BLOGS

Learn in a Minute: Analytical School of Law

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Introduction

The Analytical School of Law focuses on studying law as it is a system of rules laid down by a human authority, not as it ought to be. This school, also called the Positivist School, deals with the structure of law, its definition, and its logical framework. It avoids discussions of morality, justice, or natural rights. Instead, it emphasizes the source of law, typically the state or the sovereign, and studies laws as they are written and enforced.

What Does the Analytical School Say?

At its core, the Analytical School claims:

- Law is a command of the sovereign backed by sanctions.
- Law and morality are separate.
- The source of law is human authority, not divine command or moral reasoning.

Key Thinkers and Their Theories

1. Jeremy Bentham

Bentham believed laws should be made to promote the greatest happiness for the greatest number. He was a reformist and believed in codifying laws for clarity and public benefit.

For example, the Indian Penal Code (IPC), 1860 is largely based on Bentham's utilitarian and codified law approach. It defines every offence, its ingredients, and punishment in a clear and systematic way, making it easier to apply the law uniformly.

2. John Austin

Austin defined law as: "A command given by a sovereign to a subject, backed by a sanction."

For Austin: Law = Command + Sovereign + Sanction. Morality, religion, and customs are not law unless backed by the state.

For example, take traffic rules in India. If a person drives through a red light, they're violating a law. Why is it a law? Because, the rule is laid down by the state (the sovereign), the person is bound to obey it. There is a sanction (a fine or penalty). Whether you believe running a red light is immoral or not doesn't matter. What matters is that it's a legal command.

3. H.L.A. Hart

Hart modernized the Analytical School. He argued that not all laws are commands. Some laws give power rather than impose duties (e.g., contract law, wills, company formation).

He introduced:

- Primary Rules: Impose obligations (e.g., don't steal).
- Secondary Rules: Empower institutions to make, modify, or adjudicate laws (e.g., constitutional procedures).

He also introduced the concept of a Rule of Recognition- a test to identify valid laws in a system.

For example, the Aadhaar Act was passed by Parliament and recognized by the Supreme Court as a valid law (subject to privacy safeguards). Hart would say the Aadhaar law became valid because it passed through recognized procedures and was acknowledged as valid by legal institutions.

4. Hans Kelsen

Kelsen removed all non-legal elements from the study of law. For him, law was a system of hierarchical norms, where each norm derives its validity from a higher one, ultimately tracing back to a Grundnorm (basic norm).

For example, in India, all laws must conform to the Constitution of India, which acts as the Grundnorm. If a law like Section 377 IPC (which criminalised homosexuality) is held unconstitutional, it loses validity because it contradicts the grund norm-the Constitution.

Conclusion

The Analytical School of Law provides a powerful toolkit for understanding law in a clear, logical, and structured way. It has helped build robust legal systems based on consistency and authority.

However, its disregard for morality and justice limits its application in more complex, multicultural, and rights-conscious societies. Still, in areas like administrative law, penal law, and regulatory frameworks, the influence of thinkers like Bentham, Austin, Hart, and Kelsen is unmistakable.

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