

**THIS IS A COURT OF LAW, NOT A COURT OF JUSTICE:
BRIDGING THE LEGAL-MORAL DIVIDE IN HOLMES'
VIEW OF LAW**

Charles B. Berebon

Rivers State University, Port Harcourt

Abstract

Oliver Wendell Holmes, a former Supreme Court Judge, was an influential legal scholar. He had argued that law is not a rigid and deductive application of the statutory provisions but the prediction of the pronouncement of the court, that is why it is better understood from the point of view of the 'badman' who cares only for the consequences which such knowledge enables him to predict. Holmes failed to acknowledge the dualistic components of the role of law as a guide to behaviour and a prediction of the pronouncement of the court. There is a need to bridge the legal positivists' perspective and natural law theorists' views. It means that to bridge the moral-legal divide, it is to be noted that law and justice are not necessarily the same. Our laws are regulations and statutory provisions, but justice is concerned with morality and the rightness of actions. Laws sometimes can be unjust and, in this case, cannot be justice, this is why the two do not coincide. The natural theory of law should serve as the ideal paradigm theory of law. Therefore, Holmes' consequentialist approach to the law must be rejected in favour of a theory that provides legal obligations for the existence and obedience to the law in consonance with morality.

Keywords: *Court, Law, Justice, Legal-moral divide, Nature*

Introduction

When we look at the court buildings all over the world, the presence of the scales of justice denotes the balance and equity of the law for all persons, after weighing both sides of an argument, an unbiased administration of the law is implemented which is supposed to be objective, fair, without corruption after an objective consideration of all evidence to the issues. The place, function, and importance of law in any given society cannot be overemphasized (the various strands of anarchism are at odds with this belief; for the question directly or indirectly the need for the law in a society). As a body of rules promulgated either naturally or conventionally, the law is a *condictio-sine-qua non* for social order, interactions and ordering of human conducts in a society. Our laws are the principles and regulations established as rules of our society and applicable to all. They take the form of legislation and common law and are recognized and enforced by

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the court. Justice is concerned with moral rightness and, in theory, at least, justice should follow as a natural consequence of the fair and proper administration of law. The fact that the two do not always coincide can be for a wide variety of reasons.¹

A law can be unjust when it is dispensed and does not respect the dignity and right of the human person. Law and morality do not meet because of the variety in the administration of the law. Some judges may view justice as strictly adhering to the instrument of the law, while some may see it from the point of view of administering justice, applying the human face of the law. For Oliver Wendell Holmes, the American Jurist, the administration of justice is limited to the letters of the law, which is envisioned in his statement, "This is a court of law, young man, not a court of justice."²

Justice is only dispensed when the procedures of the court are followed. Even when the evidence proves the offender is guilty of the offence, the court does not take away the rights of the offender to a fair trial. The benefit of the doubt is always available, if the evidence provided is not beyond a reasonable doubt, then the accused will be acquitted, the thinking then will be the victim of the case is deprived of justice. I want to think that Holmes did not envision the quote as a fundamental principle to guide cases in the law court. One of the greatest jurists of 20th century America, Chief Justice Earl Warren in 1963 once said "in civilized life, law floats in a sea of ethics. Each is indispensable to civilization. Without law, we should be at the mercy of the least scrupulous; without ethics, the law could not exist".³

The Necessity of Law

There are two schools of thought on the necessity of law, the exponent of the natural law theory and the proponents of legal positivism. St. Thomas Aquinas is seen as the greatest representative and exponent of natural law theory. According to him, the law is "an ordinance of reason, directed towards the common good, and promulgated by the one who has the care of the community."⁴ Simeon Onyewueke Eboh outlined the general principles and the irreducible elements underlying the theories of the natural law. For him, natural law theories assume the existence of "an all-pervading immutable

¹ R. Kennedy, *This is a Court of Law, Young Man, not a Court of Justice* (Ireland: Richard Kennedy & Co. Solicitors, 2012), Para. 4, <https://richardkennedysolicitors.wordpress.com/2012/04/21/this-is-a-court-of-law-young-man-not-a-court-of-justice/>

² R. Kennedy, *This is a Court of Law, Young Man, not a Court of Justice*, Para. 7

³ E. Cray, *Chief Justice: A Biography of Earl Warren* (New York: Simon & Schuster, 1997), Para, 14, law.jrank.org/pages/11231/Warren-Earl.html

⁴ T. Aquinas, *Summa Theologiae* (Maryland: Christian Classics, 1981),

supreme law of which positive laws are merely declaratory".⁵ The natural law theorists concern themselves with the search for an ideal law higher than positive law. They see the law as a divine order commanding human respect. They link law with ethics and morality. All laws according to them require an ethical foundation. For them, law without morality is a contradiction in terms.⁶

The 19th century witnessed radical reactions against the doctrines of the natural law theories. The period of enlightenment saw the emergence of scientifically minded philosophers and legal scholars who opposed the idea of discovering in nature a principle of universal and immutable realities. The legal positivists believed that law must not necessarily satisfy the requirement of morality (the separability thesis) and that law is a social fact (social thesis). Their approaches to jurisprudence demand that we take the body of rules known as law and study them scientifically and dispassionately, without reference to any other matters. The beginning of the 20th century witnessed a revolutionary strand of legal positivist called legal realism. For Eboh, this school was a radical reaction against the traditional and predominant jurisprudential conception in the United States and many other countries to what have been called "conceptualism" or "formalism".⁷

The main characteristic of this style of legal thought was its assumption that all cases can be decided by the rigid application of pre-existing legal rules. The role of judges was therefore conceived to be one of pure deductive application of the relevant rules to the cases before him. Influenced by both the analytical and sociological schools, the legal realists questioned the conceptual or formalist idea of law. Radically represented by Oliver Wendell Holmes. The realists base their claim of being realistic about the nature of the law on their emphasis on what lawyers do. Succinctly putting this, Holmes defines law thus:

The prophecies of what the courts will do in fact and nothing more pretentious, are what I mean by the law. If you want to know the law and nothing else, you must look at it as a bad man, who cares only for the material consequences which such knowledge enables him to predict, not as a good one; who finds his reasons for the conduct, whether inside the law or outside of it, in the vaguer sanctions of conscience.⁸

⁵S. O. Eboh, *Legal Theories and the African Concept of Law*(Port Harcourt: Heb-Uni-Tech Global Publishers, 2004),8

⁶S. O. Eboh, *Legal Theories and the African Concept of Law*

⁷S. O. Eboh, *Legal Theories and the African Concept of Law*

⁸O. W. Holmes, *The Path of the Law*,(Harvard Law Review (10):1897) 457

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The above assertion captures Holmes' notion and idea about what is. In his view, the law is better understood from the standpoint of a bad man, who is only concerned about the amoral material consequences of his actions and not as a rational individual interested in the existence of a particular law. To know the law according to Holmes and other exponents of the legal realist, one must know how it functions in real life. The law must be in such a way that it is predictable. The function of lawyers is to predict the outcome of a particular case according to legal precedents and procedures applied to similar cases in the past - the bad man consults the lawyer to predict the outcome of his crime.⁹ Thus, it is only after a court has decided on a particular issue that can be known what the law on that issue is, the provision of a statute on that issue notwithstanding. Such a statutory enactment only helps one to guess what the court will decide when it comes to the actual interpretation of the law. For the Realists, statutory provisions are mere words, which do not get any meaning apart from their application. The meaning is detached from the context of the court, and cannot sufficiently paint the picture of what happens in real life. To be in tune with reality, therefore, one must investigate and know what the court does with legal provisions in statutes, in the determination of cases. The decisions of the court according to them are subject to the influence of many factors: the personality of the judges, his social background. Such factors should surely be of concern to jurisprudence.

This position by Holmes and his adherents has attracted critical commentaries leading to the posing of vital questions as to whether Holmes's prediction theory provides an incomplete picture of the law? Can a set of rules be called a legal system if it fails to create obligations to obedience and instead merely sets costs or penalties for noncompliance? Does Holmes' theory not artificially put a wedge between law on the one hand, and justice and morality on the other?¹⁰

Legal Justice versus Moral Justice

The proponents of natural law theory maintain the position that human nature has the capacity for reasoning that guides their action and this behaviour is intrinsic to their being. Aristotle says that there are two kinds of reasoning within the rational soul. The first is theoretical, giving us knowledge of fixed principles or philosophical wisdom. The other is practical, giving us a rational guide to our moral action under the particular

⁹C.B. Berebon, & I.U. Guwunireama, 'Oliver Wendell Holmes on the proper meaning of Law', *Icheke journal of the faculty of humanities* (vol.16(3), 2019), 127, <http://www.ichekejournals.com/>

¹⁰C. B. Berebon, & I.U. Guwunireama, 'Oliver Wendell Holmes on the proper meaning of Law', 127

circumstances in which we find ourselves.¹¹ That is to say, the source of justice and morals are the same. For Aquinas, moral law is founded upon human nature. Upon the natural inclination towards specific types of behaviour, and upon the reason's ability to discern the right course of conduct. Law, Aquinas says, has to do primarily with reason. Human reason is the standard of our actions because it belongs to reason to direct our whole activity towards our end.¹²

This relationship is perhaps the reason why many suppose that the law is a system of justice and justice or the act of being just is a moral attribute. To determine whether a law is just or unjust, there is a need to distinguish the differences between what is legal in law and what is moral; i.e., the distinction between legal and moral justice. We shall first establish what we mean by the term justice. According to Vallentyne,

Justice is a moral concept that has been construed in many different ways. It is most typically construed denotically (e.g. some things are permitted by justice and others are not), but it is also sometimes construed axiological (e.g. some things are more just than others). The object that justice is taken to assess varies. It is usually taken to assess social institutions, basic social structures (e.g., constitutions), and the distribution of goods, but it is also taken to assess actions and character- traits.¹³

When we examine the thoughts of Vallentyne, the term justice does not have a universal concept, there are various : 111 s of the features of justice, what is justice? The question leads to the various competing notion of justice. For Vallentyne, the term “justice” is sometimes understood to mean *moral permissibility* as applied to distributions of benefits and burdens or as applied to social structures (e.g., legal systems).¹⁴

In this first sense, the specific content of justice is determined by the objects assessed rather than by the set of moral concerns relevant for the assessment. This sense is perhaps best abandoned, given that (1) it makes the term redundant since it just means "morally permissible", (2) and there is an established usage (see below) for using "justice" to refer to a particular subset of moral concerns. The second sense of “justice” is concerned with what we

¹¹ 'Aristotle', Mt. San Antonio College (2019), 5, faculty.mtsac.edu/cmcgruder/aristotle.html

¹² T. Aquinas, *Summa Theologiae*

¹³ P. Vallentyne, *Justice in General: An Introduction* (New York: Routledge, 2003), 1, <https://mospace.umsystem.edu/xmlui/bitstream/handle/10355/10217/JusticeInGeneral.pdf?sequence=1&isAllowed=y>

¹⁴ P. Vallentyne, *Justice in General: An Introduction*, 2

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morally owe others. It is concerned with personal wrongs to others, but not with personal wrongs to self (e.g., failing to develop one's capacities) or impersonal wrongs (i.e., actions that are wrong but wrong no one; e.g., entertaining certain sexual fantasies, or destroying cultural relics one owns, when this harms no one).¹⁵

What we owe others is roughly what they can claim from us, and this is at least roughly that to which they have a right against us. Duties of justice in this sense are often contrasted with duties of charity. This understanding of "justice" seems fairly useful. It makes justice a particular, but fairly broad, kind of moral concern. The *third sense* of "justice" is concerned with *the limits of legitimate coercion*- with those moral duties we have, that others are morally permitted to force us to fulfil. Justice in this sense is concerned only with legitimately enforceable duties (e.g., our duty not to kill others). It is not concerned with those moral duties that are not legitimately enforceable by others (e.g., our duty to keep non-commercial promises to friends). This understanding also seems useful, since it makes justice a particular, but reasonably broad, kind of moral concern. Indeed, on some views, this sense of justice is intimately connected with the preceding one. For some would argue that duty is legitimately enforceable if and only if it is a duty owed to someone else. This, of course, could be challenged on the ground that some duties to self or some impersonal duties are sufficiently important to be legitimately enforceable.¹⁶

The *fourth sense* of "justice" as *giving each his due*, is understood as meeting the demand of *desert* (Desert is the state of being deserving of something, whether good or evil, in philosophy¹⁷). This differs from the second sense (what we owe others) in at least three ways. One is that justice in this sense is necessarily based on a desert, whereas justice as what we owe others need not be (but maybe, if individuals have a right to what they deserve). Second, justice as meeting the demands of the desert allows that agent's desert is relevant to justice (whereas it is not relevant for what we owe others). Third, this sense allows impersonal concerns to be relevant (although it does not require this). For example, it allows that justice may be purely non-comparative and holds that it is unjust when everyone gets more than he/she deserves. Justice as what we owe others, on the other hand, does not allow for this kind of impersonal concern. It would hold that such a situation is just since everyone's claims

¹⁵ P. Vallentyne, *Justice in General: An Introduction*, 3

¹⁶ P. Vallentyne, *Justice in General: An Introduction*, 3

¹⁷ 'Desert', WIKIPEDIA (2021), [https://en.wikipedia.org/wiki/Desert_\(philosophy\)](https://en.wikipedia.org/wiki/Desert_(philosophy)), accessed 15th December 2021.

have been met. This fourth sense of justice, that is, justice as the demands of a desert is perfectly bona fide, but its application is limited to views that recognize issues of the desert.

The *fifth sense* of justice as fairness is understood as a purely comparative concern for ensuring that individuals get what they are owed to an appropriate extent. This sense differs from the second sense (what we owe others) in two ways. One is that it includes a concern for ensuring that the agent-as well as others- get what they owed. A second, and more important difference is that its concern is purely comparative. It is not concerned with ensuring that individuals get what they owed independently of what others get, but only with ensuring that the extent to which individuals get what they owed is as equal as possible. (The formal requirement that individuals with equal claims be treated equally is a special case of this concern).¹⁸ Legal justice is conceived to attain its rightness through the implementation of procedures and legislative powers.¹¹³ It enacts laws for social order in society. Sometimes the stipulations of the laws may be moral, immoral, or non-moral, while moral justice, has to do with the application of ethical principles in duty, choice, and action. It calls in moral reasoning in the choice we make, the rightness of it.

According to Alistar in the attempt to establish a major distinction between ethical and legal, we observe that the sphere of morality is wider than that of law, regulating behaviour in the most diverse social relationships.¹⁹ But this does not mean that all norms of law are included in the sphere of morality. For example, legal rules of a technical nature, such as civil or criminal procedural law, do not usually include a moral appreciation. Another distinction is that moral norms are not usually written norms, which are not necessarily included in some official form and is the result of the official activity of state bodies.²⁰ Djuvara argued that "the foundation of law and morality is the same, the idea of obligation" and that "morality has as its object the regulation of internal affairs", and "the law has as its object the regulation of our external material facts in light of our intentions".²¹ Although the law cannot interfere with the inner processes of the individual because it has as its object the regulation of

¹⁸ P. Vallentyne, *Justice in General: An Introduction*, 4

¹⁹ A. Emima, "The relation between Law and Morality", *Research Association for Interdisciplinary Studies* (2019), 359, <http://rais.education/wp-content/>

²⁰ A. Emima, "The relation between Law and Morality", 359

²¹ M. Djuvara, *The General Theory of Law – Right Rational and Positive Law* (Bucharest: All Beck Publishing House, 1999) cited in, "The relation between Law and Morality", *Research Association for Interdisciplinary Studies* (2019), 359

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the external manifestations of the individual, that is, the relations with the other people, morality needs to penetrate the law, sanctioning it where necessary. In line with the thought above, the law is instilled in morality. For Del Vecchio, "the law constitutes objective ethics and the moral subjective ethics".²² The sole aim of the law is the actualization of morality, meaning that the end of all laws is seen in morality. According to Micescu,

law is a kind of morality, but morality imposed, with the guarantee of securing the respect it owes. In other words, the law is the morality of those who do not have morals and that, unlike other sciences who are content to find what it is and to express what it finds, the law has an extra claim: after having found, after has noticed, after detaching the relations as they are, to judge them under the angle of view of moral values and, instead of looking with resignation to what it is, to impose with authority what must be.²³

Strasser states that Holmes makes a point that might also be made by individuals believing in an objective and knowable morality- namely, that morality and the law sometimes diverge.²⁴ Yet, such a point might be made for a variety of reasons including, for example, to provide a reason to change outdated and anachronistic law. Thus, Holmes notes that morality and the law are not coextensive because the law does not always keep abreast of changing moral norms. He suggests that "when we speak of the rights of man in a moral sense, we mean to mark the limits of interference with individual freedom which we think are prescribed by conscience, or by our ideal, however, reached. Those ideals may not have been incorporated into the law."²⁵ However, indeed, many laws have been enforced in the past, and some are likely enforced now, which are condemned by the most enlightened opinion of the time, or which at all events pass the limit of interference as many consciences would draw it. Thus, Holmes suggests that there will be instances in which legal sanctions should be imposed as a legal matter because the individual violated the law, even though the legal sanctions should not be imposed as a moral matter.²⁶ After all, the legal

²²G. Del Vecchio, *Lessons of Legal Philosophy* (Bucharest: Europa Nova Publishing House, 1993), cited in, "The relation between Law and Morality", *Research Association for Interdisciplinary Studies* (2019), 360, <http://rais.education/wp-content/>

²³ I. Micescu, *Civil Law Course* (Bucharest : All Beck Publishing House, 2000), cited in, "The relation between Law and Morality", *Research Association for Interdisciplinary Studies* (2019), 360, <http://rais.education/wp-content/>

²⁴M. Strasser, *Holmes on law and Morality* (2006), 392, <https://www.albertalawreview.com>

²⁵M. Strasser, *Holmes on law and Morality*, 392

²⁶M. Strasser, *Holmes on law and Morality*, 392

prohibition itself should not exist as a moral matter. Holmes had an intuition that individuals would be less likely to conflate law and morality were the legal terminologies changed and that the clarity thereby achieved would be a net benefit for the society notwithstanding the loss of "majesty got from ethical associations". While Holmes can perhaps be criticized for not having offered a more persuasive case for his recommendation, his recognition that morality and the law do not always overlap and his recommendation that moral terms be removed from the legal lexicon hardly constitute a theory advocating a radical separation between law and morality. Indeed, an individual believing that there is a necessary connection between law and morality as a general matter might nonetheless recognize that some laws are immoral and further, support a recommendation that legal terminology is changed so that the unwary would not be misled into believing that there is a one-to-one correspondence between moral and legal duties.²⁷

Bridging the Legal-Moral Divide

There are two broad streams or schools of thought about law. They are the natural law theory and legal positivism. There is no univocal view of naturalism and positivism, the irreducible view of the natural thesis is that law assumes the existence of an all-pervading immutable supreme law of which positive laws are merely declaratory. The natural law theorists concern themselves with the search for an ideal law higher than human positive law. They see the law as a divine order commanding human respect. They link law with ethics and morality. The legal positivist on the other hand which is a radical reaction against the natural law theorist believes that law must not necessarily satisfy the requirement of morality (the separability thesis) and that law is a social fact (social thesis). Their approaches to jurisprudence demand that we take the body of rules known as laws and study them scientifically and dispassionately, without reference to any other matters. Though there are many strands of this view of thought, the underlying factor inherent in this school of thought is that law is the result of the deliberate creation of man for the ordering of the affairs and conduct of man in society.

Holmes claims that people have thought of law as a "brooding omnipresence in the sky", but law according to him is a well-known profession with prediction at its heart. Thus, because of his practical and down-to-earth definition of law, he is widely considered and placed within the pragmatic school of thought in philosophy. Consequently, Holmes went on to block law's claims to be a moral science, because

²⁷M. Strasser, *Holmes on law and Morality*, 392

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according to him, “a good deal of pretty poor stuff” goes under the name jurisprudence. Thus, in the spirit of the separability doctrine of the legal positivists, he claims that even though the law is loaded with a lot of moral jargon, they are however distinct in both intention and extension. According to him, the law cannot be identified with morality; does not transcend the specific practices of the many and various legal systems, and bears little resemblance to a set of first principles or axioms from which correct decisions may be deduced. Using the bad man as a heuristic device who does not give a damn to what is right, but just wants to know what is legal, Holmes asserts: If you want to know the law and nothing else, you must look at it as a bad man, who cares only for the material consequences which such knowledge enables him to predict, and not as a good one, who finds his reasons for the conduct, whether inside the law or out of it, in the vaguer sanctions of conscience.²⁸

Holmes has been accused of neglecting the dualistic component of the nature of law as both a guide to behaviour and a prediction of the outcome of the court judgment. Holmes defined law by emphasizing only its predictive role, thereby completely refusing to recognize its role as a guide to behaviour. This explains why he erroneously views law from the viewpoint of the “bad man” because the bad man is a smart offender, who needs court judgments. His position reversed the hierarchy of the role of law, and placed its secondary predictive function over and above its primary duty as a guide to behaviour.

On another note, Holmes has been charged with the problem of allowing the outcome of court judgments to depend solely on the whims of the judges, thereby putting the possibility of perfect justice in a precarious state. Consequent to this, Holmes' predictive theory of law is said to be an incomplete theory of law. The predictive theory of law at best encapsulates the lawyers' perspective and ignores other stakeholders in the legal process. It should therefore be noted that law and morality are inseparable. The inseparability of law and morality shows the nature of law to be dualistic, not monolithic; hence, the law is a guide to behaviour (which states its moral force) and a prediction of a court decision (which states its positive legal force). Holmes's restriction of the role of law to the prediction of court decisions without reference to moral roles leaves the status of every human action unpredictable because by so doing, it remains unknown until the court decides whether an action is legal or illegal. The problem is even deeper because a court decision in a previous case cannot suffice as actual law for a new case. Besides the unpredictability thesis leaves the

²⁸O. W. Holmes, *The Path of the Law*, 392

fate of the offender at the mercy of the judge which is inconsistent with the principle of equality before the law.

On the separation of law and morality, there are a lot of inconsistencies in what the law ought to be and what it is. The relationship between law and morality is almost inseparable, the simple argument is that any law without moral consideration leads to tyranny. Dukor, strongly believes that law as a concept without any relation to morality is empty and tyrannical. For him, the legal positivists are guilty of psychologism in trying to imagine a concept of law without moral background.²⁹ Dukor's ideation only alludes to the fact that law by its nature, is morally inclined and will lose its essence when we deny and call for the separation. The separation of law and morality can only bring about the enactment and promulgation of immoral laws. During Nazi regime, the people questioned the validity of the law, which made the Germans to review their laws without natural law inclination. The same circumstance led to the reviewing of the Italian constitution of 1946 and the Italian constitution of 1974. It only enforces inseparability. That is to say, we cannot separate the spirit of the law from the laws of the law. The spirit of the law is the ideal nature of law while the letters of the law are the written formulation of law. For Omoregbe, legal positivism by excluding the spirit of the law, and conferring itself exclusively to the letters of the law, gives a static concept of law, a concept which lives no room to improvement or development. To take the law only as it exists without asking what it ought to be is to exclude the possibility of correction, reform, or development.²⁹ It should be noted that the spirit of the law is what gives authority to the letters of the law. Holmes even recognized the undeniable force of morality on the law when he stated the "the law is the witness and external deposition of our moral life".³⁰ His restriction of the role of law to the prediction of the court decision without allusion to moral roles leaves those who approach the law at the mercy of the judge which is inconsistent with the principle of equality before the law.

Conclusion

The work "Path of the Law" which is seen as one of the greatest contributions of Holmes to law, following his prediction theory of law, is a simple, practical and down-to-earth conception of law, however, his conception of law has setbacks and failed ambition. Holmes' legal theory was not developed systematically. He was locked in dusty thinking of how a lawyer would advise his client 'the bad man' how to avoid legal

²⁹J. Omoregbe, *An Introduction to Philosophical Jurisprudence* (Ikeja: Jaja Press Ltd., 1994), 149

³⁰O. W. Holmes, *The Path of the Law*, 392

liabilities. Holmes had argued that the law is not a rigid and deductive application of the statutory provisions but the prediction of the pronouncement of the court, that is why it is better understood from the point of view of the 'bad man' who cares only for the consequences which such knowledge enables him to predict. The problem here is that Holmes failed to acknowledge the dualistic components of the role of law as a guide to behaviour and a prediction of the pronouncement of the court. For a better understanding of the law, it should be seen from both the legal positivists and the natural law theorists' view point. Our understanding of law should not be monolithic but dualistic. Much as legal decision-making cannot adequately be predicted, the just law cannot be predicated on the influence and personalities of the judges. The different vagaries in the application of the law are a result of the wrong conception of law. When the law is seen as the prediction of the court, it is subject to the discretion of the judge, which is open to massive abuse and the dispensation of injustice. To provide justice, the law needs to be looked at from its ontological status. Thus, Holmes' consequentialist approach to law must be discountenanced in favour of a theory that provides legal obligation for the existence and obedience to the law in consonance with morality.

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