

Read the question carefully and answer exactly what is asked, avoiding irrelevant political opinions or unnecessary background.

Syde Town Edition International Law

Mock #5

Begin your answer with a clear and accurate introduction, defining key terms where required.

Ques. Relation between positive law & theory, natural law theory & international law. Evolution and development of international law.

Organize your answer properly: introduction, main discussion, and a brief logical conclusion.

Demonstrate conceptual clarity and use correct International Law terminology (e.g., custom, treaty, jus cogens, opinio juris).

The evolution of international law traces back to the 5th century

Support your arguments with relevant case laws (e.g., Lotus Case, Nicaragua Case, North Sea Continental Shelf) wherever applicable.

territories were related to and used to interact by international law. Back then

Refer to treaties and conventions such as the UN Charter, Vienna Convention, or Geneva Conventions when relevant.

two school of thoughts: naturalist

international law and positivist (consent is the basis of

international law. But by the time

Focus on legal reasoning and analysis rather than mere definitions or rote memorization.

decisive role in the formation and

Apply the law to facts or situations instead of writing purely descriptive answers.

evolution of International law as a legal

and formed body. Now, let's discuss

Present balanced views and mention exceptions or counter-arguments where relevant.

in detail the relation between positivism and natural school of thought with international law and its evolution.

2. Natural law theory and international law:

Naturalist school of thoughts believe in natural law theory as a key development figure in international law. According to natural law theory, there is some universal natural law that governs and binds the state in their international affairs. As per belief of naturalist, this natural and universal law governs the states in their regional affairs. Natural law theory explain more about laws of nature and tells how individuals and states are related to it. In a nutshell, natural law theory and naturalist school of thought believes in the binding principles of nature and its impacts on entities. This how they relate natural law theory as universal to international law but it has some limitations as well.

3. Limitations of natural law theory:

Natural law theory was developed in the earlier stages of international law and hence had some limitations.

- * It completely relied upon laws of nature.
- * It was not specific regarding to other subjects of international law.
- * It was raw and did not have any formal bindings and legalities.
- * It was considered principle rather than a law.

4. Positive law theory and international law:

In a stark contrast to naturalist school of thought, there was another school of thought who had their own beliefs regarding international law. Positive law theory says that it's not people, not individuals, not states but consent that forms international law without the consent of states or individuals, international law cannot be practised.

or implemented. Positivist says that consent

forms the basis of international law.

If there is no consent of states, no

proposal can be turned into law. The

supremacy of international law lies in

the consent of states. When states show

their consent and free will regarding

any matter, it becomes the ~~the~~ ^{part of} ~~of~~

international law. But like natural law

theory, positive law theory had some

limitations as well:

4. Limitations of positive law theory.

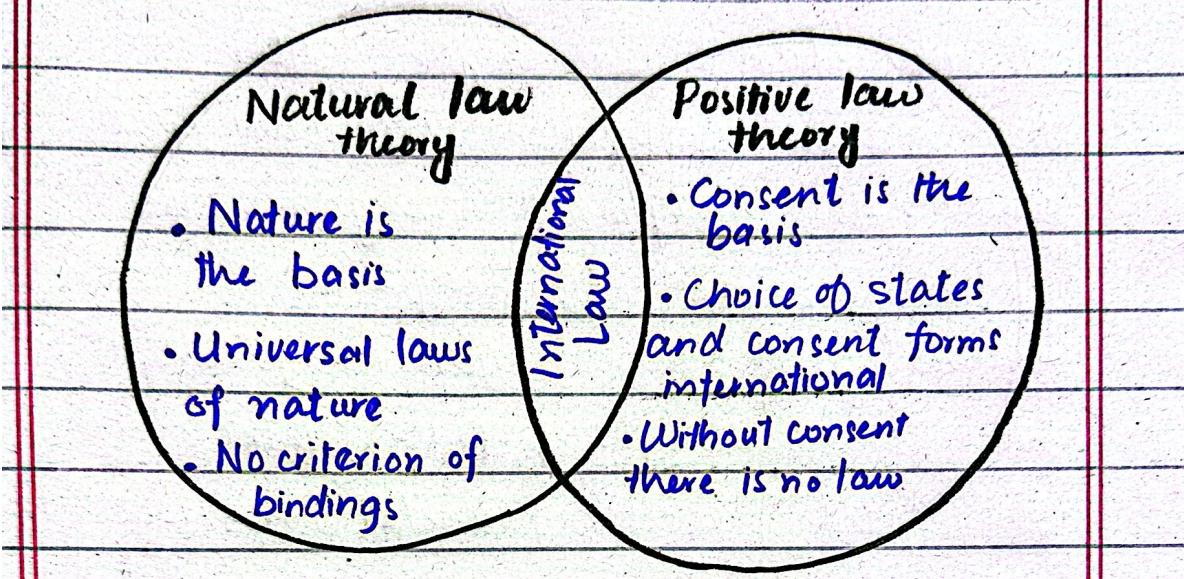
→ It failed to explain the area of influence of international law.

→ It failed to explain the sensitivity of matters and their approach in international law.

→ It was unable to elaborate the fundamental principles and their bindings on states and individuals.

→ Positive law theory was limited only when the consent is given, it was limited in case of no consent.

5. Positive law theory, natural law theory and international law:



As per their need of hour, naturalist and positivist school of thought were quite justified but for an international law and for its subjects they had some limitations. Positivist and naturalist measured the circumstances on international scale like in international law. They explained the scenarios and situations of international law but were unaware of the sensitivity and legality of international law. There were no international courts or bodies.

6. Development and evolution of international law:

The formal evolution of international law began after the massive destructions of WW-I and WW-II. Its development began with the development of League of Nations and then with its collapse, with the advent of United Nations.

The great powers of world discussed and finalised some universal laws regarding affairs like wars, treaties, threats and use of force. International

law was developed with the passage of time regarding the sensitivity and importance of incidents. It eventually developed the laws of seas, laws of territories, laws of treaties, state recognition, cases of insurgents, belligerents and many more. Thus, it

didn't develop over the time but with course of time it developed and emerged as a legal body.

7. Conclusion:

The above given debate can be concluded as positive and natural law theories do provide some basis for the evolution of international law with few limitations. International law evolved and developed with the passage of time and series of events. Those events affected the legality and binding nature of international law making it impartial.