

Implications of the Positivist School of Jurisprudential Thought in Legal System

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Foundations of Positivist Jurisprudence

“The Positivist School of Jurisprudential Thought” vastly follows the concise insight and explanation of the natural origin of law to uphold the values and principles of a society. It is more effective at upholding the values of society and rational independence for the measurement and quantification of criminal behavior than any other competing school of thought. Among other schools of jurisprudential thought, the Positivist school offers a concise thought that laws are valid not because of their morality but because of the establishment of sovereignty in society, which makes it appealing for several better reasons (Green & Adams, 2003). This paper argues how the principles and values of the Positivist School of Jurisprudential Thought as compared to the other competing schools, are better suited to bring about a stable nation and economy as well as a fair and safe place to live and work.

Legal Rules Social Order and State Authority

Unlike other schools of jurisprudential thought, the Positivist school is the only one that enlightens people about how law and legal rules should be enforced in a society by the sovereign or authority that has formed them. Moreover, the philosophical Positivist school of thought envisions the scientific evidence as the worthwhile focus that offers the insight that laws cannot be based on aspects such as divine directives, politics, or human rights. In other words, it views the principles of scientific inquiry and observation as the best methods for understanding human behavior and the factors that influence that specific behavior. Furthermore, this inquiry helps in understanding phenomena such as disorder and crime in societies and communities (Sebok, 1998). In a culturally and ethnically enriched society like America, the Positivist school has had a significant impact on the legal system where laws are empirical, and judges base their decisions on objective evidence rather than on personal beliefs or sympathies. While a judge may use his/her life experience to inform decisions, the Positivist school argues that decisions should not be made on the basis of own preferences or subjective feelings but the hard facts.

Psychological and Social Causes of Crime

The Positivist school of thought presumes that the criminal behavior of an individual is usually caused by psychological and social factors. These factors compel a person to indulge in wrongful acts, which means that people are inherently good but they become socially bad because of their disputed

environments and criminal backgrounds (Green & Adams, 2003). Building on this insight, I opine that this school of jurisprudential thought does not imply ethical justifications and aspects of humanity or justice for law contents, which are better for making society safer and stable when it comes to how an individual should respond to legal rules of any society. The legal system of the United States embraces the Positivist school of thought to make American society a fair, just, and safe place to live in. The primary structure of the Positivist school in the US confers rightful duties to the citizens that refrain them from committing specified criminal acts and help them perform certain functions for the well-being of people in the society (Sebok, 1993).

Empirical Examples of Social Behaviour

For instance, if an African male, while traveling in a bus, refuses to offer his seat to a standing young African woman but allows a middle-aged White woman to sit in his place, he is faced with the legal rules determined by different schools of jurisprudential thought that state that he must respect White people. He could offer his seat to the African woman as he has the justification for sharing the same nationality. However, the rule he chooses to act according to the situation is what he considers to be legally correct. In this regard, the African man does not offer his seat to the African woman as he is forced to neglect and refuse the legitimacy of the natural humanistic rules because he is supposed to follow legal rules that are devised by American jurisdiction that African people should honor Whites. This instance suggests that legal positivity should be done with no emotions included because legal rules are all about “what is the rule,” not “what suits us” to enable citizens to gain their rights.

Conclusion on Positivist Legal Thought

In a nutshell, the Positivist School of Jurisprudential Thought believes that law should strive to achieve the maximum social good by basing its decision-making on empirical evidence. There is no easy answer when it comes to whether the Positivist school of jurisprudence can create a fair, stable, and just society. However, goals like understanding, preventing, and controlling crime, as well as protecting the public, can help create a safer society. Moreover, in my opinion, the Positivist school of thought enables the citizens of any society to gain constitutional powers and legitimate rights by their own course of speech or action, which makes this school of thought more appealing to me.

References

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