

Natural Law Theory legal definition of Natural Law Theory

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Natural Law (redirected from *Natural Law Theory*)

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Natural Law

The unwritten body of universal moral principles that underlie the ethical and legal norms by which human conduct is sometimes evaluated and governed. Natural law is often contrasted with positive law, which consists of the written rules and regulations enacted by government. The term natural law is derived from the Roman term jus naturale. Adherents to natural law philosophy are known as naturalists.

Naturalists believe that natural law principles are an inherent part of nature and exist regardless of whether government recognizes or enforces them. Naturalists further believe that governments must incorporate natural law principles into their legal systems before justice can be achieved. There are three schools of natural law theory: divine natural law, secular natural law, and historical natural law.

Divine natural law represents the system of principles believed to have been revealed or inspired by God or some other supreme and supernatural being. These divine principles are typically reflected by authoritative religious writings such as Scripture. Secular natural law represents the system of principles derived from the physical, biological, and behavioral laws of nature as perceived by the human intellect and elaborated through reason. Historical natural law represents the system of principles that has evolved over time through the slow accretion of custom, tradition, and experience. Each school of natural law influenced the Founding Fathers during the nascent years of U.S. law in the eighteenth century and continue to influence the decision-making process of state and federal courts today.

Divine Natural Law

Proponents of divine natural law contend that law must be made to conform to the commands they believe were laid down or inspired by God, or some other deity, who governs according to principles of compassion, truth, and justice. These naturalists assert that the legitimacy of any enacted human law must be measured by its consonance with divine principles of right and wrong. Such principles can be found in various Scriptures, church doctrine, papal decrees, and the decisions of ecclesiastical courts and councils. Human laws that are inconsistent with divine principles of morality, naturalists maintain, are invalid and should neither be enforced nor obeyed. St. Thomas Aquinas, a theologian and philosopher from the thirteenth century, was a leading exponent of divine natural law.

According to Judeo-Christian belief and the Old Testament, the Ten Commandments, were delivered to Moses by God on Mount Sinai. These ten laws represent one example of divine natural law. The Bible and Torah are thought by many to be other sources of divine natural law because their authors are said to have been inspired by a divine spirit. Some Christians point to the **Canon Law** of the Catholic Church, which was applied by the ecclesiastical courts of Europe during the Middle Ages, as another source of divine natural law.

Before the Protestant Reformation of the sixteenth century, Europe was divided into two competing jurisdictions—secular and religious. The emperors, kings, and queens of Europe governed the secular jurisdiction, and the pope presided over the religious jurisdiction. The idea that monarchs ruled by "divine right" allowed the secular jurisdiction to acquire some of the authority of religious jurisdiction. Moreover, the notion that a "higher law" transcends the rules enacted by human institutions and that government is bound by this law, also known as the **Rule of Law**, fermented during the struggle between the secular and religious powers in Europe before the American Revolution. For example, **Henry de Bracton**, an English judge and scholar from the thirteenth century, wrote that a court's allegiance to the law

