INTRODUCTION

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A close perusal of Jesus teachings shows his views on legal concepts and systems. Some of which has influenced the legal foundations of most countries which has Christianity as it dominant religion. Some of such teachings, is his emphasis on the mosaic laws, which has influenced some ambit of laws such as criminal law, civil law, and commercial law[1]. An example of such law is

''thou shalt not kill...

Thou shalt not bear false witness

against your neighbor'' (Exodus 20:13,16)

These views regardless of it's great influence on laws seem to be in opposition to the applicability of the law;

"So, my dear brothers and sisters,

this is the point: You died to

the power of the law when you died with Christ..." (Romans 7:4)

This position shows a clear proclamation 'Christ is the end of the Law'. From the theological perspective in justifying this assertion, salvation is premised on the freedom from sin, i.e man is no longer bound to the law. Thus, putting an end to the legalistic approach of man's relation with God and Man's relation to his fellow Man[2]. It is on this basis that this paper will interrogate the position of the law, it's applicability, it's distinction from Jesus perspective. Thus, showing how the Law in it's applicability to a certain extent is antithetical to the Jurisprudence postulated by Jesus.

THE NATURE OF LAW

[1] Eyo Emmanuel Bassey; International Journal on philosophy and theology vol 7, No 2 Dec. 2017

[2] John Kuhn Bleimaier; A Christian Jurisprudence

Man lives in a society which comprises other persons, living things and none living things alike. The constant interaction between two or more independent thinking being and sometimes even personal choices which is bound to have effect on man or the society is an ever constant interwoven phenomenon. Thus, the need for regulatory principles to curtail the excesses of certain actions and modify man's freedom as well as others, in order that co-existence should thrive[3].

What is law?

Law is regarded as a ''Rule (written or unwritten) by which a country is governed and the activities of people and organizations are controlled" (Collins 155). From this perspective law is seen as a prescriptive principle which connotes it as an instrument of governance and control[4]. Law in this regard becomes a product of a group of persons called the government (with other factors influencing it's policies in the general spectrum of things) who has the power and authority to make such. This product becomes a mechanism by which actions are generally controlled in the society, thus curtailing the excesses of persons and maintaining order without which chaos will be an inevitable phenomenon. This is regardless of where such laws emanate from, so long as that system of government is practicable in that state. It will be erroneous to talk about law without the concept of sanction. Law is instrumental in keeping peace and order. On one hand it is a tool for peace, on the other it becomes a tool for punishment, this is subject to the condition that there is failure to comply with the provisions of the law. The provisions of sanction do not just serve as punishment for defaulters but it also serve as a tool for deterrence and adherence. Deterrence in disobedience to law and criminal acts and as a tool for adhering to lawful obligations. It is in this light that Saint Paul States that it is because of the Law that we become aware of sin. That is to say that without Laws there will be no 'disobedience to law', thus, making everyone a law to himself.

Classification of law

[3] Prof. Andrew F. Uduigwomen; Studies in Philosophical Jurisprudence (3rd Ed).

[4] Prof. Andrew F. Uduigwomen; Studies in Philosophical Jurisprudence (3rd Ed)

Law has been classified into various ways. Some of which are;

- Scientific or physical law
- Universal law
- Eternal law
- Divine law
- Natural law
- Human (Positive law)

Most philosophers, scholars and authors have identified these divisions of law.

Scientific or physical law:

Scientific laws otherwise known as laws of nature are generalizations. They are descriptive and not prescriptive. That is, they describe the way nature works and do not prescribe norms of behaviour or action.For example, the law of Planetary motion only describes how planets actually move, they do not prescribe how planets should move and the penalties they will suffer if they fail to move. Laws in this sense describe certain uniformities in nature. These uniformities exist whether or not human beings are there to describe them. In such instances, one can say that scientific law or Law of Nature are discovered, not made.

Universal law:

This is derived from the concept bof a common universe available to all rational creatures. In order to explain the orderly and balanced process of change in the universe, Heraclitus, a Greek philosopher of the 6th century BC wasnof the view that the process of change or flux is not haphazard but as a result of God's Universal Reason (Logos) which permeats all things in unity and orders them to move in accordance with principles which constitute the essence of law. God as Reason, is therefore, the universal law immanent in all things. The fact that all men possess the capacity for reasoning is a clear indication that they all share this universal law.

Eternal law:

The idea of an eternal law is the idea that God's reason or will commands the orderliness of things in the universe and forbids the disturbance of it. This law refers to the fact that the whole universe is governed by Divine Reason. It is regarded as eternal because the Divine Reason's conception of things is not limited by time but is timeless.

Divine law:

This is the law given by God to direct man to his supernatural ends. According to Thomas Aquinas, is available to man through the scriptures. Unlike the natural law, it is not the product of man's reason but God and is given to men so that they can fulfill their natural and especially, supernatural ends.

Natural law:

Thomas Aquinas difines Natural law as the rational creature's participation in eternal law. It is Man's intellectual grasp of the eternal principles. The basic precepts of natural law are the preservation of life, the propagates and education of offspring, and the pursuit of truth, happiness and peaceful society. These are regarded as God's intentions foran in creation. The natural law, therefore, consists of broad general principles reflecting God's intentions foran in creation.

Positive law:

This refers to a law laid down or made by human beings for the governance of human beings. They are specific statues of government. Such laws are often times backed by the threat of sanction and have sovereign authority, they are often called state laws.

For the purpose of this work, we shall be considering law in the last sense, i.e positive law, which implies law 'as a rule of human conduct, imposed upon and enforced among the members of a given state's for the purpose of administering justice. The origin of positive law can be traced to the earliest period of civilization when men saw the need to draw up rules or laws to ensure that members of society lived and worked together in an orderly and peaceful society.

FEATURES OF LAW

As a social phenomenon, law have certain features. These features point to it's essential role in the society.

1. Law as ordinance: From the definition of St Thomas Aquinas, law is an ordinance. By ordinance, he means an order, a rule made by am authority. It is therefore not an advice, counsel of suggestion from an individual to members of the society. This ordinance, being from constituted author, is enforceable.
2. Rationality of law: Law from the moral point of view must be observable, must be fair, just and honest. According to Iwe, "law as an ordinance must be rational or reasonable and not the arbitrary and capricious whims and egoism of law maker" (Social trinity, 24). The rationality of laws requires it to be consistent and able to stand the test of time and judicial scrutiny. Human reason must be fully and sincerely used in promulgating any law for the society.
3. Sociality of Law: Here law have a social dimension because it cannot be conceived outside an organized social setting or society. It therefore implies that law cannot exist where there is no society and if there is a society which is not organized, the law cannot be effective and useful, development and good realization in such society would be elusive. Law is regarded, with justification, as a powerful instrument of social engineering and socialization of the citizens (Iwe, Social Trinity, 25). It is through the functioning of the law that the foundation of peace, justice and social order are laid.
4. Law of the common Good: The common Good of members of the members of the society, in terms of safeguarding the rights and duties of the citizens should be the focus of law. Law can be used to check certain social vices.
5. Law for justice: The primary purpose of law is to secure justice. During the Socratic period in the history of philosophy, the concept of justice attracted the attention of the people of the time. For plato, there is justice in the state and justice in individual when all parts function harmoniously. There is great need for just law and just dispensation of law in an organized society. John Rawls conceives the original position of man as fair, so he

equates justice with fairness (Irele 15). Justice stands as the foundation of the society and the law is an instrument in fostering and achieving justice.

6. Promulgation of Law: Law as an ordinance, just, reasonable, of utility must have to be promulgated by a legal authority.
7. Legitimacy of Law: The authority making law must be rightful and recognized de jure and not a de facto in the society.

Theories of law

Different legal theories developed throughout societies. Though there are a number of theories, only four of them are dealt with here. They are:

- Natural Law theory
- Positive Law theory
- Marxist Law theory
- Realist Law theory

NATURAL LAW THEORY

Natural law theory is the earliest of all theories. It was developed in Greece by philosophers like Heraclitus, Socrates, Plato, and Aristotle. It was then followed by other philosophers like Gairus, Cicero, Aquinas, Gratius, Hobbes, Lock, Rousseau, Kant and Hume. In their studies of the relation between nature and society, these philosophers have arrived at the conclusion that there are two types of law that govern social relations. One of them is made by person to control the relations within a society and so it may vary from society to society and also from time to tome within a society. The other one is that not made by person but controls all human beings of the world. Such laws do not vary from place to place and from time to time and even used to control or weigh the laws made by human beings. These philosophers named the laws made by human beings as positive laws and the laws do not made by human being as natural laws.

Natural law is given different names based on its characteristics. Some of them are law of reason, eternal law, rational law, and principles of natural justice. Natural law is defined by Salmond as “the principles of natural justice if we use the term justice in its widest sense to include all forms of rightful actions.” Natural law theory has served different societies in many ways. The Romans used it to develop their laws as jus civile, laws governing roman citizens, and jus gentium, laws governing all their colonies and foreigners.

The Catholic Pope in Europe during the middle age become dictator due to the teachings of Thomas Aquinas that natural law is the law of God to the people and that the pope was the representative of God on earth to equally enforce them on the subjects and the kings. At the late of the Feudalism stage, Locke, Montesque and others taught that person is created free, equal and independent by taking the concept of Natural law as the individual right to life, liberty, and security. Similarly, Rousseau’s teachings of individual’s right to equality, life, liberty, and security were based on natural law. The English Revolution of 1888, the American Declaration of Independence and the French Revolution of 1789 were also results of the Natural law theory.

Despite its contribution, however, no scholar could provide the precise contents of the natural law. As a result, it was subjected to criticisms of scholars like John Austin who rejected this theory and latter developed the imperative called positive law theory.

POSITIVE LAW THEORY

Positive law theory is also called, imperative or analysts law theory. It refers to the law that is actually laid down by separating “is” from the law, which is “ought” to be. It has the belief that law is the rule made and enforced by the sovereign body of the state and there is no need to use reason, morality, or justice to determine the validity of law.

According to this theory, rules made by the sovereign are laws irrespective of any other considerations. These laws, therefore, vary from place to place and from time to time. The followers of this theory include Austin, Bentham and H.L.A Hart. For these philosophers and their followers law is a command of the sovereign to his/her subjects and there are three elements in it: command; sovereign; and sanction. Command is the rule given by the sovereign to the subjects or people under the rule of the sovereign. Sovereign refers to a person or a group of persons demanding obedience in the state. Sanction is the evil that follows violations of the rule.

This theory has criticized by scholars for defining law in relation to sovereignty or state because law is older than the state historically and this shows that law exists in the absence of state. Thus, primitive law (a law at the time of primitive society) serves the same function as does mature law [Paton; 1967: 72-3].

With regard to sanction as a condition of law in positive law, it is criticized that the observance of many rules is secured by the promise of reward (for example, the fulfilment of expectations) rather than imposing a sanction. Even though sanction plays a role in minority who is reluctant, the law is obeyed because of its acceptance by the community "habit, respect for the law as such, and a desire to reap the rewards which legal protection of acts will bring" are important factors the law to be obeyed [Paton; 1967:74]

The third main criticism of definition of law by Austin (positive law theory) is that it is superficial to regard the command of the sovereign as the real source of the validity of law. It is argued that many regard law as valid because it is the expression of natural justice or the embodiment of the sprit of people [Paton; 1967: 77].

MARXIST LAW THEORY

Marxists believe that private property is the basis for the coming into existence of law and state. They provide that property was the cause for creation of classes in the society in which those who have the means of production can exploit those who do not have these means by making laws to protect the private property. They base their arguments on the fact that there was neither law nor state in primitive society for there was no private property. The theory has the assumption that people can attain a perfect equality at the communism stage in which there would be no private property, no state and no law. But, this was not yet attained and even the practice of the major countries like the former United Soviet Socialist Russia (U.S.S.R.) has proved that the theory is too good to be turn[Beset; 2006]. Nevertheless, this theory is challenged and the theory of private property triumphs.

REALIST THEORY OF LAW

Realist theory of law is interested in the actual working of the law rather than its traditional definitions. It provides that law is what the judge decides in court. According to this theory, rules not put to use to solve practical cases are not laws but merely existing as dead words and these dead words of law get life only when applied in reality. Therefore, it is the decision given by the judge but not the legislators that is considered as law according to this theory. Hence, this theory believes that the lawmaker is the judge and not the legislative body.

This theory has its basis in the common law legal system in which the decision previously given by a court is considered as a precedent to be used as a law to decide future similar case. This is not applicable in civil law legal system, which is the other major legal system of the world, and as a result this theory has been criticized by scholars and countries following this legal system for the only laws of their legal system are legislation but not precedents. This implies that the lawmaker in civil law legal system is the legislative body but not the judge.

Criteria for validity of Law

The main insight of legal positivism, that the conditions of legal validity are determined by social facts, involves two separate claims which have been labeled

- The Social Thesis
- The Separation Thesis.

The Social Thesis asserts that law is, profoundly, a social phenomenon, and that the conditions of legal validity consist of social—that is, non-normative—facts. Early legal positivists followed Hobbes' insight that the law is, essentially, an instrument of political sovereignty, and they maintained that the basic source of legal validity resides in the facts constituting political sovereignty. Law, they thought, is basically the command of the sovereign. Later legal positivists have modified this view, maintaining that social rules, and not the facts about sovereignty, constitute the grounds of law. Most contemporary legal positivists share the view that there are rules of recognition, namely, social rules or conventions which determine certain facts or events that provide the ways for the creation, modification, and annulment of legal standards. These facts, such as an act of legislation or a judicial decision, are the sources of law conventionally identified as such in each and every modern legal system. One way of understanding the legal positivist position here is to see it as a form of reduction: legal positivism maintains, essentially, that legal validity is reducible to facts of a non-normative type, that is, facts about people's conduct, beliefs and attitudes.

Natural lawyers deny this insight, insisting that a putative norm cannot become legally valid unless it passes a certain threshold of morality. Positive law must conform in its content to some basic precepts of natural law, that is, universal morality, in order to become law in the first place. In other words, natural lawyers maintain that the moral content or merit of norms, and not just their social origins, also form part of the conditions of legal validity. And again, it is possible to view this position as a non-reductive conception of law, maintaining that legal validity cannot be reduced to non-normative facts.

The Separation Thesis is an important negative implication of the Social Thesis, maintaining that there is a conceptual separation between law and morality, that is, between what the law is, and what the law ought to be. The Separation Thesis, however, has often been overstated. It is sometimes thought that natural law asserts, and legal positivism denies, that the law is, by necessity, morally good or that the law must have some minimal moral content. The Social Thesis certainly does not entail the falsehood of the assumption that there is something necessarily good in the law. Legal positivism can accept the claim that law is, by its very nature or its essential functions in society, something good that deserves our moral appreciation. Nor is legal positivism forced to deny the plausible claim that wherever law exists, it would have to have a great many prescriptions which coincide with morality. There is probably a considerable overlap, and perhaps necessarily so, between the actual content of law and morality. Once again, the Separation Thesis, properly understood, pertains only to the conditions of legal validity. It asserts that the conditions of legal validity do not depend on the moral merits of the norms in question. What the law is cannot depend on what it ought to be in the relevant circumstances.

Many contemporary legal positivists would not subscribe to this formulation of the Separation Thesis. A contemporary school of thought, called inclusive legal positivism, endorses the Social Thesis, namely, that the basic conditions of legal validity derive from social facts, such as social rules or conventions which happen to prevail in a given community. But, inclusive legal positivists maintain, legal validity is sometimes a matter of the moral content of the norms, depending on the particular conventions that happen to prevail in any given community. The social conventions on the basis of which we identify the law may, but need not, contain reference to moral content as a condition of legality

The natural law tradition has undergone a considerable refinement in the 20th century, mainly because its classical, popular version faced an obvious objection about its core insight: it is just difficult to maintain that morally bad law is not law. The idea that law must pass, as it were, a kind of moral filter in order to count as law strikes most jurists as incompatible with the legal world as we know it. Therefore, contemporary natural lawyers have suggested different and more

subtle interpretations of the main tenets of natural law. For example, John Finnis (1980) views natural law (in its Thomist version) not as a constraint on the legal validity of positive laws, but mainly as an elucidation of an ideal of law in its fullest, or highest sense, concentrating on the ways in which law necessarily promotes the common good. As we have noted earlier, however, it is not clear that such a view about the necessary moral content of law is at odds with the main tenets of legal positivism. To the extent that there is a debate here, it is a metaphysical one about what is essential or necessary to law, and about whether the essential features of law must be elucidated in teleological terms or not. Legal positivists do not tend to seek deep teleological accounts of law, along the lines articulated by Finnis, but whether they need to deny such metaphysical projects is far from clear.

The idea that the conditions of legal validity are at least partly a matter of the moral content or merits of norms is articulated in a sophisticated manner by Ronald Dworkin's legal theory. Dworkin is not a classical natural lawyer, however, and he does not maintain that morally acceptable content is a precondition of a norm's legality. His core idea is that the very distinction between facts and values in the legal domain, between what the law is and what it ought to be, is much more blurred than legal positivism would have it: Determining what the law is in particular cases inevitably depends on moral-political considerations about what it ought to be.

A CONCEPTUAL ANALYSIS OF JESUS CHRIST JURISPRUDENCE

Jesus Christ was not a lawyer, yet his teachings and legal thoughts regulated human actions. His teachings, arose from the mosaic law. He did not defer from the position of the law as provided by the *Terah*

"Do not think that I have come to abolish the law or the prophets;

I did not come to abolish the law but to fulfill them" (Matt 5:17)

He made certain amendments on specific issues such as on divorce, laws guiding the Sabbath, purity, Ritual etc. On the issue of divorce, the Mosaic Law allowed for it, but Jesus amended it. This was captured in the gospel of Mark.

"Some Pharisees came and tested him by asking,

“Is it lawful for a man to divorce his wife?”

“What did Moses command you?” he replied.

They said, “Moses permitted a man to write a certificate of divorce and send her away.”

“It was because your hearts were hard that Moses wrote you this law,” Jesus replied. “But at the beginning of creation God ‘made them male and female.’ ‘For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh.’ So they are no longer two, but one flesh. Therefore what God has joined together, let no one separate.”

When they were in the house again, the disciples asked Jesus about this. He answered, “Anyone who divorces his wife and marries another woman commits adultery against her. And if she divorces her husband and marries another man, she commits adultery.” (Mark 10:2-10)

Based on Jesus amendment, the law is against divorce. Many of his amendments came as a result of the hypocritical living and beliefs of the pharisees and scribes. Many of these legalistic teachings has influenced the evolution of laws over the years, including the Nigerian Legal system.

A bulk of Jesus Jurisprudence or what we see as the law of Christ' is found in the New testament. Although some amendments where made to the law, and per Jesus teachings he came to fulfill the law, the new life of Christ that was introduced brought a stance that 'christ is the end of the Law'. This is justified on the ground that with Christ the door of salvation is open to all peoples premised upon faith. From the point of view of Christian doctrine, this covenant of faith sealed by the Holy Spirit abrogates the old religious law.

"So, my dear brothers and sisters, this is the point:

You died to the power of the law when you died with Christ.

And now you are united with the one who was raised from the dead.

As a result, we can produce a harvest of good deeds for God.

When we were controlled by our old nature,sinful desires were at work within us, and the law aroused these evil desires that produced a harvest of sinful deeds, resulting in death. But now we have been released from the law, for we died to it and are no longer captive to its power. Now we can serve God, not in the old way of obeying the letter of the law, but in the new way of living in the Spirit".
(Romans 7:1-6)

This new life in Christ becomes a soft exclusion on the applicability of the law. This in itself becomes an antibody to Law. While Law commands total obedience, the new life in Christ removes that pressing obligation to keep to the law, as per they are no longer bound by the law.

The relationship between the Law and Jesus Christ Jurisprudence

Although it cannot be over emphasized, certain level of the Christian doctrines (Jesus Jurisprudence) influences the most legal system, the law still remains a unifying instrument of persons of all part of life and belief system.

The society is made up of not just christians, but persons of other ethnic groups and people who do not affiliate themselves with religious persons, thus, the Law is objective and not subjective to religious leanings. That is why Law keeps on evolving to accommodate newer problems in the society, which is something the Christian Jurisprudence do not really accommodate, as it is mostly static, as some newer actions and practices are antithetical to the Christian faith.

CRITICISM

Law is based on objectivity (i.e it is free from influences of other groups), nevertheless, Law is inextricably intertwined with societal morality and morality is inextricably intertwined with religion. As much as we can create a distinction

between both concept, law in itself is a reflection of the morality that majority of the people holds dear.

CONCLUSION

The concept of Law is one which every society strives on. This is so as to maintain a certain level of structure and co existence in the society. Law is Law, and it's objectivity is what preserves its potency.

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