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DIHE

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What are main kinds of law. Explain in detail?

"kinds of law"

The word law is commencing from Teutonic LEG which means definite or specific

Accordingly, law is a definite rule of conduct which is equally applicable to all the people in a state.

It is a body of rules of action or conduct prescribed by an authority and having binding force

Imperative Law

"Imperative Law means a rule of action imposed upon mere by some authority which enforces obedience to it." In other words, it is a command enforced by

some superior power either physically or in any other form of compulsion.

Physical or Scientific Law

Physical Laws are expressions of the

Uniformities of nature and general principles expressing the

Regularity and

Harmony observable in the activities and operations of universe

They are not the creation of men and cannot be changed by them. Human laws change from time to time and from country to country but physical laws are invariable forever. The uniform actions of human beings, such as law of psychology, also fall into this class. They express not what man ought to do, but

Natural or Moral Law

It is the law that define system of ethics. It is that portion of morality which supplies the more important and universal rules for governance of outward acts of the mankind. In short. the fingers of nature in the hearts of mankind write the law of nature. It consists of the principles of natural right or wrong or the principles of justice in its widest sense. some people take moral law as synonyms with the sanction of God's will.

It is also known as 'Divine Law' being the command of God imposed upon men, (unwritten Law' not written oil brazen tablets or on pillars), 'Universal or Common Law (being of universal validity), Law of Reason (being established by the Reason which governs the world) and Eternal Law (being uncreated and immutable).

Divine law

Unwritten law (as being written not on brazen tablets or on pillars of stone but by the finger of nature in the hearts of people. Divine law is any law that, according to religious belief, comes directly from the will of God, in contrast to man-made law. Like natural law it is independent of the will of man, who cannot change it. However, it may be revealed or not, so it may change in human perception in time through new revelation. Divine law is eternal law, meaning that since God is infinite, then his law must also be infinite and eternal.

In Thomas Aquinas's Treatise on Law, divine law, as opposed to natural law, comes only from revelation or scripture, hence biblical law, and is necessary for human salvation. According to Aquinas, divine law must not be confused with natural law. Divine law is mainly and mostly natural law, but it can also be positive law.

Conventional Law

It is the body of rules agreed upon- and followed by the concerned parties to regulate their mutual conduct. It is a form of special law and law for the parties which can be made valid or enforced through an agreement. A good example of conventional law is the laws of cricket or any other game, rules of a club. It has been further divided into two groups which are:

It is the law of the states regarding the land. Civil law according to Salmond is “the law of the state or the law of the land, the law of lawyers and the law of courts.” Civil law is the positive law. or the land, which means the law as it exists. It is backed by the force and might of the state for purposes of enforcement. Civil law differs from special law as the latter applies only in special circumstances. The other term used for the civil law is municipal law and national law. Customary Law

Customary laws are those rules of custom that are habitually followed by the majority of person’s subject to them in the belief of binding nature: According to Salmond, customary law means “any rule of action which is actually observed by men (any rule which is the expression of some actual uniformity of voluntary action).” When a custom is firmly established, it is enforced by the authority of the state. Custom is not law by itself but an important source of law. Only those customs acquired the force of law, which are recognized by the Courts.

International Law

According to Hughes, “International law is the body of principles and rules which civilized states consider as binding upon them in their mutual relations.” It can be

defined as “the name for the body of customary and conventional rules, which are considered legally binding by civilized states in their intercourse with each other.” According to Salmond- it is consisted of those rules which the sovereign states have agreed to observe in their dealings with one another. International agreements are of two kinds. They are either expressed or implied. Express agreements are contained in treaties and conventions, while implied agreements are to be found in the custom or practice of the states. International law is of two kinds.

Public International Law:

It prevails universally in all over the world.

Private International Law:

It is enforced only between some of states.

Practical or Technical Law

It consists of principles and rules for the attainment of certain ends, e.g. laws of health, laws of architecture. These rules guide us as to what we ought to do in order to attain certain ends, within this category the laws of music and laws of style

What are the Islamic sources of law? Discuss briefly

ISLAMIC SOURCES OF LAW

QURAN

The primary source of Islamic law is the Quran. Command of the Quran create an obligation that are bind on muslims; all the Muslim Schools, Sunni or Shi ah are in agreement that this is of divine origin through revelation the word of Allah. All Other sources are secondary to the Quran, and the legal validity or justification as sources is derived from the Quran. The other kind of

revelation(Wahi) being internal (brain) which consists of acts, deeds and utterances from time to time of the Prophet. The Qur'an is the Book revealed to the Messenger of Allah, Muhammad (peace be upon him) as written and transmitted to us from him through an authentic continuous narration without doubt. The compilation of the Quran has a detailed and well documented history These details can be gleaned elsewhere. The reason why it is studied under the title of the Qur'an as a source of Islamic law is to provide further justification for its having been transmitted by way of tawatur and also to explain the reason for its unique arrangement. The Qur'an is divided into chapters and is composed of Ayat, there are approximately six hundred verses in the Quran that indicate the ahkam of Islamic law, Approximately five hundred-of these pertain to the 'ibadat and the remaining to crimes, personal law, and other matters To be specific, about 70 verses pertain to family Law, 80 to trade and finance, 13 to oaths, 30 to crimes and sentencing, 10 to constitutional and administrative matters, 25 to international law and prisoners of war, while the rest pertain to ibadat. The count of legal verses may differ for different jurists according to the way they have reasoned from the verses. It is to be remembered that though the particular cases mentioned in the Qur'an are few, there are many broad and general principles that facilitate the derivation of countless directions, The Quran during a space of over twenty three years of which about 13 years were in Mecca and the remaining at Medina. The Mecca verses are mostly short and concise and concentrate on fundamental doctrines of monotheism, resurrection and retribution. Thus they deal with matters relating to God's unity, religion and observances. The Madinese verses are long and embody most of the detailed islamic legislation concerning matters generally of legal social and political interest. The Qur'an was revealed gradually according to the causes of revelation so as to discard old customs and substitute new ones. Thus Qur'an is unquestionably direct revelation of God and is the universally accepted Book of the muslims. It was not collected by the Prophet in one volume but after his death Zayd ibn Thabit collected and prepared an authorized edition of the Quran under the directions of the first caliph Abu Bakar and then during the Caliphate of Uthman it was embodied in one unified text. The Qur'an was revealed in plain Arabic language. It has now been translated in various other langunges.

THE SUNNAH

The literal meaning of the word sunnah stands for the well-known path or the well-trodden path which is followed again and again. This may be the path on which people tread or it may be a practice. Quran and Sunnah are revelation of God but The difference between the Quran and precepts is that whereas the former is direct revelation or the very words of God, the latter are

indirect revelation in the words of the Prophet himself. The term sunnah is used to mean the practice of the companions (Sahabah), even though they are relying on it on the authority of the Book, the Sunnah, or their own ijtihad. An example is the compilation of the Qur'an. The Sunnah which is a behavioral concept and essentially means exemplary conduct, consists of sayings, deeds or tacit approvals and is divided into Three parts

First al-sunnah al-qawliyyah are those traditions which are the saying of Prophet.

Second al-fi 'liyyah are the deeds derived from the deeds of Prophet.

Third al:sunnah al-taqriyyah are the traditions of tacit approval taken from the prophet's silence regarding deeds which occurred with his knowledge. An example of this type is the statement of Mu'adh ibn Jabal when he was sent to Yemen arid the Prophet asked him how he would decide cases. The approval in this case, however, was a little more emphatic than mere silence.

Classification of hadith

The Usuli Shi'ahs divide the traditions under four heads:

(1) Sahih (authentic), the authority for which can be traced to the Sinless Imam.

(2) Hadith hasan or a good tradition the authority for which also goes back to the Imam.
(3) Hadith musak or a strong tradition-which is handed down by (o) people. who are acknowledged virtuous and just by the historians.
(4) Hadith da'if or a weak tradition which does not comply with any of the above conditions. The urulis therefore rely upon the first three traditions.

The ijma'

The ijma or consensus amongst Muslim jurists on a particular legal issue, constitutes the third source of Islamic law. Muslim jurists provide many verses of the Qur'an that legitimize ijma' as a source of legislation. ljma, is the essential characteristic of the Sunni School of jurisprudence and all the four Sunni Schools accept it as a valid source of law. Shi’ites and Malikfites even apply the principle of ijma to matters other than law and religion e.g. organization of army, preparation of war and questions of executive administration. ljma or consensus of opinion is defined as the agreement of muslim juris consults in" particular age on a juridi question. Its authority is based on certain Quranic and traditional texts. Some of the texts relied upon as basis of this principle are:

Whatever the Muslims hold to be good is good before God.

My followers will never agree on what is wrong

You must follow the most numerous body

QIYAS

Qiyas or analogy is a source of law for the applicability of which the basis is reason, logic or opinion. This was necessitated by occurrence of new cases due to passage of time and expansion of the Islamic State and was a development more systematic reasoning on the existing sources viz, Qur'an and Sunnah. All the four Sunni Schools are agreed that in matters not provided for by a Quranic text or sunnah nor determined by consensus of opinion, law may - be deduced from what has been laid down by any of the other three authorities by the use of Qiyas. The function of analogy is stretched to extension of the law of the texts to cases not falling within the purview of its terms. However, writers of jurisprudence do not admit that extension of law by process of analogy establishes a new rule of law, their theory is that analog merely helps to discover the law and not to establish a new law.

The root meaning of the word Qiyas is measuring or accord or equality.

**********THE END**********

THANKYOU