UGRC 150
CRITICAL THINKING & PRACTICAL REASONING

Session 7 – THE NORMATIVE AND THE EMPIRICAL (PART 2)

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Session Overview

- This session is a continuation of the discussion of UNIT 5 of the recommended text for the course. It builds on the knowledge gained in session 6 above to discuss LAW and the different senses it could be understood.

- Goals and Objectives
  At the end of the session, the student should
  1. be able to identify and explain the senses of law.
  2. understand the difference between law-like hypothesis and theoretical definitions.
The key topics to be covered in the session are as follows:

- **Topic One: THE SIX SENSES OF ‘LAW’**
  - a. Natural law
  - b. Civil law or Statutory law
    - (i) Customary law VS Cultural norm, social rule, convention
  - c. Moral law
  - d. Logical law
  - e. Mathematical law
  - f. Divine law
Reading List

• Log onto the UG Sakai LMS site: http://sakai.ug.edu.gh
• Read Unit 5 of Recommended Text – pages 80-91
• Watch **the Videos for session 7 - The Normative and The Empirical (Part 2)**
• Visit the **Chat Room** and discuss the **Forum question** for **session 7 (Part 2)**
Topic One

THE SIX SENSES OF ‘LAW’
There is no one definition for the word ‘law’ but rather different notions. Depending on the context of usage, the word law can mean a natural law, civil law or customary law, a moral law, law of reasoning, mathematical law or divine law.

Law is a system of rules or general principles that governs the nature of things, or the way individuals are supposed to behave.

Laws are expressed in the form of statements.

Some laws are descriptive and others are prescriptive.
• Natural laws also called scientific laws refer to statements that expresses laws about nature (living things, rivers, celestial bodies etc).

• They are defined as statements that aim to describe the regularities or uniformities in the patterns of event or features of things we observe around us.

• They are formed based on our past experiences. For instance, we observe that at any point in time when a fish is taking out of water for a maximum of five minutes, it dies so we conclude that “all fish survive in water” as a statement that expresses an attribute or a property that applies to all fish any where, anytime.
EXAMPLES

1. Every planet moves around the sun in an elliptical orbit.
2. All metals expand when heated.
3. Any physical object that goes up must come down.
4. All green plants use sunlight for photosynthesis.
5. All fish live in water.
6. Every human being breathes oxygen.

NB

- Natural law statements are supposed to meet with no exceptions and are therefore called law-like. But there is no way to be absolutely certain that such statements will always be true. So they are called law-like because maybe someday counterevidence will make them false.
• Natural laws are disguised predictions. They predict about future realities. The statement “all metals expand when heated” means that “if you come across any metallic object and you heat it then expect it to expand.”

• But what if you discover a new metal and it does not expand upon heating it, then it will make the statement “all metals expand when heated” to be false.

• Scientific laws always depend upon evidence, and they are predictions. They may turn out to be false so we call them law-like statements.(hypothesis)

• NB: Since they describe regularities and uniformities in the patterns of events around us they are EMPIRICAL.
CIVIL LAWS AND STATUTORY LAWS are *man-made* laws that represent the *legal instruments that governments of states use to regulate the behavior of citizens*. They prescribe how citizens ought to behave in specific circumstances.

- They are laws backed by *force since they come with sanctions*.

- *NB:* They are prescriptive statements since they express what one should do or must not do, so they are *NORMATIVE*.
Examples

1. Commercial laws
2. Tax laws
3. Constitutional statutes
4. Land tenure regulations
5. Rules for electoral process.
7. Human rights laws, traffic laws, interstate laws etc.

NB

• If these laws are broken by individuals, the individuals are rather punished. Violations do not make the laws falsified and for that matter must be changed. The laws still remain and sanctions are carried out. This is what makes it different from natural laws. The sanctions attached are what makes them laws to be obeyed by all citizens.
Another aspect of civil law or statutory law is the customary law since both can be found as two complementary legal systems in some countries. Just like the civil laws or statutory laws, they are man-made and also have sanctions attached to them to regulate behaviors of members of a particular community, clan or lineage. The system of authority that enforces the customary laws are Chiefs, clan heads etc.

**Examples**

1. Taboos like incest, not farming or fishing on a particular day.
2. The traditional customary marriage.
3. Acknowledgements of chiefs as traditional custodians of lands.
4. Traditional inheritance system and marriage system. etc.

**NB CUSTOMARY LAWS ARE ALSO NORMATIVE.**
Customary laws and cultural norms

- Customary laws are distinguished from cultural norms, social rules and conventions in the sense that the latter are not laws and they do not have sanctions attached to them in case of any violation.

- Examples of cultural norms are wearing of certain kinds of apparel in certain public and private circumstances, dietary rules, worship behavior, observance of public holidays and public ceremonies etc.

- NB: Cultural norms or social rules are the commonly adhered practices in a society that normally do not attract any severe form of punishment or sanction.
MORAL LAWS

• **MORAL laws** are usually presumed or taken to be more forceful than customs, norms and they are different from what is legally sanctioned or required by legislation.

• They are presumed to be **universal, transcending ones culture, religion, constitution or society.**

• **Examples**
  1. It is morally wrong to steal.
  2. It is wrong to kill.
  3. It is morally right to respect other people’s views.
  4. To legalize segregation is morally wrong.

*NB: MORAL LAWS ARE ALSO NORMATIVE.*
WHAT IS IT.

• LOGICAL laws are the principles or rules for thinking. They guide us in reason well.

• They guide us in distinguishing good reasoning from bad reasoning.

• They are deductive in nature. Since they guarantee that if your starting point (assumptions or premises) are true then your final conclusion will also be true.

Examples

1. All university of Ghana students read UGRC I50. (premise)
   Kwabena is a student from University of Ghana. (premise)
   So Kwabena reads UGRC 150. (conclusion)

2. All fish live in water. (premise)
   Any animal that lives in water can swim. (premise)
   So all fish can swim. (conclusion)

NB: Logical laws prescribe how we ought to think so they are also NORMATIVE
WHAT ARE THEY
• These are laws that regulate the way operations in mathematics ought to be done.
• We have rules for mathematical practices and descriptive laws that summarise the results of mathematical practice for all time.

Examples
1. Laws of addition, subtraction, division, multiplication. AND
2. Never divide by zero, Laws of indices are all general rules of mathematical practices.
3. Every even number is the sum of two odd numbers, is an example of a descriptive law that summarise the results of mathematical practice of all time.

• NB. Mathematical laws are also NORMATIVE.
DIVINE LAW

WHAT IS IT.

- These are laws whose contents come from a particular religious doctrine.
- The authority of such laws come from a supreme being, (deity, God, god)
- They are prescriptive in nature so they are also NORMATIVE.
- They are subject to revelation as the means by which they are made available to man and can be changed.

EXAMPLES

1. The ten commandments of Christians.
2. The sharia law of the Muslims.
3. Laws against homosexuals.
4. Laws against abortion.
5. Some religions practice monogamous marriage while others practice polygamous marriage.

- NB DIVINE LAWS are binding only on the practitioners of religion.