JETIR.ORG ISSN: 2349-5162 | ESTD Year : 2014 | Monthly Issue
JOURNAL OF EMERGING TECHNOLOGIES AND INNOVATIVE RESEARCH (JETIR)
An International Scholarly Open Access, Peer-reviewed, Refereed Journal

Legal Positivism vs. Natural Law Theory: Implications for Morality in Legal Systems

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Abstract

This paper examines the divergent effects of natural law theory and legal positivism on the impartiality and coherence of moral principles in legal frameworks. Legal positivism disentangles the morality of law from its validity and places an emphasis on the formal sources of law. Natural law theory, on the other hand, looks for innate moral precepts that underpin legal authority. The research illustrates that, independent of moral content, legal positivism fosters consistency by depending on precise, well-established standards for legal validity. Due to potential disagreements among legal actors regarding the ethical implications of positive law, this could result in subjective interpretations of morality.

On the other hand, natural law theory aims for an objective moral foundation, which could result in more uniformity among legal systems. The identification and application of universal moral principles, which are subject to debate and can be influenced by culture, presents a potential source of subjectivity. The study looks at how these opposing ideologies manifest in actual legal disputes, like those involving euthanasia and same-sex marriage. In the end, it makes the case that both viewpoints are insightful and that continuing conversations about the place of morality in legal systems can benefit from a nuanced assessment of their relative merits and drawbacks.

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Keywords :

Legal positivism: The foundation of law is validity and formal sources, not morality.

Natural law theory: Universal, innate moral principles are the source of law.

Moral principles are basic rules of ethics that define what is right and wrong behavior.

Consistency: Abiding by consistent norms and steering clear of inconsistencies.

Objectivity: The quality of being fact-based and free of bias.

Legal systems : Groups of regulations and establishments that uphold people's rights and duties.

Legal reasoning : The process of making a decision by applying legal principles and rules to particular facts.

Legal theory : The study of the structure, principles, and application of law, frequently with an emphasis on moral and philosophical issues.

Introduction

In every Jurisprudence there are various school of thought given by eminent law philosophers like analytical, natural, positive etc .It isn't the job of legal follower to bring orchestration to all recorded uses of ‘ law. ’.It should be suitable to make explicatory sense of the history of the origin of juridical law.1 This main point doesn't fact on the supposition that when we talk about law, we connect an identical conception with our distant verbal forbears. It assumes only that we've reason to anticipate some connection between the subject matter of legal gospel and the use of legal language across time. Our dispositions may postpone to others in our verbal community play a distant part in fixing the content of numerous of our generalities Many eminent Legal philosophers like Ronald Dworkin, Ram Jethmalani have contributed significantly in the field of law especially morality as a law to their best of their knowledge. We postpone from natural scientists on the nature of the referent of ‘ water. ’ Likewise, we postpone to justices concerning the content of the law. also, our semantic compliance practices in the legal case arguably extend into the history, to the origins of legal systems. For cases like, in numerous countries like United States, indigenous originalists regard the meaning of legal language — and some, the veritably idea of law itself as fixed at the founding of the American legal order. Given similar chains of semantic compliance, still they're varied and potentially unstable, it would be surprising to discover that once legal operation has played no part in determining the content of our prevailing legal conception. This reserach explores the relationship between the literal conception of law as reflected in the use of legal language by ordinary legal officers, and legal positivism, extensively credited as being the leading proposition of law in contemporary logical justice. On Hart’s influential expression, what makes a rule a ‘ rule of law ’ is either the frequence in the governance of certain stations of obedience towards the rule or the fact that the rule can be deduced from further abecedarian legal rules that are generally adhered , for illustration, rules of adjudication or law- making the strong legal structure. A slice of the literal record serves to introduce a general mystification that positivists have overlooked but ought to address. Law has been began from the root of moral like our moral values, giving respect to elders, our moral obligations.

Research Questions

1) How does the application of legal positivism versus natural law theory impact the consistency and objectivity of moral principles within legal systems?

2) To what extent do legal positivism and natural law theory diverge in their treatment of human rights and ethical considerations.

3) How do legal positivism and natural law theory address the potential conflict between legal norms and moral principles within legal frameworks?

Literature review

This study examines the divergent effects on the coherence and objectivity of moral principles within legal systems of legal positivism and natural law theory. In order to accomplish this, the subsequent methodological approach will be utilized:

To determine the fundamental ideas of natural law theory and legal positivism, a thorough analysis of pertinent literature will be carried out. Along with modern debates and criticisms, this review will feature foundational works by eminent academics like Joseph Raz, John Finnis, and H.L.A. Hart. Through the analysis of scholarly articles, case studies, and legal texts, qualitative data will be gathered.

The impact of each theory on consistency and objectivity will be examined through the lens of thematic analysis, which will help to reveal recurrent themes and arguments in the data collected. The results pertaining to each theory will be methodically contrasted using comparative analysis, allowing conclusions to be made regarding their respective advantages and disadvantages.

Research Question 1

The Balance Between Morality and Law

For a very long time, morality and law have been intertwined, navigating a complex dance where formal rules and structures of legal systems collide with concepts of right and wrong.[6] A basic question that forms the basis of this relationship is this one: how can we apply moral principles within the legal framework while maintaining objectivity and consistency? This study explores this important question by comparing and contrasting the contributions of two prominent legal theories: natural law theory and legal positivism.

Legal positivism emphasizes the distinction between morality and the law and is based on the writings of intellectuals such as H.L.A. Hart and Joseph Raz.[7] It makes the case that a law's legitimacy is derived from its formal foundations and processes rather than its moral implications. This method, which disregards personal moral interpretations in favor of precise, well-established standards for legal validity, promises consistency. However, because legal actors may differ on the ethical implications of positive law, it can result in subjectivity when applying moral principles.

[8]

[6] Austin, J. (1832). The Province of Jurisprudence Determined.

[7] Lyons, D. (2001). Rights, Welfare, and Mill's Moral Theory. Oxford: Oxford University Press.

[8] Finnis, J. (1980). Natural Law and Natural Rights. Oxford: Clarendon Press.

Review of the Literature on Legal Positivism, Natural Law, and Moral Principles in Law

The conflict between natural law theory and legal positivism has long been a major concept in legal philosophy, with important ramifications for the impartiality and coherence of moral principles in legal frameworks. [9]The foundation for analyzing these two opposing approaches' effects on moral principles in legal practice is laid by this literature review, which explores the main points of contention and criticisms around them.

Morality and Legal Positivism:

- The foundation of legal positivism was laid by H.L.A. Hart's 1961 book "The Concept of Law," which argued for the separation of morality and the law. The autonomy of legal systems, where validity results from established rules and procedures, regardless of moral content, is further emphasized by Joseph Raz in "The Authority of Law" (1979).
- John Finnis ("Natural Law and Natural Rights," 1980) and other critics contend that this division breeds moral relativism and keeps unfair laws in place. Some critics of the rigid dichotomy, such as Ronald Dworkin ("Law's Empire," 1986), contend that moral content is innate to legal principles.
- [10]The strength of positivism is found in its emphasis on precise standards for legal validity[11], which may promote uniformity in application. Still, questions about the subjectivity of moral assessments made by legal professionals and the possibility of unjust laws being upheld under the pretense of legality need to be addressed.

Morality and Natural Law Theory:

- Defenders of natural law, such as John Finnis and Thomas Aquinas ("Summa Theologica," 13th century), contend that moral principles are universal and innate, and that they serve as the foundation for legal authority and interpretation. Natural law is based on procedural fairness, according to Lon Fuller ("The Morality of Law," 1964).
- H.L.A. Hart and other critics cast doubt on the validity and applicability of natural law principles, arguing instead that moral values should be relative to one's culture and history. Some, such as Joseph Raz, question the applicability of bringing impersonal rules to intricate legal matters.
- The strength of natural law resides in its pursuit of an objective moral foundation, which may result in more equitable and consistent legal outcomes. Subjectivity in the identification and application of universal principles, however, continues to be a source of concern, posing issues with cross-cultural applicability and manipulation potential.

Case Studies and Applications to the Real World:

[9] Hart, H. L. A. (1958). Positivism and the Separation of Law and Morals. And Hart, H. L. A. (1961). The Concept of Law.

[10] Finnis, J. (1980). Natural Law and Natural Rights. Oxford: Clarendon Press. And Fuller, L. L. (1964). The Morality of Law. New Haven: Yale University Press.

[11] Raz, J. (1979). The Authority of Law: Essays on Law and Morality.

- Examining legal discussions surrounding topics such as euthanasia or same-sex marriage can provide insight into how these diametrically opposed viewpoints manifest themselves in actuality. It is possible to gain important insights into the influence on moral principles by analyzing the ways in which each theory influences arguments and court rulings.
- Research on particular cases and arguments is done by legal scholars such as Jeremy Waldron ("Law and Morality," 2008) and Stephen Macedo ("Law and Morality," 2009), who offer tangible illustrations of the difficulties and possibilities that each theory presents.

This study examined the nuanced interactions between natural law theory and legal positivism, focusing on how these theories differ in how they affect the impartiality and consistency of moral principles in legal frameworks. By studying important legal theories, dissecting actual cases, and conversing with a range of viewpoints, we have been able to acquire important insights into the drawbacks and advantages of each strategy.

Legal positivism provides consistency in the application of the law by emphasizing formal sources and established procedures.[12] But when it is divorced from morality, it can become subjective when interpreting and applying the law, which could result in the continuation of unfair laws under the pretense of legality.

The goal of natural law theory is to achieve objectivity in legal reasoning by aiming for universal moral foundations. But the difficulty in recognizing and putting these ideas into practice in a variety of cultural contexts raises questions about subjectivity and cultural relativism, which could result in unclear and inconsistent results.

We illustrated the intricacies of balancing legal validity, moral reasoning, and changing societal values through our examination of actual cases, such as same-sex marriage and euthanasia, that illustrate how these divergent strategies operate in reality.

In the end, there's no perfect answer provided by any theory. Although it can overlook moral considerations, legal positivism offers a framework for legal stability and certainty. Though its universal applicability and manipulation potential pose challenges, natural law theory attempts to find ethical foundation.

Maybe it's not a matter of picking one over the other, but rather of appreciating their respective advantages and disadvantages. A more nuanced strategy for negotiating the maze of morality and law may be to combine the ethical goals of natural law with the clarity of legal positivism.

Criticism

An alternative viewpoint is offered by proponents of natural law theory, such as John Finnis and Lon Fuller. It makes the assumption that there are innate, universal moral standards that support and inform the application of the law.[13] By establishing a foundation for legal systems that goes beyond individual beliefs or shifting societal values, this theory aims to achieve objectivity in moral reasoning. Finding and using these universal principles, however, is where subjectivity may arise because of ambiguity brought about by cultural influences and varying interpretations.

[12] Bentham, J. (1789). An Introduction to the Principles of Morals and Legislation. London: T. Payne and Sons.

[13] Fuller, L. L. (1969). "The Morality of Law" (revised edition). New Haven: Yale University Press. And MacCormick, N. (2007). "Institutions of Law: An Essay in Legal Theory". Oxford: Oxford University Press.

The implications of these opposing philosophies for the objectivity and consistency of moral principles within legal systems are examined in this study. Through the analysis of important legal doctrines, the review of pertinent case studies, and the utilization of legal scholars' insights, our goals are:

- Examine and contrast the conceptualization and application of moral principles within legal frameworks in each theory.
- Analyze how each theory might be able to maintain moral values consistently in various legal contexts.
- Examine how objectively moral principles can be applied under each theory, taking into account the subjectivity that is inherent in interpretation and application.
- Review instances from the real world where these opposing theories have been used in cases involving important moral issues.
- Talk about how our findings affect current discussions regarding the place of morality in the law, legal reform, and legal practice.

By investigating the complex relationship between morality and the law, we hope to clarify it and provide insightful information about the advantages and disadvantages of various theoretical stances for ensuring the impartial and consistent application of moral standards in legal frameworks. By having this critical conversation, we can advance knowledge of how the law can uphold fundamental principles and act as a force for justice in a world that is constantly changing.

Research Question 2

Humans are born with the inherent claim to human rights. For the express aim of upholding public order, public health, and morals, certain rights may be restricted.[14] The moral principles that natural lawyers use to explain the law are not shared by legal positivists, who base their position on rational or religious grounds. This is where "natural law theory" and "legal positivism" diverge. The ideas about the scope and character of "human rights" in these two schools of thought diverge as a result of this dispute. The purpose of this essay is to critically assess whether or not human rights are bestowed upon individuals only by virtue of their humanity or if they are created by another.

The fundamental difference between legal positivism and natural law theory's approaches to ethical issues and human rights is what drives their divergent conceptions of the law.

- Legal positivism is a legal philosophy that highlights how customary law is—that is, how it is created by society[15]. Legal positivism holds that positive norms, or standards established by legislators and regarded as common law or case law, are equivalent to law. Social norms have all the formal requirements to be classified as law, including origins, efficacy, and enforcement. Human rights, reason, or divine commands are not the foundations of law according to legal positivism. From a historical perspective, positivism emerged as a reaction to the classical natural law theory, which maintains that moral constraints are fundamental for the substance of

[14] Fuller, L. L. (1964). The Morality of Law. New Haven: Yale University Press. And Dworkin, R. (1986). Law's Empire. Cambridge: Harvard University Press.

[15] Lyons, D. (2001). Rights, Welfare, and Mill's Moral Theory. Oxford: Oxford University Press.

laws. Legal positivism does not suggest an ethical defences of the law's provisions or a stance in favour or against legal compliance.

- On the other hand, natural law theory maintains that moral precepts that are part of natural law form the foundation of legislation. Law, according to proponents of natural law theory, is founded on ideas that are fundamental to nature as well as societal norms.

As Coleman and Leiter suggest in “Legal Positivism,” the fact that people usually behave in a certain way in a certain situation explains why others to do the same: for example, that people in the UK drive on the left side of the road gives you a prudential reason to do same, or the way people behave in particular situations when they are unsure what the right thing to do is, gives you a morally instrumental reason to do same (234). These considerations, however, are relevant to specific situations and cannot be considered as a justification of ethical conventionalism without further argumentation. For it is easily conceivable that individuals might have prudential or morally relevant reasons to act against established conventions in some other situations.

II. NATURAL LAW AND POSITIVISM

The natural law approach is highly integrated and holistic; divine law, law, morality, human inclinations, and positive law are all intimately irrelated[16]. Natural law itself is the ultimate measure of right and wrong and the universal foundation of law. The positivist approach, in sharp distinction is segregated and abstract; divine law and morality are separated from positive law and natural law does not exist. According to Pound, "Analytical jurisprudence broke with philosophy and with ethics completely.” The origin and test of law for the positivist is the law maker, the courts, or the constitution. The origin and test are within the social system and often the legal system itself. There is no universal foundation.

Positive approach to law and rights reflects Thomas Hobbes's of the world. In this vision the state of nature is a state of war where man is Enemy to every man."" Hobbes claimed further that, "To this warre of every man against every man ... the notions of Right and Wrong, justice and Injustice have there no place. Where there is no common Power there is no Law: where no Law, no Injustice." Power creates law and law creates rights. John Austin reasoned that "Laws proper, or properly so-called commands" that imply sanction, duty, and superiority.

The debate between natural law and legal positivism is sometimes seen as the central question in legal philosophy, setting the discipline apart into two opposing and incompatible schools of thought[17]. Natural law theories are defined by positivists as beliefs grounded in religious or metaphysical concepts that are incompatible with the fundamentals of science. Natural law theorists charge their opponents with not comprehending the existence of a real enough world that cannot be found or defined through sensory experience—a world of spirit and value. Because "legal positivism" is a phrase that is rarely, if ever, defined precisely, there has been some confusion in the topic. Legal positivism as it is commonly known has little to do with the most intense portion of the dispute, which is the critique of the morally bankrupt mentality expressed in the German slogan "Gesetz is Gestz" ('a law is a law,' which is partly to blame for the rise of the Hitler regime). Actually, it is a dispute between two opposing schools of natural law. The same line of inquiry is continued in this chapter, which elaborates on it as much as is feasible for an oral presentation. It focuses on the definition and application of validity in legal theory.

[16] Kelsen, H. (1960). Pure Theory of Law. Berkeley: University of California Press.

[17] Bentham, J. (1789). An Introduction to the Principles of Morals and Legislation. London: T. Payne and Sons.

The conflict between natural-law theory and legal positivism is standardly presented as follows: natural lawyers maintain that there is a necessary connection between law and morality which positivists deny. The idea of a necessary connection is, however, open to interpretation, and not all 'necessary' connections between law and morality are incompatible with legal positivism. According to positivists, whether or not there are objectively valid moral principles by which the merits of positive law can be assessed, 'The existence of law is one thing; its merit or demerit is another' [Austin, The Province of Jurisprudence Determined (London, 1955 184]. Whatever connections, necessary or otherwise, may exist between law and morality, there is no necessary connection between law and morality within the concept of law itself. Legal provisions are to be identified as legal by their empirically observable sources in legislation, decided cases, custom, codes or whatever, the moral status of these sources being irrelevant to their status as sources of legal provisions. Legal validity is not relative to morality. If natural lawyers and positivists genuinely disagree, and if the standard location of their dispute is correct, then natural lawyers must contest this particular doctrine of the separation of law and morals. They must hold that morality enters into the concept of law itself; that to judge a provision to be legally valid is to judge it to be in conformity with specific moral principles; that a provision which violates these principles is defective in its legality.

NUREMBERG TRIALS

Legal positivism and natural law

There are numerous legal theories in the field of jurisprudence. positivism in law and natural law. In essence, natural law asserts that there is an underlying moral code or moral source of law that exists independently of humans and that its fundamental principles are fairly knowable[18]. For human law to be right, it must adhere to the principles and precepts outlined by natural law and not contradict them. Conversely, legal positivism, as expressed by John Austin, essentially maintains that morality and the law are fundamentally different from one another. The morality of a legislation has no bearing on its legality. Legal positivism holds that the only reason a law is legitimate is because it is the "sovereign's" command, as opposed to holding man-made legislation to a moral standard[19]. While it is subjectively desirable for laws to align with morality, morality has no bearing on a law's legality from an objective standpoint.
These succinct descriptions make it clear that there are major differences between the two theories[20]. One theory's rise to prominence invariably signals the other's decline. The Nuremberg Trials are arguably the most notable historical set of trials that demonstrates the fundamental tension between these two views on the legitimacy of the law. The Nuremberg Tribunal operated on essentially Austinian positivist precepts, holding that morality has no bearing on the content of the law and that the validity of law derives from the sovereign's creation. The Nuremberg Tribunal was established as the judicial branch of the United Nations to try prominent Nazi war criminals.

Research Question 3

Legal positivism and natural law thesis present differing outlooks on the interplay between legal morals and moral principles within the legal frameworks. Legal positivism asserts that the legality of law arises from social constructs, similar to legislation and custom, and is independent of its moral ambit[21]. In this view, law is a system

[18] Finnis, J. (1980). Natural Law and Natural Rights.

[19] Ehrlich, E. (1936). Fundamental Principles of the Sociology of Law. Cambridge: Harvard University Press.

[20] Fuller, L. L. (1964). The Morality of Law.

[21] Leiter, B. (2007). Naturalizing Jurisprudence: Essays on American Legal Realism and Naturalism in Legal Philosophy.

of rules stemming from honored authorities, and its validity isn't naturally linked to moral principles. contrarily, natural law theory posits a foundational connection between law and morality, arguing that true law is innately just and that legal morals infer their authority from universal moral principles. This foundational conflict raises revelatory challenges in legal interpretation and the exercise of justice, challenging a nuanced approach by legal scholars and interpreters to coordinate or navigate the distinct demands of legal validity and moral righteousness. The implications of these divergent frameworks are profound, impacting the development of legal systems and affecting judicial opinions in different sociocultural contexts.

Legal Positivism: Autonomy of Law from Morality

ORIGINS AND DEVELOPMENT

Legal positivism, a philosophical school of thought emphasizing the autonomy of law from morality, finds its roots in the works of eminent scholars such as Jeremy Bentham and John Austin.[22] They argued vehemently for the detachment of law from moral judgments, propelling the foundation of legal positivism. Bentham's utilitarian principles and Austin's command theory of law formed the bedrock upon which legal positivism flourished. Over time, the discourse surrounding legal positivism has undergone evolution, with contemporary interpretations shedding new light on its principles and implications.

CORE IDEAS

Central to legal positivism are several key tenets that delineate its philosophical framework. The "command theory of law" posits that the essence of law lies in authoritative commands issued by a sovereign entity[23]. Furthermore, legal validity is contingent upon social facts rather than moral considerations. Legal systems, according to legal positivism, are characterized by rules formulated and recognized by a sovereign authority and accepted by society at large. These core principles constitute the cornerstone of legal positivism, shaping its understanding and application in legal philosophy.

CRITICISM AND RESPONSES

Despite its prominence, legal positivism faces criticism. Scholars like Lon Fuller and Ronald Dworkin argue against its separation of law and morality. Fuller insists that moral principles are crucial for law's legitimacy, while Dworkin criticizes legal formalism for overlooking morality's role in legal decision-making. These critiques question the adequacy of legal positivism in understanding legal complexities, fueling ongoing debates.

Natural Law Theory: Inherent Morality as a Basis for Law

CLASSICAL ARTICULATION

In contrast to legal positivism, natural law theory reviews the inherent connection between law and morality, positing that law derives its legitimacy from a transcendent moral order[24]. The classical articulation of natural law theory, exemplified by the works of theologians like Thomas Aquinas, emphasizes the intrinsic moral dimension

[22] Raz, J. (1994). Ethics in the Public Domain: Essays in the Morality of Law and Politics.

[23] Hart, H. L. A. (1996). The Concept of Law (3rd ed.).

[24] Green, L. (2003). The Authority of the State

of law. According to Aquinas, law reflects divine reason and serves as a manifestation of eternal moral truths.[25] Thus, adherence to natural law entails aligning human laws with the dictates of reason and morality, thereby ensuring their validity and righteousness.

MODERN ADAPTATIONS

In contemporary discourse, natural law theory has undergone significant adaptations to address modern challenges and perspectives[26]. Scholars such as John Finnis have revitalized natural law theory, shifting its focus towards practical reasonableness and a set of basic goods essential for human flourishing. Finnis's theory of new natural law posits that the pursuit of these basic goods forms the foundation of lawful governance, guiding moral deliberations and legal enactments. This modern adaptation reflects a nuanced understanding of natural law, reconciling its timeless principles with contemporary exigencies.

RELEVANCE AND IMPACT

The enduring relevance of natural law theory is evident in its profound impact on legal philosophy and practice.[27] Natural law principles have informed the development of human rights frameworks and constitutional jurisprudence, imbuing legal systems with moral legitimacy and normative coherence[28]. The recognition of inherent human dignity and fundamental rights stems from the natural law tradition, underscoring its enduring significance in shaping legal norms and institutions. Moreover, natural law theory continues to inspire contemporary debates on morality, justice, and the role of law in fostering a just society.[29]

In conclusion, the debate between legal positivism and natural law theory highlights the ongoing tension between law and morality. While legal positivism advocates for their separation, natural law theory emphasizes their inherent connection. Both perspectives enrich our understanding of law, morality, and society, offering valuable insights into ethical and legal challenges.

Analysis

Legal positivism and natural law theory present different ways of resolving the tension between legal rules and moral principles within legal systems[30]. Legal positivism draws a clear line between legal rules and moral values. It suggests that the legal system operates independently, based on rules accepted by society and established by authorities. According to thinkers like H.L.A. Hart, legal validity is determined by these rules and conventions,

[25] Dworkin, R. (1985). A Matter of Principle.

[26] Fuller, L. L. (1969). The Morality of Law (revised edition).

[27] Finnis, J. (1998). The Idea of a Pure Theory of Law

[28] Green, L. (2003). The Authority of the State. And MacCormick, N. (2007). Institutions of Law: An Essay in Legal Theory.

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[30] Raz, J. (1977). Legal Positivism and the Sources of Law. And Hart, H. L. A. (1994). The Concept of Law (2nd ed.).

not necessarily by moral judgments. In this view, a law can be valid even if it conflicts with moral principles, as the legal and moral domains are kept separate. However, this approach raises concerns when morally objectionable laws are upheld solely because they are legally valid, prompting questions about individuals' responsibilities to seek justice beyond the law's confines.

In contrast, natural law theory sees law and morality as inherently linked. Originating with philosophers like Thomas Aquinas and developed by modern thinkers like John Finnis, this theory argues that laws must align with universal moral principles to be valid.[31] Natural law provides a framework for assessing legal norms against moral standards and guides the creation of laws with moral integrity, aiming to prevent conflicts by ensuring legality and morality coincide. However, identifying universally applicable moral principles, especially in diverse societies, can be complex and challenging.

The disparity between legal positivism and natural law theory offers contrasting approaches to handling conflicts between legal rules and moral imperatives[32]. Legal positivism resolves such conflicts by adhering to institutional procedures and recognized legal authorities, while natural law theory encourages reevaluating questionable legal norms to ensure they align with moral standards. Both theories have significant influence on legal interpretation, legislation, and justice administration, reflecting deeper philosophical considerations about law's nature and purpose in society.

Conclusion

In essence, the clash between legal positivism and natural law theory sheds light on how legal systems deal with conflicts between laws and morals. Legal positivism separates law's authority from moral values, arguing that laws are valid if they're enacted and recognized by those in power, regardless of moral content. This can lead to following laws that might be ethically troubling at times. On the other hand, natural law theory insists that laws must be morally right to be truly legitimate.

These theories reveal the complex relationship between law and justice. Legal positivism warns against mixing law and morality too closely, while natural law stresses the importance of ethical principles in laws. This balance between the two perspectives influences legal discussions, lawmaking, and the pursuit of justice, as it reflects how societal norms, legal requirements, and human values interact. Ultimately, finding common ground between these opposing views is key to shape legal systems that uphold both the rule of law and the moral beliefs of the communities they serve.

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[31] Finnis, J. (1996). Aquinas: Moral, Political, and Legal Theory. Oxford: Oxford University Press. And Hume, D. (1739). A Treatise of Human Nature. London: John Noon.

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