

# CHAPTER 3: THEORIES OF LAW

|        | NATURALIST   | POSITIVIST   | SOCIOLOGIST  |
|--------|--|--|--|
| THEORY | <ul style="list-style-type: none"> <li>• a legal theory that recognises law of nature/ moral law</li> <li>• believes that laws must be good and just to govern human relation.</li> <li>• It's the nature of every human being to know from his conscience what is righteous and therefore lawful</li> <li>• They believe that human laws are defined by morality, and not by an authority figure like a government king.</li> <li>• <b>NATURALIST: OVERLAP THESIS</b></li> <li>• all forms of natural law theory supports the necessary relation between the concepts of law and morality.</li> </ul> | <ul style="list-style-type: none"> <li>• Positivists believe that only positive law is law. Positive laws are laws that have been established by the authority of the state (sovereign)</li> <li>• Positivists are blind to values.</li> <li>• Positive law has nothing to do with ideal or just law, it has no regard to goodness or badness or the law</li> <li>• Recognize only positive facts and excludes considerations towards concepts of jurisprudence</li> <li>• <b>POSITIVIST: SEPARABILITY THESIS</b></li> <li>• Positivism is not concerned with whether law is moral, just or unfair.</li> </ul> | <ul style="list-style-type: none"> <li>• Law is wholly concerned with its effect and results on society rather than treating law as will of god or command of the sovereign as law exists for the needs of the society.</li> <li>• Main concern of socialist is interpreting the law in the social context, to bring good to the society.</li> <li>• Law regulates all kinds of relationships in a society and controls the behavior of its members. Hence, it is considered as a form of social control.</li> <li>• Law is not only about legality and punishment.</li> </ul> |
| JURIST | <p>→ <b>BLACKSTONE</b></p> <ul style="list-style-type: none"> <li>◆ Laws of nature dictated by god himself that are superior to any other</li> </ul>   | <p>→ <b>JOHN AUSTIN</b></p> <ul style="list-style-type: none"> <li>◆ Law is a command made by a political sovereign.</li> <li>◆ Rule is only legally valid</li> </ul>  | <p>→ <b>ROSCOE POUND</b></p> <ul style="list-style-type: none"> <li>◆ Law is an instrument of social engineering. Its</li> </ul>   |

# Modern Legal Theory Problems And Perspectives

**K Morrison**



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