seen famous Hollywood movies in our childhood days where two terminators have been sent to the world with a mission. Both are machines programmed by humans with having emotions, thinking ability and decision making ability. In the recent versions of Terminator Movies the negative impact of Artificial Intelligence has been shown whereby the Cyber-dine which is the control center of Artificial Intelligence machines takes up the war against human and tries to destroy the world. So from such like movies we can see the positive as well as negative aspects of the Artificial Intelligence.

The concept of artificial intelligence has progressed a lot in the many industries in recent decades. Although it has been criticized a lot in movies but practically the world is moving towards making it successful. There are many industries that are using automated processes controlled by computers which are based on Artificial Intelligence. Although it is a reality that the computers can never match the skills of humans in their thinking and performing abilities. But an effective part of using the technologies in different industries is that they reduce the time for completion of tasks and calculation times by the use of artificial intelligence at times.

As far as legislation or law related to artificial intelligence is concerned, there is a big absence of proper legislation in this regard. A machine cannot be held liable for any offense against the bodily injury or loss of human life in cases of accidents. On the other hand the sanctity and preciousness of human life cannot be denied. So what is happening is that mostly in cases of losses to human life or injuries caused by the use of artificial intelligence the only possible remedy is compensation.

EXAMPLE

An example at hand is from the aviation industry. Bhoja Air, a private airline company of Pakistan took an airplane on lease in February 2012. That airplane got international certification for flying after it got repaired in South Africa. Originally that aircraft was having manual controls but it was modified to the extent that it had automated cockpit. After two months of flying in Pakistan it crashed in April 2012 in Islamabad. One of the main reasons of its crash was its automated cockpit. The passengers got compensation from the airline but no person from the airline or civil aviation got any punishment. The main hurdle was the AI Law in shape of international legislations such like Montreal Convention, Warsaw Convention 1929, Carrier by Air Act 2012 and so on which all empower the courts only to give compensation in cases of air crashes.

We all hear cases in which labor unions went for strikes against industry owners when people working in their industries get injured or die during automated processes controlled by artificially intelligent machines. Problem with machines is that sometimes they malfunction even because of minor technical errors. The worst aspect is that an artificially intelligent machine can kill thousands of workers because of a slight malfunction. In such like cases the AI law is either silent or not having proper support for humans suffering in such like incidents.

THE FUTURE PRESPECTIVE

We have already moved a lot when it is about the future of law from the jurisprudence perspective. We have theories given by great jurists. We have evolved through history of jurisprudence. We have laws enacted in many countries that support idealistic societies and situations. We have great jurists working on the development of law every day.

There is a famous saying in the common law which states that “the judges are the interpreters of law”. We have functional courts around the world in all societies that are making decisions by

interpreting laws. Such decisions are often reported in law books and become authority or precedents for courts and jurists to follow.

However, a lot more needs to be done. We need uniform legislations especially from world forums that treat every human equally irrespective of nationality, cast, color, gender, etc. We need to promote peace around the world through effective legislation made by the contribution of jurists from around the world. We have to respect the opinion of jurists from different parts of the world without imposing our opinions on them.

No doubt the 21st century is very advanced. The world has not seen such advancement ever before in the known history. However, an aspect is that we are heading towards more advancement in the times to come. The concept of keeping a Robot as servant at every home is there in the movies. Who knows in the future we may have the same or even better scenario of taking benefit from artificially intelligent machines. It is the duty of the jurists to closely examine the advancements in the field of science and technology and incorporate such improvements in legislations through their contributions. Such like things should be openly debated by world leaders and in the parliaments of the world.

II. CONCLUSION

As a conclusion we can say that we have touched some aspects of future of law in this article from the jurisprudence perspective. However, since this topic is so dynamic, all the aspects cannot be touched in one single article. The world has negative and positive forces both working in it. The negative forces are causing mischief and chaos while the positive forces are making their contributions in the positive direction. The jurists are positive persons that always work for the improvement and betterment societies and countries. They are always respected and they should be respected more in order to make things progress in the positive direction. We all wish to see this world peaceful and progressive so that humans across the world take the fruits of positivity one way or the other. For that jurisprudence has to play its role in this era by the help and contributions of jurists of this era.

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