# Why We Obey the Law Positivism or Naturalism?

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## Thesis Statement:

As the role of naturalism is limited to morality, allowing people to escape its constraints, positivism acts as a practical system that restricts people from indulging in wrongful acts through the influence of punishment.

## Introduction

The question of obeying the law depends on the choice between naturalism and positivism. The philosophy of jurisprudence represents two common models: one based on moral laws and the other on legal laws. The choice between moral and legal laws illustrates the ideologies of naturalism and positivism. To understand the concept of obeying laws, it is vital to analyze both models. Society obeys either moral laws or legal laws. The present paper assesses the roles of naturalism and positivism in defining laws and how these laws govern society. It highlights the differences between the two models and identifies the most suitable one. The comparison of the two types of laws helps in understanding the most realistic model that makes laws mandatory for people and communities. The concept of law depends on social and political life, while jurisprudence emphasizes the themes of justice, equality, and fairness. The systems of naturalism and positivism are vital in studying the purpose of legal systems. They are included in the curricula of bar exam prep courses and law schools, as they help students understand the foundations of law and its impact on society. Jurisprudence answers the basic questions of what law is and what its purpose is. The purpose of jurisprudence is to assess theories of law and the legal system. It also emphasizes the ideologies of law, justice, and the legal system. The paper considers the argument between natural law theory and legal positivism and determines the most effective system.

The analysis of general theoretical questions is also part of jurisprudence. The concept of choosing between naturalism and positivism relies on the ideologies of law, justice, and the legal system. A society that relies more on moral values will consider naturalism an effective legal system for controlling the actions of people. The legal system presented by positivism represents laws that control wrongful actions and prevent people from engaging in illegal conduct. Law and the legal system in society emphasize the concepts of justice and morality. The ideology of obeying laws

involves a choice between natural law theory and legal positivism. Natural law theory focuses on the moral standards and laws that prohibit humans from engaging in wrongful acts. The theory of naturalism gives less emphasis to the legal effects of law.

Natural law theory concentrates on aspects of morality, politics, and theology. Theologians consider naturalism a traditional and religious approach, while positivism is a modern approach. The emphasis of positivism is on the practical and realistic effects of the legal system. The paper discusses the agreement and disagreement between the two broader systems of naturalism and positivism. The application of the two systems in society leads to the question of choosing the most appropriate model. The selection between the two systems involves a debate about understanding their boundaries and how they work in reality. The two schools represent different theories about the conception of laws and how they control society.

The current paper provides an in-depth view of the theories of naturalism and positivism, with a focus on uncovering the purpose of law and how it relates to justice. The analysis of theoretical questions helps in understanding the concepts involved in obeying laws. The theories are central to determining how law and order are maintained by eliminating evil from society. The paper explores the association of morality and the legal system with the duties of people. The purpose of the study is to analyze literature on naturalism and positivism that leads to the recognition of different aspects associated with law and order.

# Research Questions

- Do people have a duty to obey laws?
- What causes people to obey the law?
- Is naturalism effective in restricting people from engaging in wrongful acts?
- Is positivism effective in eliminating wrongful conduct and evils from society?
- How do naturalism and positivism define the concepts of rights and duties?
- Which system provides the most powerful solutions in the practical world?
- What influences people more, morality or legal laws?
- How do both systems work to maintain law and order?
- Why are morality and laws important for people?

# Objectives

- To uncover the factors that motivate people to follow laws.
- To determine why people obey laws and identify differences between naturalism and positivism.
- To understand the role of morality in restraining people from wrongful acts.
- To assess the role of the two systems in defining the rights and duties of individuals in society.
- To study the impact of both systems on the maintenance of law and order.

- To study the importance of morality and laws in human life.

# Jurisprudence

Understanding society without the concepts of law and legal doctrine is not possible. Jurisprudence explains the laws necessary for the existence of society, as without laws or a legal system, the survival of societies is impossible. Bix (2000) explains jurisprudence as “the existence of law is one thing; its merit or demerit is another. Whether it be or be not is one inquiry; whether it be or be not conformable to an assumed standard is a different inquiry. A law, which exists, is a law, though we happen to dislike it, or though it varies from the text, by which we regulate our approbation and disapprobation” (Bix, 2000). Jurisprudence involves laws that are essential for the regulation of society and its people. Without laws, the chances of neglecting duties are greater. Laws define the standards that motivate people to fulfill their duties and responsibilities. Laws set the limits that define prohibited and permitted actions. Jurisprudence is also effective in maintaining the distinction between right and wrong. The concepts of equality and justice are also relevant to jurisprudence because they affect socio-political aspects. Without laws, people are more likely to act beyond accepted limits, which also raises the issue of disobedience.

Legal and political theories involve a description of facts; they also postulate ideas about aspirations. Jurisprudence is significant for understanding legal theory. It focuses on providing answers to questions about laws, legal concepts, and political ideologies. Descriptive legal theory also has a connection with jurisprudence because it highlights concepts related to political philosophy. Normative theory seeks to establish standards that society ought to adopt to protect citizens. The choice and enforcement of legal rules also involve complex components of society. Jurisprudence emphasizes the legitimacy that underlies the legal system and laws. D’Amato (2012) states, “One of the main jurisprudential ideas, though not amounting to a “school” in itself, is the insistence that law is something that is backed up by sanctions. Though the idea stems from Austin, it has been most consistently applied to international law by Hans Kelsen” (D’Amato, 2012).

Jurisprudence works to explain the validity of laws and legal systems that set boundaries and define the rights and duties of individuals. It emphasizes understanding laws and how they function in particular settings. The validity of law may depend on the sanctions that support it. D’Amato (2011) explains that law “is nothing but a set of tools—admittedly complex and intellectually engaging. But we should not get so caught up in the intellectual interest of law that we forget that law in itself cannot solve human problems. Like any other tool, the law may facilitate the solution of a given problem” (D’Amato, 2011). The argument presented by D’Amato shows that law has a strong correlation with justice.

One reason for the existence of law is to achieve justice, which also remains a prominent element of legal and political philosophy. Another definition of law states that it involves a set of rules that direct people’s actions and are enforced by states through penalties and punishments. The application of

laws is possible under the authority of the state. The existence of the state remains a central criterion for enforcing laws. The non-existence of a state authority may result in the ineffectiveness of laws because their application becomes difficult. Laws are effective in defining the rights and duties of people living in society, thus instructing them to follow certain standards and values. Common law fits within the broader notion of law that works to maintain social order. Without social order, the survival of societies is difficult (D'Amato, 2011).

## Political obligation

The theory of law deals with the history of political obligations and the factors that encourage people to perform their duties. The debate on political obligation involves two arguments: its prevalence and its non-existence. Political obligation is also concerned with why humans engage in certain actions and with the reasoning behind restrictive rules. The problem of political obligation involves debate regarding skepticism and possible solutions. The concept of political philosophy emerged prominently in the seventeenth century when Thomas Hobbes and John Locke discussed the roles of the state and the purpose of law and order. They examined the troublesome nature of political theory.

One purpose of political philosophy that intrigued philosophers was to uncover the true grounds for obedience to law. Socrates identifies political obligation as the agreement and commitment of an individual to society, which sets boundaries and prevents the individual from harming a friend or acting wrongly. His argument also explains that humans are unable to escape their political obligations because those obligations cause them to follow the laws of society. The factors that influence humans to fulfill their commitments include nature, birth, education, and the good of others. Nature is one of the primary forces that binds them to the concept of obedience. Socrates considered disobedience an element capable of destroying the city. The concept of law explains what ought to be and what ought not to be. It restricts humans from engaging in actions that are unjust. Political philosophy leads to the comparison of the natural-law system and the positive-law system. Identifying the most practical and appropriate system involves debate. The discussion of political philosophy considers these competing approaches (Richard & Lefkowitz, 2012).

# Naturalism

The supporters of naturalism view it as a theory of law that defines the purposes of human activity. It works to resolve disputes and protect the legitimate rights of people, thereby helping to maintain law and order in society. Legal naturalists consider the system a genuine form of law that addresses issues of injustice and inequality. The ideology of human obligation began with the theory of divine command, which emphasized the role of nature. The theory explains that people are obedient because nature sets limitations and laws that they are unable to avoid. God ordains individuals to stay on the right path and restrains them from what is wrong. It is a natural force, 'morality,' that plays a vital role in defining human roles and duties in society. Divine-command theory explains that no force

is more powerful than nature in eliminating evil and sin (Richard & Lefkowitz, 2012).

Natural law theory relies on the elements of the universe, human nature, and morality. Natural law theory emphasizes moral obligations, explaining that laws are good when they help make people good citizens of society. Every individual has a moral obligation to obey laws and perform the role of a good citizen. Fuller (1969) defines naturalism as "legal naturalism is consistent with either the view that legal status depends on moral standards external to the law (the more familiar "natural law" version of the doctrine), or the view that the moral standards that define legal status are to be found within the nature of law itself" (Fuller, 1969). Natural-law theorists agree with moral realism because they consider natural law a strong force motivating people to fulfill moral obligations.

Moral realism, according to these theorists, is important for determining agreement and disagreement about the commitments required by tradition. Naturalism also focuses on meta-ethical beliefs that show a close connection with morality. These schools of thought build a relationship between law and morality. However, there are limitations to natural law theory because some of its claims are limited to moral truth. It further suggests that truth must be evaluated by political and legal institutions (Wacks, 2005).

The theory of naturalism focuses on natural duties that people acquire through birth. The conception of natural duty states that no particular entity is required to set boundaries and keep people on the right path. It is through nature that they learn to adopt moral values that restrict them from wrongful acts. The theory states that "natural duties are understood to be ones people have simply in virtue of their status as moral agents; they need do nothing to acquire them, nor does their bearing such duties depend on their occupying some role in a socially salient relationship.

Natural duties are also universal in scope; they are owed to all members of a class defined regarding possession of some feature, such as sentience or rationality" (Richard & Lefkowitz, 2012). The ideology of natural duty also relates to virtue because virtue motivates people to stay on the right path. Virtues act as moral qualities that people may acquire through upbringing or social teaching and that encourage them to fulfill their duties and responsibilities. The theory of justice requires people to fulfill their social and moral obligations. The ubiquity of ethical problems justifies the role of natural law because it is a central force allowing people to distinguish between right and wrong. Kant supports the concept of natural law as a means of understanding justice and equality.

Natural law theory emphasizes the concept of nature and the idea that moral order is not entirely man-made. Similarly, the theory holds that moral principles can exist independently of positive enactment. Moral values act as a force that can help eliminate evil or injustice from society. Natural law theory explains that goodness is connected with nature and that the concept of happiness is also linked to nature. Nature develops moral values and the ability of individuals to avoid engaging in negative actions. Natural law involves a set of truths that society may recognize in pursuing justice. It further states that "immoral behavior is "unnatural" (in the sense of "contrary to our function," not "nowhere to be found in the natural world"), whereas virtuous behavior is natural" (Richard &

Lefkowitz, 2012). Considering immoral behavior unnatural places responsibility for wrongful action on human beings. However, the absence of a positive legal system for controlling acts eliminates the concept of immediate legal penalties (Wacks, 2005).

Natural-law theories may rely on divine theory when they explain that God revealed moral principles and concepts of right and wrong through scripture. Natural laws are capable of motivating individuals to identify right and wrong. Nature allows individuals to act morally by encouraging them to reject immoral behavior and unethical conduct. Naturalism can promote the idea of God's existence and an emphasis on maintaining justice. Philosophers associate divine laws with natural laws, as this connection reflects traditional theism. Human laws are genuine laws when they do not act against divine laws or nature. Plato relates natural laws to absolute values that define people's responsibilities and confine them to fulfilling their duties. Aquinas supported natural law and identified it as a source of divine providence. The concept of naturalism considers absolute values powerful enough to control human beings. The notion gives less emphasis to the need for man-made laws or society's constructs. Aquinas further associates naturalism with natural guidance. God's guidance and scripture are considered sufficient for setting moral boundaries for human beings (Bix, 2000).

## Positivism

Legal positivism provides an idea different from naturalism's emphasis on morality. Legal positivism focuses on the existence and validity of laws independently of their moral merits or demerits. Law exists irrespective of whether we like or dislike it. Laws work in the same fashion for every individual in society. Human positive laws were an important subject of consideration for the political theorist Thomas Aquinas. Positive laws are also crucial in attaining the common good, which requires the deployment of state power. Legal positivism represents views that differ from naturalism because it distinguishes the existence of law from objective moral truth. It argues that naturalism may lack the institutional certainty required to work in realistic settings. Legal positivism stresses determining whether a rule is law or not. The creation of legal obligations depends on valid laws that are capable of restricting individuals from engaging in wrongful conduct. Having a legal right to do a certain thing is distinct from having a moral right. The laws of society define legal rights and their effects on members of society, while moral rights require one to distinguish between right and wrong.

Jeremy Bentham and John Austin are prominent supporters of legal positivism. Positivism states, "it is nothing but a prediction that if a man does or omits certain things, he will be made to suffer in this or that way by judgment of the court" (Richard & Lefkowitz, 2012). The role of penal laws and court judgments becomes important in controlling wrongful acts. Because courts exist in society, they make it difficult for people to escape the consequences of violating positive laws. Punishments and penalties are primary motivators that can restrict people from illegal conduct. The claim that positivism differentiates between legal and illegal acts helps explain the maintenance of social order.

# Comparison between naturalism and positivism

The central argument of the paper claims that positivism is an effective approach to maintaining social order, as naturalism involves fewer institutional commitments. Regarding realistic legal theory, positivism provides a stronger solution for controlling unjust behavior. The argument states that the role of naturalism is limited because it does not involve immediate punishments or institutional evaluations. The application of naturalism in realistic settings may be less significant because people may fail to make moral decisions when they do not fear immediate consequences. The concept of immediate consequences involves punishment, which may reduce the possibility of negative actions or harmful behavior. Natural law explains the differences between right and wrong, while positivism creates distinctions between legal and illegal conduct. Legal positivism advances the claim that naturalism may be insufficient because morality alone cannot always restrict people from engaging in wrongful actions.

Positivism criticizes naturalism because it considers immoral behavior contrary to natural moral order. The fact that naturalism is limited largely to moral behavior may reveal shortcomings in the theory. Compared with naturalism, positivism focuses on the common good that prevails in society through enforceable legal obligations. It supplements or replaces moral obligation with legal obligation. Aquinas, Augustine, and King Martin Luther are discussed in debates concerning the relationship between morality and positive law. Lon Fuller states that there is an overlap between legality and justice. Political superiors take an active role in commanding laws and imposing them on inferiors. The concept of sovereigns exhibits relevance to positivism because sovereigns are the people or institutions that create laws and impose them on society. Laws control people in society, who have the responsibility of obeying them. Positive laws act as general commands that apply to their subjects. The concept of positivism is more realistic because it explains institutional reasons behind social order. Sovereigns or state institutions take an authoritative role because they have the power to control society and maintain justice. Authoritative personnel play a vital role in maintaining order because they define people's roles according to their rights and duties.

Though both naturalism and positivism emphasize questions about what is and what ought to be, positivism presents a practical justification for positive law.

The factor of penalties associated with law makes positivism more applicable in real settings. The role of naturalism is limited in real life because it lacks an immediate institutional response. God-made laws control the actions of individuals who accept religion and nature as central forces behind the creation of the universe. People without strong religious or moral commitments may not always act rightly. The theory explains, "If acts of the class were done, or forborne or omitted, what would be the probable effect on the general happiness or good?" When the effects would be "pernicious, we must conclude that [God] enjoins or forbids them, and by a rule which probably is inflexible" (Austin, 1832). It further explains that nature and God are responsible for judging human acts. This may reduce immediate fear because people know that they will not necessarily encounter immediate earthly

punishment. The notion of delayed punishments and rewards may be insufficient to restrict people with weak moral values from violating obligations. On the contrary, positive law binds people through legal duties and sanctions. Penal laws impose duties on those subject to them and act as a central element in maintaining law and order in society (Wacks, 2005).

Moore argues that natural laws may be ineffective in controlling society because they can be procedural and weak in providing substantive justice to people. Also, complying with natural laws may lead to further confusion, making them less significant in real settings. He further explains that moral facts are part of legal constructs and that, without a legal system, their application can pose challenges. Theorists argue that natural-law reasoning may involve fallacies, resulting in limitations when dealing with social issues of equality and justice. John Finnis and Robert George address natural-law reasoning with an emphasis on possible ends of actions. Moore presented the naturalistic fallacy, uncovering limitations in the theory. He demonstrates the error of defining goodness according to natural properties and under the influence of happiness and pleasure. The naturalistic fallacy highlights the difficulty of deriving normative conclusions directly from descriptive facts. A weakness may appear in theory because "the fact that natural law theory might be vulnerable to the naturalistic fallacy insofar as it claims to derive ethical norms from a purely theoretical or descriptive account of human nature" (Grant, 2004). According to some philosophers concerned with practicality, natural law may lack sufficient institutional reality. When one reflects on possible ends, the notion of naturalism may become less significant. Basic goods are treated as self-evident and focus on the role of ethics. It may be difficult to justify the effectiveness of natural laws when they do not lead to determinate legal conclusions (Trapani, 2004).

The argument against naturalism explains conventional criticism concerning justice and injustice. It involves explaining the choice between right and wrong under the influence of social complexities. The reality of natural laws relies partly on the role of the conscious and subconscious mind. Plato mentions, "although people who respect traditional norms and standards of evaluating human conduct may well regard these not merely as a social fact but as having directive force for them, and thus a kind of moral truth, nonetheless this attitude of theirs is often indeed, characteristically-marked by its uncritical marginalizing of the question of truth" (Finnis, 2012). The argument explains that social existence may be difficult without a controlling authority. A significant weakness attributed to natural law is the absence of a clearly identified enforcing authority, as the concepts of goodness and morality rely on nature. Natural laws also permit freedom in choosing between right and wrong, which may make ethical conduct less enforceable. Social contracts may be ineffective in restricting people from harming others when enforcement is absent. Choice under naturalism may rely heavily on individual thought. Platonic critique uncovers potential errors in moral reasonableness. To gain benefits, an individual may be more likely to harm others when the legal system is non-existent. Deriving personal gains becomes easier under naturalism because, without the concept of penalties, people may use opportunities in their own interests (Trapani, 2004).

Positive legal theory supports its claim by using the concept of punishment. The positivist school of thought considers punishment an important tool for eliminating injustice and unfairness from society.

The theory is vital in setting legal limitations and restricting people from indulging in illegal acts. Through punishments, the state seeks to reduce vengeance and crime. The idea is that penalties create fear among citizens and restrain them from harming others. To avoid punishment, they make a rational choice. Rational choice in the case of naturalism may be less effective because individuals seeking personal gain might disregard moral obligations, thus promoting injustice.

Positivism, on the other hand, limits the pursuit of personal gain through a legal system and regulations that monitor people's actions (Richard & Lefkowitz, 2012). Another claim supporting the effectiveness of positivism involves the notion of peace. The approach is useful in attaining peace and welfare in society. Jeremy Bentham is a famous philosopher who defended positivism: "Men are possessed of free will. They are calculating animals and base their action on pleasure and pain. Men will be discouraged from criminal activity if threatened with punishments that outweigh any gain resulting from their actions. The individual is responsible for his actions, and punishment must be proportional to the interest violated by the crime" (Faqir, 2015). Bentham stresses the need for creating a legal system because the concept of justice may be vague without it. People have free will that influences their decisions in choosing between right and wrong.

They can neglect righteousness when they fail to see the consequences. The legal system establishes consequences that limit people's engagement in wrongful acts. Bentham further claims that people are more likely to violate law and order when controlling authority is missing. The claims presented in Bentham's theory justify punishment and its role in promoting justice. The theory also suggests that human activities are related to human choices and that people choose to become rational actors. They calculate pleasure and satisfaction before choosing a course of action. Fear can act as a strong factor influencing people's actions. He relates the principle of gradation of punishment to positivism, making laws more tangible for people. Rational choice depends on the comparison between penalty and advantage. Bentham argues that, when the penalty increases, the advantage to the individual decreases, which may restrict that person from harming others. The concept is also important because it allows people to value the greater good.

He explains that punishments are influential because they can promote reformative interests. The state's use of punishment and reward has a significant impact on controlling actions. Punishments such as fines and imprisonment impose high costs on people that may motivate them to follow laws and rules (Wacks, 2005). Bentham also illustrates that people's rational choices rely on the notions of maximizing happiness and minimizing pain. An increase in the intensity of pain results in a greater disadvantage for the wrongdoer. The assessment of outcomes and ends depends on duration, punishment, and costs (Grant, 2004).

Paul Feuerbach identifies the strengths of positivism and its practical role in the world. To uncover the importance of positivism, he states, "forbidden almost everywhere, countries in the codification tradition are, generally speaking, much stricter on this subject that are common law countries" (Faqir, 2015). The notions further elaborated by neoclassical theorists also focus on the limitations of free will. Free will does not fully explain individual differences, which may result in the ineffectiveness of

naturalism as a complete legal system. Neoclassical schools used a rational-choice approach to examine the effects of the two models, naturalism and positivism, on society and people (Faqir, 2015).

The positive school emphasizes punishments and the prevalence of the legal system because they contribute to law and order. The concept of positivism is also important: “though the human law is artifact and artifice, and not a conclusion from moral premises, both its posting and the recognition of its positivity (by judges, professionals, citizens, and thence by descriptive and critical scholars)” (Bix, 2000). The prevalence of the legal system distributes power to institutions and officials who establish and enforce laws. Authoritative personnel are capable of maintaining justice by controlling actions. Citizens, according to positivism, are more inclined to adhere to roles defined by the legal system. After consideration, they make choices about their conduct. Bix (2000) states that the objectivity of naturalism may reflect a weakness because it can fail to work in realistic institutional settings. Positive legal laws, on the other hand, are effective in identifying legally permitted and prohibited conduct.

Naturalism provides greater reliance on individual moral judgment, and according to rational-choice arguments, people may seek pleasure or benefit even when doing so harms others. Common examples suggest that harmful acts such as theft or robbery may allow individuals to become better off materially. Rational choice without legal sanctions may provoke some people to exhibit wrongful attitudes and seek personal advantage. Theories argue that the absence of central authority may encourage people to choose options that maximize their own welfare. Positivism, on the contrary, works differently because it permits individuals to assess legal consequences. The concept of benefits includes escaping punishments and penalties (Grant, 2004). The theory of positivism also explains that one reason people obey laws is to attain benefits or avoid costs. Recognition that violation of law can make them worse off makes the naturalism approach, standing alone, less realistic. Reasons for obeying laws are less clear in naturalism because the primary force stopping people from engaging in wrongful acts is morality. Moral philosophy alone may not be sufficient to explain obedience to law. Positivism, on the other hand, plays a crucial role in controlling misconduct and evil in society (Wacks, 2005).

# Conclusion

Naturalism exhibits limitations because of its inherent weaknesses, thus allowing positivism to appear as a powerful model for promoting justice and fairness. When society discusses political philosophy, the factors controlling people’s actions have a dominant role. The comparison of legal systems indicates that positivism provides a practical solution for influencing people’s behavior. The concept of punishments and penalties makes positive legal theory more practical than naturalism in some settings. Natural law provides people with greater reliance on free will and morality, while a central authority responsible for imposing laws may be absent. Naturalism states that moral laws may be defined by God and discovered through scripture or reason. The objectivity claimed by naturalism can

also be viewed as a weakness when the theory is applied in realistic institutional settings. Positive laws, on the other hand, are effective in identifying legally permitted and prohibited conduct. The comparison between the two schools of thought indicates that positivism has practical strengths over naturalism. Rational-choice theory explains human behavior and some reasons behind individual choices. People's rational choices may rely on maximizing happiness and minimizing pain. The central claim is that, without penalties, it can be difficult to control behavior or eliminate the possibility of wrongful conduct. Fear of punishment and penalties can create disadvantages that encourage people to avoid harming others. Positivism is also significant in controlling people's actions through enforceable rules.

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