

Topic	Details
Sources of Law	
a. Legislation	
- Definition and nature of legislation	Legislation is the process by which a competent authority (usually a legislature) creates laws to regulate society.
- Types of legislation	Supreme legislation: Enacted by a sovereign authority (e.g., Parliament). Subordinate legislation: Laws made by delegated authorities (e.g., local councils).
- Process of legislation	Involves stages such as drafting, debating, voting, and assent by the head of state to become law.
- Advantages and disadvantages of legislation as a source of law	Advantages: Clarity, uniformity, codification. Disadvantages: Inflexibility, time-consuming, can be influenced by political interests.
- Interpretation of statutes	Judicial interpretation of statutes ensures clarity and applicability of laws. Courts use principles like literal, golden, and mischief rule to interpret laws.
b. Precedent	
- Doctrine of stare decisis	The principle that courts follow previous judicial decisions (precedents), ensuring consistency and predictability in the law.
- Ratio decidendi and obiter dicta	Ratio decidendi: The legal reasoning forming the binding part of a decision. Obiter dicta: Non-binding remarks or observations by judges.
- Binding vs. persuasive precedents	Binding precedents: Lower courts must follow decisions of higher courts. Persuasive precedents: Courts may consider, but not necessarily follow, decisions from other jurisdictions.



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- Overruling, reversing, and distinguishing precedents	Overruling: A higher court sets aside a precedent. Reversing: Overturning a decision on appeal. Distinguishing: Differentiating facts from previous cases to avoid following precedent.
- Advantages and disadvantages of judicial precedent	Advantages: Certainty, consistency, efficiency. Disadvantages: Can lead to rigidity and slowness in adapting to societal changes.
- Precedent in civil law and common law systems	Common law systems rely heavily on precedents, while civil law systems prioritize codified statutes over judicial decisions.
c. Custom	
- Definition and elements of custom	Custom refers to long-standing practices that have gained legal recognition . Elements include antiquity, certainty, reasonableness, and consistency.
- Types of customs	General customs: Recognized nationwide (e.g., common law). Local customs: Recognized in specific regions. Conventional customs: Formed by agreements between parties.
- Recognition of customs by courts	Courts recognize customs if they meet certain criteria (e.g., longstanding usage, reasonable, and in harmony with statutory laws).
- Advantages and disadvantages of custom as a source of law	Advantages: Flexibility, evolves with society, reflects community practices. Disadvantages: Can be uncertain, regional, and outdated.
- Custom in modern legal systems	Modern legal systems often codify customs (e.g., personal laws in India) while limiting their application in favor of statutory law.
d. Other sources of law	
- Constitution	The fundamental legal document outlining the structure, powers, and functions of government, along with the rights and duties of citizens (e.g., Indian Constitution).
- International law and treaties	Treaties and international conventions are sources of law in areas like human rights, trade, and environmental protection (e.g., UN conventions).

- Equity	Equity supplements common law by ensuring fairness and justice , often providing remedies like injunctions or specific performance .
- Professional opinions and academic writings	Judicial scholars and legal academics offer interpretations of the law, which may influence court decisions and legal reforms .
Schools of Jurisprudence	
a. Analytical School	
- Key proponents: John Austin, H.L.A. Hart	John Austin is known for his command theory of law; H.L.A. Hart focused on the rules of law , including primary and secondary rules.
- Command theory of law	Law is a command from the sovereign enforced by a threat of punishment (Austin).
- Separation of law and morality	The analytical school holds that law and morality are distinct, focusing on what the law is , not what it ought to be .
- Concept of legal positivism	Legal positivism asserts that law is created by human decisions and has no necessary connection with morality .
- Criticisms of analytical school	Critics argue that it ignores the moral dimension of law and focuses too narrowly on law as a command .
b. Historical School	
- Key proponents: Friedrich Carl von Savigny, Henry Maine	Savigny emphasized the role of Volksgeist (spirit of the people) in shaping law, while Maine studied the evolution of societies through legal systems.
- Law as a product of historical development	Law evolves organically over time, reflecting the customs and beliefs of a society.
- Volksgeist (spirit of the people)	Savigny argued that law grows from the spirit of the people and is not artificially created.
- Customary law and its importance	Customary law is considered the true source of law, as it reflects the collective will of a society.

- Criticisms of historical school	Critics argue that it resists legal change and focuses too much on tradition , ignoring the need for progress .
c. Philosophical School (Natural Law)	
- Key proponents: Aristotle, Thomas Aquinas, John Locke	Aristotle , Aquinas , and Locke linked law with moral principles and the natural order of justice.
- Law and morality	Natural law asserts that law is based on moral principles and should reflect universal human rights .
- Eternal, divine, and human law	Aquinas described law as consisting of eternal law (God's will), divine law (revealed truths), and human law (man-made rules).
- Natural rights theory	John Locke argued for natural rights (life, liberty, property), which governments must protect.
- Modern natural law theories	Lon Fuller focused on the internal morality of law , arguing that laws must be consistent, clear, and just .
- Criticisms of natural law theory	Critics argue that natural law is too subjective and abstract , often difficult to apply in practical legal systems.
d. Sociological School	
- Key proponents: Roscoe Pound, Eugen Ehrlich	Roscoe Pound advocated for law as social engineering , while Ehrlich emphasized the importance of living law (customs and social norms).
- Law as a means of social engineering	Law should aim to balance competing interests in society to achieve social justice and order (Pound).
- Living law and law in action	Eugen Ehrlich focused on the importance of living law (customary and social practices), contrasting it with formal legal codes .
- Functional approach to law	The sociological school emphasizes how law functions in society , focusing on its effects on social behavior rather than abstract rules.
- Criticisms of sociological school	Critics argue that it focuses too much on social outcomes , sometimes ignoring the autonomy of law as a discipline.

e. Other schools and theories	
- Realist school	Focuses on how judges actually decide cases in practice, emphasizing the real-world application of law.
- Critical Legal Studies	A movement that critiques law as biased and instrumental in maintaining social and economic hierarchies.
- Feminist jurisprudence	Examines how the law reinforces gender inequality , advocating for gender justice and reforms to law that address women's experiences .
Concepts	
a. Rights and Duties	
- Definition and nature of rights	Rights are legal or moral entitlements to have or do something; they correspond to duties held by others.
- Hohfeld's analysis of rights	Hohfeld identified four basic legal rights: claim rights , privileges , powers , and immunities .
- Types of rights (legal, moral, positive, negative)	Legal rights : Enforceable by law. Moral rights : Based on ethical principles. Positive rights : Require action. Negative rights : Require non-interference.
- Correlation between rights and duties	Rights and duties are correlative, meaning a duty is imposed on one party corresponding to the right of another.
- Absolute and relative rights	Absolute rights apply universally, while relative rights depend on specific relationships (e.g., contractual rights).
- Vested and contingent rights	Vested rights are acquired and enforceable, while contingent rights depend on future events.
- Public and private rights	Public rights are held by the state or society (e.g., voting rights), while private rights belong to individuals or corporations (e.g., property rights).
b. Person	
- Natural persons and legal persons	Natural persons are human beings, while legal persons (e.g., corporations) are entities recognized by law as having rights and duties.

- Beginning and end of personality	A person's legal personality begins at birth and ends at death, while legal persons (corporations) exist until dissolution .
- Status and capacity	Legal capacity refers to the ability to enter contracts, sue, and be sued . Capacity can be limited by age, mental state, or legal restrictions .
- Corporate personality	Corporations are considered separate legal entities from their members, capable of owning property, suing, and being sued.
- Theories of corporate personality	Theories include the fiction theory (corporations are legal fictions), realist theory (corporations are real entities), and purpose theory (corporations exist to serve a purpose).
- Lifting the corporate veil	Courts can disregard the separate legal personality of a corporation in cases of fraud, misrepresentation, or to impose liability on directors .
c. Possession and Ownership	
- Definition and elements of possession	Possession refers to physical control over property, combined with the intention to possess it (animus and corpus).
- Types of possession (actual, constructive, adverse)	Actual possession involves physical control ; constructive possession occurs when possession is not direct, but through a legal relationship; adverse possession leads to ownership after continuous possession.
- Theories of possession	Theories include Savigny's theory (possession involves physical control and intent) and Ihering's theory (possession is a fact, not a right).
- Rights and duties of possessor	Possessors have legal protections over their property and must not infringe on the rights of true owners .
- Definition and characteristics of ownership	Ownership implies ultimate legal control and rights over property, including the right to use, dispose, or transfer the property.
- Types of ownership (absolute, restricted, joint)	Absolute ownership grants full rights, while restricted ownership limits use (e.g., leasehold). Joint ownership means shared control by multiple persons.

- Modes of acquiring ownership	Ownership can be acquired by inheritance, purchase, possession, or adverse possession.
- Relation between possession and ownership	Possession is the physical control of property, while ownership is the legal right to control, use, and transfer that property.
d. Other important legal concepts	
- Law and morality	Law governs external behavior and is enforceable, while morality governs internal values and is socially upheld.
- Justice and its types	Distributive justice deals with fair allocation of resources, while corrective justice concerns fair resolution of wrongs.
- Liability (civil and criminal)	Civil liability arises from breaches of private law (e.g., contracts), while criminal liability concerns breaches of public law (e.g., crimes).
- Property and its classification	Property can be classified as movable (chattels) or immovable (land); tangible or intangible (e.g., intellectual property).
- Legal personality	The legal recognition of an entity as a person, allowing it to have rights and duties in law.