

THE CONCEPT OF LAW

At the threshold of our legal study we are confronted with a much discussed problem; that is, what do we understand by the term "law"? The definition of law must first be attempted, and the relation of law to other aspects of human conduct should next be exposed. But, different legal philosophers have understood law differently. Philosophical concepts of law will be treated separately in the next chapter to follow.

1 — Definition of Law

The word 'Law' is used in several different senses. It is our duty to distinguish these different meanings, so that we can arrive at the concept that lies within the lawyer's field of study.

The word 'Law' is used in a figurative sense to express those uniformities which have been observed to run through external nature, or social relations. Thus, scientists speak of the "Law of Gravity", and economists speak of the "Law of Offer and Demand". The same word is, sometimes, used to connote any established rule which has a definite consequence, as when philosophers talk about the "Moral Law", or the "Law of Nature", or "Laws of Beauty". Again, in Iraq, as in other Islamic countries, the term "Sharia" is in common use. Although it means the "Sacred Law of Islam", the word "Sharia" in itself includes, strictly speaking, all kinds of "Law" used among men.

However, the various meanings of the term 'law' connote the idea of 'Order' or "Uniformity". If used more strictly, it also connotes the idea of 'Authority'. This second idea carries with it the notion of 'Compulsion' or 'Enforcement'. These three ideas could, in fact, be said to form the basis of any preliminary and general definition to law. However, the student should not form the im-

القانون = doctrine
القانونيون

pression that the various schools of jurisprudence fully agree in relation to the question of the objective content of law (or, the nature of law). Great differences exist among legal philosophers in this connection, as we shall see in the following chapter. With this warning in mind, law could be defined as "the body of general rules and principles regulating human conduct in society, the obedience to which is enforced by a supreme authority." From this general definition, it can easily be inferred that, for a rule to be law, three conditions must be fulfilled: -

- 1 — The rule should be general.
- 2 — It should regulate human conduct in society.
- 3 — Obedience to it should be enforced by a supreme authority, or, in other words, there should exist a "sanction" for the enforcement of the rule.