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Natural Law Theory and Its Applicability in India

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ABSTRACT

With its roots in Ancient Greek and Roman philosophy, the natural law tradition of morality and jurisprudence was refined and systematized by scholastic thinkers, most notably Thomas Aquinas, and is still relevant today. This essay concentrates on the core tradition of natural law theory, describing its fundamentals and paying special emphasis to its consequences for politics and the law, as well as its relationship to the social and behavioral sciences.

Keywords: *Rights, natural law, Authority, Thomas Aquinas, civil disobedience, ethics, John Finnis, human nature, law, legal positivism, morality, obligation, rights.*

I. INTRODUCTION

Natural law is defined by R.W.M. Dias as a body of law that has been pre-established by the State or its agents and is derived from its own intrinsic values, which are distinguished by living and organic features. Furthermore, natural law is not a corpus of actual enacted or interpreted law that is enforced by courts; rather, Cohen defined natural law as a style of thinking about things and a humanistic approach of judges and jurists. "The natural law is superior to all other laws because it is derived from God himself and coexists with mankind," said Blackstone about the essence of natural law. It is always applicable to all nations, and any legislation created by humans that conflicts with the natural law is null and void.

All things considered, the jurisprudential interpretation of natural law is that its norms and principles have developed from an ultimate source, not from any governmental authority. Regarding the phrase, various jurists have differing interpretations despite this jurisprudential feature. Some of them think natural law is a creation of reason, while others think it has a supernatural origin. Still others think it exists in nature.

II. NATURAL LAW THEORY

Regarding the precise definition and meaning of Natural Law, opinions differ. In the language of jurisprudence, "Natural law" refers to norms and guidelines that are thought to have come

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from a higher authority than any political or material authority. It stands for the morally-based physical law of nature, which is applicable everywhere and in all contexts. It has frequently been employed, depending on the circumstances, to either support a change or uphold the status quo[2].

Example- While Hobbes utilized Natural Law to uphold the status quo in society, Locke embraced it as a tool for change. Natural Law is the fundamental foundation for the ideas of "due process" in the United States and England, as well as the "rule of law" in India. In addition to being established by the same reason that governs the world, natural law is also the Law of Reason because it is understood and addressed by man's reasoning nature. Additionally, it is also known as common law or universal law because it is not specific to Athens and has universal legitimacy, being the same everywhere and binding on all peoples. Finally, it is now referred to as "moral law" since it expresses the fundamentals of morality. The Natural Law holds that there can be no strict division between the "is" and "ought" components of law and there is needless confusion in the legal industry because of this bifurcation. Natural Law proponents contend that since concepts like "justice," "right," and "reason" are derived from the Law of Nature and human nature, they cannot entirely be excluded from the scope of the law. It is widely regarded as the perfect source of law with unchanging contents.[3]

(A) Features of natural law-

- Natural Law is timeless and unchangeable because it was formed at the beginning of time and is uncreated.
- Man did not create natural law; he simply discovered it.
- No other organization enforces Natural Law.
- In a way, natural law is a greater kind of law because it is not established by legislation but rather results from the teachings of philosophers, prophets, saints, and others.
- There is not a formal written code for Natural Law.
- Moreover, neither a distinct punishment for breaking it nor a particular benefit for following its guidelines exists.
- The value of Natural Law is unchangeable and eternal.

Other names for natural law include divine law, the law of nature, the law of God, etc. The term "divine law" refers to a directive from God to humans.

[2] https://legalvidhiya.com. Last visited on 5.4.2023
[3] B.N Many Tripathi," Jurisprudence, Legal Theory"

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III. EVOLUTION, GROWTH, AND DECLINE OF NATURAL LAW[4]

The content of "Natural Law" has changed over time by its intended use and the role it must play to meet the demands of the moment and situation. As a result, "Natural Law" has gone through several periods of development and evolution, which can be broadly examined under the following headings:

(A) Ancient Period

a. Heraclitus (530 – 470 B.C.)-

Around the fourth century B.C., Greek philosophers created the idea of natural law. The first Greek philosopher to identify the three primary characteristics of the Law of Nature was Heraclitus. These characteristics are as follows:

destiny,

order and

reason.

He said that there is a clear relationship between the objects in nature as well as a set sequence and rhythm of events, rather than nature being a disorganized mass of stuff. "Reason" is one of the fundamental components of Natural Law, in his opinion.

b. **Socrates (470 – 399 B.C.)** According to Socrates, there is a Natural or Moral Law in addition to Natural Physical Law. "Human Insight" holds that a man is capable of moral appreciation and can discriminate between right and wrong. The foundation for judging the law is this human "insight." Socrates acknowledged that the Positive Law was infallible. He claimed that the attractiveness of the "insight" was what made him want to follow the law, which may be why he chose to consume poison rather than escape from prison. One of the main demands of the day was security and stability for the nation, and he argued that Natural Law was necessary for both. Plato, his student, agreed with the same theory. However, it is in Aristotle that we find a proper and logical elaboration of the theory.

c. **Aristotle (384 – 322 B.C.)**[5]

He claims that there are two ways in which man is a part of nature:

[4] https://blog.ipleaders.in/natural-school-of-law. Last visited on 5.2.2023
[5] https://legalvidhiya.com/natural-law-theory-of-jurisprudence , Last visited on 28.11.2023

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First, he is one of God's created, and

Second, he is endowed with reason and insight that allow him to Mold his will.

Man can uncover the timeless concept of justice by reason. Since reason is a component of nature, the law that reason discovers is known as "natural justice." Even if Positive Law does not contain the fundamental precepts of Natural Law, it should nonetheless be adhered to and attempt to incorporate the regulations of "Natural Law" into itself. Rather than being broken, the law ought to be changed or amended. He maintained that since slavery was a "natural" system, slaves had to accept their fate. According to Aristotle, the principles of Natural Law originate from human conscience rather than human reason, making them far more important than Positive Law, which is a product of the human mind.

Natural Law in Rome-

The Romans advanced the study of "natural law" beyond academic debates and gave it a practical expression by converting their inflexible legal system into a global living law. By dividing Roman law into three separate categories, Natural Law was able to positively impact Roman law in this way:

Jus civile',

'Jus gentium' and

'Jus naturale'[6]

Only Roman citizens were subject to the civil law known as "Jus civile," while foreigners were subject to the law known as "Jus gentium." It was made up of the universal legal precepts that followed the Law of Reason or Natural Law. Subsequently, these two amalgamated to become known as "Jus naturale," since Roman citizenship was granted to all individuals except for a select few. The issue of the clash between "Positive Law" and "Natural Law" did not concern Roman lawyers. However, there was a consensus that positive law should be ignored in cases of disagreement with natural law as the former is greater because it is grounded in reason and conscience.[7]

Natural Law in India-

The judicial system in Hinduism is arguably the oldest in the world. They created a highly thorough and coherent corpus of legislation very early on. Every piece of legislation is imbued with a sense of "justice." However, a succession of foreign invasions, along with continuous

[6] https://legalvidhiya.com/natural-law-theory-of-jurisprudence , Last visited on 2.11.2023
[7] B.N Many Tripathi," Jurisprudence, Legal Theory

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modifications to the political and governmental structures, hindered the system's natural development. The study of this legal system was prohibited under the foreign administration from receiving the appropriate attention. There are still a lot of unproven theories and concepts about it. In this regard, a few guidelines and clauses can be mentioned. The Hindu perspective holds that God is the source of law. Law is contained in the Smriti and the Shriti. All the king must do is carry out that law, by which he is also obligated, and he ought to be disobeyed if he violates it. The Puranas are replete with stories of rulers who disobeyed the law and were deposed or beheaded.

(B) Medieval Period

law and he himself is bound by it; if he disobeys this law, he ought to be disregarded. The Puranas are replete with stories of monarchs who were dethroned and executed for defying the law.

a. Thomas Aquinas (1226-1274)-

The idea that "unjust" laws are unworthy of adherence implies that man can discover natural law by using "reason" and examining the scriptures, which are revelations from God. St. Thomas Aquinas categorized laws into four categories, which are as follows:-

- God's law or outside law
- The natural law, as revealed by nature
- Human law, or positive law as it is currently known
- Scripture's law or the law of God

(C) Renaissance Period

Learning is being revived as scholars reexamine Greek and Roman texts, looking instead at the meaning of human life itself to derive principles of natural law. The following are the primary Renaissance writers:-

a. Hugo Grotius (1583-1645)

It is referred to as the founder of international law. Grotius based his idea of law on the "Social Contract." In a nutshell, he believes that a "social contract" underpins political society. Since the form was granted power exclusively for that purpose, it is the sovereign's responsibility to protect the people.

b. Thomas Hobbes (1558-1679)-

It was a supporter of the absolute power of the ruler and subjects had no right against the

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sovereign.

c. John Locke (1632- 1704) -

John Locke concurred that there are some unalienable natural rights. "Life, liberty, and estate (property)" is how he classified them. Locke's social contract is founded on liberalism.

d. **Rousseau (1712- 1778)-**

As noted by Rousseau, the "social contract" is only a theoretical idea rather than a historical reality as thought by Hobbes and Locke. Before the so-called "social contract," men were treated equally and had happy lives. In order to protect their freedom and equality, people banded together and gave up their rights—which Rousseau referred to as the "general will"—to the community at large rather than to a single sovereign. Consequently, each person has an obligation to submit to the "general will," as doing so directly submits to his own will. The purpose of the state is to safeguard equality and freedom. The State and its enacted laws are subject to "general will," and laws and the government would be abolished if they did not follow "general will." In favor of people's sovereignty was Rousseau. His "Natural Law" theory is limited to an individual's equality and freedom. He views terms like "state," "law," "sovereignty," "general will," etc. as synonymous.

e. Immanuel Kant (1724 – 1804)-

Kant and Fichte provided additional support for the Natural Law school of thought and the social contract theory in the eighteenth century. They underlined that "reason"—rather than historical fact—was the foundation of the social compact. Kant distinguished between acquired and natural rights, recognizing only the former as essential to an individual's freedom. He advocated for the division of powers and emphasized that the state's role should be to uphold the law. His renowned Categorical Imperative thesis was introduced in his seminal work, Critique of Pure Reason. Rousseau's theory of General Will served as the basis for Kant's theory of Categorical Imperative. It is based on two ideas:-

According to the categorical imperative, a man must behave in a way that is dictated by the dictates of his own conscience. As a result, it is only a human right to self-determination.

The idea of "autonomy of the will," which refers to the freedom to do as one pleases but also to an action arising from reason, was Kant's second main idea. "An action is right only if it coexists with each and every man's free will according to the universal law," was the basic tenet of Kantism. He referred to this as "the principle of Innate Right." He claimed that the state's only job was to make sure the law was followed.

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(D) Modern Period[8]**-**

The pragmatism of the 19th century dealt a blow to the Natural Law thesis. Bentham and Austin, two of analytical positivism's pioneers, disapproved of Natural Law on the grounds that it was imprecise and deceptive. Austin and Bentham's theories totally separated morality from the law. The acceptance of Natural Law doctrines began to wane in the 19th century. The conceptions of "Natural Law" roughly mirrored the significant political, social, and economic transformations that had occurred in Europe. Rationalism, or "reason," typified 18th-century thinking. It was time for a response to this abstract idea. A collectivist perspective replaced individualism as a solution to the issues brought about by the recent changes. The doctrine of modern skepticism asserted that there are no absolutes or unalterable fundamentals. The natural law philosophers' a priori techniques were out of date in the burgeoning scientific era. Historical studies came to the conclusion that the social contract was untrue. The 19th-century Natural Law paradigm was completely upended by all of these advances. The more grounded historical and analytical methods to legal analysis drew in jurists. They ushered in a new phase of legal philosophy. It became more difficult for the "Natural Law" doctrines to endure in this altered intellectual environment. Consequently, the 19th century was generally opposed to "Natural Law" doctrines, even though isolated voices defending their superiority may still be heard.

(E) **20th Century Revival of Natural Law-**

First, there needed to be a backlash against 19th-century legal theories that overemphasized "positive law," as these theories failed to meet the expectations of the public because they refused to acknowledge morality and "reason" as components of the legal system; Second, it became clear that a priori presumptions and abstract thought were not entirely pointless; third, the effects of materialism on society and the shifting socio-political landscape forced legal scholars of the 20th century to search for a value-oriented ideology that could stop the general moral decline of the populace. Following the devastation of Western culture during World War I, a value-conscious legal system was sought after. The combination of all these elements resulted in the resurgence of Natural Law theory, albeit with some modifications from its original version. Among the leading proponents of the recently restored Natural Law were Prof. Rawls, Kohler, Rudolf Stammler, and others.

a. Rudolf Stammler (1856 – 1938)[9]

"Species of will, others-regarding, self-authoritative and inviolable," according to Stammler, is

[8] https://lawcorner.in/natural-law-school-of-jurisprudence. Last visited on 7.1.2023
[9] Legalvidhiya.com/natural-law-theory-of-jurisprudence. Last visited on 6.9.023

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what law is. According to him, a just law protects people's freedom and is the pinnacle of human social life. He stated that the following two essential ideas were required for a just law:

respect ideals and the community engagement premise.

He referred to the old Natural Law as "Natural Law with variable content" to differentiate it from the newly restored one. He defines the "law of nature" as a "just law," that balances the goals of society. The goal of the law is to bring all goals together, not to uphold any one person's will.

b. Professor Rawls-

Professor Rawls had a major role in the 20th-century Natural Law movement. He proposed two fundamental ideas about justice, which are equality of rights to the pursuit of universal goals, such as the acquisition of power, opportunity, and the bare necessities of life; and Inequalities in social and economic domains ought to be structured to optimize the collective welfare of the community.

c. Lon Luvois Fuller (1902 – 1978) disapproved of the rationalist Natural Rights teachings of the 17th and 18th centuries as well as Christian conceptions of Natural Law. He didn't believe in an unchanging set of principles. His main connection was to Aristotle. He discovered a "family resemblance" between the many Natural Law systems and their pursuit of social order tenets. He thought that "the process of moral discovery is a social one and that there is something akin to a 'celebrative articulation of shared purposes' by which men come to understand better their own ends and to discern more clearly the means for achieving them" was an assumption made in all theories of Natural Law. According to Fuller, the core principle of natural law is an affirmation of the role of reason in legal ordering.[10]

Critical evaluations of the theory

One of a kind and more influential in the creation of a legal system is the Natural Law doctrine. Since justice, equity, and a good conscience are recognized as the tenets of natural law, they have guided the legal system. Unlike arbitrary laws created by humans, these laws are unavoidable and mandatory. This natural rights theory established the fundamental principles of human rights in addition to creating a favorable environment for reformation. In addition to its many advantages, the natural law theory has the following drawbacks:

[10] https://legalvidhiya.com/natural-law-theory-of-jurisprudence. Last Visited on 3.10.2023

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The moral obligation component of the idea is not always in line with societal demands. Certain limitations and distinctions ought to be included.

Morality is not a static idea; it varies depending on the context. It varies according to a person's or a group's conscience. Consequently, it would be incorrect to claim that nature follows the natural law theory everywhere.

Legal disputes are subject to legal challenges in court, but moral disputes cannot be settled by judicial review. There are no rules that define what constitutes an individual's morality, not even if it is contested in court.

Despite all these drawbacks, it is indisputable that natural law has had a stronger influence on the creation of the legal system.

IV. APPLICATION OF NATURAL LAW THEORY FOR INDIA

Natural justice, fairness, conscience, and equity form the cornerstones of the Indian legal system. Natural law is an idea that has been ingrained in Indian society since ancient times rather than being the product of the creation of the current legal system. The concept of "Dharma" represented the natural law of the ancient world. It can be viewed as the moral code of behaviour that was established to lead a law-abiding, orderly life in society. The duties that man owes to God and all other living things on the planet are encompassed within these natural law principles that make up the idea of dharma. The Indian Constitution has deeply integrated these natural law ideas into many of its sections. The natural law idea was well-known to the writers of the Constitution, and they recognized the value of incorporating it into the national legal system. The Indian Constitution's application of natural law principles is perfectly demonstrated by the Preamble, fundamental rights, and Directive Principles of State Policy. As society has changed over time, the legislative body has also recognized the needs of the community by amending laws to include rights to equal justice and free assistance, as well as special provisions for the most disadvantaged groups in society.

A close examination of the judgment would reveal a reference to Locke's theory, according to which men's natural rights—such as the rights to life, liberty, and property—remain with him. The same natural law theory principle might therefore be applied to the *Maneka Gandhi case*.

Explanation 1- *Indian Express Newspaper v. Union of India*[11]

The Rousseau theory has been employed in this case. The Supreme Court stated that every

[11] ***Indian Express Newspaper v. Union of India, AIR 1984***

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citizen has a natural right to freedom and liberty, which is further granted by Article 19.

Explanation 2- *ADM Jabalpur v. Shivakant Shukla*[12]

Another name for it is the Habeas Corpus case. In terms of the rule of law, it is one of the significant cases. In this instance, the issue was whether the Indian Constitution had any other laws in addition to Article 21. This was in relation to the emergency declaration's suspension of Articles 14[13], 21, and 22[14]'s enforcement. The response is that one could not be deprived without legal permission, even in the absence of Article 21.[15]

In this instance, the individual's transgression must not be in opposition to the capricious wishes of another, according to Stammler's four-point principle with reference to the "principle of respect." The Indian judiciary has adopted the natural law approach in this instance.

V. CONCLUSION

One thing that becomes clear from a thorough analysis of Natural Law theories is that the idea of Natural Law has evolved over time. It has been employed to defend practically all ideologies, including individualism and absolutism. In addition to inspiring numerous revolutions, natural law has had a significant impact on the growth of positive law. Natural Law theories concentrate on achieving the goals of the law because a study of law would be lacking if it did not accomplish these goals. Thus, one could argue that the legal systems of practically all nations incorporate the concepts of natural law. Certain fundamental rights, such as the right to equality and life, are guaranteed by the Indian constitution. These rights are also rooted Not only is the natural justice principle founded on the precepts of natural law, but so is the concept of natural law itself. Ultimately, one may argue that the natural school of law has greatly influenced Indian and global legal doctrine.

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[12] ***ADM Jabalpur v. Shivakant Shukla, AIR 1975***
[13] Article 14 of the Indian Constitution
[14] Article 22 of the Indian Constitution
[15] Article 21 of the Indian Constitution

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