topic

Classical & Medieval Sources of Natural Law

INTRODUCTION *to* CLASSICAL *and* MEDIEVAL SOURCES *of* NATURAL LAW

Greek thinkers, most especially the Sophists, Plato, and Aristotle,
debated the old Greek dichotomy of ***phusis*** *and* ***nomos***
amidst the economic and political fermentation of fifth-century Athens
and in so doing initiated the natural law tradition.

The term '*phusis*' is a dynamic one. It means 'nature' – in the sense of an inherent character of a being or material reality – but the term also encompasses what a thing or being will become, its process of blossoming. Diametrically opposed to 'nature' in early Greek thought is *nomos. Nomos* means both 'law' and 'custom,' and, unlike nature, is something essentially man-made. Even in the archaic myths of Homer and Hesiod, men establish their *nomoi* in opposition to nature and to the ordinances of the gods. For example, Prometheus steals fire from the gods and Hercules subdues nature through human ingenuity, in order to establish civilization, the seat of *nomos*.

The fifth-century relativistic Sophists maintained this accepted dichotomy, but Plato and Aristotle challenged it by asking whether there were fundamental, universal ethical principles common to all men. Plato, arguing against the sophists, claimed that such principles (*i.e.* laws) do exist and that they have their moorings in nature itself. Aristotle distilled and developed this notion that such laws are inscribed in nature and articulated the first systematic theory of "natural law."

Subsequent proponents of natural law introduced the theory into the Latin language, through which it was transmitted for over a millennium. Cicero appropriated Greek conceptions of the theory, and, as Augustine and Aquinas would later do, strengthened it by answering contrary arguments. These thinkers more fully addressed the question of how there may be a universal natural law when the laws and customs amongst peoples differ and how it is that men sometimes establish 'laws' which are not truly just. Augustine's argument was *iniusta lex non est lex:* an unjust man-made law is not truly a law but a violation of the natural law to which it should conform. Aquinas further clarified and systematized the classical theory of natural law, integrating Aristotle's teleological view of the world into a more complete metaphysical vision, in which man's ultimate end was union with and contemplation of God.

Christian thinkers came to understand natural law not as a product of necessity or of arbitrary divine will, but as the main instrument by which a benevolent and omnipotent Lawgiver guided the community of his creatures to happiness. Free will accounted for the differences in human laws, because, in their understanding of the world, men could choose whether to conform their actions to the abiding natural law and cooperate with the Lawgiver's plan. The idea that God had providentially given all human beings the natural ability to discern and obey the right rules of action was highly influential in subsequent Western thought, and played a conspicuous role in the rhetoric and reasoning of the American revolutionaries.

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