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LAW AND ECONOMICS: DIMENSIONS WITH NO BOUNDARIES- Divya Issarani¹**ABSTRACT**

Studying law in renowned law school or university is considered prestigious. Law is a multilateral subject, a career in itself with its widening scope. As the human society has grown since ages, it is the law which has kept human civilisation stable and helped in its development. Law has established itself as a holistic intermediary between the society and other streams and proved that every stream is interdependent on each other. Traces of law can be found in every field and vice versa. For instance, medical has to follow certain rules while treating a patient and at the same time law also takes into consideration the mental condition of a person during a proceeding. Likewise there are no. of cases where law can be linked to any field of practice. And here it's Law and Economics. Those institutions which provide a tremendous crossover between the two are evolving as the human society is progressing. Even the subdivisions of law are based on the economic background while studying Property rights or division in property. Talking about Economics, it examines the choices of the human beings which are subjected to limited resources and ever increasing demands of the people. The welfare of the society is dependent on income of an individual that is used to produce or buy the products. But then the legality of earning money comes into play where the business (partnership) should be lawful. The annual budget declared by the Union or any money bill passed by the Parliament can also have impact on the export-import of the country. A law graduate searching for a job in a company as a legal advisor or in a bank should have a strong economic background to understand the technicality of the transactions and suits. Considering the present situation of nation-wide lockdown due to coronavirus, which was a

¹ Student of Hidayatullah National Law University, Raipur

legal step, has affected the economies of nations around the world with Gross Domestic Product (GDP) estimated for many economies as 0%. Any legal step can alter the economics of a country and conversely any economic activity can be a reason to amend the law of the land. Here in this essay the relation between law and economics is the main focus taking into consideration present situation.

KEY WORDS

- Trade Barriers- they are induced by the government as restrictions on international trade. They consist of tariffs, import quotas or duties and export restraints.
- Laissez Faire- in literal sense it refers to free trade. It is an economic system permitting private enterprises to establish their branch in one country without any intervention by the government.
- Liberalisation- it means lenient or relaxed laws by the government in economic transaction with any foreign country. Allowing and attracting international corporations by removing barriers in business and the licenses required to set up an industry.
- Globalisation- it is the process of interconnectedness of world which helps transport of goods, capital, technology, ideas and people from one corner of the earth to the other.

NATURE AND SCOPE

Introduction or background of both the streams is vital to clearly understand their significance as choosing them for career simultaneously. Earlier when the society was pre-social, the men were constantly at war with each other and wanted possession over everything to become powerful. There need was felt for law to come into play for controlling the savage human behaviour. The people themselves appointed an authority which would be the protector of the rights of weak and set up law and order in what then constituted the city-state. Law has the force to stop people from moving into wrong direction and guiding them towards correct destination. When the society is civilised then only it can think of development which is in turn possible when progressive law is the base of civilisation. Human cannot think of a life without water similarly a life without law is surely not humane. Law is something which is a universal truth which empowers people to differentiate between right and wrong. Its sole purpose is to maintain peace and subtract violence from the society in which human beings can live without any fear from fellow being.

In such a city-state where law has been established, people will surely want some occupation to earn their livelihood. For this they will indulge into economic activities; in exchange of their hard work and skills they will get remuneration. Through this study of economics comes into scene which is best defined as ‘study of how societies use scarce resources to produce valuable commodities and distribute them among different people’ by Paul Samuelson (1948). The humans have never ending demands which are to be fulfilled with minimum means (which have alternative uses) for them to achieve maximum satisfaction and to maintain the balance in the environment. There have been many definitions of economics by classical and modern economists which have included the themes of scarcity, welfare, and maximum satisfaction. Economics is an applied science which solves the economic problems of the human society by applying principles given by the economists. It covers areas like inflation, economic growth, employment, free-trade, etc. which makes it a social science solving the current problems faced by the economy. Economics as a deriving portion describes what an economy is and what it ought to be. It also gives value judgement to ascertain whether a decision for the wellbeing of the society will prove to be boon or curse.

What relates the two divergent streams is the small channel. Likely law and economics are related with what they revolve around, i.e., the human society. Law brings peace in the city-state constituted by civilised men and economics becomes a medium for them to attain maximum satisfaction by producing, consuming and distributing goods and services. Also, both of them stress upon what a welfare state is and what it ought to be by prescribing new regulations favourable for the national economy. This novice relationship was introduced by the classical economist of England and this idea spread to the other parts of the world and economists and legal scholars started analysing the other field. To them applying the principles of economics to study legal actions in market and non-market activities was a new innovation. Many scholars came forward to contribute to the legacy and started to discuss the economic effects of laws or even opposed the legislations prevalent then as they were against the market ethics. This beginning led to establishment of schools where economics and law were integrated, books were published and journals founded which contained articles etc. by authors which pushed the new field further.

RELATIONSHIP

Law and economics together refer to the application of microeconomics to analyse legal problems. The presence of Finance Ministry in the constitution of government is the evidence

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where both the streams merge. As the government takes political decisions with some economic consequence the legality of that decision has to be taken in consideration. **1.**The trade between the persons, between companies either of same country or different countries is regulated by certain trade laws made by one country or international organisations which are to be complied with for smooth transaction. If a nation has favourable condition to trade then others will find no problem in having economic relation with it like if the country reduces the tariffs or removes the trade barriers and opens its economy then it is the best opportunity to grab. And this condition can only be possible if the government wants by passing a legislation to the effect. If this is not the case then the economy will be at loss due to failure of business. **2.**The companies or partnership firms work on the basis of constitution which specifies some rules and code of conduct as mandatory. All people involved in businesses are expected to abide by the work ethics laid down by the laws that are good for the transaction and economic relations with other businesses. If there are no laws to regulate them, anarchy will arise as no one will know what is right or wrong and people will exceed their exercise of rights which will bring conflict and downfall of business and in turn loss to the economy. Investors in a business first look at the organisation and ethics of the company, in whose absence they do not get attracted which has a great effect on the turnover of the company. **3.** The allocation of resources should be efficient such as the distribution should be equitable and just. Law says that there shall be no discrimination in offering economic opportunity to anyone which refers to justified distribution of wealth. Also, it is the responsibility of the State to give equal pay to men and women for equal work done and ensure economic justice to minimise disparities from the society for the wellbeing of all sections of the society. **4.** If, in the last decade or so, we look at the protests in the different countries they are due to some laws which have mass economic implication on the population. The Yellow Vest movement in France started on November 17 (2018) when tens of thousands of people took to streets across the country to protest against rising fuel prices² and fuel tax hike. The middle class in Chile accused the president of ignoring them and protested against increasing inequality and oil prices. Hungary witnessed popular protest against the new labour laws whereby

2. Rokhaya Diallo, *Why are the 'yellow vests' protesting in France?*, 10 December 2018, AL JAZEERA, accessed on 28 September 2020, <https://www.google.com/amp/s/www.aljazeera.com/amp/indepth/opinion/yellow-vests-protesting-france-181206083636240.html>

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companies can demand up to 400 hours of overtime a year and delayed payment for it for three years.³

Today the world has become a global village and the world has seen this evolution in the form of globalisation. Trade started long back in first century BC and formalised in early Ads. The Chinese products, mostly silk, were sold in the Roman markets, taken from the famous silk route which connected Asia and Europe. Before this, trade took place through sea routes which used to take a lot of time. Then with the spread of Islam, trade in spices between the East and the West increased. The trade surely diversified after the discovery of America but globalisation came into scene only after the Industrial Revolution in Great Britain. The innovation of steam engine, steamships and trains helped Britain to deliver goods in demand across the world. Further development of science and technology pushed up the trade of goods and services. This was the period when of 19th century when Europe was at peak of economic and political power. The Second story of globalisation was written afresh by the new hegemon, the United States of America after the world wars. At the same time, a new technology from the Third Industrial Revolution, the internet, connected people all over the world in an even more direct way.⁴ Now a country has a government to make laws to regulate trade within its boundaries but when many nations come together to transact, they need a common platform where they can discuss the rules and conduct themselves. Such was provided by the formation of World Trade Organisation (WTO) in 1995, the only global international organisation dealing with the rules of trade between nations with a goal to ensure that trade flows smoothly, predictably and freely as possible. Hence, it is clear that law has something to do with the global economic transactions too. If law were not there, the powerful nations would dominate and over weaker countries which could have led to trade wars.

The private property of the people which is used in economic transaction has been protected by the laws made under British era and after independence. There are some crucial economic laws which form an overall legal framework of Indian business atmosphere such as *The Indian Contract Act, 1872; Negotiable Instruments Act, 1881; Transfer of Property Act,*

3. Hungary 'slave labour' law sparks protest on parliament steps, 13 December 2018, BBC, accessed on 28 September 2020, <https://www.google.com/amp/s/www.bbc.com/news/amp/world-europe-46551904>

4. Peter Vanham, *A brief history of globalization*, 17 January 2019, WORLD ECONOMIC FORUM, accessed on 29 September 2020, <https://www.weforum.org/agenda/2019/01/how-globalisation-4-0-fits-into-the-history-of-globalisation/>

1882; *Sale of Goods Act, 1930; Factories Act, 1948; Monopolies and Restrictive Trade Practices Act, 1969; Competition Act, 2002* etc. Students and scholars mainly study the basic definitions provided by them, the economic conduct and practicality suggested by them and finally the crimes related and protection of rights such as in the civil and the criminal law. By a closer glance at the laws, they identify the owner of the property and vest in him the whole sole possession to indemnify the person who values it more. What is important in the study of these rights and ownership is the efficiency. In case of contract law, where two parties are at liberty to mention anything in the terms of contract, it is ultimately for their own efficiency in transaction. But if there exists certain inefficient corner in the contract the parties will surely abstain from that and find a leeway to gain some productivity. For example, if the transaction cost of a product increases, the party buying it decides to buy another product with same efficiency.

Even economics contains basic laws, the application of which is vital for the growth and development of the economy. These laws govern the functioning of market and economics so that demands of the consumers are fulfilled and the sellers can earn profit. They are **1.** Natural economic law, which has a spiral movement consisting components like production, consumption, and distribution or exchange. **2.** Market regulation law, where currency and its financial instrument decide the production and exchange of capital, and consumption produces the consumption chain. **3.** Law of macro-economic control, wherein the nation should dominate the economy; national macro-control market should be living-consumption-centred so as to give full play to the positive functions of the rule and overcome its serious negative functions.⁵

CAREER IN LAW AND ECONOMICS

Students who pursue their degree at a college or university often get confused as to what sub-field they should choose as a career option. They are unable to decide a decent career choice in which they are talented and will fetch them a bright future. Talking about the graduates in the field of law, they are fortunate enough to decide in early years that in which area of law they need specialisation; it can be in civil law or criminal law, administrative law or patent law and the list never ends. But what if a law graduate wants a career in corporate law? Yes, being a lawyer in the business sector can also be a lucrative option, which has seen growth in

5. Bingxin Wu, CONSUMPTION AND MANAGEMENT, 1-23 (Woodhead Publishing Limited 2011)

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last few decades. A lawyer who specialises in company law is known as ‘corporate lawyer’. A corporate lawyer is the one responsible handling business operations in a legal manner. He guides the company to carry out business within legal limits. Having a lawyer for a corporation is also necessary for it to get a defence against the criminal charges with regard to any economic business activity. He also has the authority or right to legitimise a business activity or a deal with some other corporation or firm. A company lawyer helps the company with information and assistance related to employees, transaction, labour laws, relations with other firms etc. To enter an enterprise as a lawyer, one has to have a law degree and an economic background to understand the technicalities of business and inventing ways of doing lawful transactions.

The following are careers for those who want to work in economic law:-

- ✓ *Government Legal Services*- in every field, job in government office is golden opportunity and no one can disapprove it. A lawyer with economic background can directly work in creating, interpreting and enforcing policies, placed in the tax department or work under a minister to make a draft of budget, releasing funds, investments, etc.
- ✓ *Legal Advisor*- One can become a legal advisor to a non-governmental organisation or any private company, for which one should be updated with the social and moral issues prevalent in the society and have good communication and interpretation skills to make people understand one’s view point. He is basically a lawyer who provides legal counsel to a large business organisation. A legal advisor to a company gives a way out of legal problems coming between transaction and profit. He should have studied and practised corporate finance, acted on transactions and should take care of the unambiguous formulation of provisions in the contract of economic transaction. He represents and defends his client in court proceedings, tribunals or in mediation.
- ✓ *Consultants*- Graduates with legal and economic expertise can have an opportunity to work for is Mergers and Acquisitions. Working either for a specifically M&A consultancy or for a large corporation, consultants assist in the strategic planning and execution of the joining or taking over of one company by another.⁶
- ✓ *Broker*- A middleman in terms of law, or one who matches corporations with targets for acquisition is called a broker. This is suited to someone who likes to keep abreast of new

6. Georgina Torbet, *Top Career Paths: Economic Law*, 17 April 2018, INOMICS, accessed on 30 September 2020, <https://inomics.com/insight/top-career-paths-economic-law-1160639>

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developments and who has a feeling for which companies are in a position to grow or to become more valuable.⁷ For being a deal broker, it requires negotiable and persuasive skills (which a lawyer is good at) to earn maximum profit out of the collaboration. He acts as an agent or can be a buyer or seller in the contract deed.

- ✓ *Compliance Officer*- He is an in-house employee with a team of legal scholars, who ensures that the firm and its employees comply with industry laws and rules and regulations of the government including the policies made by the firm itself. Non-compliance to and breach of the code of conduct can have a long term negative effect on the company. He also has expertise in the work ethics and evaluates and reports the policies and practises needed for a disciplined atmosphere in the corporate. Law is never static and hence, should be renewed with time; similarly compliance officer has to have knowledge of new directions of ethics in corporate law and other developments whose obedience is mandatory.
- ✓ *Professor*- One who has a good background of law and economics qualification and experience, together can become a lecturer at college or university, which is a celebrated career option for one who has good command at delivery skills.

INSTANCES IN INDIA

At the beginning of every financial year, budget is discussed, debated and passed by the Parliament which is an estimation of revenue and expenses for the country in coming time period of one year. Ponder how and from where the union government gets its payments, what is the earning source of the government? It is the people of India who pay taxes (direct or indirect) and the union gets its money. A glance at our Constitution also provides a mention of relation between the two spheres. Article 110 gives the definition of money bill and Article 117 explains finance bill. The former refers to the bill introduced in Lok Sabha with prior permission of the President, covering issue of receipt, and spending or expenditure of money, and the taxation laws. It is decided by the Speaker of Lok Sabha whether a bill is money bill or not and the lower house exercises more power than the upper house over it which can be seen as lower house can either accept or reject the recommendations made by the upper house (Article 109 of Constitution). The latter is a part of union budget, specifying all legal amendments required for the fluctuations in taxation proposed by the Finance Minister. The Finance Bill essentially amends the other Acts dealing with various taxes in the

7.Id.

nation. It makes changes in the existing laws and makes new laws whenever required. For example, changes in the Income Tax Law (change in amount of penalty for missing the deadline), Stamp Act (change in rates or process of payment of stamp duty levied on various instruments), Money Laundering Act and introduction to new tax slabs is vital for the economy. The introduction of Goods and Services Tax on 1 July 2017 brought a centralised system with four tax slabs which was a whole novice legislation in itself. Hence, it is implied that it is only law which being multifaceted can find traces in country's economic framework, which is based on legislations of the centre. Also effects of economics on law can be found by amendments and formation of legislations.

In India, it is the Union Government which drafts the policies for economic and business transaction keeping in mind the condition of the seller and the buyer. If they comply with the trade policies, it adds to the economy of the nation and they tend to make sound profit. On the other hand, if they breach any term of contract in the Indian territory, legal action is taken against the parties. Laws regulating trade were made so that every trading party knows its rights and responsibilities and acts within boundaries for avoiding disputes, maintaining relations and development. Even there is a division in the sectors of economy such as public, private and joint sector to specify the area of action of government, private corporations or both respectively. The government by making laws ensures that there is no unnecessary intervention in its power and that of the corporation. Laws regulating the multinational companies and foreign business firms from establishing business in the native country are significant because they protect the micro, small and medium workers from any competition of quality and encourage indigenous development. The Competition Act of 2002 (earlier Monopoly and Restrictive Trade Practice Act, 1969) was enacted with the objectives like to protect the interest of the consumers by providing them good products and services at reasonable prices, to promote healthy competition in the Indian market, to prevent the abuse of dominant position in the market, to prevent those practices which have adverse impact on Indian markets, to ensure freedom of trade in Indian markets and to regulate the operation and activities of combinations (acquisitions, mergers and amalgamation).⁸ The Economic Policies introduced in India during the Five-Year Plans focused on every important aspect of the economy like industry, agriculture, internal and external trade. The New Economic Policy

8. Hemant Singh, *What is Competition Act 2002 and why is it made?* 26 March 2019, JAGRAN JOSH accessed 20 September 2020, <https://www.google.com/amp/s/m.jagranjosh.com/general-knowledge/amp/competition-act-2002-1553606677-1>

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of 1991 also known as the Liberalisation- Privatisation- Globalisation Model was the most effective of all as Indian economy was open for foreign companies to trade, outsourcing. The restrictions were made lenient, industrial licensing removed, selling shares of government to private sector, lesser interference of government in trade, policy of laissez faire, attracting foreign investment.

CONCLUSION

So far, it was all about the building relation between two divergent streams, law and economics. The former deals with legislations and control over the behaviour of people in society. The latter measures the growth and development of society on the basis of quality of labour. Since day one of a settled human civilization, it was law which was the cause and development of economics the effect. With progression and evolution, the laws were codified and made specific for different purposes and different spheres of life. With developing international relations of diplomacy, trade reached new heights by earlier discovery of sea routes and became swift. This gave a boost to the economies around the world and bettered the condition of human life due to good quality of products. After the World Wars the nations decide to organizations which would help re-establishment of trade and hence, General Agreement on Tariffs and Trade, 1947 (GATT), North American Free Trade Agreement, 1992, Organization of Economic Co-operation and Development, 1961, United Nations Conference on Trade and Development laid down rules to encourage healthy trade practices and participation of all nations in the world markets. This evolution did not happen in one moment but took centuries and will grow many folds in future with technological advancement. And with this economics will always have a backing of law and they shall go hand in hand opening new paths and reaching new destinations.