Cover Page

INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY EDUCATIONAL RESEARCH
ISSN:2277-7881(Print); IMPACT FACTOR :10.16(2026); IC VALUE:5.16; ISI VALUE:2.286
Peer-Peer Reviewed, Refereed & Open Access International Journal - As per UGC Norms
(Fulfilled Suggests Parameters of UGC by IJMER)
Volume:15, Issue:10(2), October 2026
Scopus Review ID: A2B96D3ACF3FEA2A
Article Received: Reviewed: Accepted
Publisher: Sucharitha Publication, India
Online Copy of Article Publication Available: www.ijmer.in

PHILOSOPHICAL BASIS OF LAW

Dr. Rabilochan Murmu
Assistant Professor
Panchakot Mahavidyalaya

Abstract

This article examines the meaning, nature, and purpose of law in order to investigate its philosophical foundation. Along with the viewpoint of the Indian Constitution, it takes into account the definitions of law provided by philosophers and jurists. The general features of law, its various forms, including positive and natural law, and important associated ideas like authority, responsibility, obligation, and rights are covered. It also emphasizes the connection between moral principles and the law, demonstrating how legal systems are influenced by philosophy. The paper concludes by highlighting the connection between new ideals of law and their philosophical foundations, emphasizing the function of the law in upholding justice and virtue in society.

Keywords: Philosophy, Law, Virtue, Moral Principle, Justice, Authority, Responsibility, Rights.

Introduction

Aristotle defines a human being on the basis of rationality as well as animality. For him, human being is a rational animal. Rationality is expressed when the human being makes a plan and obeying the rules. Though human beings are rational animal, Aristotle warns, again and again, that there is possibility of misusing the rational power at least by some of human beings. It is, he says, for the human beings natural. That is why he talks about the virtues which should be explored in order to control any type of rational power acquired by human being, side by side, he also considers some rules that are be imposed by the state as laws. In fact, there are two types of rules which guide a human being to lead a wholesome life in the society. Among these two types of rules, some are in the written form and are called as laws; whereas the others are though not in the written forms, guide the society and known as moral principles.

What is law?

In the Encyclopaedia of Ethics, Peter Singer considers the Veda as the first philosophical ethics, because the Vedic sagacious intellectual thinkers used to believe in the *Ṛta*, the cosmological law through which the universe is governed. What is cosmological law from the perspective of the universe; is the moral law from the perspective of human being. That is why, perhaps, all the Indian philosophical systems, except the *Cāvāka*, accept the law of karma. In fact, the law, in its broad sense of the term, affects every aspect of the human life, guides the behaviour and control a life cycle. As human beings are social, he has two aspects of life, one is his individual aspect and the other is his social aspect. It is true that there be a chance of conflict between social life and individual life. But there should be a consistency among these two lives. The confliction or the consistency between the individual and society implies the confliction or the consistency between the rules through which the individual or the society is guided by. We live in such a society which has been developed as a complex body of rules or laws in order to control the activities of its members. Some of these laws applied to (a) regulate leisure pursuits (e.g. by banning alcohol on coaches and trains at the time of travelling), (b) laws which govern the working conditions (e.g. by laying down minimum standards of health and safety), (c) laws which control personal relationships (e.g. by prohibiting marriage between close relatives) and son and so forth.

So, now the issue is: what is law? And, how is it differing from the rules? Though it is very difficult to make a water tight compartmental distinction between the meaning of the term law and the rules, in general, it is thought that the laws are the collection of rules which are enforceable by the courts in order to regulate the government of the state and govern the relationship between the state and its citizens and between one citizen and another. From the perspective of individuality, human beings are to be encountered by many rules without which the life of human being seems to be in

Cover Page

INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY EDUCATIONAL RESEARCH
ISSN:2277-7881(Print); IMPACT FACTOR :10.16(2026); IC VALUE:5.16; ISI VALUE:2.286
Peer-Peer Reviewed, Refereed & Open Access International Journal - As per UGC Norms
(Fulfilled Suggests Parameters of UGC by IJMER)
Volume:15, Issue:10(2), October 2026
Scopus Review ID: A2B96D3ACF3FEA2A
Article Received: Reviewed: Accepted
Publisher: Sucharitha Publication, India
Online Copy of Article Publication Available: www.ijmer.in

chaotic situation. Obeying the rules, though not the inborn tendency of the human being, it is the rationality which compels him not to violet the rules. A human being can get the real happiness only when he obeys the rules. Even in a game like football, there are rules such as the off-side, or the rules of a club are designed to bring order to a particular activity. Other kinds of rules may be generated from the social conventions, such as not speaking ill of the dead. In this case, the rule is merely a reflection of what a community regards to be appropriate behaviour on the basis of intrinsic value. In these cases, however, the rules are not enforced by the courts.

Virtues

The main distinction between the other animals and the human beings lies in the fact that the life of human beings is not purposeless. His main purpose of life is to know: who he is? Though each and every one\ are not conscious about his or her purpose, if he or she asked by the question: what is the aim of your life? He or she answers. In order to fulfil the purpose of life some philosophers say that the exploration of virtue is necessary. But this exploration should be followed by some certain rules or laws. That is why there is a close relationship between the virtues and the laws. In order to understand the concept of law in detail, let us peep into the concept virtues. Though virtue is considered as moral excellence, these are in fact the qualities of human beings as well as corrective.[i] Qualities may be good or bad, but virtues are such qualities which are morally good and thereby recognised as the principles of morality. In other words, it is a behaviour that shows high moral values: doing what is right and avoiding what is wrong. The opposite of virtue is vice. According to Socrates, virtue is knowledge and knowledge, because the goal of all beings is to achieve the highest good. Plato, however, conceives four types of cardinal virtues. These are Wisdom, Courage, Temperance and Justice. In Aristotelian Virtue Ethics, the virtues are understood in terms of '*Eudaimonia*' or 'Living-well'. '*Eudaimonia*' is the highest human good. It is highest, because it is the only human good that is desirable for its own sake (as an end in itself) rather than for the sake of something else (as a means toward some other end). According to Aristotle, a virtue is a trait that either contributes to or is a part of living well. Courage, Generosity, Honesty etc. are the example of virtue. Aristotle has divided the virtue into two parts the Intellectual excellence (virtue) and the Moral excellence (virtue). He says, in his *The Nicomachean Ethics* 'wisdom and understanding, prudence we call intellectual virtue and liberality and temperance we call moral virtue or excellence. When we are speaking of a man's moral character, we do not say that he is wise or intelligent, but that he is gentle or temperate. But we praise the wise man, too for his habit of mind or trained faculty that is praise-worthy is what is call an excellence or virtue'[ii].

Justice

From the above mentioned four types of cardinal virtues, it is clear that the concept of justice seems to be the reflection of the application of the laws. The term 'Justice' has been derived from the Latin word 'justitia' which means the idea of joining or fitting or bond or tie. When the idea of joining or fitting implies the tie among the different actions done by the human beings it is called as morally good actions, but when the idea implies the tie between the man with another man in an organized system of human relations, it is called justice. *In the broader sense* justice means giving advantage to the aggrieved party and punishment to the offender. However, in narrow sense of the term justice means the association of the legal system of the country for resolving the dispute.

However, there is no unanimity among the views of different Philosopher, Political thinker and Sociologist about the meaning of justice. According to Socrates, the meaning of the term justice is not confined only with the doing good for others and not to harm anybody, rather it involves the well-being of the people. According to Rawls, Justice is a set of principles for defining the appropriate distribution of benefits and burdens of social co-operation after identifying the relevant consideration which determine this balance.

Definition and meaning of the term law

It is very difficult to give an exact definition of the term law as there are many applications of this term. Definition is used to differentiate a particular object from the other objects on the basis of some essential qualities of the definiendum. For example, Human beings are defined as the rational animal or a triangle is defined as a three-sided figure. Rationality as well as the animality and the three-sidedness are the essential features of human beings and triangle respectively.

Cover Page

INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY EDUCATIONAL RESEARCH
ISSN:2277-7881(Print); IMPACT FACTOR :10.16(2026); IC VALUE:5.16; ISI VALUE:2.286
Peer-Peer Reviewed, Refereed & Open Access International Journal - As per UGC Norms
(Fulfilled Suggests Parameters of UGC by IJMER)
Volume:15, Issue:10(2), October 2026
Scopus Review ID: A2B96D3ACF3FEA2A
Article Received: Reviewed: Accepted
Publisher: Sucharitha Publication, India
Online Copy of Article Publication Available: www.ijmer.in

However, there are some terms which are beyond the scope of any definition. For example, it is very difficult to define the motion of a wheel. In case of law, the common man may think law as a set of rules they have to obey; whereas for a judge, it is nothing but a set of guiding principles to be applied in order to decide the cases. As a matter of fact, the law has been defined by various individuals from different points of view and hence, there could not be and is not any unanimity of opinion regarding the real nature of the law and its definition. The term law has been also defined by many authorities amongst them the definition endorsed by the Jurists are very significant where the term law has been defined as the 'rules of human action'. It denotes different kinds of rules and principles. According to

Aristotle law was 'as an embodiment of reasons whether in individual or the community'. In this definition the term embodiment and the term reason have been applied by Aristotle in order to make a distinction between the natural laws and the laws which are created and imposed by the human beings on the basis of their unique rational power. Aristotle, though considered human being, by natural a political as well as social; he thought that the aim of human is to be wellbeing from being on the basis of the exploration of the virtues.

According to John Austin, 'law is a body of rules determined and enforced by a sovereign political authority'. He also says that laws are general commands that issued by a sovereign political authority for the members of an independent political society and are supported by a credible threat of punishment. According to Herbert Lionel Adolphus Hart law as, 'a system of rules, a union of primary and secondary rules.' The Primary rules impose duties on people to behave in certain ways whereas the secondary rules pertain to the primary rules. Sir William Blackstone said in his book the *Commentaries on the Laws of England* 'Law in its most general and comprehensive sense signifies a rule of actions and is applied indiscriminately to all kinds of actions whether animate or inanimate, rational or irrational. Thus we say, the laws of gravitation, of optics, of mechanics, as well as the laws of nature and nations [iii]. Being a British jurist and politician, Sir William Reynell Anson said, 'The object of law is order, and the result of order is that men are enabled to look ahead with some sort of security as to the future. Although human actions cannot be reduced to the uniformities of nature, men have now endeavoured to reproduce by law something approaching to this uniformity.' In order to approach the uniformity through the laws, he, in his famous book, *The Law and Custom of the Constitution* talked about three sorts of machineries—a legislature to make the laws, a judicature to interpret the laws and an executive to wield the force in order to implement the laws[iv]. Before delving the definition of the law as given by Friedrich Carl Von Savigny, an analysis of the previous definitions of the laws may be taken into consideration. From the previous definitions of the laws, it is clear that each of them emphasized on the exterior part the laws. What is common to them is: law should be imposed in such a way that it should become a natural law. It seems that the destination of any human law just to become the natural law. If this is the motto of the law, the law givers should not avoid the other aspect i.e., the interior aspect of the laws. A law can never be treated as ideal unless and until it is obeyed by all. Obeying a law is the internal aspect of human being. There is law, but the laws are seldom obeyed, announces the insufficiency of the laws. One may say that it is the duty of the state to implement the laws forcefully. But implementation of the laws through the coercion by the state could be the solution for time being, but it never brings the permanent solution. According to him, "law is the product of the general consciousness of the people and manifestation of their sprit." He also says that the basis of the origin of law is to be found in the soul, free-will, traditions, habit, practice, and beliefs of the people.

According to the Article 13(3) of Constitution of India (1950) the term law has been used in such a way that it includes any ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India and the force of law. On the basis of the definitions of the law as provided by the jurists and the legal philosopher over time, it is observed that there cannot be a universally accepted definition of law the forms of life are different.

The Common Characteristics of law

From the above definitions as well as the comparative chart related to the definitions of the laws, we are now in a position to have some common features of the laws. First of all, the laws are a set of rules; secondly, laws regulate the human conduct; thirdly, laws are in a broad sense are created and maintained by the human beings, but in a narrow sense by the state i.e., by the citizens of a state; fourthly, the laws are subject to certain amount of stability, flexibility and uniformity; fifthly, laws are backed by coercive authority; sixthly, violation of any leads to the punishment; seventhly,

Cover Page

INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY EDUCATIONAL RESEARCH
ISSN:2277-7881(Print); IMPACT FACTOR :10.16(2026); IC VALUE:5.16; ISI VALUE:2.286
Peer-Peer Reviewed, Refereed & Open Access International Journal - As per UGC Norms
(Fulfilled Suggests Parameters of UGC by IJMER)
Volume:15, Issue:10(2), October 2026
Scopus Review ID: A2B96D3ACF3FEA2A
Article Received: Reviewed: Accepted
Publisher: Sucharitha Publication, India
Online Copy of Article Publication Available: www.ijmer.in

laws are the expression of the will of the people and are generally jotted down for the sake of appropriateness; eighthly, laws are related to the concept of 'sovereignty' which is the most important element of state; and ninthly, law creates legal rights.

Different types of laws

Among the different types of the laws the Natural Law and the Positive Law are very common and these divisions of the laws are based on its origin. When the origin of law is concerned with the human nature, it is called the Natural Law. Whereas if the law is concerned with the creation of the human beings for the sake of better life is called a Positive Law.

The expression Natural Law designates the law which is based on human nature. Natural law comes from the moral principles common to all by virtue of the spiritual or rational nature of the human beings. Natural law is a system of law based on a close observation of human nature, and based on the intrinsic values of the human that can be deduced and applied independent of positive law. According to natural law theory, all people have inherent rights, conferred not by act of legislation but by "God, nature, or reason." For example, St. Thomas Aquinas, identifies the rational nature of human beings as that which defines moral law as "the rule and measure of human acts is the reason, which is the first principle of human acts". On this common view, since human beings are by nature rational beings, it is morally appropriate that they should behave in a way that conforms to their rational nature. Thus, Aquinas derives the moral law from the nature of human beings. So, Natural law is a set of principles of right and wrong which are inherent in nature of person and not created by the society and judge. According to Salmond, "By natural or moral law is meant the principles of natural right and wrong — the principles of natural justice, if we use the term justice in its widest sense to include all forms of rightful action"[v].

Positive law is that to define human law as positive because of two different senses—(i) it has been deliberately laid down, imposed, or enacted—as opposed to what arises spontaneously by custom or nature and (ii) it lacks intrinsic rational or moral force. The content of the positive law is "arbitrary," as it is opposed to intrinsic rational or moral force. The first sense of positive is a descriptive or empirical claim about the origins of a law, namely, that it stems from deliberate imposition; positive law is here posited or enacted law. The second sense of positive is a normative claim about the content of a legal norm, namely, that it lacks, on various accounts, intrinsic moral necessity, moral universality, or moral force; positive law here seems arbitrary, such as the English rule of driving on the left side of the road. Positive law are two type International law and National law. National law are two type Private law and Public law. Public laws are further subdivided as Constitution law, Administrative Law, Civil Law, Criminal Law and Common or Ordinary Law.

Some concepts related to law

From the discussions mentioned above**,** it is clear that law has a great impact on the socio-political life of human beings. The concept of law is not a simple concept, rather it is not only a complex concept but also some associate concepts are related with this like- Authority, Responsibility, Obligation, Rights etc. However, one point should always be kept in mind that the laws are for the human beings, but none of the human being for the law, because law itself is meaningless. Any law whatever it may be is meaningful if and only if it is associated with the human life.

An Authority signifies that type of special kind of social power which is legal. When the power is given and is exercise following the legal way becomes the authority. The concept of authority involves reason and depends upon the capacity of reasoned elaboration. Thus, the man who possesses authority has capacity for reasoned elaboration. In simple words, the man who exercises authoritative power has the capacity to give clear logical and conventional reasons for his decision or judgments.

The concept of responsibility which refers the duty and obligation to do something. It has two aspects. From the positive aspects, it tells what to do, but from the negative aspect it prohibits us from what not to do. For example, it is the responsibility of the student to go to school and pursue his studies properly and thereby to take care of his parents in old age. On the other hand, he has also responsibilities not to steal a book from library. As human beings are social, he has two aspects of life, one is his individual aspect which is his private aspect, and the other is socio-political aspect which is

Cover Page

INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY EDUCATIONAL RESEARCH
ISSN:2277-7881(Print); IMPACT FACTOR :10.16(2026); IC VALUE:5.16; ISI VALUE:2.286
Peer-Peer Reviewed, Refereed & Open Access International Journal - As per UGC Norms
(Fulfilled Suggests Parameters of UGC by IJMER)
Volume:15, Issue:10(2), October 2026
Scopus Review ID: A2B96D3ACF3FEA2A
Article Received: Reviewed: Accepted
Publisher: Sucharitha Publication, India
Online Copy of Article Publication Available: www.ijmer.in

public. From the private aspect he is responsible to the society side by side the society is also responsible to do something for his members. It is the duty of the society i.e., the state to provide the minimum needs for living to its members such as food, clothing, education and health care. The government has also responsibilities to protect the fundamental rights of citizens and equality of all before law. In fact, responsibility is nothing but the duty that comes along with the job. In other words, it is the obligation of the person to complete the task given to him or her. A person is eligible to delegate the work to the subordinate but not the ultimate accountability. That means, even if he transfers his work, he will remain responsible for the obligation of the accomplishment of the work.

The word obligation is derived from the Latin word obligation which means tying or binding. It is a tie or bond recognized by law by virtue of which one is bound in favor of another to render something and this may consist in giving a thing, doing a certain act, or not doing a certain act. Obligation means, a course of action imposed by society, law or conscience by which someone is morally or legally bound, which is a duty or commitment.

Rights are the legal, social or moral principles of freedom or rights; That is, rights are the basic ideological rules about what people are allowed to do or are indebted to the people according to certain legal systems, social customs or moral theories. According to Ayn Rand, the concept of right is a moral concept—the concept that provides a logical transition from the principles guiding an individual's actions to the principles guiding his relationship with others—the concept that preserves and protects individual morality in a social context—

Moral principles and Legal rules or law

It may be case that some moral principles which were initially pertained to morality, later on, converted as laws of a state. In a broader sense, the starting point of any rule whether it is moral or logical were in unwritten forms. For example, the custom of sati was immoral, but it was prohibited by commencement of the rule against Sati in 1829 by Lord William Bentinck with an enormous support of Rajaramohan Roy, the founder of Indian renaissance. Similarly, widow marriage was supported morally, but this moral support was converted as rules by the great social reformer Iswar Chadra Vidyasagar in 1856. It is noteworthy to mention here that in case of disobeying a moral law, there is no punishment except social dishonor but in case breaking a law, one must be punished through justice.

Moral principles, Legal rules or law and the Philosophy of Law

However, from the above discussion, it is clear that there is a close relationship between moral rules and the laws. Though some moral rules are not universal and not in written forms, these are grounded in a strong philosophy. In fact, moral rules are discussed in moral philosophy which is one of the most important branches of philosophy since the beginning of the philosophy. As the human beings are guided by the laws whether these laws are moral or legal, these laws must have a basis and the basis is nothing but philosophy. So let us peep in to the philosophy of law.

Philosophical thoughts, actually, serve two purposes. In the one hand, it supplies new ideals in order to bring the reformation in society and on the other hand, it justifies whether the new thoughts or the ideals are relevant or irrelevant for bringing the revolution. As society is linked with the different features through which a human life is governed such as education, politics, culture, science, literature, heritage, different types creativities, ethics and so on so forth, it is natural that philosophy is also related to these said features in some forms or others. From this it is clear that any new idea whether it is the reflection of education or politics or culture or science or so on, it must, be based on a strong philosophy. As a consequence, any new understanding of law must be based on its philosophy—the philosophy of law.

Conclusion: Linkage between the new ideals of laws and the philosophy of the laws

Now, the point is: how the new understandings of laws are based on the philosophy of the laws? Or, what is the need of the philosophy of laws for the explanation of the new ideals of the law? The answer of these questions may be worked out in two ways—**firstly**, from the perspective of the security of life and **secondly**, from the perspective of the origin of the laws. The first one may be considered as the practical perspective of the need of the philosophy of law and the second one may be regarded as rational cum metaphysical aspect of the need of the philosophy of law.

Cover Page

INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY EDUCATIONAL RESEARCH
ISSN:2277-7881(Print); IMPACT FACTOR :10.16(2026); IC VALUE:5.16; ISI VALUE:2.286
Peer-Peer Reviewed, Refereed & Open Access International Journal - As per UGC Norms
(Fulfilled Suggests Parameters of UGC by IJMER)
Volume:15, Issue:10(2), October 2026
Scopus Review ID: A2B96D3ACF3FEA2A
Article Received: Reviewed: Accepted
Publisher: Sucharitha Publication, India
Online Copy of Article Publication Available: www.ijmer.in

Security of life can be understood from the view point of the Nature as well as from the standpoint of human being himself. Though human beings are secured in respect of other species through the application of the power of his brain, following the warning of Aristotle, there is always a chance of misusing the enormous power of human brain. That is why the rules are necessary. Human being, naturally, as Aristotle remarked in his book, *Politics placed themselves under the state*[vi] Human beings are governed by the state following the rules.

When the human being feels the need of some fixed basis of a certain ordering of human actions which should be restrained on authoritative and individual willfulness in order to be assured for a firm and stable social order, demands of rules are generated and thereby the rules are formed. Not only that, the changes are the marks of social progress which should be followed through the certain ways, otherwise, there may be a chance deviation from the main purpose of changing. That is why these changes deserve some certain rules. In fact, a overhauling legal precept is necessary in order to adjust the unexpected situations. These principles of change and growth, though, initially are contrary to the customs, there must be a fixed order. For this reason, the construction of the theories of the law and lawmaking, have been sought by the philosophers and thereby to establish the perfect law.

References

[i] Foot, Philippa ,*Virtues and Vices and Other Essays in Moral Philosophy* Clarendon Press, Oxford, 2002, P-9

[ii]Peters, F.H. (Tr.): *The Nicomachean Ethics of Aristotle*, Kegan Pual, Trench,Trubner & Co.Ltd, London,1906 , P-33

[iii] Blackston, William: *Commentaries on the Law of England*, Clarendon Press, Oxford, P—38

[iv] R. Anson, William: The Law and Custom of the Constitution, Oxford at the Clarendon press,1907

[v] W. Salmond, John: *Jurisprudence or The theory of the Law*, Stevens and Haynes, London, 1902 P-49

[vi] Jowett, B(Tr.): The Politics of Aristotle (Vol-1), Clarendon Press, Oxford, 1885, P-03