**Table Content**

* + sociological jurisprudence
* Charteristics of sociological jurisprudence
* Background of sociological jurisprudence
* scope
* Backdrops
* Legal realism
* Conclusion
* Bibliography

**Sociological Jurisprudence:**

The Sociological approach to the study of law is the most important characteristic of our age. Jurists belonging to this school of thought are concerned more with the working of law rather than its abstract content. Their principal premises is that the law must be studied in action and not in textbooks. They have been at work upon jurisprudence with reference to the adjustment of relations and ordering of human conduct which is involved in group life. They are concerned with the study of law in relation to society. They concentrate on actual social circumstances which gives rise to legal institutions. Sociological jurists……insist on the unity of the social sciences and the impossibility of the wholly detached self – centered, self – sufficing science of law. They insist that the legal order is a phase of social control and that it, cannot be understood unless taken in its whole setting among social phenomena.

Sociological school of jurisprudence has emerged as a result of synthesis of various juristic thought. The exponent of this school considered law as a social phenomenon. They are chiefly concerned with the relationship of law to other contemporary social institutions. They emphasize that the jurist should focus their attention on social purposes and interest served by law rather than on individuals and their rights. According to the school the essential characteristic of law should be to represent common interaction of men in social groups, whether past or present ancient or modern.

The main concern of sociological jurists is to study the effect of law and society on each other. They treat law as an instrument of social progress. The relation between positive law and ideals of justice also affects the sociology of law.

It would therefore be seen that sociological jurisprudence is a multifaceted approach to resolve immediate problems of society with tools which may be legal or extra – legal and techniques which promote harmony and balance of interests of society.

**Characteristics of Sociological Jurisprudence**

The chief characteristics of Sociological Jurisprudence are as follows:

1. sociological jurists are concerned more with the working of law rather than with the nature of law. They regarded law as a body of authoritative guides to decision and of the judicial and administrative processes rather than abstract content of authoritative precepts.

2. It considers law as a social institution which can be consciously made and also changed, modified or retained on the basis of experience. In other words, it it synthesizes both the analytical and historical approach to the study of law.

3. Sociological Jurists lay emphasis upon social purposes and social goals and expectations which are the law sub serves rather upon sanctions and coercive character of law.

4. Sociological jurists look on legal institutions, doctrines and precepts functionally and consider the form of legal precepts as a matter of means only to satisfy greatest good of the greatest number.

**Background**

Sociological approach to the study of law towards the end of the 19th century did not emerge in isolation. It was a reaction against the formal and barren approach of the analytical jurists and the pessimistic approach of the historical jurists. There was a dire need to study law not in mere abstraction, but in its functional and practical aspects. Further, on account of economic and social conflicts towards the beginning of 20th century led to growing disbelief in the eternal principles of natural law which had hitherto placed an idea of harmony before the individual. These various approaches appeared as a clog in the way of legal reform, social change and economic justice. The theory of inalienable natural rights was now being considered as an expression of outmoded laissez – faire philosophy. This led the States to expand the dimension of their activities to such matters as health, insurance, education, old age security and other form of social and economic aspects of welfare.

Among the foremost writers who made an attempt to apply scientific methods to social phenomenon was August Comte (1798 – 1851). He is known as the founder of sociology as a science. He laid stress upon empirical methods such as observation and experiment for the study of society. It is the task of sociology to provide methods, tools and a basis for purposeful and realistic appraisal of social phenomena which interact in society.

**Scope**

The sociological school’s idea of law is a continuation of this persistent process of enquiry into the origin of law as begun by the Historical School. This view of the sociological school is in tandem with the knowledge of law with regard to society: what it is doing; what it has done; and what it is expected to be doing. The sociological school carry forward the mission of the historical school and reject the formal and logical idea of law according to the positivists on the ground that the formal law presents only a portrait of the law. In effect, the preoccupation with the study of the science gave law a prominent place in the new studies and the 19th century unearthed a number of leading sociologists in Europe (and America) especially Germany who began to look to the newly found studies of society as a key to a better understanding of law than had been gained from the Natural Law School and the Positivists.

The contribution of the various scholars and jurists of sociological persuasion highlighted several points which need mention:

a. That law is not unique but only one of the social control norms;

b. That the socio – economic problem of the present time cannot be solved by means of the existing law;

c. That the laws in the books and statutes containing formal rules, legislations and expositions of particular subjects is not where the real law in society is to be found;

d. That the law is not an absolute and static body of rules in themselves but are relative to time, place and society; that there is such a thing as ‘social justice’. However, view differ greatly as to what constitutes social justice and the achievement thereof.

Comte had stated that the advancement of knowledge could be through only “observation and experiment” and he furnished a classification of the social sciences that was hierarchical. Comte considered it most fruitful to apply the scientific method to sociology despite the inherent difficulty. He compartmentalized sociology into two i.e., social statics and social dynamics all emanating from his description of sociology as the science of social order and progress. He saw society as an object constantly in development which if viewed in a scientific way could have its growth harnessed for one purpose: progress. The object of the sociological school was to work out in a scientific way the process of determining the variables by which society functioned with regards to law and vice versa.

The importance of sociological school of law may be immediately noticed when the attitude of law and state is compared. The previous attitude of the state was ro confine itself to law and order enforcement and thereby striving to enforce stability in society by enforcing the norms regulating the existing relationship between individuals and society as well as between individuals. This in many ways ways (which we will evaluate) can be futile. Therein lies the allure of the sociological school: in the failure of the laissez fair notion of law and state.

**Backdrops of Sociological Jurisprudence**

It is well known that the relations between individual, society and State are never static, they have always been changing with the exigencies of time and needs of the society. Therefore, various theories regarding their relationship have also changing. For instance, the early society societies were governed by customs which were only a social sanction. Then came the period of the supremacy of the Church i.e., the priestly class. To counter the growing influence of the Church, the secular State emerged powerful dominating all other institutions. The omnipotence of the State gave rise to the period of renaissance and the legal philosophers began to think in terms of freedom of individuals and their rights and liberties. This resulted into political upheavals giving rise to despotic rule i.e., Nazism in Germany and Fascism in Italy. As a result of this, there was need to review the legal theory for maintaining a balance between the State, welfare of the society and the individual interests. Finally, it was realized that socialization of law and legal institutions would perhaps best sub – serve the common good and interests of the society. Consequently, a synthetic approach to jurisprudence by evolving a new legal philosophy called the sociological school emerged out of the synthesis of historical and philosophical movement and the comparative study of legal system.

**Legal Realism:**

theory that all law derives from prevailing social interests and public policy. According to this theory, judges consider not only abstract rules, but also social interests and public policy when deciding a case. In this respect, legal realism differs from legal formalism. Either theory can be understood in a descriptive way, prescriptive way, or both ways at once..

**Realism**

As the legal-positivist position, whether Kelsenian or Hartian, became the dominant view among philosophers of law in the 20th century, there developed alongside it an influential but very different approach to thinking about law, now usually described as legal realism. The two most-important figures in this regard were the Dane Alf Ross (1899–1979) and the American Karl Llewellyn (1893–1962), though they were very different theorists. Ross was a systematic philosopher who taught in a law faculty, Llewellyn a philosophical novice but an extremely accomplished and influential lawyer and professor. Both kinds of realism, Scandinavian and American, were skeptical of the idea that written laws really explain the behavior of judges, and both depended upon a naturalistic worldview in which reality was presumed to be as the sciences described it.

**Conclusion:**

Law, as a central feature of most developed human societies, has been an object of philosophical reflection since the beginning of Western philosophy in ancient Greece. In the 21st century, its concerns continued to be shaped by the major figures of the modern era—especially Hobbes, Bentham, Hart, and Kelsen—and the schools of realist jurisprudence. Whether new paradigms in legal philosophy may or may not be emerged, marking a break from the themes of the modern era, will ultimately depend on how law and legal institutions evolve in the future. I have put forward my research after consulting some websites and books. I have defined different terms relating to jurisprudence and the legal institutions and norms. Legal institutions have always been an important and basic component of the society. Through sociological jurisprudence we have derived a very important link between social culture and traditions with the law enforcing and law deriving institutions, therefore I have also told about the questions of which were raised upon this sociological jurisprudence so I have put forward views of different philosophers and thinkers. The issues arising with the application of sociological jurisprudence school of law must be diagnosed and then they must be solved out.

**References:**

* The concept of Law, H. L. A. Hart
* Pure theory of Law, Hans Kelsey
* Jurisprudence and Legal Theory, Dr. V. D Mahajan
* English Jurisprudence: On Complicity, Annesha Kar Gupta
* <https://djetlawyer.com/types-classifications-law/>
* <https://www.lawinsider.com/dictionary/national-law>
* <https://hawaiiankingdom.org/blog/the-difference-between-international-law-and-national-law/>
* <https://www.spacelegalissues.com/space-law-the-difference-between-public-and-private-international-law/>
* <https://definitions.uslegal.com/s/sociological-jurisprudence/>
* <https://www.law.cornell.edu/wex/legal_realism>