School of Law

Course Code : BBLB3002

Course Name: Jurisprudence

Bentham's Theory of Law

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Name of the Faculty: Dr. Niteesh Upadhyay

Program Name: BBALLB

Topic covered

- Bentham Theory on Jurisprudence
- Brief about bentham
- Features of Bentham Theory
- Criticism of Bentham Theory

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Brief

JEREMY BENTHAM (1748-1832)

- •One of the earliest legal positivist and considered to be the founder of positivism.
- •Popularly known for his theory of "utilitarianism", also called as "doctrine of hedonism"
- •He expounded principle of utility in his book "Limits of Jurisprudence Defined"
- •Principle of utility is a morally right principle of action of every situation.
- •Defined a hedonistic method to calculate the moral rightness or wrongness of an action, which is known as hedonistic calculus.

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TWO DOCTRINES OF BENTHAM

PSYCHOLOGICAL HEDONISM

ETHICAL HEDONISM

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BENTHAM'S Criticism

Railway Track Example

Track A is abandoned and Track B is functional

- On Track A one boy is playing
- On Track B 10 boys are playing
- You are a Train driver
- Select the Track

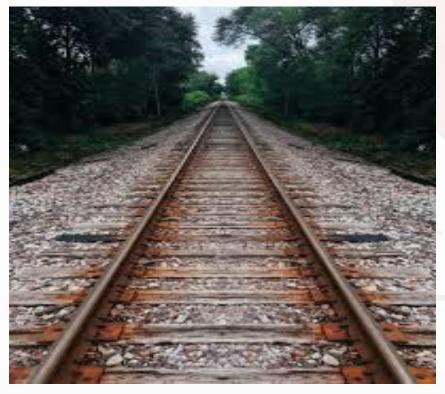
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Railway Track Example

A: One Boy playing on Abandoned Track



B: Ten Boys are playing on Functional Track



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BENTHAM'S Criticism

Gang Rape
Mob Lynching
Genocide

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BENTHAM'S Criticism

- Pleasure and pain cannot be the final test of the adequacy of law. Every act which gives pleasure cannot be said to be good . Pleasure and pain fails in cases of gang rape , mob lynching , genocide etc
- •No yardstick to measure pain and pleasure.
- •He calls natural law as "mock-law", "sham law" or "quasi law".
- •His theory fails to balance individual interests with the interests of the community.
- •Theory ignores morality, ethics and customs as source of law

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