

Study on the Rationality of Utilitarian Philosophy of Law- An Analysis

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ABSTRACT

The modern doctrine of sovereignty is derived basically from two thoughts of development which emerged during the end of Indian medieval history. On the one side there was an emergence of new National States which are curious enough to assert their absolute independence during the new age of economic expansion by rejecting the feudal notions including exaggerated lordship or papal interference and on the other side, the departure from medieval idea of law based on fundamental customs and legislations as a form of declaring the existence of new customs. The Utilitarian Philosophy is based on the consequential ideology of rightness or wrongness of any action is determined through the good and bad consequences of that act. Bentham developed a liberal theory of justice based on egalitarian principles in order to secure the life of the people in cooperation with each other. The new approach based on secularist and positivism even when the lip services are notionally subjected to override the natural law. Positivism flourishes in stable social conditions highlighting the difficulties involved in maintaining a rigid separation between 'what is' and 'what ought to be' are only projected to the forefront when conditions are critical. The theory and principles work as a manual of instructions to the legislators. This paper analyses the rationality of Utilitarian philosophy in terms of its feasibility and adequateness of law to attain welfare society.

Keywords: Sovereignty, State, Secularist, Natural law, Theory.

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