**Research Topic:**

Descriptive Study of Nature of Law

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# Abstract

Nature of law is important part of study of jurisprudence it has been discussed over the long period of history. In this piece of literary work, description of nature of law would given and comparison of natural law with nature of law would be furnished. This paper is also objected towards providing the readers about knowledge of the administration of Justice with the working process of administration of justice in Pakistan.

# Nature of Law

When it is talked about Nature of Law, it is often confused with Natural Law and Law of Nature. In order to understand the nature of law, oneself must have knowledge about law and its evolution. If we seek to define nature of something, we are required to know the meaning or definition of that thing. In order to understand law and its nature, we have to oblige with definition of law. But when we turn up to define law, we came to know that there is no such consensus on definition of law. Different Jurists have defined law differently. Definition of law also deviates from territory to territory. Law had never a constant definition to be followed throughout the history. If we take law into consideration from historical perspective, we would reach to know that law and its nature remained changing continually. Earliest humans who are known as homosapiens had a law of jungle, power and fitness was the law. Survival of the fittest prevailed, who had power also had law. Though the power still defines the course and nature of law but this trend has changed throughout the history. Law was power and power was law, and fittest was the sovereign who used to implement the nature of law. Law actually based on fitness in earliest times despite the fact that there was no developed concept of law then. With the passage of time, human beings developed their course of law. Similarly, law and its nature also evolved. Human beings started living in houses instead of caves and security situation also evolved which helped the law to be in some proper shape.

# Nature of Law from Historical point of view

Looking back into history, we find law in some codified form in the reigns of Hammurabi and Ur- Nammu. Code of Ur-Nammu is the oldest known law code which was coded in circa 2100-2050 BC. Code of Ur-Nammu involved criminal nature and civil nature but there was no such concept of statute. This means nature of law at that time was criminal and civil.

Then it comes to code of Hammurabi that is regarded as 2nd known code of law. Its wasy back to circa 1754 BC. Code of Hammurabi was mostly concerned with Civil matters of public. This means nature of law at times of Hammurabi was civil more than criminal and statutory. It also tells us that nature of law changed with the change of era and territory. If talk about Babylonians laws, law was mostly concerned about sexual relationship and coitus between male and female. Thus shows law totally changed its Nature as compared to Hammurabi or Ur-Nammu codes. Later to Babylonians laws, Mosaic law of Law of Moses took place, which is a devin law and that was focused to the matters of the Hebrew people. In similar resp, Islamic and Biblical laws are also Devine law and sovereign entity in those law is God. If we talk about ancient subcontinent or

Indus valley, Chandragupta Maurya state introduced the concept of polity, which means concept of constitution or statutory law also came into existence. When we take the Greek laws, Greek philosopher like Plato and Aristotle turned the tables and defined law in well balance shape. Concept of law of Tort was developed in that era. Later in First second millennia, concept of English law cane into existence. Similarly law has been changing its definition frim time to time and territory. In developed world, law is know considered as a will of the people.

# Nature of law as of Today

When we hear the word law we may imagine any one of a variety of different concepts or images for example when we hear the word law we might think of judges and courtrooms, we might think back upon the last courtroom drama we watched in the form of a movie or a television program. When we hear the word law we might think of lawyers the people we go to for legal advice or the people who represent us in the courtroom. When you hear the word law, we might think of compensation money people suing each other for hundreds of thousands of dollars or even billions of Dollars. When we hear the word law we might think of the police, prison or criminals or we might think of politicians or the legislation that politicians make when they gather together in Parliament. We might also think of contracts. We might think of our employment contract or our mobile phone contract or any one of the many contracts that we make on a daily basis. The law means different things to different peoples, but what is law? Can we define the law? The question, what is law?, is not an easy question to answer. It is 's actually a very deep and philosophical question. It is the type of question that philosophers both Western and Eastern tend to wrestle with whenever they try and answer some of the most fundamental questions about life. What is law? We can not certainly be able to come up with a true correct definition of law but we can come up with a practical useful definition that will help us to start our journey. So let's have a go at defining law. Most people, when asked to explain what law is, will usually use the word rules. Somewhere in definition the law can be defined as a set of rules. Of course not all rules are laws, the rules that tell us how fast we can drive on the road are laws but the rules of football or chess are not laws. The rules that tell us how we need to behave, when we for example go into a shop, are rules the rules, they tell us that we can't simply take what we want, we have to pay for things with the permission of the shop owner, these rules are laws. The rule that “if you are not home by seven o'clock tonight you should call your mother and tell her where you was” is not a law. So what is the difference between the legal and a non legal rule. The answer is the source of the rule who made it. If the rule was made by your parents or by a Football Association, the rules are not laws but if the rules were made by the state they are laws. Here we're using the word state as equivalent to the word government so the law can be defined as a set of rules made by the state. The third element of our definition said the consequences of breaking these rules have two types of possible consequence depending on the type of legal rule. We can divide the law into civil law and criminal law and we will be exploring this difference in later topics civil law is concerned with the relationship between citizens for example if I have a contract with someone and I fail to do what I promised to do, I broke the contract then he would turn to civil law for a remedy.

The criminal law is concerned with the relationship between the citizen and the state and sets out the rules that every citizen. If I break the criminal law by perhaps assaulting another person, the victim will not necessarily sue me for compensation although they could and that would be under civil law but if the assault was serious I may be prosecuted by the state charged with a crime and found guilty and punished for my actions. This process is known as prosecution. So there is a simple practical definition of the law, a set of rules made by the state and enforceable by prosecution or litigation this is a far from complete definition of the law we might think.

What about the concept of justice? What about ethics morality right and wrong? What about the role of politicians? Why do we have law? What is the purpose of law? The law serves many purposes. What If we take law as a way for us to resolve disputes. It is a fact of life that we often find ourselves disagreeing. Most of the time we can resolve our disputes by ourselves.

Sometimes, we simply can not resolve the dispute. The law provides us with a mechanism for resolving the disputes that we cannot resolve by ourselves. We could engage lawyers who advise us about the law and that may help us to resolve the dispute and if our lawyers won't agree then perhaps we can go to court and resolve the matter before a judge. The law maintains the social order. Law provides a structure, a foundation to ensure that every member of the community complies with the community's values. The law protects the disadvantaged and aggrieved. There are people within our community, for whatever reason, who have less opportunities or less abilities than other people and the law is there to ensure that those people are treated fairly and appropriately. We have, for example, laws that prohibit discrimination on the grounds of gender or race or age or mental or physical disability. The law plays an important role in regulating the economy, when a government wants to adjust some aspect of the economic system they often use laws in order to make those changes. There are many laws that have very dramatic economic consequences. The law applies equally to everyone from the highest to the lowest. The law exists to prevent the people who are in positions of influence from misusing their position. There are many aspects of our lives today

that are regulated by law. Our final fundamental question is “ why does the law keep changing?”. There are many reasons why the law changes. One reason is political change. Different governments and different political parties have different ideas about the how community should be regulated. We may have an election which results in a change of

government and the new government seeks to implement its policies and its ideas by changing the old law for example a new government may have certain ideas about how higher education should be regulated. Once the are in power, they new will set about passing new laws that will change the old laws and make those changes to higher education. The law is not perfect sometimes there are problems with the law they need to be fixed sometimes the law doesn't work the way it is intended to work. So the law needs to be changed in order to fix those problems. As said earlier that the law reflects community values but community values themselves change. What people believe to be right and wrong changes over time. Therefore, if law is to reflect community values, it must change in accordance with those values. The behavior that was seen as objectionable in the past may no longer be seen as objectionable.

And a law that prohibited that behavior may be changed to allow it. The law may changes a

result of pressure from lobby groups. Different groups within the community have different ideas about how the law should be set and how it should be changed, for example groups of employers or groups of employees or groups of students or environmentalists may come together and put pressure for the government to make changes to the law. And finally, of course, the law changes because technology changes. With each new technology, new problems arise and new laws are required to address those problems. When the automobile was invented, there suddenly became a need for traffic laws. With the rising influence of information technology, one of the most rapidly changing areas of law at the moment is of course information technology law. Unintentionally every change in technology and creates new problems that need new legal solutions. All of these factors together contribute to an ever- changing concept, definition and nature of law.

# Nature of Law according to different Jurists

* + 1. **According to 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 'law' is colossal and never ending. The legal scientists are compelled by the climate of opinion in which they finds themselves to prove that an essentially irrational word is constantly approaching rationality." (The Symbols of Government, 1935, pp. 36-37).
    2. 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" (Introduction to Jurisprudence, p. 42).
    3. **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.”
    4. **Morris writs:** "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 points 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 a lot of literature on the subject of law and in 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 its nature. Some concentrate mainly on its sources. Some define it in terms of its effect on society. There are others who define law in terns of the end or purpose of law. A definition which does not cover various aspects of law is bound to be imperfect. Moreover, law is a social science and grows and develops with the growth and development of society. New developments in society create new problems and law is required to deal with those problems. In order to keep pace with society, the definition and scope of law must continue to change. The result is that a definition of law given at a particular time can not

remain valid all the time. A definition which is considered satisfactory today may be found narrow tomorrow.

* + 1. **Prof. Ketone** rightly points out that "to attempt to establish a single satisfactory definition of law is to seek to confine jurisprudence within a straitjacket from which it is continually striving to escape." Few questions concerning human society have been asked with such persistence and answered by serious thinkers in so many diverse, strained and even paradoxical ways as the question 'What is law ?"." (The Concept of Law, p. 1).
    2. **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, or optics or mechanics, as well as the laws of nature and of nations."
    3. **Hegel defined law** as "the abstract expression of the general will existing in and for itself".
    4. **Sir Henry** Maine writes: "The word 'law' has come down to us in close association with two notions, the notion of order and the notion of force."
    5. **Savigny says** that “law is the rule whereby the invisible borderline is fixed within which the being and the activity of each individual obtains a secure and free space".
    6. **According to Vinogradoff**: law is a set of rules imposed and enforced by a society with regard to the distribution and exercise of powers over persons and things"

**According to Austin**, "law is the aggregate of rules set by men as politically superior, or sovereign, to men as politically subject". In other words, law is the command of the sovereign It imposes a duty and is backed by a sanction.

* + 1. **Kelsen defines law as** the depsychologized command. Though Kelsen defines law in terms of command, he uses that term differently from Austin. The sovereign of Austin does not come into the picture in the definition of law as given by Kelsen.
    2. **Duguit defines:** “law as essentially and exclusively a social fact. The foundation of law is in the essential requirements of the community life. It can exist only when men live together. The sovereign in not above the law but bound by it. Law should be based on social realities. Duguit excluded the notion of 'right' from law.”
    3. **Inhering defines law** as "the form of the guarantee of the conditions of life of society, assured by State's power of constraint". Law is treated only as a means of social control. It is to serve social purpose. It is coercive in character. Obedience to law is secured by the State through external compulsion.
    4. **Ehrlich** includes in his definition of law as: “all the norms which govern social life within a given society. Pound defines law as "a social institution to satisfy social wants".
    5. **Justice Holmes says**: "Law is a statement of the circumstances in which the public force will be brought to bear upon men through courts". Again, “the prophecies of what the court will do in fact and nothing more pretentious, are what I mean by law."
    6. **According to Gray:** "The law of the State or of any organized body of men is composed of the rules which the courts- that is, the judicial organs of that body-lay down for the determination of legal rights and duties."
    7. **According the Paton**, the term law may be defined from the point of view of the theologian, the historian, the sociologist, the philosopher, the political scientist or the lawyer. Law may be used in a metaphorical sense. basis in nature, reason, religion or ethics. Secondly, it may be defined by its source in customs, precedents or legislation. In the third place, it may be defined by its effect on the life of society. Fourthly, it may be defined by the method of its formal expression or authoritative application. In the fifth place, it may be defined by the ends that it seeks to achieve. Paton himself defines law in these words : "Law may be described in terms of a legal order tacitly or formally accepted by a community, and it consists of the body of rules which that community considers essential to its welfare and which it is willing to enforce by the creation of a specific mechanism for securing compliance. A mature system of law normally sets up that type of legal order known as the State, but we cannot say a priori that without the State no law can exist."
    8. **Prof. M. J. Sethna writes**: "Law in its widest sense means and involves a uniformity of behavior, a constancy of happenings or a course of events, rules of action, whether in the phenomena of nature or in the ways of rational human beings. In the synthetic sense, civil law is all that body of principles, decisions and enactments made, passed or approved by the legally constituted authorities or agencies in a State, for regulating rights, duties and liabilities (between the State and the citizens, as also the citizens inter se, and the citizens of the State in relation to members of foreign States), and enforced through the machinery of the judicial process, securing obedience to the sovereign authority in the State."

From what has been stated above, it follows that law presupposes State: There may be law even without the State such as primitive law, but law in the modern sense of the term implies a State. The State makes or authorizes to make, recognizes or sanctions rules which are called law. For the rules to be effective, there are sanctions behind them. Rules are made to serve some purpose. That purpose may be a social purpose or the personal ends of a despot.

* 1. **Natural Law or Law of Nature and Nature of Law**

Natural law or law of Nature is a pretty much different concept as that of nature of law. According to International Encyclopedia of the Social Sciences, “Nature Law is a paradigm that posits the existence of a law whose content is set by nature and that therefore has validity everywhere.” Natural las is the law of nature that God has made uniformly for human being or the for the universe. For example we take the behavior of a person, he is supposed to behave in good manners i.e. not teas or harm anyone and that is a universally acceptable behavior and basis of

law in every society. If a man deviates from nature behavior, he is either rebuked or punished in order to make him realize that he is not complying with the nature or the nature of law. Some of the time, law of nature us also referred to as the laws of physics like law of gravity, law of motion, because these are also the laws which are made by God for universes. These laws does not change with the change in territory or era, they remain same. However nature of law, as explained above section of this paper, is an enigmatic concept that helps to define law and that is helped by law.