Chapter 3 Subject :-Jurisprudence by Manish

Condition for customs become as law

5 **certainty** "Custom should be clear and definite. The court must be satisfied by clear proof that the custom exists as a matter of fact, or by a legal presumption of fact."

6 **consistency** "There must be consistency between two or more customs. A local custom must not conflict with another custom in the same locality. One custom cannot be set in opposition to another."

7 **reasonableness** **"युक्तिसंगतता"** या **"तर्कसंगतता"** "Customs should be reasonable because they are based on public use and justice. Although it is very difficult to judge the reasonableness of a custom, the court has the power to decide it according to the present condition of society. It is also necessary to explain the reasons for practicing the custom."

8 **conformities of inactive law** "Customs should be in conformity with enacted law. A custom cannot go against the enacted laws passed by the State or Parliament, because in such a situation the State will not recognize it and it will have no obligatory force."

Precedent "नज़ीर" या "पूर्व निर्णय" "पूर्व में न्यायालय द्वारा दिया गया निर्णय, जो समान परिस्थितियों वाले बाद के मामलों में नियम या उदाहरण के रूप में लागू होता है।"

Ratio Decidendi is a Latin term meaning **"the reason for the decision."**

Obiter dicta = *"things said by the way"*.

Difference between these two are given below

Difference between Ratio Decidendi and Obiter Dicta

Basis	**Ratio Decidendi**	**Obiter Dicta**
Meaning	**Latin: *"the reason for the decision"* → the principle of law on which judgment rests.**	**Latin: *"things said by the way"* → incidental remarks/observations.**
Nature	**Essential part of the judgment.**	**Non-essential part of the judgment.**
Authority	**Binding precedent → must be followed in later cases.**	**Persuasive only → may guide but not binding.**
Role in Precedent	**Forms the legal principle (law declared).**	**Supplementary opinions or illustrations by judges.**
Example	**In *Donoghue v. Stevenson (1932)* → duty of care principle (binding).**	**Remarks about wider duties beyond manufacturer–consumer (persuasive only).**

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1. Ratio Decidendi (रेशियो डीसिडेन्डी)

- अर्थ:

"Ratio Decidendi" का शाब्दिक अर्थ है – निर्णय का कारण।
यह वह मूल सिद्धांत या क़ानूनी कारण है जिस पर न्यायालय अपना निर्णय आधारित करता है।

- विशेषताएँ:

- यह निर्णय का बंधनकारी हिस्सा (binding part) होता है।
- Ratio Decidendi भविष्य के मामलों (precedent) के लिए एक नियम का आधार बन जाता है।
- इसे law of the case भी कहा जाता है।

🔹 उदाहरण:
यदि न्यायालय कहे कि *"अनुबंध वैध होने के लिए प्रतिफल (consideration) आवश्यक है"* – तो यही उस निर्णय का Ratio Decidendi होगा।

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2. Obiter Dicta (ओबिटर डिक्टा)

🔹 अर्थ:
"Obiter Dicta" का शाब्दिक अर्थ है – अन्य कथन या बीच-बीच में कहे गये विचार।
यह वह हिस्सा होता है जो न्यायाधीश अपने निर्णय में अतिरिक्त रूप से या उदाहरण स्वरूप कह देता है, परन्तु वह निर्णय का आवश्यक आधार नहीं होता।

🔹 विशेषताएँ:

- यह निर्णय का बंधनकारी हिस्सा नहीं होता (not binding)।
- लेकिन इसका प्रभावशाली मूल्य (persuasive value) होता है।
- भविष्य में न्यायालय इसे मार्गदर्शन (guidance) के रूप में देख सकता है।

🔹 उदाहरण:
यदि न्यायालय यह निर्णय देते समय कहे कि *"हालाँकि इस मामले में यह लागू नहीं होता, लेकिन अगर परिस्थिति भिन्न होती तो परिणाम अलग हो सकता था"* – तो यह Obiter Dicta कहलाएगा।

संक्षेप में अंतर:

पहलू	Ratio Decidendi (रेशियो डीसिडेन्डी)	Obiter Dicta (ओबिटर डिक्टा)
अर्थ	निर्णय का कारण (Reason for decision)	न्यायाधीश द्वारा कहा गया अतिरिक्त कथन (Incidental remarks)
महत्व	बंधनकारी (Binding precedent)	केवल मार्गदर्शक (Persuasive)
उपयोग	भविष्य के मामलों में लागू	सहायक, लेकिन बाध्यकारी नहीं

Question:- in India law is codified or not?

Answer:- Yes, in India most of the laws are **codified**.
India follows a **codified legal system**, where major branches of law such as the Indian Penal Code, Code of Civil Procedure, Code of Criminal Procedure, Indian Contract Act, Transfer of Property Act, etc., are written and enacted by the legislature.

However, it is important to note that **not all law is codified**. For example, Constitutional Law and most statutory laws are codified, but areas like **personal laws** (Hindu Law, Muslim Law) and certain principles of **equity, justice, and good conscience** are still partly uncodified.

👉 Thus, Indian law is largely **codified**, but it also contains some **uncodified elements** derived from customs, traditions, and judicial precedents.

Difference between codified law and un codified law? And make a table between codified or uncodified. Also give the example of five country each side.

Answer:-

Difference between Codified and Uncodified Law

Basis	Codified Law	Uncodified Law
Meaning	Law that is **written in a single formal document** (Constitution/statute).	Law that is **not collected in one single document**, but found in customs, conventions, judicial decisions, and statutes.
Nature	Provides clarity, certainty, and easy reference.	More flexible, evolves with customs and judicial interpretations.
Form	Written, systematic, and comprehensive.	Unwritten, scattered across customs, precedents, and traditions.
Amendment	Formal process required for amendment.	Changes gradually through conventions, customs, and parliamentary practice.
Certainty	High certainty and stability.	Less certainty, depends on judicial interpretation and conventions.
Binding Force	Has clear authority as supreme law.	Relies on acceptance, practice, and recognition by institutions.
Example of Document	Indian Constitution, U.S. Constitution.	British Constitution (based on Magna Carta, Bill of Rights, Acts of Parliament, conventions).

Question: Is Tort codified in India?

Answer:
In India, the law of torts is generally uncodified. Unlike the Indian Penal Code or the Contract Act, there is no separate codified statute for torts in India. The principles of tort law are mostly based on English common law, judicial precedents, customs, and the principles of justice, equity, and good conscience.

✅ However, some specific areas of tort law have been codified through different statutes. For example:

- The Motor Vehicles Act, 1988 (liability in motor accidents)
- Consumer Protection Act, 2019 (liability for deficiency in goods and services)
- Environmental Protection laws (liability for pollution)
- Workmen's Compensation Act (now Employees' Compensation Act)

📌 Regarding Kerala:
Kerala is the only state in India where the Tort law was codified through the *Kerala Torts (Miscellaneous Provisions) Act, 1976*. But this Act is very limited in scope and does not amount to a full codification of the law of torts.

👉 Therefore, the general position is that the law of torts in India is uncodified, except for some codified provisions in special legislations and the limited codification in Kerala.

Is Tort Codified or Uncodified in India?

- **Law of Torts in India → Uncodified**
  - There is **no single statute** or Act that lays down the entire law of torts.
  - It is mostly based on **English common law**, judicial precedents, customs, and principles like *Ubi jus ibi remedium*.
- **However,** some tortious wrongs have been **codified into specific statutes** in India.
  Examples:
  - **Defamation** → Sections 499–500, Indian Penal Code, 1860 (also a tort in civil law).
  - **Negligence in motor accidents** → Motor Vehicles Act, 1988.
  - **Consumer rights (deficiency of service, unfair trade practice, negligence, etc.)** → Consumer Protection Act, 2019.
  - **Environmental wrongs** → Environment Protection Act, 1986; Public Liability Insurance Act, 1991.

✅ **So the correct way to say is:**
"The law of torts in India is largely uncodified, but certain aspects of tortious liability have been codified under specific statutes."

Reality about "Torts being codified in Kerala"

- The **Law of Torts is not codified in India** — not in Kerala, not in any other state.
- **Kerala** has some **statutory laws** dealing with civil wrongs (like Kerala Police Act, Kerala Forest Act, Kerala Land Reforms Act), but these are **not a codification of tort law**.
- What might have caused confusion is that **Kerala Law Academy** and some law textbooks have tried to **compile tort principles with case law** for students. But that's academic, **not an official codification**.

✅ **Correct Statement for Exams:**
"The law of torts in India, including Kerala, is uncodified. However, certain tortious liabilities are covered under statutory laws like the IPC, Motor Vehicles Act, Consumer Protection Act, etc. But there is no general codification of tort law in any Indian state."

Ref case

Union Carbide Corporation v. Union of India

Legal Principles Established

- **Strict and Absolute Liability:** The case reaffirmed the principles of strict and absolute liability in tort law, emphasizing that enterprises engaged in hazardous activities are liable for any harm caused, regardless of fault.
- **Doctrine of Parens Patriae:** The Union of India was recognized as the representative of the victims under the doctrine of parens patriae, enabling it to file claims on behalf of the affected individuals.

Doctrine of Parens Patriae (डॉक्ट्रिन ऑफ़ पेरन्स पाट्राए)

🔹 **शाब्दिक अर्थ:**
Parens Patriae का अर्थ है – **"राष्ट्र ही माता-पिता है"** या **"State as Parent"**।

🔹 **अर्थ:**
यह एक कानूनी सिद्धांत है जिसके अनुसार **राज्य (State) अपने नागरिकों का संरक्षक (guardian) माना जाता है**, विशेषकर उन लोगों का जो स्वयं अपने अधिकारों की रक्षा करने में सक्षम नहीं होते।

🔹 **किन पर लागू होता है:**

- नाबालिग (Minor)
- मानसिक रूप से अस्वस्थ व्यक्ति (Mentally ill persons)
- असहाय, विकलांग और वे लोग जो अपने अधिकारों की रक्षा स्वयं नहीं कर सकते।

🔹 **भारतीय परिप्रेक्ष्य:**
भारत में सर्वोच्च न्यायालय और उच्च न्यायालय इस सिद्धांत का प्रयोग करते हैं जब कोई व्यक्ति या वर्ग **स्वयं न्याय के लिए अदालत नहीं पहुँच सकता।**
उदाहरण के लिए – पर्यावरण संरक्षण, बच्चों के अधिकार, मानसिक रोगियों की देखभाल, आदि मामलों में अदालतें *Parens Patriae* की भूमिका निभाती हैं।

Ref case

Rylands v. Fletcher (1868)

"The person who for his own purposes brings on his lands and collects and keeps there anything likely to do mischief if it escapes, must keep it in at his peril, and, if he does not do so, is prima facie answerable for all the damage which is the natural consequence of its escape."

Rylands v. Fletcher (1868) केस में तय हुआ कि –
"जो व्यक्ति अपनी ज़मीन पर कोई खतरनाक वस्तु लाता है और यदि वह वस्तु बाहर निकलकर किसी और को नुकसान पहुँचाती है, तो वह व्यक्ति उस नुकसान के लिए स्वतः उत्तरदायी होगा।"

📚 Legal Impact

The case introduced the concept of strict liability in tort law, holding individuals accountable for damages caused by hazardous activities on their property, regardless of fault or negligence.

Question:- what is the means of constitutional bench?

Answer:- **Constitutional Bench – Meaning**

- A **Constitutional Bench** is a **bench of the Supreme Court of India** (or a High Court in rare cases) **comprising at least five judges**, which is specially constituted to **decide important questions of law concerning the Constitution**.
- These benches are formed under **Article 145(3) of the Indian Constitution**, which says:

"Cases involving **a substantial question of law as to the interpretation of the Constitution** must be heard by a bench of **not less than five judges**."

Purpose / Significance

1. To **interpret the Constitution** correctly.
2. To decide **substantial questions of law** affecting the whole country.
3. To maintain **consistency and uniformity** in constitutional law.
4. To hear cases on **fundamental rights, presidential references, amendments, etc.**

Examples of Constitutional Bench Cases

1. **Kesavananda Bharati v. State of Kerala (1973)** – Basic Structure Doctrine
2. **Indira Gandhi v. Raj Narain (1975)** – Free and fair elections
3. **SR Bommai v. Union of India (1994)** – President's rule and federalism

   ◇ **निर्णय (Decision of Supreme Court):**

   सुप्रीम कोर्ट (न्यायमूर्ति जे. एस. वर्मा, ए. एम. अह्मदी आदि की पीठ) ने यह ऐतिहासिक निर्णय दिया:

1. **Judicial Review:**
   - राष्ट्रपति का आदेश (under Article 356) न्यायिक समीक्षा के अधीन होगा।
   - यदि यह पाया जाता है कि राष्ट्रपति का आदेश **मनमाना, राजनीतिक या असंवैधानिक** है तो अदालत उसे रद्द कर सकती है।
2. **Majority Test in Assembly:**
   - किसी सरकार का बहुमत **विधानसभा के फ़्लोर (floor of the house)** पर ही परखा जाएगा, न कि राज्यपाल की रिपोर्ट से।
3. **Secularism as Basic Structure:**
   - कोर्ट ने कहा कि **धर्मनिरपेक्षता (Secularism)** संविधान की **मूल संरचना (Basic Structure)** का हिस्सा है।
   - यदि कोई राज्य सरकार धर्मनिरपेक्षता के विरुद्ध कार्य करती है तो उसे बर्खास्त किया जा सकता है।
4. **Federalism Protected:**
   - केंद्र सरकार को राज्यों की निर्वाचित सरकार को मनमाने ढंग से हटाने का अधिकार नहीं है।
   - यह भारतीय संघीय ढांचे की सुरक्षा के लिए महत्वपूर्ण है।

✅ **Exam Line:**
"A Constitutional Bench is a bench of at least five judges of the Supreme Court that decides substantial questions of law relating to the Constitution."

What is the meaning of precedent?

Precedent – Meaning

- **Precedent** is a legal principle or rule **established by a court in a previous case**, which is then **followed by courts in later cases with similar facts**.
- It is based on the Latin maxim: **"Stare decisis et non quieta movere"** → *"Stand by the decisions and do not disturb settled matters."*

Case ref

M.C. Mehta v. Union of India & Ors. 1986

The Supreme Court ruled that industries engaged in hazardous activities are absolutely liable for any harm caused, regardless of fault. This principle of **absolute liability** was established to ensure that such industries take full responsibility for any damage caused by their operations. The Court also emphasized that the right to a healthy environment is an integral part of the right to life under Article 21 of the Constitution.

 1985 में दिल्ली के श्रीराम फूड एंड फ़र्टिलाइज़र इंडस्ट्रीज (Shriram Foods & Fertilizers) की एक इकाई से **ओलियम गैस (Oleum Gas)** का रिसाव हुआ। इससे एक अधिवक्ता (Advocate) की मृत्यु हो गई और कई लोग प्रभावित हुए।

📚 **Significance:**

This case marked a pivotal moment in Indian environmental law, leading to the establishment of the principle of absolute liability, which has been instrumental in holding industries accountable for environmental harm. **It also expanded the scope of Article 21 to include the right to a healthy environment.**

Question:- **Ratio Decidendi – Meaning**

- **Literal Meaning (Latin):** *"The reason for the decision."*
- **Definition:** It is the **legal principle or rule** on which a court's decision is based.
- It is the **binding part of a judgment** that must be followed in future cases with similar facts.

How to find any case in S.C. site?

S.C. Site> bottom side>decision by S.C.> year>view>case law>judgement decided by>summery.

Obiter Dicta – Meaning & Role

Formation / Design in a Judgment

1. **Judge's Opinion Beyond the Facts:**
    - When a judge comments on what the law would be in **hypothetical or future situations**.
2. **Illustrations or Explanations:**
    - Judges often explain how the law might apply in **other circumstances**, not directly involved in the case.
3. **Persuasive Authority:**
    - Obiter dicta **do not bind future courts** but may guide or influence decisions.
4. **Common in Higher Courts:**

- Especially in **Supreme Court and High Court judgments**, judges often include obiter dicta to provide **clarity or reasoning for legal principles**.

Example:

- In **Donoghue v. Stevenson (1932)**, the judges discussed duties beyond manufacturer–consumer relationships.

Donoghue v. Stevenson (1932) – House of Lords

- डोनोग्यू (Donoghue) नाम की महिला स्कॉटलैंड के एक कैफ़े में अपने दोस्त के साथ गई।
- उसके दोस्त ने उसके लिए **जिंजर बीयर (Ginger Beer)** की बोतल खरीदी, जो Stevenson नामक निर्माता ने बनाई थी।
- बोतल अपारदर्शी (opaque) थी, इसलिए अंदर नहीं दिख रहा था।
- जब पेय डाला गया तो उसमें से एक **सड़ा हुआ घोंघा (snail)** निकला।
- Donoghue बीमार पड़ गई और उसने Stevenson (निर्माता) पर मुकदमा किया।
  - That discussion was **obiter dicta**, not binding, but persuasive for later cases.

✅ **Exam Line:**
"Obiter dicta are remarks made by judges that are not essential to the decision of a case; they provide guidance and explanation but do not form binding precedent."

Question:- what is **Stare Decisis – Meaning**

- **Latin Meaning:** *"Stand by the decisions"* or *"to stand by things decided."*
- **Definition:** It is the **legal principle that courts should follow the precedents set by previous decisions** when deciding cases with similar facts.

What is stare deciss? Any relation with this lines with PIL?

Answer:- any relation with pil

There is a strong and direct relationship between

obiter dicta and Public Interest Litigation (PIL), particularly in the Indian legal context. While *obiter dicta* are non-binding remarks made by a judge, they have played a crucial role in the development and expansion of PIL through a phenomenon known as judicial activism.

Here is an explanation of their connection:

The persuasive power of *obiter dicta*

- *Obiter dicta* are persuasive, not binding: As observations made "by the way," *obiter dicta* are not a part of the core legal principle (*ratio decidendi*) of a case. However, remarks from higher courts, especially the Supreme Court, carry significant persuasive weight.
- *Obiter dicta* can evolve into law: Throughout the history of law, many influential legal doctrines have originated as *obiter dicta* and were later adopted and formalized into binding law. This shows how a judge's side remark can influence future judicial thinking and legal development.

The activist role of PIL

- **PIL provides access to justice:** Originating in the 1980s, PIL was a product of judicial activism in India, where the courts relaxed the traditional rule of *locus standi* (the right to appear in court) to allow public-spirited citizens to file cases on behalf of the marginalized.
- The judiciary can be proactive: PIL has been used as a tool by judges to enforce the legal obligations of the executive and legislative branches of government when they fail to protect the public interest.

How *obiter dicta* and PIL intersect

The synergy between *obiter dicta* and PIL is that judges can use the non-binding portion of their judgments to explore progressive legal ideas, which can later be brought forward and solidified through the mechanism of PIL.

1. Exploratory commentary: In a traditional case, a judge may add *obiter dicta* to address a broader issue affecting the public that is related to the case but not essential to the specific decision. For instance, a comment on the right to a speedy trial in a prisoner's case.
2. Activist judges use it to expand rights: The remarks made as *obiter dicta* can be seized upon by activist judges and lawyers as justification to file a PIL. This can lead to a formal case being heard based on the influential, but not yet binding, idea.
3. The *obiter* matures into *ratio*: Through the PIL, the court has an opportunity to take the issue head-on and make the previously non-binding *obiter dicta* into a firm, binding legal principle, or *ratio decidendi*. This is a critical way that the law is evolved by the judiciary.

Key examples in India

- *Kesavananda Bharati v. State of Kerala* (1973): The "basic structure doctrine," which established that the Parliament could not amend the Constitution's fundamental principles, first appeared as an *obiter dictum* in an earlier case before being established as the binding *ratio* in this landmark judgment.
- *Vishaka v. State of Rajasthan* (1997): The Supreme Court's guidelines to prevent sexual harassment in the workplace began as an *obiter dictum*. These guidelines were treated as law until the legislation was enacted in 2013, demonstrating the power of *obiter* in driving social change through PIL.
- *Indian Banks' Association v. Devkala Consultancy Services* (2004): The Supreme Court contradicted its own precedents regarding private interest, finding that "a private interest case can also be treated as a public interest case." This highlights how the court's interpretations, often found in "passing observations," can significantly expand the scope of PIL.

Date 4-9-25 Chapter 1 Precedents

Stare decisis means: *Stare decisis*, a Latin term meaning "to stand by things decided," is a legal doctrine that obligates courts to follow established precedents when making rulings. This principle ensures that courts decide similar cases in a consistent and predictable manner.

Definition of Precedent
Precedent is an important and independent source of law. It is not as essential as custom, nor as modern as legislation, but it has a unique significance. This is a distinctive feature of English law and other common law countries. In England, judges have played a significant role in developing Indian law as well. During the Middle Ages, when Parliament had not yet assumed the status of a sovereign law-making body, it was left to the judges to define the law and lay down legal principles.

The word *precedent* literally means an earlier event or action that is regarded as an example or guide to be considered in subsequent or similar circumstances. In legal terminology, precedent refers to a judicial decision that serves as an authority for deciding future cases of a similar nature.

What is doctrine of *stare decisis*?

The doctrine of *stare decisis* is the legal principle that courts should follow precedent—the rulings and legal reasoning of previous court decisions—when handling cases with similar facts. The Latin phrase translates to "to stand by things decided"

This is like article 141.

Precedent

----------A---------- ----------B----------

A **Ratio Decidendi** → (the legal principle or reason for the decision in a case, which is binding as precedent)

Obiter Dicta → (observations or remarks made by a judge that are not essential to the decision; they are persuasive but not binding)

Chapter 3 Precedents jurisprudence by manish

Source of Law → Judicial Precedent →

1. **Ratio Decidendi – the principle or rule of law on which a case is decided.**
    - **It is the binding part of the precedent.**
    - **Future courts must follow it if they are lower in hierarchy.**
2. **Obiter Dicta – remarks or observations made by judges which are not necessary for the decision.**
    - **They are not binding, but they may have persuasive value.**

✅ **So, the correct statement is:**
"Judicial precedent is a source of law. The *ratio decidendi* (reason for the decision) is binding, while *obiter dicta* (observations made by the way) are not binding but persuasive."

What is legislation ? in hindi vidhaika where we make the law. (the modern source of law)

In each book of bare act. Has definition available in sect 2.

How law makes? > customs>precedent>legislation(in modern era)

Legislation
In modern times, legislation is considered one of the most important sources of law. In fact, this source of law is of comparatively recent growth. The term *legislation* is derived from the Latin words ***legis* meaning "law" and *latum* (from *ferre*) meaning "to make" or "to set." Thus**, legislation means the making or setting of law.

Legislation primarily refers to the law made by the legislature. It does not include judge-made rules of law or rights created between parties to a contract. In its wider sense, however, legislation includes every formal expression of the will of the legislature, whether directly connected with the making of law or not.

Why we use **expression** word in the judgment.

For wide means. Law of interpretation done by the court

Ratio Decidendi

- The Latin term means **"the reason for the decision."**
- It is the **principle of law** on which a case is decided.
- This part of the judgment is **binding** on lower courts as a precedent.
- It forms the authoritative element of case law.

📌 **Example:**
In *Donoghue v. Stevenson (1932)*, the ratio decidendi was the principle of **duty of care in negligence** — that one must take reasonable care to avoid acts or omissions which can foreseeably harm their "neighbour."

❓ **Where are Fundamental Rights in the Constitution?**
✔️ Answer: Fundamental Rights are provided in **Part III (Articles 12 to 35)** of the Indian Constitution.

❓ **Which Article gives the power of amendment with reference to Article 13?**
✔️ Answer: The **power to amend the Constitution** is given under **Article 368**.

- However, Article 13 states that **any law inconsistent with Fundamental Rights shall be void**.
- In **Kesavananda Bharati v. State of Kerala (1973)**, the Supreme Court held that **Article 368 allows amendments, but Parliament cannot destroy the "basic structure" of the Constitution**.

✅ **Corrected Version:**
According to Pollock, the mere fact that the plaintiff himself is a wrongdoer does not, in itself, prevent him from recovering the loss which he suffers, unless the unlawful act or conduct of the plaintiff is directly connected with the harm suffered by him as part of the same transaction.

👉 This is exactly the principle behind the defence *"Plaintiff the Wrongdoer"*, connected with the maxim **Ex turpi causa non oritur actio**.

Plaintiff the Wrongdoer (Defence in Tort)

Definition (Pollock):

"The mere fact that the plaintiff himself is a wrongdoer does not, in itself, prevent him from recovering the loss which he suffers, unless the unlawful act or conduct of the plaintiff is directly connected with the harm suffered by him as part of the same transaction."

This principle is based on the maxim:
👉 **Ex turpi causa non oritur actio** – *no action arises from an immoral or illegal act.*

Essentials of the Defence:

1. **Wrongdoing by Plaintiff** – The plaintiff must be engaged in an unlawful or wrongful act.
2. **Connection with Harm** – The harm suffered must arise directly from that wrongful act.
3. **Same Transaction** – The injury must be part of the same illegal or wrongful transaction.
4. **Independent Injury Allowed** – If the harm is not connected with the plaintiff's wrongful act, he may still recover damages.

Case References:

- **Ashton v. Turner (1981):** Plaintiff injured during getaway after burglary → claim barred.
- **Pitts v. Hunt (1991):** Injury caused while participating in illegal motorcycle riding → no recovery.
- **Tournier v. National Provincial Bank (1924):** Where harm is directly linked with the plaintiff's illegal act, no action lies.

Conclusion:

The defence of *Plaintiff the Wrongdoer* prevents recovery when the plaintiff's own unlawful conduct forms the basis of the harm. However, if the wrongdoing is **independent** of the harm suffered, the plaintiff can still succeed.

✅ This can come either as a **10-marker short note** or as part of a **20-mark general defences question.**

Case ref

Stanley v. Powell 1891

(1891) is a landmark English tort law case concerning the defense of inevitable accident. The court ruled that an act is not actionable in tort if it is neither intentional nor the result of negligence.

Facts of the case

- The defendant, Powell, was a member of a shooting party that included the plaintiff, Stanley.
- Powell fired his gun at a pheasant, but the pellet ricocheted off a tree and accidentally struck Stanley in the eye, causing injury.
- Stanley sued Powell for trespass to the person and negligence.

- A jury, after hearing the evidence, found that Powell had not acted negligently when he fired the shot.

The court's decision

The court, led by Justice Denman, held that Powell was not liable for Stanley's injury. The reasoning was based on the following principles:

- No negligence: Since the jury explicitly found that Powell was not negligent, and the incident was unforeseen and unavoidable with reasonable care, he could not be held responsible.
- The act was accidental: The court found that the ricochet was an "inevitable accident," an unfortunate event that was not a direct or foreseeable consequence of Powell's actions.
- Liability requires fault: The judgment affirmed that for there to be liability in tort, there must be either an intentional act or proof of negligence. Accidental harm without fault does not give rise to legal responsibility.

Significance of the judgment

The *Stanley v. Powell* decision is crucial for clarifying the role of fault in tort law and establishing the defense of inevitable accident.

- Shift from strict liability: It marked a notable departure from the older, stricter common law rule of trespass, which sometimes imposed liability even without a clear showing of fault.
- Affirmation of negligence: It reinforced negligence as a central pillar of modern tort law, requiring a breach of a duty of care for liability to arise in accidental cases.
- Modern relevance: The case continues to be relevant in illustrating the principle that a person cannot be held liable for harm that was not intentional, negligent, or otherwise wrongful on their part.

Case ref

Brown v. Kendall 1850

(1850) is a landmark American tort law case decided by the Supreme Judicial Court of Massachusetts. It is significant for establishing the necessity of proving fault—either intent or negligence—to hold a defendant liable for accidental injury, thereby shifting the legal focus from strict liability to a fault-based system.

Facts of the case

- The plaintiff, George Brown, and the defendant, George Kendall, were the owners of two dogs that began to fight.
- Kendall attempted to separate the dogs by using a stick.
- During this process, Kendall accidentally struck Brown in the eye with the stick, causing a **severe injury.**
- Brown filed a lawsuit for assault and battery but did not specifically allege that Kendall's act was either intentional or negligent.
- At the trial, the judge incorrectly instructed the jury that Kendall would be liable unless he proved he had exercised "extraordinary care." The jury found in favor of Brown.

The Supreme Court's ruling

Chief Justice Lemuel Shaw, writing for the Supreme Judicial Court of Massachusetts, overturned the lower court's judgment and ordered a new trial. His reasoning clarified and established several key principles of tort law:

Fault is required for liability

- The court held that if a person is performing a lawful act and unintentionally causes harm, they are not liable unless negligence or a lack of due care is established.
- This was a major departure from older legal theories that sometimes imposed liability simply because a direct, forceful act caused injury, regardless of fault.

Introduction of the "reasonable person" standard

- The court articulated that liability should be determined by the standard of "ordinary care and prudence" that a reasonable person would use in similar circumstances.
- This "reasonable person" standard remains a cornerstone of negligence law today.

Burden of proof

- **The court clarified that the burden of proof lies with the plaintiff to show that the defendant acted without due care and that this failure caused the injury.** The trial court's instructions, which incorrectly placed the burden on the defendant to prove his innocence, were deemed erroneous.

Inevitable accident

- The court acknowledged that an injury resulting from an "unavoidable accident," where the defendant exercised all necessary precautions, does not create liability. The trial court had wrongly required Kendall to prove "extraordinary care" to establish this defense.

Defence is act of god.

Force majeure

Definition and meaning

Force majeure is a French term that literally means "superior force." In contract law, it refers to a common clause that frees both parties from liability or obligation when an extraordinary event or circumstance beyond their control prevents one or both from fulfilling their obligations under the contract.

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act of god by pollack

Sir Frederick Pollock defined an "Act of God" as an operation of natural forces so unexpected that no human foresight or skill could reasonably be expected to anticipate it. This definition, from his influential work on tort law, emphasizes two key elements:

- The event must be caused by natural forces only, with no human intervention.
- The occurrence must be so extraordinary and unforeseen that it could not have been guarded against by any reasonable amount of foresight or care.

How Pollock's definition clarifies the defense

Pollock's definition helps distinguish an **"Act of God" (also known as *vis major* or *damnum fatale*)** from a mere "inevitable accident".

- An inevitable accident, according to Pollock, is one that cannot be avoided by the ordinary precautions a reasonable person would take. It can arise from either human or natural agency.
- An Act of God, however, is a narrower category of inevitable accident that is entirely attributable to the overwhelming and exceptional force of nature.

Examples illustrating the distinction

A few cases help illustrate the criteria laid out by Pollock:

- ***Nichols v. Marsland* (1876):** In this case, exceptionally heavy rainfall, described as beyond living memory, caused the bursting of a dam and resulted in flooding. The court held this to be an Act of God, as no human foresight could have anticipated such an extraordinary event.
- *Ramalinga Nadar v. Narayana Reddiar* (1971): A case involving a mob looting goods was denied the defense of "Act of God". Following Pollock's reasoning, the court found that the damage was caused by human intervention, not a natural force, and therefore the defense did not apply.

Act of God (Defence in Tort)

Pollock's Definition:

"An act of God is an operation of natural forces so unexpected that no human foresight or skill could reasonably be expected to anticipate it."

Essentials of Act of God:

1. **Operation of Natural Forces**
    - The event must be due to natural causes, such as earthquakes, floods, storms, lightning, etc.
    - Example: heavy rainfall causing unprecedented floods.
2. **Beyond Human Control**
    - The event must be one which could not have been prevented by any human foresight, care, or reasonable precautions.
3. **Unforeseeable and Extraordinary**
    - The occurrence must be extraordinary and not something that can be anticipated in the usual course of nature.
4. **Direct Cause of Damage**
    - The natural event must be the **proximate cause** of the loss or damage suffered, without any human intervention.

Case References:

- **Nichols v. Marsland (1876):** Defendant not liable when extraordinary rainfall caused artificial lakes to overflow and damage neighbouring land.
- **Rylands v. Fletcher (1868):** Recognised *Act of God* as a defence under strict liability.

- **Kallulal v. Hemchand (1958, India):** Collapse of a wall due to heavy rain; defence not accepted because proper precautions could have prevented it.

Date 10-9-25 chapter 2 time 10.30 am subject jurisprudence.

What is the source of law?

Key differences between substantive and procedural law

Aspect	Substantive Law	Procedural Law
Purpose	Defines the rights, duties, and liabilities of individuals and the state.	Lays down the process and methods for enforcing those rights and duties.
Focus	The "what" of the law; determines the substance of a case.	The "how" of the law; governs the mechanics of how a legal case proceeds.
Example	The Indian Penal Code, which defines what constitutes murder and its punishment, is a substantive law.	The Code of Criminal Procedure, which outlines the steps for a criminal trial, is a procedural law.

How they work together

To secure justice, a legal system must have both substantive and procedural law.

- Without procedural law, substantive rights would be inconsistently or arbitrarily enforced.
- Without substantive law, procedural rules would have no purpose, as there would be no rights or duties to enforce.

For example, a law that prohibits theft is a substantive law. The rules for how to investigate, prosecute, and try a theft case in court are all part of procedural law.

What is the difference between code and act? Like Indian penal code and contract act.

Comparison of Act vs. Code

Aspect	Act (e.g., The Indian Contract Act, 1872)	Code (e.g., The Indian Penal Code, 1860)
Scope	Specific and focused. It deals with a particular issue or set of issues. The Indian Contract Act, for example, is confined to the legal regulation of contracts.	Comprehensive and systematic. It is an exhaustive and organized collection of laws that cover all aspects of a particular area. The Indian Penal Code covers the entire body of substantive criminal law in India.
Origin and Purpose	Usually enacted to address a specific, often contemporary, issue, or to create a new law or amend an existing one. The Contract Act was passed to unify laws related to contracts.	Formed by the process of codification, which involves compiling and systematizing existing laws, customs, and precedents into a single, cohesive document. The IPC codified India's criminal law for administrative convenience.
Structure	A specific set of rules and sections laid out in a straightforward manner.	Typically divided into parts, chapters, and sections to provide a complete and structured framework for legal proceedings.

Examples	Specific Issue: • The Right to Information Act, 2005 • The Companies Act, 2013	Comprehensive Law: • The Code of Criminal Procedure (CrPC) • The Code of Civil Procedure (CPC)

Practical illustration with your examples

The Indian Contract Act, 1872, is an "Act" because it is a specific, standalone piece of legislation focusing narrowly on the subject of contracts. It provides a detailed set of rules for what constitutes a valid contract, the remedies for a breach, and related matters, but it does not attempt to systematize all civil law.

The Indian Penal Code, 1860, is a "Code" because it consolidates and systematizes all substantive criminal law in India, encompassing everything from theft to murder. It was the result of a deliberate codification effort to create a complete body of law on a specific subject.

In the simple way you can say that all the old laws put in one place with a uniform way that is called code. And the made by any authority in new era is called act.

Ideology of law chart

Make a table heading law>2 parts substantive law and procedural law>than substantive law divide in 2 parts >divine law and Human law> than human law divide in 2 parts>positive law (make by a human, or you can say binding law) and 2nd one is positive morality. Than positive law divide in 2 parts >law set by political superior to political inferior and 2nd is law set by private person in pursuance of legal rights for example contract, tort, property act act. Please send these in a table. Also check is this correct which I have written.

✅ Corrected & Structured Version in Table

LAW	Classification	Further Division	Details / Examples
1. Substantive Law	Defines rights, duties, and liabilities.	(a) Divine Law	Law believed to come from God (e.g., religious scriptures). Not enforceable by State.
		(b) Human Law	Law created by humans and recognized by society/State.
			(i) Positive Law (Binding Law) → Set by a political superior (sovereign/State) and enforceable by courts. • Example: Constitution, IPC, CPC, CrPC.
			(ii) Positive Morality → Rules of conduct set by society, customs, ethics, or morality; not strictly enforceable by courts.

LAW	Classification	Further Division	Details / Examples
			• Example: Social customs, moral obligations.
		Positive Law (further division):	1. Law set by political superior to political inferior → Commands of the State backed by sanction. 2. Law set by private persons in pursuance of legal rights → e.g., Contract law, Tort law, Property law.
2. Procedural Law	Provides methods/procedure to enforce rights & duties defined by substantive law.	—	Example: Civil Procedure Code (CPC), Criminal Procedure Code (CrPC), Evidence Act.

It starts with LAW at the top and then divides step by step:

1. Law → Substantive Law & Procedural Law
2. Substantive Law → Divine Law & Human Law
3. Human Law → Positive Law (Binding) & Positive Morality
4. Positive Law → (i) Law set by political superior to political inferior (sovereign commands)
   → (ii) Law set by private persons (Contract, Tort, Property, etc.)
5. Procedural Law → Deals with enforcement (CPC, CrPC, Evidence Act)

What is school of law?

- A School of Law means a branch or approach of legal thought which explains the nature, source, and purpose of law.
- Different jurists and philosophers have given different theories of law, and their collective approaches are called Schools of Law.
- In simple words → *Schools of Law are philosophical perspectives through which law is studied and understood.*

Major Schools of Law:

1. Natural Law School
   - Law is based on morality, justice, and divine reason.
   - Example: Cicero, Grotius, St. Thomas Aquinas.
   - Modern revival: Human Rights principles.
2. Analytical School (Positivism)
   - Law is the command of the sovereign, backed by sanctions.

- Focuses on law as it "is", not as it "ought to be".
- Jurist: John Austin.

3. Historical School
   - Law is not made but found in customs, traditions, and social practices.
   - Jurists: Savigny, Puchta, Henry Maine.
4. Sociological School
   - Law is a tool of social engineering to balance interests.
   - Jurists: Ihering, Roscoe Pound.
5. Realist School
   - Law is what courts actually do in practice (judge-made law).
   - Jurists: Oliver Wendell Holmes, Karl Llewellyn.

✅ In Short for Exams:

- School of Law = theory/approach explaining the nature and purpose of law.
- Major schools: Natural, Analytical, Historical, Sociological, Realist.
- They differ in how they define law → morality (natural), command (analytical), custom (historical), social purpose (sociological), or judicial decisions (realist).

Who is the founder of analytical school?

1. **John Austin (1790–1859)**
   - Most widely accepted as the founder of Analytical School of Law.
   - His theory → *Law is the command of the sovereign, backed by sanction.*
   - That's why the Analytical School is often called the "Austin School".
2. **Jeremy Bentham (1748–1832)**
   - Some jurists argue that Bentham is the real founder because:
     - He first applied the term "positivism" to law.
     - He separated law from morality and emphasized codification (like the Penal Code).
     - Austin was his student and systematized Bentham's ideas.

✅ Why the confusion?

- Bentham → gave the foundation of positivism (ideas about separating law & morals, codification).
- Austin → developed a systematic theory (Command Theory), so most books call him the founder.

Exam Answer (Safe Version):

- Founder of Analytical School is John Austin, but the credit of originating positivist thought goes to Jeremy Bentham.
- Therefore, some say Bentham is the originator, while Austin is the systematiser.

What is law? College work like this.

Make a simple chart what is law>substantive law and procedure law than substantive law divide in 2 parts civil, contract, tort etc. and 2nd one is criminal law like as bns etc. than come on 2nd part is procedure law which also divide in 2 parts >one is civil law like cpc, evidence etc and 2nd is criminal like bnss, evidence etc. make a table for this.

Classification of Law

Law	Types	Sub-Division	Examples
1. Substantive Law	Defines rights, duties, and liabilities	**(a) Civil Law**	Contract Law, Tort Law, Property Law, Family Law, Consumer Law etc.
		(b) Criminal Law	Bharatiya Nyaya Sanhita (BNS), IPC (earlier), Special Criminal Laws
2. Procedural Law	Provides the process to enforce rights and duties	**(a) Civil Procedure Law**	CPC (Code of Civil Procedure), Indian Evidence Act
		(b) Criminal Procedure Law	BNSS (Bharatiya Nagarik Suraksha Sanhita), CrPC (earlier), Indian Evidence Act

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Date 11-09-25 chapter 1 time 09-30am by manish

Concept and meaning of law

Concept / Meaning of Law

The central theme of the subject matter of **Jurisprudence** is to study the **nature of law**. It is concerned with the fundamental question: *What is law?* The domain of jurisprudence belongs to the province of legal theory or the concept of law.

The **concept of law** signifies the meaning of *what law is*. Indeed, it is difficult to give a precise answer to the question *what is law*.

In different legal systems, the term “law” has been expressed by different words:

- In the Hindu system – **Dharma**
- In the Islamic system – **Hukum**
- In the Roman system – **Jus**
- In the German system – **Recht**
- In the French system – **Droit**

These corresponding words in different systems convey different meanings and ideas. It is well known that law, being a **dynamic concept**, changes with the evolution of society under different socio-economic and political conditions.

Definition of law

Keeton's Definition of Law

According to Keeton:
"Law is a rule of conduct administered by the organs of a political society, which that society has established for this purpose, and imposed in the first instance by the will of the dominant political authority. It is enforced in pursuance of the conception of justice held by that dominant political authority, or by those to whom it has entrusted the task of making such rules."

Short note

Dominating political authority

To provide justice

Rule of conduct.

Short Note (Easy to Memorize)

According to Keeton, **law is a rule of conduct enforced by the organs of a political society**. It is imposed by the will of the **dominant political authority**, and it reflects the idea of **justice** as understood by that authority or by those entrusted to make such rules.

👉 In very simple words: **Law = rules made and enforced by political authority, based on its idea of justice.**

Austin's Definition of Law

According to **John Austin**:
"Law is the command of the sovereign."

Easy Exam Note

👉 For Austin, **Law = Command of the Sovereign, backed by sanctions**.

He explained that:

- Law is a **command issued by the sovereign** (the supreme political authority in a society).

- It is backed by **sanctions** (punishments) for disobedience.
- The sovereign is a person or body of persons to whom the bulk of society habitually obeys, and who does not habitually obey anyone else.

Correct Version

- **Jeremy Bentham** is regarded as the **Father of the Analytical School of Jurisprudence**.
- **John Austin** is regarded as the **Founder of the Analytical School** (sometimes called the English school of jurisprudence).

Easy to Memorize

👉 Bentham = *Father* of Analytical School
👉 Austin = *Founder* of Analytical School (Command theory of law)

Bentham's Definition of Law

According to **Jeremy Bentham**:
"Law, or the law taken collectively, is an abstract term, which, when it means anything, means neither more nor less than the sum total of a number of individual laws taken together."

Easy Exam Note

👉 For Bentham, **"law" in general = total collection of individual laws**.
It is not a single rule but the **aggregate of many specific rules**.

Sahi aur Saral Hindi mein

"Bentham ke anusar kanoon aise banne chahiye jo sabse zyada logon ki jarurat aur unki khushi ko pura karein."

👉 Yani: **Law should be made for the greatest happiness of the greatest number.**

बेंथम का सिद्धांत (सरल हिन्दी में)

बेंथम के अनुसार कानून का उद्देश्य समाज के अधिकतम लोगों की अधिकतम खुशी (greatest happiness of the greatest number) सुनिश्चित करना है।

- कानून किसी *एक व्यक्ति* की ज़रूरत के लिए नहीं बनाया जाता।
- कानून का असली मकसद यह है कि वह **समाज के बहुसंख्यक लोगों की आवश्यकताओं और हितों को पूरा करे।**
- कोई भी नियम तभी अच्छा कानून कहलाएगा जब वह लोगों के **सुख को बढ़ाए और दुख को कम करे।**

👉 आसान शब्दों में:
"कानून वही सही है जो अधिक से अधिक लोगों की ज़रूरत और खुशी को पूरा करे।"

📌 **Bentham's Principle of Utility**

English (Short Exam Notes)

1. Law should aim at the **greatest happiness of the greatest number**.
2. It is not for one person's need, but for the **welfare of society as a whole**.
3. A law is **good** if it increases happiness and reduces pain.
4. Utility = usefulness → law must be **useful for maximum people**.
5. Basis of Bentham's theory = **pleasure and pain test** (does the law give more pleasure than pain?).

हिन्दी (संक्षिप्त परीक्षा नोट्स)

1. कानून का उद्देश्य होना चाहिए – **सबसे अधिक लोगों की सबसे अधिक खुशी**।
2. कानून किसी *एक व्यक्ति* के लिए नहीं, बल्कि **पूरे समाज के हित** के लिए बनता है।
3. कानून तभी **अच्छा** कहलाएगा जब वह सुख को बढ़ाए और दुख को घटाए।
4. **उपयोगिता = उपयोगी होना** → कानून अधिकतम लोगों के लिए उपयोगी होना चाहिए।
5. बेंथम का आधार = **सुख और दुख की कसौटी** (कानून से सुख अधिक और दुख कम होना चाहिए)।

👉 आसान याद करने वाला वाक्य:
"Good law = Maximum happiness of maximum people."
"अच्छा कानून = अधिकतम लोगों की अधिकतम खुशी।"

Holland's Definition of Law (Corrected)

According to Holland:
"Laws, therefore, in the vague sense of rules of human action, are propositions which command a person to do or abstain from a certain class of actions; the obedience to which is followed, or is likely to be followed, by some penalty or inconvenience."

Easy Exam Note (English)

👉 Holland says:

1. Law = **rules of human action**.
2. They command to **do or not do certain actions**.
3. Obedience is enforced by **penalty or inconvenience**.

In short: *Law = rules of human conduct, enforced by penalty for disobedience.*

आसान हिन्दी नोट्स

👉 हॉलैंड के अनुसार:

1. कानून = **मानव आचरण के नियम**।

2. यह आदेश देता है कि कुछ कार्य करो या कुछ कार्यों से दूर रहो।
3. यदि पालन नहीं किया गया तो **दंड या असुविधा** का सामना करना पड़ेगा।

सरल शब्दों में: *कानून = ऐसे नियम जिनके उल्लंघन पर दंड मिलता है।*

📌 **Major Jurists' Definitions of Law (Comparison Table)**

Jurist (विधिवेत्ता)	Definition (परिभाषा)	Key Points (मुख्य बिंदु)
Bentham (बेंथम)	**Law aims at the greatest happiness of the greatest number.** **कानून का उद्देश्य अधिकतम लोगों की अधिकतम खुशी सुनिश्चित करना है।**	Principle of Utility, Good law = increases pleasure & reduces pain. उपयोगिता सिद्धांत, अच्छा कानून = सुख बढ़ाए, दुख घटाए।
Austin (ऑस्टिन)	**Law is the command of the Sovereign, backed by sanction.** **कानून संप्रभु का आदेश है, जिसके पालन न करने पर दंड मिलता है।**	Command Theory, Law = Order + Sanction. आदेश सिद्धांत, कानून = आदेश + दंड।
Keeton (कीटन)	**Law is a rule of conduct, administered by political society, based on the will of the dominant political authority.** **कानून आचरण का नियम है, जिसे राजनीतिक समाज लागू करता है और जो प्रभुत्वशाली सत्ता की इच्छा पर आधारित होता है।**	Law reflects justice as conceived by ruling authority. कानून सत्ता की न्याय अवधारणा को लागू करता है।
Holland (हॉलैंड)	**Law is a rule of human action, commanding to do or not to do certain acts, enforced by penalty or inconvenience.** **कानून मानव आचरण का वह नियम है जो कुछ कार्य करने या न करने का आदेश देता है और पालन न करने पर दंड मिलता है।**	Law = Rules of conduct + Penalty. कानून = आचरण के नियम + दंड।

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Date 12.9.25 chapter 3 time 11.30 am mr manish

aldrum partum

The term "aldrum partum" appears to be a garbled version of two separate and unrelated concepts:

1. ALDRUM: A brand name for industrial sludge-thickening equipment.
2. AUDI ALTERAM PARTEM: A Latin legal principle meaning "hear the other side".

ALDRUM

- This is a line of rotary drum filters manufactured by the company Alfa Laval.

- The system is used in industrial wastewater treatment to thicken sludge by separating water from solids, effectively reducing sludge volume.

Audi alteram partem

- This is a fundamental legal maxim in Latin that means "hear the other side".
- It is a core principle of natural justice, which dictates that no person should be judged or have a ruling made against them without a fair hearing and the opportunity to respond to the case against them.
- *ऑडी अल्टरम पार्टम*
- *यह एक लैटिन कानूनी सिद्धांत है जिसका अर्थ है "दूसरे पक्ष को भी सुनो"।
- यह प्राकृतिक न्याय का एक महत्वपूर्ण नियम है जो यह सुनिश्चित करता है कि किसी भी व्यक्ति को बिना निष्पक्ष सुनवाई का मौका दिए और आरोपों का जवाब देने का अवसर दिए दंडित न किया जाए।
- इसलिए, "अलड्रम पार्टम" का कोई मतलब नहीं है। यह संभवतः किसी गलतफहमी या गलत उच्चारण के कारण बना है, जिसने एक औद्योगिक उपकरण के ब्रांड नाम को एक लैटिन कानूनी वाक्यांश के हिस्से के साथ मिला दिया है।
-

Characteristic of law

One of the most satisfied characteristics of the law is

A *"It is an attribute of human beings and is found only when groups of such beings associate and organize themselves into a political society, which exists for the purpose of governing themselves."*

Key Corrections:

1. **“human being an” → “human beings and”** ✅
2. **“help associated” → “associate”** ✅
3. **“organized them selves” → “organize themselves”** ✅
4. Added a comma and **“which exists for the purpose of governing themselves”** for clarity.

B *"Law is not descriptive of natural events like the so-called laws of science; rather, it is prescriptive, guiding human conduct and regulating behaviour."*

Question what is the meaning of ougst?

In **legal/philosophical context**, **“ought”** is used to distinguish:

- **Law as it is** → *descriptive* (what the law currently says)
- **Law as it ought to be** → *normative / prescriptive* (what the law should prescribe)

Example:

- "Law **ought** to protect fundamental rights of all citizens."
- "A law **is** valid only if it is enacted by the legislature."

---

1 Natural law of school. (law not made by human)

A ancient period
B midvil period
C recession period > man made law.
D modern period

For ancient period

- Aristotal
- Storics 470 to 400 bc
- Pelatao
- cecero

for midvil period

- staugustane saint
- acquinas

for recession period

- hobbs
- lock
- rousoue

for modern period

- stammler
- kohler
- rawls
- fuller

Natural Law School table rewritten in a neat, single-line format for each period — ready for exams:

Period	Thinkers / Notes
Ancient Period	Aristotle, Stoics (470–400 BC), Plato, Cicero – focused on universal and moral principles of law.
Medieval Period	St. Augustine, Thomas Aquinas – integrated Christian theology with natural law, emphasizing divine order.
Early Modern / Rationalist Period	Thomas Hobbes, John Locke, Jean-Jacques Rousseau – emphasized man-made law, social contract, and rationality.

Jurisprudence DATE 01-09-2025 to 30-09-2025

Period	Thinkers / Notes
Modern Period	Stammler, Kohler, John Rawls, Lon Fuller – focused on justice, morality, procedural fairness, and human rights.

Definition of natural law theory.

"Natural Law Theory is one of the oldest schools of legal and political thought, tracing its origins to periods even before Christ. No other legal or political theory has such a long and continuous history. Natural law ideas can be found in ancient legal systems, including Hindu, Greek, and Roman law. The theory emphasizes that law is not merely a human creation but has a moral basis, existing prior to and independent of man-made law."

Key Corrections and Improvements:

1. "as a history reaching that confuries before crist" → "tracing its origins to periods even before Christ" ✅
2. "no other of leagal and political theory is so with" → "No other legal or political theory has such a long and continuous history" ✅
3. "Star as that of natural theory" → Removed, incorporated into corrected sentence
4. "insient hindu, greeks, and roman law" → "ancient Hindu, Greek, and Roman law" ✅
5. "Natural law has pre moridil" → "The theory emphasizes that law is not merely a human creation but has a moral basis, existing prior to and independent of man-made law" ✅

Ancient Period of natural law

- **Socrates 470 to 400 bc**

"Socrates was a great philosopher of ancient times, known for his admiration of truth and moral values. He argued that, just as there are natural physical laws, there exists a natural moral law. Human beings possess insight, and through this insight, they can discern the goodness or badness of things and come to understand the absolute and eternal moral rules."

Key Corrections / Improvements:

1. **"He is a great philosopher of the ancient time" → "Socrates was a great philosopher of ancient times"** ✅
2. **"He was a great admire of truth" → "known for his admiration of truth"** ✅
3. **"He argue that like natural physical law" → "He argued that, just as there are natural physical laws"** ✅
4. **"Man position insight and this insight revel to him" → "Human beings possess insight, and through this insight"** ✅
5. **"makes him to know the absolute and eternal moral rules" → "they can discern … and come to understand the absolute and eternal moral rules"** ✅

By gemini

Ancient Period (circa 5th century B.C.–4th century A.D.)

Name	Time Period	Contribution & Description

Socrates	c. 470–399 B.C.	Believed that law is based on "human insight" and moral values that allow a person to distinguish between good and bad. He advocated for obedience to both natural (moral) and positive (state) law for a stable society, famously accepting his own death sentence to uphold legal authority.
Plato	c. 427–347 B.C.	Though he did not have an explicit theory of natural law, his ideas on the "Form of the Good" influenced later natural law thought. He viewed the universe as orderly and believed that reason could lead humanity toward justice and moral values.
Aristotle	c. 384–322 B.C.	Distinguished between "natural justice" (universal) and "legal justice" (conventional). He viewed human beings as part of nature but possessing reason to guide their will, allowing them to discover the principles of natural justice. He is considered a conservative natural law thinker, as he believed the existing positive law should be obeyed and reformed, rather than broken.
Stoics	3rd century B.C. onwards	Believed the entire universe is governed by divine reason. Their concept of *ius naturale* (natural law) was based on living in accordance with nature, which was later adopted and refined by Roman jurists.
Cicero	c. 106–43 B.C.	A Roman statesman who argued that true law is right reason in agreement with nature, and its authority is universal and eternal. He believed that this divine reason is inherent in the universe, and it is through human reason that we discover what is just and unjust.

Medieval Period (circa 12th–14th century)

Name	Time Period	Contribution & Description
St. Thomas Aquinas	c. 1225–1274	The most influential figure of this period, he synthesized the ideas of Aristotle with Christian theology. He classified law into four categories: eternal law (divine reason), natural law (human participation in eternal law through reason), divine law (from scripture), and human law (positive law). He famously argued that an unjust law (*lex iniusta non est lex*) is not a true law if it contradicts natural law.

Renaissance & Social Contract Period (circa 16th–18th century)

Name	Time Period	Contribution & Description
Hugo Grotius	1583–1645	Separated natural law from divine law, arguing that it is immutable and would exist even without God. He was a foundational figure in modern international law, seeing a connection between state sovereignty, social contracts, and the natural law that binds nations.
Thomas Hobbes	1588–1679	Used natural law to justify absolute state authority through a social contract. He argued that in the "state of nature," life is "solitary, poor, nasty, brutish, and short," and people enter a contract to surrender their rights to a sovereign in exchange for protection. For Hobbes, the primary natural law is self-preservation.
John Locke	1632–1704	Contradicted Hobbes, arguing that the state of nature was one of peace and goodwill. He maintained that individuals possess inherent natural rights to life, liberty, and property. The purpose of the social contract is to protect these natural rights, and the people have the right to revolt if the government fails to do so.
Jean-Jacques Rousseau	1712–1778	Viewed the social contract as a hypothetical tool to establish freedom and equality. He introduced the concept of the "general will," arguing that the sovereign power should act in the common good of the community.

Modern Period (19th–20th Century)

Name	Time Period	Contribution & Description
John Finnis	b. 1940	A modern revivalist of natural law theory. Drawing on Aristotle and Aquinas, he identifies "basic goods" such as life, knowledge, play, and practical reasonableness as fundamental human values that form the basis of natural law.
Lon L. Fuller	1902–1978	Rejected traditional doctrines of natural law but argued for an "internal morality of law". He believed that certain principles, such as consistency, publicity, and clarity, are moral prerequisites for a legitimate and functioning legal system.

Immanuel Kant	1724–1804	Supported the idea of a social contract based on reason, not historical fact. He developed the "Categorical Imperative," a moral framework where a person is guided by the dictates of their own conscience.
Revival after World War II	20th century	After the atrocities of the world wars, natural law experienced a revival as a counter-reaction to legal positivism. The need for an ideal of justice in the face of totalitarianism, combined with renewed interest in metaphysics and human rights, brought the principles of natural law back to prominence.

प्राकृतिक विधि स्कूल का एक विस्तृत अवलोकन नीचे दी गई तालिका में दिया गया है, जिसमें इसके प्रमुख विचारक, उनके समय और उनके योगदान शामिल हैं।
प्राचीन काल (लगभग 5वीं शताब्दी ई.पू. - चौथी शताब्दी ई.पू.)

नाम	समय अवधि	योगदान और विवरण
सुकरात	लगभग 470–399 ई.पू.	उनका मानना था कि कानून "मानवीय अंतर्दृष्टि" और नैतिक मूल्यों पर आधारित है, जो व्यक्ति को अच्छे और बुरे के बीच अंतर करने में मदद करते हैं। उन्होंने एक स्थिर समाज के लिए प्राकृतिक (नैतिक) और सकारात्मक (राज्य) दोनों कानूनों के पालन की वकालत की, और अपने कानूनी अधिकार को बनाए रखने के लिए अपनी मौत की सजा को स्वीकार कर लिया।
प्लेटो	लगभग 427–347 ई.पू.	हालाँकि उनका प्राकृतिक विधि का कोई स्पष्ट सिद्धांत नहीं था, लेकिन "शुभ के स्वरूप" पर उनके विचारों ने बाद के प्राकृतिक विधि के विचारों को प्रभावित किया। उन्होंने ब्रह्मांड को व्यवस्थित माना और विश्वास किया कि तर्क humanity को न्याय और नैतिक मूल्यों की ओर ले जा सकता है।
अरस्तू	लगभग 384–322 ई.पू.	उन्होंने "प्राकृतिक न्याय" (सार्वभौमिक) और "कानूनी न्याय" (पारंपरिक) के बीच अंतर किया। उन्होंने मनुष्यों को प्रकृति का हिस्सा माना, लेकिन साथ ही उन्हें अपनी इच्छा को नियंत्रित करने के लिए तर्क का उपयोग करने की क्षमता भी दी, जिससे वे प्राकृतिक न्याय के सिद्धांतों की खोज कर सकें।
स्टोइक विचारक	तीसरी शताब्दी ई.पू. से आगे	उनका मानना था कि पूरा ब्रह्मांड दैवीय तर्क द्वारा शासित है। उनके *आईस नेचुरल* (प्राकृतिक विधि) की अवधारणा प्रकृति के

		अनुसार जीने पर आधारित थी, जिसे बाद में रोमन न्यायविदों ने अपनाया।
सिसरो	लगभग 106–43 ई.पू.	रोमन राजनेता, जिन्होंने तर्क दिया कि सच्चा कानून प्रकृति के साथ सहमत होने वाला सही तर्क है, और इसका अधिकार सार्वभौमिक और शाश्वत है। उनका मानना था कि यह दैवीय तर्क ब्रह्मांड में निहित है, और मानवीय तर्क के माध्यम से ही हम यह जान सकते हैं कि क्या न्यायसंगत है और क्या अन्यायपूर्ण।

मध्यकाल (लगभग 12वीं-14वीं शताब्दी)

नाम	समय अवधि	योगदान और विवरण
सेंट थॉमस एक्विनास	लगभग 1225–1274	इस काल के सबसे प्रभावशाली व्यक्ति, जिन्होंने अरस्तू के विचारों को ईसाई धर्मशास्त्र के साथ संश्लेषित किया। उन्होंने कानून को चार श्रेणियों में वर्गीकृत किया: शाश्वत कानून (दैवीय तर्क), प्राकृतिक कानून (तर्क के माध्यम से शाश्वत कानून में मानवीय भागीदारी), दैवीय कानून (धर्मग्रंथों से), और मानवीय कानून (सकारात्मक कानून)। उन्होंने प्रसिद्ध रूप से तर्क दिया कि एक अन्यायपूर्ण कानून (*lex iniusta non est lex*) तब तक सच्चा कानून नहीं है, जब तक वह प्राकृतिक कानून का उल्लंघन न करे।

पुनर्जागरण और सामाजिक अनुबंध काल (लगभग 16वीं-18वीं शताब्दी)

नाम	समय अवधि	योगदान और विवरण
ह्यूगो ग्रोटियस	1583–1645	उन्होंने प्राकृतिक कानून को दैवीय कानून से अलग किया, यह तर्क देते हुए कि यह अपरिवर्तनीय है और ईश्वर के बिना भी मौजूद रहेगा। वे आधुनिक अंतरराष्ट्रीय कानून के एक संस्थापक व्यक्ति थे, जो राज्य की संप्रभुता, सामाजिक अनुबंध और राष्ट्रों को बांधने वाले प्राकृतिक कानून के बीच संबंध देखते थे।
थॉमस हॉब्स	1588–1679	उन्होंने एक सामाजिक अनुबंध के माध्यम से पूर्ण राज्य प्राधिकरण को सही ठहराने के लिए प्राकृतिक कानून का उपयोग किया। उन्होंने तर्क दिया कि "प्रकृति की स्थिति" में, जीवन "एकाकी, गरीब, बुरा, क्रूर और छोटा" होता है, और लोग सुरक्षा के बदले में अपनी संप्रभुता को एक शासक को सौंपने के लिए एक अनुबंध में प्रवेश करते हैं। हॉब्स के लिए, प्राथमिक प्राकृतिक कानून आत्म-संरक्षण है।
जॉन लॉक	1632–1704	हॉब्स के विपरीत, उन्होंने तर्क दिया कि प्रकृति की स्थिति शांति और सद्भावना की थी। उन्होंने कहा कि व्यक्तियों के पास जीवन, स्वतंत्रता

		और संपत्ति के अंतर्निहित प्राकृतिक अधिकार हैं। सामाजिक अनुबंध का उद्देश्य इन प्राकृतिक अधिकारों की रक्षा करना है, और यदि सरकार ऐसा करने में विफल रहती है तो लोगों को विद्रोह करने का अधिकार है।
जीन-जैक रूसो	1712–1778	उन्होंने सामाजिक अनुबंध को स्वतंत्रता और समानता स्थापित करने के लिए एक काल्पनिक उपकरण के रूप में देखा। उन्होंने "सामान्य इच्छा" की अवधारणा पेश की, यह तर्क देते हुए कि संप्रभु शक्ति को समुदाय की भलाई के लिए कार्य करना चाहिए।

आधुनिक काल (19वीं-20वीं शताब्दी)

नाम	समय अवधि	योगदान और विवरण
जॉन फिनिस	जन्म 1940	प्राकृतिक कानून सिद्धांत के एक आधुनिक पुनरुद्धारकर्ता। अरस्तू और एक्विनास पर आधारित, वह जीवन, ज्ञान, खेल और व्यावहारिक तर्कसंगतता जैसे "बुनियादी वस्तुओं" को मौलिक मानवीय मूल्यों के रूप में पहचानते हैं जो प्राकृतिक कानून का आधार बनते हैं।
एल. एल. फुलर	1902–1978	प्राकृतिक कानून के पारंपरिक सिद्धांतों को खारिज कर दिया, लेकिन "कानून की आंतरिक नैतिकता" के लिए तर्क दिया। उनका मानना था कि कुछ सिद्धांत, जैसे कि संगति, प्रचार, और स्पष्टता, एक वैध और कार्यात्मक कानूनी प्रणाली के लिए नैतिक पूर्वापेक्षाएँ हैं।
इमैनुएल कांट	1724–1804	ऐतिहासिक तथ्य के बजाय तर्क पर आधारित एक सामाजिक अनुबंध के विचार का समर्थन किया। उन्होंने "श्रेणीगत अनिवार्य" विकसित किया, एक नैतिक ढांचा जिसमें एक व्यक्ति अपने विवेक के आदेशों द्वारा निर्देशित होता है।
द्वितीय विश्व युद्ध के बाद पुनरुद्धार	20वीं शताब्दी	विश्व युद्धों की क्रूरता के बाद, कानूनी प्रत्यक्षवाद के प्रति प्रतिक्रिया के रूप में प्राकृतिक कानून का पुनरुद्धार हुआ। सर्वाधिकारवाद के सामने न्याय के आदर्श की आवश्यकता, साथ ही आध्यात्मिकता और मानवाधिकारों में नए सिरे से रुचि ने प्राकृतिक कानून के सिद्धांतों को फिर से सुर्खियों में ला दिया।

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Date 15-09-2025 time 10.30 am period 2 by mr manish
Jurisprudence
Earlier we are talking about the Socrates
Basic item **just and unjust** man itself ethical

Ancient Period of natural law

- Socrates 470 to 400 bc
- "Socrates was a great philosopher of ancient times, known for his admiration of truth and moral values. He argued that, just as there are natural physical laws, there also exists a natural moral law. Human beings possess inner insight, and through this insight, they can discern the goodness or badness of things and come to understand the absolute and eternal moral rules.
- The **human conscience** is the basis for judging law. Thus, the reasonableness of any particular law must be tested against this inner moral insight. Only those laws which are in accordance with the principles of natural law and supported by human reasoning can truly be considered just and proper."

Socrates & Natural Law (Short Note)

Socrates, a great ancient philosopher, believed in **truth and moral values**. He argued that just as there are natural physical laws, there exists a **natural moral law**. Human conscience is the basis for judging laws, and only those laws which are in harmony with **natural law and human reasoning** can be considered just.

*****Equality before the law and reasonable classification.**
*****Natural justice principle apply for whole the world.**

Plato (427–347 BC)

Plato, the disciple of Socrates, carried forward the philosophy of **natural law** through his concept of the **Ideal State**, which he described in his work *Republic*. He emphasized that only the most **intelligent and capable persons** should rule as kings (the idea of the *philosopher king*).
According to Plato, God has given all men an equal measure of **justice and moral conscience** so that, in the struggle of life, they may unite to form a **permanent and harmonious society** based on mutual cooperation and preservation.

Or

Plato (427–347 BC)

Plato, the disciple of Socrates, developed natural law through his concept of the **Ideal State** in *Republic*. He argued that only the **philosopher king** (the most intelligent and capable) should rule. God, he believed, has given all men equal measures of **justice and moral sense**, enabling them to form a **harmonious society** based on cooperation.

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