THE EXISTENTIALIST FOUNDATIONS OF LAW

BY

TUNOI PHILIP KIPTOO

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ABSTRACT

This thesis is a multi-disciplinary research study that encompasses existentialism as a recent branch of philosophy and law and adopts a theoretical framework from biological sciences. It aims at the possibility of discovering, if any, the existential foundations of law. It is further premised that as law and its co-variants have their core function as mechanisms whereby justice may be realized and since law depends on immutable and eternal basis for its promulgation and appropriation, there is a great need to examine and appraise the possibility of establishing a logically enduring, humanly based, and uniquely responsive foundation upon which to base it. The intellectual appeal of the general theme of existentialism justifies the endeavor of examining the possibility of founding law on such grounds. The symbiotic-utilitarian-autopoiesis theory has been adopted as the theoretical framework of the thesis. This is a three-in-one theory which encompasses symbiosis and autopoiesis theories from biological science and utilitarianism from philosophy. Symbiosis is a form of coexistence between organisms whereby both mutually benefit from each other. Autopoiesis describes the self-referential, self-replicating qualities of the typical biological system. On the other hand, utilitarianism refers to the moral theory that there is one and only one basic principle of utility that asserts that moral agents in all circumstances ought to produce the greatest possible balance of value over disvalue for all persons affected. That is, utilitarianism, gauges the worth of actions by their consequences. The thesis lastly concludes by showing that indeed, it is logically possible to discover existential foundations of law courtesy of the symbiotic-utilitarian and autopoiesic theory. The thesis shows the potential held by applying and studying existentialism as a new paradigm shift to social structures and systems.