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## *ABOUT US*

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **UTILITY OF JURISPRUDENCE**

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## **ABSTRACT:**

Jurisprudence means law knowledge in the widest sense, but in the limited sense it means the evolution and explanation of general principles upon which actual law rules are based. Rules of external conduct that people are forced to obey are its main area of concern. The lawyers own technique of the logical analysis of legal concepts is sharpened by jurisprudence knowledge. By taking into account societal needs and keeping track of advancements in pertinent fields, it aids lawyers in sharpening the law in the right direction

## **KEYWORDS:**

JURISPRUDENCE, SOCIETY, LAW, ECONOMY, JUSTICE

## **INTRODUCTION:**

### **विधिशास्त्र ( JURISPRUDENCE)**

Literally translated as "knowledge of law," jurisprudence is a combination of the Latin terms juris and prudential. According to Ulpian, one of the first definitions of jurisprudence is the "knowledge of things human and divine, the science of just and unjust." Although the term "jurisprudence" is occasionally used to refer to legal relationships, as in environmental jurisprudence, it is actually the analysis of the formal structure of law and its principles.

With the theories he and his student Austin developed in the early 19th century, Bentham made a distinction between the study of law as "it is" and "as it ought to be," referring to them as "expository" and "censorial," jurisprudence, respectively. Law is concerned with the standards of behaviour that people should behave outside the courtroom.

## **DEFINITION OF JURISPRUDENCE:**

'Jurisprudence' might mean different things to different people at different periods. However, there have been numerous attempts to define the term in this context. The following are some examples of famous jurists' definitions of jurisprudence.

(a)Austin: John Austin calls jurisprudence as the “PHILOSOPHY OF POSITIVE LAW” he was the first jurist to make jurisprudence as a science.by the term “positive law”, He meant to say that jurisprudence is a rule established by a political superior in order to compel submission from his subjects. In other words, jurisprudence is a methodical study of existent, actual, and positive law that distinguishes it from natural, ideal, or moral law and is not a moral philosophy.

(b)HOLLAND: According to Sir Thomas Erskine Holland defines jurisprudence as “The formal science of positive law”. Holland defines positive law as a general rule of external human action enforced by a sovereign political authority. He said that jurisprudence as a ‘formal’ science as it deals not with concrete details but only with the fundamental principles underlying them.

(c) Salmond: Salmond defines jurisprudence as the “Science of the first principles of the civil law”. He emphasized that civil law is made up of regulations that courts use to administer justice. Jurisprudence, in Salmond's definition, has two meanings:

In the 'GENERIC SENSE', jurisprudence refers to the complete set of legal doctrines; in the 'SPECIFIC SENSE,' jurisprudence refers specifically to a specific branch of those doctrines.

(d) Dr K.C. Allen: Dr Allen has defined Jurisprudence as “the scientific synthesis of the general principles of law”.

(f) G. W. PATON: “Jurisprudence is a particular method of study, not the law of one country, but of the general notion of law itself”.

## **SCOPE OF JURISPRUDENCE:**

Law's application cannot be restricted. It encompasses every idea related to human behaviour and organization. It encompasses everything that has to do with social and political order. "Jurisprudence is both an intellectual and idealist abstraction as well as the behavioural study of man in society," says Justice P.B. Mukherjee. Ideas from politics, society, the economy, and culture are all included. It covers the topic of how society and the state relate to man.

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<sup>1</sup> STUDIES IN JURISPRUDENCE AND LEGAL THEORY BY DR N.V. PARANJAPE

Julius Stone argued that the study of law should be comprehensive, synthetic, and purposeful while also bearing in mind the necessity for "just law." Therefore, he fervently holds that "Jurisprudence is the extraversion of the lawyer." It is the lawyer's assessment of legal principles and procedures in the context of contemporary knowledge in fields unrelated to law. It entails specific kinds of theoretical, general, and abstract research that aims to expose the fundamental tenets of law and legal systems. As Salmond noted, "In jurisprudence, we are interested rather to think on the nature of legal norms, on the underlying meaning of legal concepts, and on the important aspects. We are not concerned to extract rules from authority and apply them to problems.

## **JURISPRUDENCE AS SOCIAL SCIENCE:**

The rejection of metaphysical arguments, the creation of positivism, the fall of natural law in the 18th century, and the emergence of Bentham's hedonistic ideas, including the theory of "PAIN & PLEASURE," were all results that led to science and a critical approach to the study of law.

At the start of the 20th century, a new approach to the study of law in connection to society was taken into consideration, one that views law as a "social engineering" tool, or a tool for social change. As a result, jurisprudence might be referred to as a science. The father of contemporary positivism is AUGUSTE COMPTE (1798–1857). He has strictly ignored any speculative concerns in the study of jurisprudence and legal theory and limited his analysis to the observation of facts. He highlighted the importance of studying law based on observations and examination of verifiable facts. By that, he meant looking at laws that were created by men for men and were therefore different from the law as it should be. The study of law as a "social engineering" tool, or a tool for social change, was viewed from a new angle at the start of the 20th century. So, like other sciences, jurisprudence can be referred to as a science.

## **JURISPRUDENCE AND HISTORY:**

Without looking into the past historical development of the legal system, it is challenging to understand how it operates today. As a result, history and law are closely related to one another. The study of historical events in their right context is the subject of history. As a result, studying the country's earlier constitutional history is crucial to comprehend its current constitutional jurisprudence. As a result, it may be said that understanding distinct legal specialties requires an understanding of their historical context; otherwise, knowledge would be lacking.

## **JURISPRUDENCE AND ECONOMICS:**

Because jurisprudence is a science of law and economics is a science of money and wealth, the two fields are closely intertwined. Economics focuses on the creation and distribution of wealth to fulfil peoples' needs. It is a significant contributing element to the occurrence of crimes. The rules governing banking, businesses, negotiable instruments, foreign exchange, consumer protection, the ownership of property and wealth, the payment of wages and bonuses, insurance, debts, and other matters are meant to control every aspect of human economic activity in society. Recently, laws governing poverty and population have grown into separate legal branches for the benefit of society. The ultimate goal of both economics and law is to raise people's standards of living for the good of the community as a whole. To accomplish this goal, law is used as a tool.

## **JURISPRUDENCE AND POLITICAL SCIENCE:**

According to FRIEDMANN, jurisprudence is connected to political theory on the other end and philosophy on the other. The principles controlling the structure of government are the subject of political science. A politically organized society, the state creates laws to ensure that the populace is well-governed. The legislature, the branch of government responsible for passing laws, is made up of politicians who serve as the people's representatives. This provides a thorough reflection on the interaction between politics and jurisprudence, or the study of law. The aforementioned information makes it clear that the study of jurisprudence is a synthesis of many different academic fields and social sciences, each of which contributes to a comprehensive comprehension of the fundamental legal concepts. In recent years, several lawyers have argued that synthetic jurisprudence is essential, primarily because of this. Jurisprudence, they claim, is a synthesis of history, philosophy, politics, sociology, economics, and other disciplines.

## **JURISPRUDENCE AND PSYCHOLOGY:**

The study of psychology is a field of study that focuses on how the mind and brain function. It is unnecessary to overstate the relationship between psychology and jurisprudence because both are unavoidably concerned with human behaviour, and human activity is controlled by the human mind. The psychology of the criminal is typically taken into account, especially when dealing with crimes. Again, the study of criminology and penology is dominated by psychology.

One of the key considerations in determining the type of punishment for a guilty individual is the offender's psyche. Modern reformatory sentencing methods, such as probation, parole, intermediate sentences, admonishments, pardons, etc., are primarily designed to treat criminals in

accordance with their psychological characteristics. Apart from that, legal notions like negligence, intention, motivation, men rea recklessness, etc. are studied as part of jurisprudence in psychology.

## **JURISPRUDENCE AND ETHICS:**

The field of knowledge known as ethics examines how people behave and establishes the norms for acceptable behaviour. It has a strong connection to morality and public opinion, which are dynamic ideas that change from one place to another, over time, and from one person to another. What was once a guideline of good morality might not always be so, and it might even turn out to be a harmful moral practice in the future. As a result, with social evolution, social culture, and social growth, public opinion and moral principles continue to change.

Since law is thought of as a tool to regulate human conduct in society, jurisprudence is concerned with good morality. Positive morality requires a coercive power to sustain public conscience rather than perfect behaviour or good deeds. A distinct area of law known as ethical jurisprudence aims to establish the norms of the ideal human behaviour in terms of the law for the upkeep of public conscience.

However, it must be acknowledged that there are several unethical actions that the law does not intend to sanction. For instance, lying is an immoral behaviour, but it is not a crime that may be punished. On the other hand, not everything that is forbidden is always immoral. For instance, owning more land than is permitted by law is illegal, but it is not an immoral conduct. Again, even though it is against the law, operating a vehicle or an automobile without a valid driver's license is not unethical.<sup>2</sup>LYLEG

### **UTILITY OF JURISPRUDENCE**

The actual application of the subject of jurisprudence is generally unclear. Additionally, it is claimed that because jurisprudence is a theoretical and abstract discipline, it has no real world applications. However, Salmond, who emphasized that jurisprudence has its own "INRRINSIC scholarship," argued that this question is not "INTREST" like any other important topic. As rightly observed by Professor Jules L. Coleman,

“Jurisprudence tries to describe the unique forms of life that are made possible by legal rule. It uses the 'aspirational mode' of law. These forms of life would not be possible, or they would only

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<sup>2</sup> [HTTPS://STRICTLYLEGAL.IN](https://strictlylegal.in)

be partially possible, without the rule of law. The goal of jurisprudence is to identify these types of life and explain how the law contributes to their development and maintenance.

### **JURISPRUDENCE ALSO HAS ITS PRACTICAL APPLICABILITY.**

It aims to rationalize the notions of law that help us resolve various issues including legal complexities.

### **JURISPRUDENCE ALSO HAVE EDUCATIONAL VALUE.**

- The logical evaluation of legal concepts broadens lawyers' horizons and hones their logical reasoning. It enables students to let go of their formalistic rigidity and teaches them to focus on social realities and practical aspects of law. The public can also benefit from jurisprudence by using it to help them solve current legal issues, but any solutions must take into account the demands of the day rather than relying solely on historical wisdom.
- JURISPRUDENCE IS CONSIDERED AS 'THE EYE OF LAW'.
- "The ever-renewing complexity of human relations calls for an increasing complexity of legal details, until a merely empirical knowledge of law becomes impossible," Holland remarked.

### **JURISPRUDENCE IS A GRAMMAR OF LAW.**

It clarifies the essential concepts and tenets of law. Lawyers can learn the actual legal norms by researching jurisprudence. Judges and attorneys can determine the genuine meaning of an interpretation with the aid of jurisprudence.

The study of jurisprudence can be beneficial to lawmakers, who play a significant role in the process of establishing laws, as it can help students rationalize their thoughts and prepare them for a morally upright civil life.<sup>3</sup>

### **Evolution:**

Romans questioned the nature and intent of law, which gave rise to the development of jurisprudence. Due to the intertwined nature of the concepts of law, morality, and justice, it was

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<sup>3</sup> [HTTPS:WWW.SRDLAWNOTES.COM](https://www.srdlawnotes.com)

highly constrained. The writings of classical Greek philosophers including Homer, Socrates, Plato, and Aristotle are also mentioned. The concepts of Roman and Greek law vanished with the fall of the Roman Empire, and the Christian State developed in their place. Reformers soon began to challenge the church's dominance over the state, and ideas of secularism began to take hold. Philosophers like Hugo Grotius, John Locke, Rousseau, and Blackstone have put out numerous views regarding the origins and character of the "state" as well as its evolution. Ideas of collectivism and social welfare emerged throughout the 17th century's Age of Reason. Slowly, the concept of positive law and the positivistic approach, in which the bounds of the law were set and the reach of the law was constrained, gained acceptance.

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**Importance:**

Jurisprudence's goal is to study and evaluate the law and related ideas in order to make it easier to comprehend the complexities of the legal system. As a result, jurisprudence theories can be quite helpful in solving complicated legal issues in the real world. A legal expert might hone his legal acumen by studying and analyzing numerous legal topics. The topic is extremely valuable academically. The relationship of jurisprudence to other social sciences like sociology, political science, ethics, etc. is one of its most significant characteristics. Therefore, there are many social advantages to conducting research in the realm of law. Additionally, jurisprudential notions open the door for social viewpoints in law, preventing the latter from being confined to strict formalism.

The "grammar of law" is referred to as jurisprudence. It aids in the efficient application of legal concepts to legitimate legal issues. It is very beneficial in determining the legislative intent and how to interpret the law. It emphasizes how crucial it is to approach legal issues in a way that prioritizes the requirements of the social present over those of the past. The "eye of law" is another name for jurisprudence. To see things, the human eye detects the light that is reflected from them. In a similar vein, jurisprudence clarifies a number of key legal ideas to enable their efficient application in the analysis of legal issues.

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### **Indian Perspective:**

One of the oldest legal systems in the world is the Hindu legal system. The idea and philosophy behind "Dharma" serve as its foundation. The idea of dharma in Hinduism may seem to have some similarities to the natural school of law. Dharma is the term used to describe the order established by nature and how humans adhere to that order. Nyaya, or justice, is a part of dharma. The phrase "natural order" alludes to the cosmic order, or the law that supports the cosmos as a whole. According to Hinduism, dharma ensures that humans coexist peacefully with all other living things in the cosmos or universe. The "Dharmashastras" (Code of Law), a collection of ancient Hindu writings, include encodings of the Dharma philosophy. among the most are

**Manu Smriti** – It is a meticulous compendium of all Dharma Shastras laws, which at the time covered every area of law. The Manu Smriti was the most reliable source of ancient Hindu jurisprudence because of its clear construction and straightforward language.

**Naradasmriti** – It consists of both substantive as well as procedural laws.

### **Yajnavalkya Smriti**

**Arthashastra** – The political treatise of Hindus.

The common law system is the foundation of the contemporary Indian legal system. To maintain the secular basis of the Indian state, the antiquated Hindu system is strongly criticized. As a result, the traditional Hindu legal system is no longer applicable in the contemporary world.

### **Jurisprudence versus Legal Theory:**

The discussion over the distinction between jurisprudence and legal theory has been one of the most fascinating in the field of law. In contrast to legal theory, which may or may not study theoretical legal principles, jurisprudence, it has been stated, It has been stated that legal theory deals with the philosophical aspects of the law, whereas jurisprudence analyse the legal conceptions, which may or may not be theoretical in origin.

According to Friedman, "All systematic thinking about legal theory is linked at one end with philosophy and at the other end with political theory."

In contrast to legal theory, which aims to comprehend the law strictly academically, jurisprudence

is concerned with investigating the law, according to Salmond. According to him, jurisprudence highlights some crucial legal principles and notions, while legal theory makes an intellectual effort to examine these concepts in order to respond to inquiries about the meaning of law. The study of topics like the nature of law, legal systems, and legal institutions, among others, as well as the relevance of concepts like liberty, equality, neutrality, etc. are all included in the field of jurisprudence. Legal theory examines the meaning of laws, legal ideas, and the ideologies that have shaped them, including natural law, natural rights, legal positivism, legal realism, Marxism, feminist legal theory, postmodern legal theory, and others.<sup>4</sup>

## **CONCLUSION:**

"Studying jurisprudence gives lawyers a chance to focus theory and practice because it addresses human thought in relation to social existence." The usefulness of jurisprudence should be evaluated in the context of both its functional purpose and the socioeconomic and political ideologies that are prevalent at the time, place, and circumstances. Even though jurisprudence has been called into doubt by a number of philosophers, it is still one of the most crucial legal topics. The goal of law is to maintain order in society by regulating behaviour. Law is kept in touch with society and its philosophies thanks to jurisprudence. Law would become a formalistic science without jurisprudence, which would appear to help it achieve its purpose of regulation. On the other hand, in the long run, it would only result in a chaotic scenario and ongoing confrontations between society and the law.

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<sup>4</sup> [HTTPS://WWW.LEGALBITES.IN](https://www.legalbites.in)