

Sona Kumar, GH Rasoni University, India

Auxiliary Sciences and Legal Education

Abstract

Legal education is a human science which furnishes beyond techniques, skills and competences the basic philosophies, ideologies, critiques and instrumentalities all addressed to the creation and maintenance of just society.¹ Social sciences, on the other hand, is a branch of science devoted to the study of societies and the relationships among individuals within those societies.²

There has always been a close connection between law and social Sciences. The origin of law and order was started based on human and societal requirements. In this manner the study of law also is an allied study of various social sciences such as sociology, history, psychology, political science etc.

When we research more about sociology, which studies the development structure and functioning of human society, we see traces of how this subject contributes to law. The study of history helps in the processing of past events, which builds a strong foundation for law-making. Psychology, which studies the mind and behaviour of an individual in a scientific manner, helps in the better understanding of human tendencies and hence law-makers are benefited by this science. Political science is a scientific study of politics and it deals with the system of governance and power. Governance and law go hand in hand. In this manner one can understand how law and social sciences cannot be separated from one another. To understand law in a scientific way, we also need to study the social sciences.

¹ UGC, 'Report of the Curriculum Development Centre in Law' (UGC 1990), p 12.

² Anon, 'Category: Social Sciences', *Wikipedia* (2021)

<https://en.wikipedia.org/w/index.php?title=Category:Social_sciences&oldid=1060287593> accessed 2 March 2022

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The study of legal education has a close connection with social sciences. On the requirement of the society we have seen the evolution of Law and order, this was to preserve the needs of the society and proper functioning of the legal system. Laws are made to protect the rights of the people and to govern the behaviour of the public. While we build new laws for the society we have to keep in mind the requirements of the people. Social sciences helps the law makers to understand the behaviour of the people and act accordingly to enforce changes in the law. Legal education in India generally refers to the education of lawyers before entry into practice. Legal education is not just related to the study of subject of law but it also includes subjects of social sciences like sociology, history, psychology, political science etc. These subjects supplement the understanding of law and helps the students of law to understand the evolution of law. In a country like India, all the Law Universities provide the course of BA LLB. The syllabus includes the subject of social sciences for the better understanding of the legal terminologies and theories. The subjects of social science are useful for the better understanding of the law that was made for the people.

Sociology (Freeman, 2006) and Law are interlinked subjects. Society is a part of sociology and every society follows a certain set of Law. Therefore Law is an essential part of the society. To have a harmonious society one need to build law according to the needs of the area. Law and Sociology has similar subject matters such as both evolve around social relationships, principles, social controls, commitments, and desires coming from specific social status and connections between or among people and society. Anything happening in the social lives of people liable to lawful control and legal explanations does have likenesses with the social hypothesis and frequently read like the social hypothesis. As time changes, the society evolves and the law needs to be changed with time. Sociologist Talcott Parsons⁴ in his work stated that law is the essential part of social control. Hence, to summarise the role of society and law, they go hand in hand. Sociological Jurisprudence is a prime example of the connectivity between sociology and law. It is functional study of law applied to concrete social problems in order to make law an effective instrument of social control for harmonizing the conflicting interest of individuals in the society. Roscoe Pound has defined jurisprudence⁵ as "the science of law, using the term law in the juridical sense, as denoting the body of principles recognised or enforced by public and regular tribunals in the administration of justice".⁶ Law is made for the society and it's people.

³ Dr Sona Kumar, HoD G.H.Raisoni University, School of Law.

⁴ <https://www.sociologyguide.com/thinkers/Talcott-Parsons.php>

⁵ <https://www.legalserviceindia.com/legal/article-4947-critical-appraisal-of-various-definitions-of-jurisprudence-which-in-your-opinion-best-suits-the-nature-of-jurisprudence-as-master-science-of-law.html#:~:text=As%20per%20Roscoe%20Pound%2C%20jurisprudence,in%20the%20administration%20of%20justice%22.>

⁶ Example sociological jurisprudence propounded by Roscoe Pound(1870-1964),is perhaps best known as the dean of the Harvard Law School and the founding author of American sociological jurisprudence and who was the most prominent member of the school of jurisprudence that has been known as 'sociological jurisprudence'.

Therefore it is very important to study the problems of the society with the support of sociology and then add suitable changes to law.

Law and Indian History (Maine, 1861) are together since the ancient period.⁷ Sources of ancient Indian history give us the information about the existence of law and judiciary during the earliest time of ancient Indian period. India has recorded legal history starting from the Vedic Period. It is also believed that in the early ancient Indian period there was some sort of legal system present because of the proper management of the states. Sources also express the presence of legal system during the Bronze Age and Indus Valley Civilization. The regular word for law or customs in the Rigveda is Dharma. Laws were made keeping in mind the past events which we study in the subject History. History makes a strong foundation for the law makers to enact proper laws and judicial changes in order to keep the society in peace and order. When we study history, we can analyse the reason as to how and why certain type of law was made to cater the requirements of the society. Laws that we made during the Ancient Vedic times, some of them were used until 1772. After 1772 the British government made a lot of changes in the legal system of India. From the Modern Indian History period, with the support of History subject we can see the changes that were brought in the legal system during British India. These changes eventually lead us to making our present day constitution. Such is the example of Maharajadhiraja Madhav Rao Jiwaji Rao Scindia vs Union of India⁸ - In this case abolition of privy purse of erstwhile rulers were abolished through presidential order so the rulers challenged that decision of government. A constitution bench restored the privy purse of rulers and held the Presidential order as unconstitutional. The provisions of previous acts made a base of our present day constitution of India. The study of History for legal education provided us sources to study better.⁹

Psychology which is the study of human behaviour and their mental processes also has a part to play in the formation of laws. Criminology (Laufer, 1999) is a branch of psychology. Criminology is an interdisciplinary discipline that studies the causes and prevention of criminal behaviour, informed by normative, legal and philosophical perspectives on scientifically established facts. To study the motive of the criminal and provide proper laws for the same is a very important aspect in the law making. Edwin Sutherland defines Criminology¹⁰ as “the body of knowledge regarding crime as a social phenomenon. It includes within its scope the processes of making laws, breaking laws and reacting towards the breaking of law”. In criminology the scientific principles of criminal behaviour and psychology is analysed. The law makers can take the

⁷ <https://universalinstitutions.com/brief-history-of-legal-education-in-india/#:~:text=Legal%20education%20in%20India%20can,the%20original%20source%20of%20law.>

⁸ https://advocatespedia.com/Case:_Madhav_Rao_Scindia_vs_Union_of_India,_1971

⁹ Universal Declaration of Human Rights,1948, is a milestone document in the history of human rights. Along with International Covenant on Civil and Political Rights,1969 and International Covenant on Economic, Social and Cultural Rights,1969

¹⁰ <https://www.sociologygroup.com/criminology/>

references of criminology to make new laws. Reformation¹¹ or the act of bringing back a criminal to such a sense of justice, so that he may live in society without any detriment to it. Reformation with the help of psychology and criminology can reform the criminal mindset of the person and bring them back to healthy mind-set and better outlook to life. For legal education, criminology can help to form basic evidences to prove the laws that are made and help with the study of Criminal Law. The laws that govern criminal law in India are the Indian Penal Code, 1860 (IPC) and the Criminal Procedure Code, 1974 (CrPC).

Political Science is a scientific study of Politics and it deals with the system of governance and power. Governance and Law go hand in hand. Political science and Law are interestingly interlinked with one another. The role and power of the constitution and judiciary, human rights and international law, etc. are best understood when both subjects are considered to study together as a discipline. The field within political science that studies law and politics was once widely known as “public law.” For many, it is now known as “judicial politics.” With the systematic study of political science, the understanding of judges and lawyers widen the scope of practice. Taking the example of KesavanandaBharati Case¹² - Landmark Judgement by Supreme Court 13 Judges Bench which propounded the Basic Structure Doctrine or Essential Feature Theory. In this case Golak Nath Case¹³ was overruled and Bench in majority said that Parliament can amend any part of Indian Constitution but it cannot destroy the basic structure. SC said the parliament has limited amending power. International relations is the study of states with one another and international organizations. Scientific study of international relations will support the international law and the amendments that are to be made in these laws. Political science as a subject will take into account all the aspects of law as well as polity while implementing and making changes in the law.

Conclusion: The above mentioned subjects like sociology, history, criminology and political science gives use the understanding that auxiliary Sciences and Legal education are interwoven together. For the proper understanding of law and legal education we need to study these subjects of social sciences. They help us understand better the concepts and evolution of law and the process behind the making of these laws. The Auxiliary Sciences support the study of Law and also help the law makers to implement proper amendments in the existing law.

Recommendations: More research needs to be carried out to study and explore reforms. Historical evolution needs to be connected in horizontal and vertical way. Comparative studies and research among various countries need to more focus. Regional studies can further help in developing the future requirement. Students and faculties inter exchange programmes should be carried out on regular basis. Government departments should carry out direct research in

¹¹ Reformatory theory of punishment is the best example on this point which states that the punishment is to be curative more than to be deterrent. According to this theory, crime is like disease which cannot be cured by killing rather than curing it with the medicine with the help of process of reformation.

¹² AIR 1973 SC 1976, Kesavananda Bharati v. State of Kerala

¹³ AIR 1976 SC 1643, Golaknath and others v State of Punjab and another

the subjects were new policies need to be brought or to evolve for better implementations and better results.