

**Law and Society: Analysis of Sumner and Llewellyn**

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The interrelations between law and society form the core of sociological analysis, especially in the interrelation of the legal systems and their role in everyday life. William Graham Sumner's folkways and mores theory provides a theoretical foundation for the law that emerged organically out of societal norms and shared moral knowledge. In comparison, the legal realism theory developed by Karl Llewellyn shifts the emphasis to the way the law works in practice, which is institution-oriented and objective behavioral. This essay asserts that law represents social traditions, reflects shared moral principles, and evolves through existing social norms, yet Llewellyn adds to these concepts and critiques the same by showing law to be more actively constructed through institutional action and shifts in society.

### **Part 1: Sumner's Folkways and Mores**

#### **Law as a Product of Social Customs**

The initial significant finding of Sumner is that law has its roots in social customs and specifically folkways. He explains that "Folkways are habitual patterns of human behavior... when engaged in by the group, they are customs" (Treviño, 2017, p. 30). It demonstrates that habitual behavior turns into common practices, which organize social life. These practices are not made deliberately but occur as a result of recurring interactions and mutual experiences.

According to Sumner, these patterns "emerge spontaneously", which means that the law is not constructed at the level of formal institutions but evolves naturally in the course of daily experience (Treviño, 2017, p. 30). With time, these practices become legitimate and affect formal systems of regulation. It demonstrates that law is deeply shaped by social experience. Law is not forced upon us, but rather it is accepted behaviors. To this end, law is an output of social life and derives its authority through collective consent.

#### **Law Reflects Collective Moral Beliefs**

The second important fact is that the law is a mirror of the moral values of the society. Sumner defines mores as “the ways of doing things which are current in a society... together with the faiths, notions, codes, and standards of well living” (Treviño, 2017, p. 30). In contrast to simple habits, mores are morally important and regulate social behavior.

He also explains that mores “designate the morality of a society and dictate what is good, proper, appropriate, and worthy” (Treviño, 2017, p. 30). It proves that law is closely intertwined with common moral beliefs. These values are formalized by legal systems, which make acceptable behavior stronger, and breaking them can be punishable by law. However, law can be a manifestation of prevailing morality instead of consensus. Moral disputes may cause legal problems in different societies; an assumption that Sumner makes is that there is a common ground.

### **Law Emerges from Mores and Social Order**

The third statement made by Sumner is that mores are the origin of law. He states that “out of mores arise rights and laws” (Treviño, 2017, p. 30). It creates a relationship between social norms and legal systems, demonstrating that law is constructed upon the existing moral expectations.

Law relies on the previous social contract because rights and rules are based on common knowledge of how to behave. These expectations are incorporated into the law systems as they mature and thus legitimize the law. But this also implies that the law can be behind social change. As the laws are grounded in the set of standards, they might not respond to the new values as quickly as possible, which may create a dilemma between tradition and change.

## **Part 2: Application to Llewellyn’s Legal Realism**

### **Custom-Based Law and Institutional Practice**

Llewellyn defends the law as based on actual behavior but switches the emphasis to institutions and law actors. He describes law in pragmatic terms as “what officials [of the law] do about disputes is, to my mind, the law itself” (Treviño, 2017, p. 12). It underlines the fact that law is not the written law, but it is the application of law in practice that defines the law. Although this is consistent with what Sumner states, that law is developed through social practices, Llewellyn reduces this to institutional action.

He further brings out a “behavior-content approach” that emphasizes observable legal behavior as opposed to abstract rules (Treviño, 2017). It implies that law interpretation involves looking at what the judges and officials actually do. So, Sumner describes the genesis of law in social practices, and Llewellyn describes the operation of law in institutions.

### **Moral Values Versus Practical Realities**

Compared to Sumner, who views law as collective morality, Llewellyn proposes a more complicated notion by referring to practical facts. According to legal realism, institutional constraints and context also affect outcomes, and not just moral beliefs. It contradicts the idea of Sumner that shared values are always reflected in law.

Instead, the legal practice can deviate from the moral expectations because of interpretation and practical patterns. Judges usually take precedent, circumstances, and consequences; that is, law is not merely moral, but also practical. Therefore, Llewellyn takes ideas of Sumner further by demonstrating that the application of law is even more intricate than its origin.

### **Law, Change, and Social Adaptation**

Llewellyn stresses that the law should follow the social changes. Legal realism involves “detailed, objective study of law... in the context of a changing society” (Treviño, 2017, p. 320). It confirms to Sumner that law is socially rooted but emphasizes flexibility.

The view upholds the opinion of Sumner that law is socially based but emphasizes the necessity of flexibility. The law has to change with society to remain relevant. Although Sumner focuses on stable standards, Llewellyn focuses on change, indicating that law is both rooted in traditions and adaptive to social change.

### **Conclusion**

Sumner and Llewellyn provide complementary information regarding the interrelations between law and society. Sumner describes that law has its basis in customs, moral beliefs, and comes about through social norms. Llewellyn develops this and demonstrates that law is both a product of institutional practices and one that has to be changed. Collectively, these views indicate that law is a social institution that is dynamic but based on society, yet continues to change with the changes in society.

## References

Treviño, A. J. (2017). *The sociology of law: Classical and contemporary perspectives*.

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