
RELEVANCE OF NATURAL LAW THEORY IN THE CONTEMPORARY ERA IN INDIA

Siddhi Shridhar Kalamkar, D.E.S. Shri Navalmal Firodia Law College

ABSTRACT

When individual's behavior is according to laws of nature it is evolutionary for individuals and also for society. The concept of natural law was first found in Greek Philosophy and was developed by Aristotle and Socratic. It asserts the existence of inherent, universal moral principles that are discoverable by reason and should form the basis for just laws and ethical conduct. In the contemporary era the natural law is a topic of Philosophical and legal debate. Natural Law has contributed in shaping many legal systems. While natural law principles continue to influence discussions on ethics and human rights, they are not explicitly incorporated into the legal systems of many countries, which tend to be based on positive law and legal positivism. While the core concepts of natural law can be enduring, the application and interpretation of these principles may need to evolve to remain relevant in the contemporary situation. The significance of natural law in the contemporary era lies in its ability to provide a foundational, universally applicable ethical framework that addresses the complexities of modern society, including the promotion of human rights, environmental sustainability, and the guidance of emerging technologies. Reforming the significance of natural law in the contemporary era requires a balanced approach that respects the enduring moral principles while adapting them to address the complexities of modern society.

Keywords: ethics, human rights, legal principles, moral principles

I. Introduction of Natural Law Theory

Every law, and particularly, natural law, is based on the fundamental postulate of Aristotle that man is a political animal and that his nature demands life in society.¹

Historically, its appeal was linked to religious or supernatural beliefs, but in modern times, it has evolved into a powerful tool in political and legal ideologies. Natural law has frequently been invoked to justify existing laws and social structures. It is sometimes regarded as an ideal, flawless system, with positive law merely a flawed reflection of it. Alternatively, natural law is viewed as a fundamental principle that guides human behaviour towards self-preservation.

Dr W. Friedman rightly points out that the history of natural law is a tale of the search of mankind for absolute justice and its failure. Again and again, the idea of natural law appeared in some form or the other, as an expression of the search for an ideal higher than positive law after having been rejected and derided in the interval. The problem is as acute and as unsolved as ever. With changing social and political conditions, the notions on natural law have changed. The only thing that has remained constant is on natural law have changed. The only thing that has remained constant is the appeal to something higher than positive law. The object of that appeal the appeal to something higher than positive law. The object of that appeal has been the justification of the existing authority or a revolt against it.²

Natural law has been used to both support and challenge authority. It has served a variety of purposes throughout history, including transforming Roman civil law and acting as a tool in conflicts between the Medieval Church and German Emperors. It was used to uphold the legitimacy of international law and defend individual liberty against absolutism. In the United States, judges used natural justice to challenge state laws that limited economic freedom. Overall, natural law has aided various peoples and generations in shaping their ideals and goals.

Natural law has been used to support nearly every ideology at various points in history. However, the most important and lasting theories of natural law have been inspired by the ideal of universal order governing all men, as well as the individual's inalienable rights. Natural law,

¹ Kesavananda Bharati v. State of Kerala, (1973) 4 S.C.C. 225 (India)

² W. FRIEDMANN, LEGAL THEORY 43-45 (4th ed. 2008)

as conceived by Locke and Paine, served as the foundation for the individualist philosophy of the American and other modern constitutions.

Various jurists like Socrates, Plato, Aristotle, Stoics have contributed to natural law theory.

II. Understanding natural law and its evolution

The history of natural law can be traced back to 2500 years in an attempt to find out something higher and noble than positive law. Natural law has been the chief, though not the only way, to formulate ideals and aspirations of various people and generations with reference to the principle moving forces from times. For a juristic consideration, the most important distinction would appear to be that in the natural law, firstly, as a higher law which invalidates any inconsistent positive law, and secondly natural law as an ideal to which positive law ought to conform without legal validity being affected. Broadly speaking, ancient and medieval law theories are of the first type, modern natural law theories of the second.

The basic ideas are:

- (1) A universal order governing all men
- (2) Inalienable rights of the individual.

As the basis of an international order it has inspired the stoics, Roman jurisprudence, Church Fathers, legal order of mediaeval Western society and the Grotius system of international law. Through theories of Locke and Paine it has provided the foundation for individual philosophy of American and other modern constitutions.³

Greek thinkers laid the basis of natural law and developed its essential features. Heraclitus laid the basic foundation of natural law. He found it in the rhythm of events. The thought of an order of nature in conformity with law dawned as clear knowledge upon Grecian minds. This provided the basis for the Greek school of Enlightenment (sophists) which developed in the 5th century BC. The idea of a natural order corresponding to justice emerged in Greek thought as clear knowledge. This gave rise to the Greek Enlightenment School (Sophists) of the 5th century BC. The connection between nature and order is the most prominent function of Greek

³ P.S. ACHUTHEN PILLAI, JURISPRUDENCE AND LEGAL THEORY 228 (3d ed. 2019).

reason in the formation of ideas. It dominated the entire philosophy of the day. If everything is universally valid, it is inherently true for all people without differences in generation or time. What nature means is rightly tolerated. Nature will oppose man's tyranny. Nature is something external, external to man. It is the order of things which embodied reason.

III. Natural Law theory by ST Thomas Aquinas

Thomas Aquinas described natural law as "Rational creatures are subject to divine providence in a very special way being themselves made participators in providence itself, in that way they control their own actions and actions of others. So they have a certain share in divine reason itself, deriving therefrom natural inclination to such actions and ends as are fitting. This participation in internal law, by rational creatures is called as natural law."⁴ Rational beings, sharing in divine reason, are naturally inclined to appropriate actions and ends, which defines natural law.

Aquinas classified laws into four categories: God's law, natural law revealed through human reason, divine law or the law of scriptures, and human laws. Natural law is a component of Divine Law. It is the part that manifests itself in natural reason. It is used by humans to manage their affairs and relationships. Aquinas' scheme of categorizing laws into four categories: eternal law, natural law, divine law, and human law is regarded as the first of its kind in the history of jurisprudence.

Aquinas says that there is no difference between compliance with the law and compliance with a conscience of morality. He also asserts that law against morality is not law but violence. Therefore, to obey the law is to follow the direction of justice.

IV. Criticism of Natural Law Theory by Thomas Aquinas

- Because reason is the foundation of natural law, other sources and the legislature should also be taken into account. The Thomas Aquinas natural law theory does not emphasize the importance of tradition, customs, moral values, judge-made laws, or society.

⁴ S.P. Sathe & Sathya Narayan, *Liberty, Equality and Justice* 298 (2003 ed.)

- The church was the ultimate authority when it came to making laws during the middle Ages. They claimed that the law was divine and created by God, which many theorists found objectionable. Theorists of the medieval era contend that church-made laws are flawless and that they are the laws of God, eternal and divine law, or the law of scriptures. However, this argument is unjustified because during that time the church attempted to rule all of Europe by claiming that the laws were made by the church fathers, a claim that is sometimes referred to as law made by fathers.
- Even though laws have a divine origin, no divine being could create all of society's laws; instead, society creates laws through its customs and traditions.
- Thomas Hobbes' natural law theory of the self-preservation of person and property, as well as his assertion that giving people the right to absolute authority is unjustified because, as history has shown, giving people this kind of power results in tyranny or monarchy, which has destroyed many societies. If this idea is implied in the present, the same thing could happen. The king might take advantage of society to further his own agenda.

V. Relevance of Natural law theory in India in Contemporary Era

Natural law theory continues to play an important role in shaping India's legal, ethical, and political frameworks. While modern India is primarily governed by a constitution based on positive law, natural law principles continue to influence several aspects.

- **Constitutional Rights:** The Indian Constitution embodies natural law principles, particularly the recognition of fundamental rights, human dignity, and equality. Judicial interpretations of these rights are guided by natural law principles of justice, fairness, and morality, which ensure that individual liberties are protected from arbitrary state action.
- **Judicial Activism:** Indian courts frequently use natural law principles to fill legislative gaps or protect fundamental rights. The concept of "natural justice" is used to ensure procedural fairness, highlighting natural law's emphasis on ethical governance.

- **Public morality and social change:** Natural law theory underpins debates about moral values, social justice, and rights-based activism. Movements for gender equality, environmental justice, and the protection of marginalized groups frequently draw on the universal human rights and ethics that underpin natural law.
- **International Influence:** India's participation in global human rights frameworks such as international conventions and treaties exemplifies the natural law tradition of defending universal moral principles across borders.

Thus, natural law continues to shape legal interpretation, safeguard human rights, and guide social and ethical debates in India's modern legal landscape.

VI. Relevance in the decisions of the Indian Judiciary

In the Indian Constitution there is a great significance of natural law theory particularly in relation to Article 14, 19 and 21 which has been the fundamental backbone of the decisions of the Indian judiciary. There have been relevant case laws which ascertain the fact that natural law theory given by Thomas Aquinas in the earlier days is still relevant in India.

- In the case of *Mohd. Ahmed Khan v Shah Bano Begum*⁵ which was about the alimony situation. The Muslim community protested that the Supreme Court had no jurisdiction to interfere with their personal law, Sharia law, and as a result, the court's decision was overturned. Since Sharia law is derived from scripture and is believed to have been created by God, it is also referred to as the Divine law (Lex divina).

Natural Law emphasizes that all humans have inherent rights based on their humanity. Shah Bano, a divorced woman unable to support herself, was viewed as having a fundamental right to be supported, regardless of religion. The court interpreted the law (Section 125 of the CrPC) in a way that was consistent with a broader, more universal understanding of justice, while also protecting her human dignity.

- In the case of *Air India v Nargis Mirza*⁶, the Air India and Indian Airlines policies concerning the pregnancy and retirement of their airhostesses during their tenure were overturned by the

⁵ Mohd. Ahmed Khan v. Shah Bano Begum, (1985) 2 S.C.C. 556 (India).

⁶ Air India v. Nargesh Mirza, (1981) 4 S.C.C. 335 (India).

Supreme Court. The court ruled that it was unconstitutional and in violation of Article 14, which addresses equal protection under the law and equality before the law.

In this case, the court determined that the employment regulations violated these principles by treating women unequally compared to men. Natural Law holds that any legal framework that discriminates against individuals without a rational or just basis is morally flawed. The court's decision addressed an inherent injustice, consistent with Natural Law's emphasis on moral equality.

- In the case of *Raghuvir Singh v. State of Bihar*⁷ the court has also applied another cardinal principle of natural justice via a maxim i.e. *nemo debet esse iudex in propria sua causa* which means that no man can be judged in one's own case at various instances.

The Supreme Court's decision emphasized the importance of protecting human dignity, ensuring fairness, and avoiding arbitrary punishment, all of which are central themes in Natural Law. The case exemplifies Natural Law's insistence that legal processes and outcomes adhere to universal principles of justice, morality, and reason. By commuting Singh's death sentence, the Court upheld Natural Law's higher moral imperatives of protecting the right to life and ensuring that laws are applied in a humane and just manner.

VII. Conclusion

In conclusion, natural law theory is still very relevant in modern India, despite the fact that the country's legal system is primarily based on positive law. Its principles of justice, fairness, and morality continue to inform and guide judicial interpretations, particularly those involving constitutional rights and freedoms. The Indian judiciary frequently uses judicial activism to fill legislative gaps and protect citizens from arbitrary power. This is demonstrated by the application of the doctrine of natural justice, which ensures procedural fairness in legal proceedings and promotes ethical governance.

Furthermore, natural law influences India's social and legal evolution by reinforcing human rights, equality, and dignity, all of which are core values enshrined in the Constitution. It also has a significant impact on public morality, shaping debates on critical social issues such

⁷ *Raghuvir Singh v. State of Bihar*, (1986) 4 S.C.C. 481 (India).

as gender rights, environmental justice, and the protection of vulnerable groups. Natural law acts as a moral compass, encouraging a just and equitable society.

On the international stage, India's adherence to global human rights conventions and ethical legal standards demonstrates its alignment with natural law ideals of universal justice and equality. As a result, natural law theory, with its timeless emphasis on human dignity and moral reasoning, is still critical in shaping India's legal and ethical landscape today.