

The background of the image is a dark blue and purple night sky filled with numerous white stars of varying sizes. In the foreground, there is a silhouette of a forest of evergreen trees. The overall aesthetic is serene and nocturnal.

# TOPIC OF THE WEEK

## JUNE'19 (20 to 26. Jun)

## Moral Legality

Ever since the revival of the scientific study of jurisprudence the connection of law and morality has much discussed, but the question is not yet, and perhaps never will be settled. The word jurisprudence is derived from a latin word jurisprudentia which in its widest sense, means knowledge of law. The latin word 'juris' means law and 'prudencia' means skill or knowledge. Thus, jurisprudence signifies knowledge of law and its application. In the earlier stages of the society there was no distinction between law and morals. In Hindu law, the prime source of which are the Vedas and the Smritis, we do not find such distinction in the beginning. However, later on, Mimansa laid down certain principles to distinguish obligatory from recommendatory injunctions. In the West also the position was similar. The Greeks in the name of the doctrine of 'natural right' formulated a theoretical moral foundation of law. The roman jurist in the name of 'natural law' recognized certain moral principles as the basis of law. In the Middle Ages, the Church become dominant in Europe. The 'natural law' was given a theological basis and Christian morals were considered as the basis of law.

Unlike law, moral rules are intrinsically implicit and subjective because each person's moral values, which constitute society's rules, are individual and private information. For example, our guilt about stealing is what we feel individually, though we learn it from education or experiences with other people. Our expectation of the social enforcement of moral rules is based on our belief of the social standards, i.e., the collective values of other people's morality. We infer other people's moral standards from their actions. We expect that we will be punished severely if other people have strong principle against stealing. If they don't, we will not need to worry about social punishment. We update our belief based on what we observe of others' behavior. Such experiences reshape our belief about the social standard. Because each person's moral value is private information and members of society learn morality from each other, moral rules differ between different groups of people. While, The law is laid down in statute and enforced by the judiciary and police whereas moral rules are difficult to find an absolute and are enforced through social pressure and supported by an appeal to respect them.

Law and morality have an interesting general relationship in the sense that moral views over time have a significant influence on the creation and enactment of legislature. Law and morals do however have distinctive differences. Where moral rules change gradually over time, legal rules can change almost instantly by the enactment of new laws. Some types of rules require that we do something, others that we do not. Criminal laws are predominantly the 'do not' type. Negative rules in that they prohibit certain activities because they offend dominant values within a group, or because they are simply an affront to basic social existence. How dominant must a value be before it is wrong to go against it? With so many conflicting moralities in our multicultural society, which of them when transgressed leads to sanctions?

One person's values and beliefs shape their individual personality and character. Essentially every person does things primarily to help themselves, whether it's helping the homeless for the self-satisfaction of helping others, or accomplishing something for happiness and contentment, such as stealing possessions, that affects other people. Hedonists, such as Aristotle, believe that pleasure and happiness is the primary factor of one's

morals and values. Choices are made by a hedonist to provide personal pleasure and the satisfaction of accomplishing something. The choices that are valued and acted upon do not harm others, but at the same time give an individual enjoyment. According to hedonism, moral goodness is doing the right thing, but it may not always lead to happiness in the long-run. (Ethics) Aristotle states that the “highest good must be something final.” (Nicomachean Ethics 200) His arguments are mainly based on Hedonism where happiness and pleasure comes from fulfilling our human nature, and that nature is originated in excellence. Aristotle came up with two kinds of virtues, intellectual virtue and moral virtue, which is generosity and self control of an individual. A hedonist’s morals are somewhat similar to a relativist’s morals where they believe in human nature and their personal values. They can be distinguished where Aristotle says that a humans morals are things they act upon, or believe, to maximize their pleasure, whereas Kant says that humans’ morals are based upon the influences of their culture and what they learned throughout life.

Kant's and Aristotle's theories of moral ethics are similar where they believe that morality is based on free will and freedom of choice. They differ because in Kant's, he says that individuals' free will is not entirely based on their own opinions and values, it is influenced by culture and experiences; Aristotle's hedonism theory states that people's moral values are based on motivating their self-interests, essentially giving them freedom of choice. Looking at both sides of the argument, legal and moral are not synonymous. Morality is based on an individual's opinions and values whereas legality focuses primarily on the law system and forces of the government.

Therefore, although the law is continuously seeking to uphold and promote moral values it remains a continuous battle to find a balance between the legal applications and moral views in such a diverse pluralist society.

**For reference:-**

- <https://www.lawteacher.net/free-law-essays/jurisprudence/laws-relation-to-morality.php>
- <http://www.politicalsciencenotes.com/articles/relationship-and-difference-between-law-and-morality/290>
- <https://www.str.org/articles/legal-vs.-moral#.XQo0V9IzblU>

**Additional Readings:-**

- <https://www.theguardian.com/commentisfree/2019/jun/09/the-guardian-view-on-facial-recognition-a-danger-to-democracy>
- <https://www.theguardian.com/commentisfree/2019/jun/14/the-guardian-view-on-loneliness-speak-up-reach-out>
- <https://www.theguardian.com/commentisfree/2019/jun/07/the-guardian-view-on-the-limits-of-economics-people-are-priceless>
- <https://www.thehindu.com/opinion/op-ed/unleashing-the-potential-of-urban-india/article28022190.ece>