NOTES

The Foundations of Law: Jurisprudence & its Schools (Part 1)

Julie Nigam · 13 Aug 2026

The study of jurisprudence lies at the very heart of legal theory and the fundamental concept of law itself. Over the centuries, legal scholars and thinkers have utilized various frameworks and philosophies to classify the various Schools of Jurisprudence.

While some jurists categorize these divisions into specific branches such as philosophical, analytical, or historical jurisprudence. The phrase ‘schools of law’ remains the most widely recognized and accepted term for grouping these distinct legal thoughts.

Legal theory is traditionally divided into five major schools of jurisprudence, to explore how law functions within human society.

Major Classifications of Legal Thought

- Natural School
- Analytical School
- Historical School
- Sociological School
- Realist School

Natural Law School (Ethical / Philosophical School)

This concept, closely ties law to morality, justice, and reason. Scholars found it on the premise that human law (Lex Humana) is subordinate to a higher law. It states that there is a higher, objective ‘divine law’ or universal moral standard discovered through human reason.

Jurists consider any human-made law that contradicts natural law unjust and invalid.

Historical Evolution & Prominent Jurists

Historians divided natural law into four distinct periods. Each period adapted the concept of ‘higher law’ to fit in the political and societal challenges of its time.

- Ancient Period
- Medieval Period
- Renaissance
- Modern Period

Ancient Period (Greek & Roman)

The first propounders of natural law principles were Greeks. In this era, thinkers closely tied natural law to cosmology, nature and the gods.

Heraclitus

The earliest philosopher to point out that human laws are sustained by a single divine law, which he tied to cosmic order (Logos).

Socrates

Argued that human actions can distinguish between good and bad. He maintained that natural law dictates that it is a moral duty to obey the state laws, even if they seem unjust in a specific instance. He proved the same by drinking the hemlock.

Aristotle

- Scholars consider him as the father of natural law.
- He has divided justice into – Natural Justice and Conventional Justice.
- Natural Justice has the same validity everywhere and does not depend on human acceptance whereas men make Conventional Justice as legal rules for specific situations.
- He asserted that nature has a purpose, and man using his reason can discover the rules to fulfill that purpose.

Stoics

Shifted the focus from a localized greek perspective to cosmopolitan one. They viewed the entire universe as governed by reason. To them, ***"To live according to nature is to live according to reason."***

Roman Period

Ancient Romans classified their legal system based on natural law. They classified roman laws into three broad categories –

1. Jus Civile – Courts enforce this local law for Roman citizens.
2. Jus Gentium – Courts also enforce this broad law for Roman people.
3. Jus Naturale – It is a Universal law of nature based on human reason which is not legally enforceable by courts.

Jus Gentium and *Jus Naturale* shared universal moral principles, the only distinction between the two is that the former is legally enforceable in courts while the latter is not. *Jus Naturale* serves purely as moral guidance to the society.

Salmond

Salmond argued that Jus Gentium was a purely Roman concept created independently by Roman lawyers to solve practical legal matters. He stated that Roman jurists established this system long before they had any knowledge of the Greek philosophical concept of *jus naturale* (natural law).

Salmond states that, it was after greek stoic philosophy was introduced to rome, the roman jurists started to look back and retroactively identify their existing Jus Gentium with the universal jus naturale of the Greeks.

Cicero

Cicero has beautifully summarized in *De Re Publica* the classic definition – ***"True law is the right reason in agreement with nature; it is of universal application, unchanging and everlasting."***

He argued that the roman senate could not invalidate the natural law, nor could any human judge overrule it.

The Medieval Period (Theological Era)

During the middle ages, the catholic church dominated european thought. Thinkers completely christianized natural laws, nature was replaced by god, and cosmic reason was replaced by the divine will.

St. Thomas Acquinas

He is the supreme authority of this period , he made several attempts to harmonise the teachings of church with natural laws. In his famous work Summa Theologiae, he distinguished the law into four kinds –

1. Lex Aeterna (eternal law) – The divine wisdom of god that governs the entire universe. It is completely unknown to the human mind as it is the law of God.
2. Lex Divina (divine law) – It is scriptural law that god gave through holy visions.
3. Lex Naturalis (natural law) – The part of eternal law that human reason can discover. It guides humans to choose good over evil.
4. Lex Humana – It is human law or man-made law which humans make on the basis of natural law on basic logical reasoning and moral rule.

The Renaissance & Social Contract Period

With the decline of church authority and rise of science, natural law was separated from theology. Jurists began looking at the rational nature of man and used natural law to justify through the concept of social contract theory.

Hugo Grotius

Regarded as the father of modern natural law, completely secularised natural law. He stated that natural law would still hold good even if accept that god does not exist. He argued that natural law is rooted in the social nature of man and his desire for a peaceful, organized society.

Thomas Hobbes

Hobbes used natural law to justify ‘absolute monarchy’. He believed that before the government existed, people lived in a lawless world where everyone fought each other just to survive. In this wild state, life was lonely. Miserable and full of chaos.

To survive, people entered into a social contract, surrendering all their natural rights to an absolute sovereign ruler. In return, the ruler guaranteed security and order.

John Locke

He used natural law to defend individual liberty and constitutional democracy. He argued that people entered a social contract not to surrender their rights, but to protect their pre-existing natural rights. The government's authority is trust, if the sovereign violates these natural rights, citizens have a moral right to revolt.

Jean Jacques Rousseau

Rousseau argued that man was born free but is everywhere in chains. He asserted that individuals surrender their personal selfish wills to the 'general wills' of the community. He says that true freedom lies in obeying the laws created by this collective general will.

The Modern Period

By the 19th century, natural law had collapsed under the rise of analytical positivism. However it rose after World War II. The atrocities committed by nazi's in Germany which were technically legal under their laws, entirely stripped off the morality and led to absolute dictatorship.

Rudolf Stammler

He introduced the concept of 'natural law with variable content'. He argued that while the abstract idea of justice is universal, its practical application must change depending upon the time, place, and social conditions of society. As law is a dynamic instrument to achieve harmony.

Lon L. Fuller

Fuller rejected the idea of an external moral code. Instead, he focused on the 'inner morality of law.' He argued that law is a purposive human activity, subjecting human conduct to the governance of rules. To be considered a valid legal system, it must comply with 8 principles of legality.

- Law must be general
- Law must be publicly known.

- Law must be retroactive.
- It must be clear and understandable.
- It must be consistent.
- It must not command the impossible.
- Laws must be stable.
- There must be alignment between official action and the declared law.

If a legal stem fails on these 8 principles, it is not a legal system at all.

Indian Jurisprudence in natural law

When the CLAT passage discusses natural law, the application questions almost always tie back to Indian Constitutional law –

- In A.K. Gopalan (1950), the SC followed strict positivism, i.e law as it is, holding that 'procedure established by law' meant any law passed by parliament. In Maneka Gandhi v. UOI (1978), the SC adopted natural law ruling that the procedure must be 'Just, Fair, and Reasonable.'
- The ruling in Kesavananda Bharati (1973) can be interpreted as a natural law limitation on parliaments amending power. It states that there are certain unwritten, inherent features of the constitution that even a parliament cannot touch.
- In K.S. Puttaswamy v. UOI(2017), the supreme court explicitly held that the right to privacy is an inherent, natural right that belongs to every human being by virtue of existence and it is not the gift given by the constitution.

Conclusion

Understanding natural law is essential as it sets the basic standards for rights, justice, and morality in legal systems all over the world. While natural law focuses on what law ought to be, other major schools of thought look at law through different lenses.

In the upcoming article, we will continue to read the other schools of thought by breaking down Analytical, historical, sociological and realist schools.