

NATURAL LAW  
THEORIES IN GREEK  
AND MEDIEVAL  
PERIOD

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Legal Theory Seminar

F.Y.L.L.M , Sem 1

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# NATURAL LAW THEORIES IN GREEK AND MEDIEVAL PERIODS

## Chapter 1

### 1.1 NATURAL LAW – Its meaning and Definition

#### Natural Law

A widespread concept of political and legal thought, denoting the aggregate or collection of principles, rules, laws, and values dictated by human nature and therefore seemingly independent of concrete social conditions and the state.

Natural law has always appeared as a value category relative to the legal order in force in a given political society and to the system of social relations consolidated by such a legal order. In views serving as apologetics this system and the existing laws are declared to be in conformity with natural law and natural justice; views calling for social transformations declare the society and its laws to be in contradiction with natural law and justice. During the long history of natural law its content has varied according to the historical conditions, as well as the social and political positions of its proponents. F. Engels noted that natural law and natural justice are the “ideologized, glorified expression of existing economic relations, now from their conservative, and now from their revolutionary angle” (K. Marx and F. Engels, *Soch.*, 2nd ed., vol. 18, p. 273).

The idea of natural law had already developed in ancient times, especially in the classical world. It was used by the Greek Sophists and Aristotle and was central to Stoicism.

Along with civil and popular law Roman jurists singled out natural law (*jus naturale*) as a reflection of the laws of nature and the natural order. Cicero stated that a law of the state that contradicted natural law could not be viewed as law.

During the Middle Ages natural law was primarily theological in form. It was an integral part of religious doctrine: in the teaching of Thomas Aquinas, for example, natural law is the concrete expression of divine reason guiding the world and the basis of law created by the state. Even today the idea of natural law continues to be a part of the official theological and political doctrine of the Catholic Church.

The idea of natural law had its greatest social influence in the 17th and 18th centuries as a fundamental ideological weapon in the struggle of the progressive forces of society against the feudal structure. The ideologues of the Enlightenment, such as Locke, Rousseau, Montesquieu, Diderot, P. Holbach, and A. N. Radishchev, used the idea of natural law widely to criticize the feudal orders as a contradiction of natural justice. In these views natural law was set forth as the unchanged principles of man's nature and reason. These principles were to be embodied in laws, entailing the substitution of rule by law for rule by men (that is, absolutism). The ideas of natural law were reflected in the French Declaration of the Rights of Man and the Citizen (1789), the American Declaration of Independence (1776), and other documents. During the same period (17th-18th centuries) there were attempts to justify feudal-absolutist regimes with the aid of natural law (for example, S. von Pufendorf in Germany).

With the stabilization of the capitalist order, 19th-century bourgeois ideologists renounced natural law, declaring the bourgeois system to be the only possible and just

order, not requiring supralegal criteria for its justification. Positivism opposed the idea of natural law especially vigorously.

The 20th century has seen the so-called renaissance of natural law. This occurred because the transition of capitalism to the monopolistic and then the state-monopolistic stage required the reevaluation of many legal institutions, which both included natural law and was conducted with its aid. Increased consciousness of the working masses forced the bourgeois ideologists to seek popular slogans that could be directed against socialist ideas, and the theory of natural law was convenient for these purposes (for example, the rejection of private property is declared to be a violation of the fundamental principles of natural law). Since World War II natural law has been used in West Germany, Italy, and certain other countries, on the one hand, as a demarcation line to indicate a difference from fascist ideology and, on the other, as a means for hindering far-reaching social and political reforms. “Renascent natural law” is undergoing a strong influence from clericalism; it is also imparting a pragmatic character to the concept of natural law (for example, natural law “with changing content” or “natural law of a concrete situation”).<sup>1</sup>

The Marxist materialist approach to law as a reflection of the economic order and political structure of class society makes superfluous the concept of natural law as a precondition for the existence and validity of existing law. In society there may be only one system of law, which is established by the state. And in its law-making activities the state is bound by the principles of a given social system, which are determined not by the “nature of man” but by the socioeconomic order and the means of production. At the

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1. Dias R.W.M. : Jurisprudence, p 65

2. Cohen & Cohen : Readings in Jurisprudence and Legal Philosophy ,(1951)p.660

same time Marxism does not consider false everything that stands behind the concept of natural law. Marxism attaches great significance to the inalienable rights of man and citizen and, in evaluating existing law, assigns an important role to ideals and values (and justice as well), considering them, however, socially conditioned, class-bound, and historically changing, not a priori categories.

Natural law theory has been interpreted differently at different times depending on the needs of the developing legal thought. But the greatest attribute of the natural law theory is its adaptability to meet new challenges of the transient society.<sup>1</sup> The exponents of natural law philosophy conceive that it is a law which is inherent in the nature of man and is independent of convention, legislation or any other institutional devices.

Dias and Hughes describe natural law as a law which derives its validity from its own inherent values , differentiated by its living and organic properties, from the law promulgated in advance by the State or its agencies.

According to Cohen, natural law is not is not a body of actual enacted or interpreted law enforced by courts, it is in fact a way of looking at things and a humanistic approach of judges and jurists. It embodies within it a host of ideals such as morality, justice, reason, good conduct, authority. Some thinkers believe that these rules have a divine origin, some modern sociological jurists and realists have sought resource to natural law to support their sociological ideology and the concept of law as a means to reconcile the conflicting interests of individuals in the society.

## **1.2 Main Characteristics of Natural Law**

The phrase 'natural law', has a flexible meaning. It has been interpreted to mean different things in its evolutionary history. However, it has been generally considered as an ideal source of law with invariant contents. The chief characteristic features of natural law may be briefly stated as follows:

1. It is basically a priori method different from empirical method, the former accepts things or conclusions in relation to a subject as they are without any need or enquiry or observation while empirical or a posteriori approach tries to find out the causes and reasons in relation to the subject-matter.
2. It symbolizes physical law of nature based on moral ideals which has universal applicability at all places and times.
3. It has often been used either to defend a change or to maintain status quo according to needs and requirement of the time. For example, Locke used natural law as an instrument of change but Hobbes used it to maintain status quo in the society.
4. The concept of 'rule of law' in England and India and 'due process' in USA are essentially based on natural law philosophy.

## **1.3 Historical Evolution of Natural Law Theory**

The content of natural law have varied from time to time according to the purpose for which it has been used and the function it is required to perform to suit the needs of the



time and circumstances.<sup>2</sup> Therefore, the evolution and development of natural law theory has been through various stages which may broadly be studied under the following heads:

2. Ancient Period,
3. Medieval Period,
4. The period of Renaissance, and

Law is a Greek invention, the word itself and the conception. It is grossly inexact and unfair to repeat the commonplace that Greece gave the world arts and philosophy, whereas it was left to Rome to give mankind government and jurisprudence, as though reality could produce such cleavage. Too many Greek laws, it is true, have perished. Nevertheless, Greek law is original; limited by time and space, it was not, like that of Rome, adopted and applied for centuries in a huge empire made up of divers races. Yet, Plato's Academy, which was, in some measure, the first College of Law, used to teach jurisprudence and draw up codes for colonies, which were the very basis of the Roman law; Plato's *Laws* are the legislator's masterpiece, and he would certainly not have written the four last books of his *Laws*, which deal mostly with civil and criminal law, had there not been any

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<sup>2</sup> **Brief notes on the ancient and medieval theories of natural law**  
Jayaprakash Kakada

## Chapter 2

### “Greek Period”

#### 2.1 NATURAL LAW IN THE GREEK PERIOD

Systematic and technical study of Greek jurisprudence in his Academy. Isaeus was the first jurist of Greece in the fourth century; Aristotle and Theophrastus were the greatest jurists of Greece, since they were the first to write an *Esprit des Lois* and to compare divers legislations and constitutions. Although it is difficult to talk about the spirit of Greek Law, since Greek jurisprudence and court practice underwent only a slight development from Solon to Aristotle, yet the conception of law is originally Greek and is the result of a long process of thought. The Greeks used several words for law ONE is a metaphor belonging to geometry; it means that which is right, the right line, rectum, regula, as in orthopaedics; there is no equivalent in Greek to the Latin *jus*, that which unites or binds men, *jungere, jugum, conjugium*. TWO means law made by reason and based upon reason, in opposition to fatality or Destiny; it means also relation, principle or formula. THREE means, which does not exist in Homer and is first found only in the seventh century poet Hesiod, means till the second part of the fifth century the old and traditional custom; it means also the habit resulting from the necessity of conforming to existing conditions, that is to say the political and social environment as well as the psychological dispositions that go with the existing conditions; FOUR suggests the idea of sharing, of division, separation, equal

parts; it is used for law, justice, statute. FIFTH word is the abstract and absolute right or justice; SIXTH is a part of it in the same way as *lex* is a part of *jus*;

## 2.2 NATURAL LAW INSTITUTE PROCEEDINGS

It shows the way towards an aim, as can be seen in the Latin words: *dicere*, *digitur*, *indicare*, *judicare*. And natural law is rightly called **by** Aristotle: as justice recognized and admitted without any formal or conventional declaration, resulting from the nature of men and based upon the nature of our being. The Greeks had a peculiar conception of law. To us, the word suggests a court and a judge, a set of technical rules or regulations which are accumulated, revised and understood by specialists especially. The Greeks did not regard the law exactly in the same way, since their genius was rather metaphysical. They were inclined to consider the law as something absolute, permanent, which it was not a good thing to change, because they thought that law, like poetry, was of divine origin; although Greek laws were changed and revised at times, yet the Greeks were inclined to regard the law as sovereign. Socrates is not speaking metaphorically when he declares himself the slave of the law, in the *Crito*, where he converses with the Laws and admits the absolute sovereignty of the law. To the Greeks law stood over the society; it was the binding force of the city, it was born with the city itself, it was the force that brought and held the city together. The Greek city was an ethical society, originally formed to secure justice to all; it is essentially an educational institution, the city itself being the organ of education for the citizens. The keyword is education; Plato's *Republic* contains the

ideal curriculum of secondary education, the *Laws* present the ideal curriculum of university

The expression "natural law" is ambiguous, confusing and misleading, not to the Greeks who believed in city education and in generation, but to us who have a two thousand year old heritage of Christianity, for the expression "natural law" has today a definite Christian connotation; it has none, of course, in pagan Greece, where natural law is considered as a thing of human reason alone. Moreover, the word law suggests nowadays something fixed, laid, proclaimed, written; the word natural connected with law suggests something peculiar to human nature. On the other hand, natural law is unwritten, and, as such, cannot always be defined and grasped easily; it is universal, all men have a natural, infallible and practical knowledge of it; man must do good and avoid evil; he who sins should be punished; man must preserve his own being. These precepts are immanent in human nature, they are part of our nature, they are the very expression of the universal notion of justice; they are implanted in us, we would not be what we are without them.

ANCIENT PERIOD: The story of natural law begins with the philosophers of ancient Greece and its true meaning is still a matter of controversy today. The most diverse elements are gathered under the same lable – **Greek Philosophy** and **Medieval Rationalism**.

The Greeks traditionally regarded law as being closely related both to justice and ethics. The contact between nature and institution is the most characteristic work of Greek enlightenment in the formation of conceptions. If there is anything universally valid, it is that which is valid by nature for all men without distinction of people and time. What nature determines is justly authorized.

The use of natural law, in its various incarnations, has varied widely through its history. There are a number of different theories of natural law, differing from each other with respect to the role that morality plays in determining the authority of legal norms. My research through this seminar deals with its usages separately rather than attempt to unify them into a single theory.

### **2.3 PLATO (427-347 B.C)**

Although Plato does not have an explicit theory of natural law (he almost never uses the phrase natural law except in Gorgias 484 and Timaeus 83e), his concept of nature, according to John Wild, contains some of the elements found in many natural law theories. According to Plato we live in an orderly universe. At the basis of this orderly universe or nature are the forms, most fundamentally the Form of the Good, which Plato describes as "the brightest region of Being". The Form of the Good is the cause of all things and when it is seen it leads a person to act wisely. In the Symposium, the Good is closely identified with the Beautiful. In the **Republic**, the ideal community is, "...a city which would be established in accordance with nature." Here he emphasized the need for perfect division of

labour and held. "each man ought to do his work to which he is called upon by his capacities.

#### **2.4 ARISTOTLE (384-322 B.C.)**

Aristotle's association with natural law may be due to the interpretation given to his works by Thomas Aquinas. But whether Aquinas correctly read Aristotle is a disputed question. According to this interpretation, Aquinas's influence was such as to affect a number of early translations of these passages in an unfortunate manner, though more recent translations render them more literally. Aristotle notes that natural justice is a species of political justice, viz. the scheme of distributive and corrective justice that would be established under the best political community; were this to take the form of law, this could be called a natural law, though Aristotle does not discuss this and suggests in the Politics that the best regime may not rule by law at all.

The best evidence of Aristotle's having thought there was a natural law comes from the Rhetoric, where Aristotle notes that, aside from the "particular" laws that each people has set up for itself, there is a "common" law that is according to nature.

Universal law is the law of Nature. For there really is, as every one to some extent divines, a natural justice and injustice that is binding on all men, even on those who have no association or covenant with each other.

"Not of to-day or yesterday it is, But lives eternal: none can date its birth."

Some critics believe that the context of this remark suggests only that Aristotle advised that it could be rhetorically advantageous to appeal to such a law, especially when the "particular" law of one's own city was averse to the case being made, not that there actually was such a law; Moreover, they claim that Aristotle considered two of the three candidates for a universally valid, natural law provided in this passage to be wrong. Aristotle's theoretical paternity of the natural law tradition is consequently disputed.

## **2.5 SOCRATES ( 470-399 B.C.)**

The name of Socrates occupies a prominent place among the Stoic philosophers of the ancient time. He was a great admirer of truth and moral values. He argued that like natural physical law, there is a natural moral law. It is because of the 'human insight' that a man has the capacity to distinguish between good and bad is able to appreciate the moral values. Thus according to Socrates, virtue is knowledge' and whatever is not virtuous is sin'. To him, justice may be of two kinds, namely, (1) natural justice; and (2) legal justice. The rules of natural justice are uniformly applicable to all the places but the notion of legal justice may differ from place to place depending upon the existing with time and place. The reasonability of a particular law is judged by human insight and only those laws would be deemed proper which are in accordance with the principles of law of nature and are supported by human reasoning. Thus natural law is a specie of law which and times. However, Socrates did not deny the authority of the positive law

but he pleaded for the necessity of natural law for security and stability of the community.

## **2.6 CONCLUSION ON NATURAL LAW THEORIES DURING GREEK PERIOD**

From these considerations it follows that natural law is far from being a purely academic speculation, just good enough for people with leisure to brood over; it is fundamental even in practical life. It follows also that the concept of natural law has had a very strange destiny in Greece. If we recall the sayings of Homer and Hesiod, Theogenis and Sophocles, Xenophon and Plato, we shall remember that, in the minds of these writers, natural law is something divine and universal; it is a gift of the gods, like justice and poetry; it is to be found everywhere in the world, because it is based on reason, which is proper to man, it is immanent in human nature. For Pythagoras and Heraclitus, the principles of justice, upon which natural law is based, are to be found in equality and in insight, in the law of retaliation and in the law of reason; justice is harmony and equilibrium, man is the center of the cosmos. For Plato, justice is a spirit, a habit of life that animates man's action; the inner sense of justice, which is felt by the conscience, is something much higher in spiritual truth and content than the law of the State; natural law is eternal, like the gods who have given it to mankind. With Aristotle, natural law is one, divine, universal with the Stoics, it is human, universal, as manifold as the individuals themselves.



Strange destiny indeed is that of the natural law, for it was first called divine and then, in the course of centuries, became human. This destiny is quite as strange as that of Fire, which was too, divine in its origin, gave birth to love and kept unity as long as it was in the hands of the gods; placed in the hands of Prometheus, it became the source of the arts and of the inventions, the very principle of division on earth. There is, however, a much more tragic and strange destiny than that: it is the destiny of men in the world. The Greeks centered their interest on man especially. Their concept of natural law was born of their study of man. It is one of their greatest contributions to the world's culture and civilization. It is a new idea, which is still alive today; and the Greeks had the genius of coining words for this new idea. Thanks to natural law, there is something humane and personal in Greek law, there is a soul, a spirit in it. There is even too much poetry in natural law not to be divine. The Greek saw it and expressed it, for they were poets, they looked at the world in awe, like children. That is why everything they have invented still looks so fresh; their literature and their philosophy seem to be less old than yesterday's newspapers; one never tires of studying Greek, as one never tires of looking at the sun on the Aegean sea. Natural law is, in fact, the expression of the divine law in man. As long as man respects the divine in himself, he lives in peace, for the divine, which is measure and order, is peace. Socrates used to smile, when looking at the Parthenon, for the Parthenon was for him the symbol of order and harmony, of measure and proportion; it may also be regarded as the symbol of natural law for the Greeks of old.

## Chapter 3

### “Medieval Period”

#### **3.1 NATURAL LAW IN THE MEDIEVAL PERIOD**

The period from 12<sup>th</sup> century to mid-fourteenth century is generally reckoned as the ‘medieval age’ in the European history. This period was dominated by the ecclesiastical doctrines which the Christian fathers propagated for establishing the superiority of Church over the State. They used natural law theory to propagate Christianity and to establish a new legal order and political ideology based on morals and theology.

The Christian Saints especially Ambrose, St. Augustine and Gregory propagated a view that Divine law was superior to all other laws. According to them, all laws are either Divine or human. Divine laws are based on nature while human laws on custom. It is the divine nature of the natural law which makes it binding overruling all other laws. Saint Augustine pointed out that divine wisdom revealed in the scriptures. The moral precepts or Holy Scriptures were in fact the principles of natural law. According to Gierke, the medieval period Christian theology centered around two fundamental principles, namely :

2. Unity derived from God, involving one faith, one church and one empire; and
3. The supremacy of law both, divine and man-made, as a part of unity of universe.

Until the rise of humanism natural law, divine law and human law were bound together, all being imposed from above by God.

The main tenets of the natural law theory of the medieval period may briefly be stated as follows:

1. The supporters of the theory believed that the institutions of slavery, property, state etc. represented the evil desires because they are not the creation of nature, nevertheless, they are necessary for preventing or limiting the vicious tendencies of men. The existence of State and society is essential for the development of morals and ethical values in man. Cicero and supported this view.
2. 'Law' is the greatest binding force both for those who govern and the governed. Thus the natural law theory accepted the supremacy of law.
3. The greatest problem before the medieval legal thinkers and philosophers was the correct interpretation of law. They believed in two facets of the human activities, namely,
  - (i) Worldly and (ii) Godly. They are radically different from one another and there arises no question of conflict or clash between the two state i.e. ruler is supreme in the field of worldly activities whereas Pope held supreme authority in the realm of Godly activities.
4. As to the question about the exact source of legal authority in a developed society, the majority view was that state and law were the gift of the people who agreed to

In the Middle Ages we find the germ of theories that later became of great practical importance. In searching for a principle by which the power of the State could be

justified, writers evolved the theory of the social contract. There were many varieties of this doctrine, but predominant medieval compromise was that the monarch was above positive law, but was bound by natural law. This entails a complete break with the Roman view that natural law is the immutable and universal part of civil law.

To the medieval period natural law may be the base on which positive law is built, but a tendency arises to regard natural law as a superior body of principles by the test of which the validity of positive law is to be judged. Thus even in this period we see the germ of the later theory of natural rights.

### **3.2 SAINT THOMAS (1225-1274)**

Among the theologians of the medieval period, the name of Thomas Aquinas deserves a special mention. He is considered to be the representative of the natural law theory of his age. In his view, social organization and state are natural phenomenon. St. Aquinas pointed out that man can control his own destiny to a considerable extent but he is subject to certain basic impulses such as impulse of self-preservation, reproduction of his species, bringing up children etc. for improving his future and attainment of perfection. He defined law as “an ordinance of reason for the common good made by him who has the care of the community and promulgated through reason.” He maintained that, “the primary precept of law is that good should be done and pursued and an evil be avoided”. Man’s activities are directed to ensure his survival, continuity and perfection. He must do things to achieve them and doing anything against these ends shall be morally wrong.

St. Thomas Aquinas gave a fourfold classification of laws, namely, (1) Law of God or external law; (2) Natural law which is revealed through “reason”, (3) Divine law or the law of Scriptures; (4) Human laws which we now called ‘Positive law’

Like his predecessors, St. Aquinas agreed that natural law emanate from ‘reason’ and is applied by human beings to govern their affairs and relations. He opined that positive law should be accepted only to the extent to which it is compatible with natural law or external law. He regarded Church as the authority to interpret divine law. Thus his approach to natural law was empirical because his conclusions were drawn from the study of human nature. He considered ‘reason’ as the sole repository of social life of man. St Aquinas and as believed in the supremacy of law because it is a means to attain common good. He supported property rights and upheld acquisition of property by man as he derives satisfaction from it which is helpful in maintenance of peace and order in the society. He, however, held that use and enjoyment of property should not be confined only to the person acquiring it but it should extend for the common benefit of all the members of the society. Thus, primacy of natural law was the fundamental starting point of the legal philosophy of St. Thomas Aquinas.

Aquinas followed Aristotelian concept of justice and held that “justice is a habit” formed through action and experience. He emphasized on distributive concept of justice and held that justice is a virtue which one has in relationship with others. Justice lies in the perpetual and constant desire to render to each one his right. In other words, the concept of justice carries with it, respect for the rights of others. It is a complete virtue that produces good of the individual as well as the society. The political object of justice is to keep individuals together according to Greek traditions. Justice implies equality. The

distributive element in Aquina's perception of justice is to be found in his assertion that "justice is to share" our own profit with others in order to preserve common equality.

## CHAPTER 4

Based on the above discussion on Natural law in the two periods, natural law is said to be the skeleton or the basic framework.

### ***4.1 CONCLUSION***

Modern totalitarianism with its depersonalization of man, with its debasement of man to the position of a particle of an amorphous mass which is molded and remolded in accordance with the shifting policy of the “Leader,” is of its very nature extremely voluntaristic. *Voluntas facit legem*: law is will. How seldom the theorists and practitioners of totalitarianism mention reason, and how frequently they glory in the triumph of the will! The will of the Leader or of the Commissar is not bound by or responsible to an objective body of moral values or an objective standard of morality revealed in the order of being and in human nature. The will is not bound by the objective, conventional meaning of words or by the relation of these to ideas and things. Ideas, as well as the words which express them, are mere tools for the will: they are to be remolded whenever this is expedient. Accordingly an appeal from decisions of this will to natural law, to intrinsic right, to justice and equity, to ideas, must appear as “treason” which stems from democratic decadence or from bourgeois prejudices. The defense against totalitarianism cannot plead greater efficiency, more economic productivity, which are the categories in which the totalitarian “social engineer” thinks. Such a defense must appeal to justice, to the rule of reason; it must plead in the name of the natural law and of the natural rights of human persons and their free associations. Natural law is not

only an ideal for the positive law, for legislation to realize; it is also a critical norm for the existing positive law.

Natural law, however, is essentially a framework law, a skeleton law. It does not ordinarily give us a concrete norm directly applicable to action here and now in the involved situations of actual life. It does not, for instance, tell us which of the many possible forms of laws about property is right in the abstract. Neither the capitalistic nor the feudal system of property is imposed by the natural law. But it judges each and every existing system of property in terms of justice. Moreover, natural law does not condemn the wage contract as such or the socioeconomic order of which the wage contract is so important a part, but it makes clear that a social order in which the so-called iron law of wages rules the labor market violates justice and equity. Further, natural law does not proclaim that democracy as a form of government is the sole admissible mode of political organization; yet it does tell us that any form of government, even one that is decked out in the trappings of democracy, which does not recognize the fundamental rights of the person and of the family is tyrannical and may, therefore, rightly be resisted. Natural law, finally, does not say that the Security Council of the United Nations is, in its concrete form, good and efficient; but it does forbid the independence of a small nation to be sacrificed out of mere expediency for the sake of the “security” of a great power. This quality of the unvarying natural law, which elevates it above the changing historical positive law, which makes it both the ideal for lawmakers and the critical norm for existing laws, renders it possible for the natural law to govern the acquisition and exercise of political power itself.



Politics is and remains a part of the moral universe. For it is inexcusable to view politics merely as the technique or art of achieving and retaining social power for some selfish end through the skillful exploitation of human weaknesses, by deceit or by terrorist methods. Politics is rather the great architectonic art by which men build the institutions and protective forms of their individual and communal life for a more perfect realization of the good life. Its main function is to establish an order and unity of cooperation among free persons and free associations of persons in such a way that these, while they freely pursue their individual and group interests, are nevertheless so coordinated that they realize at the same time the common good under the rule of law. But the rule of law is the natural law which justifies the use of political power and before which power itself as well as resistance to arbitrary acts of those in authority must establish its legitimacy: through the natural law alone can we solve the crucial political problem of the legitimacy of power and the duty of free persons to obey. Thus the rule of law, the paramount law binding both the ruler and the ruled, necessarily implies the idea of natural law as the critical norm for the existing positive legal order and for the demand to change it, if it has become unjust. The hope of a peaceful change of the legal *status quo* within each nation as well as in the community of nations depends on the acceptance of such a higher law that measures both the legal rights of the *status quo* and the claims of those who would alter it; and it measures them because it is based on natural reason, in which all men participate. For the natural law, ultimately of divine origin but revealed in the very order of being, is but the rule of reason founded upon the rational and social nature of man. *Veritas facit legem*: law is truth.

“All men are born natural-law jurists.” This fact, which Bergbohm notes at the beginning of his great attack on the natural law, should surely have shown an unbiased person that the very essence of man as a moral, social being points to the nature of law. For all men are born natural-law jurists because in the human soul lies the ineradicable demand that the law must live in morality. All law must be just: only then can it obtain that power which primarily holds together and continually renews every community, and in particular every political community, the power to bind in conscience. But the proper function of the natural-law doctrine is precisely to show forth the connection between morality and law. Consequently it must, for the sake of the very existence of man and his concrete legally ordered communities, ever recur, and it does in fact always return whenever the genius of law seeks out its own foundations.

The foundation of law is justice. “Truth grants or refuses the highest crown to the products of positive legislation, and they draw from truth their true moral force” (Franz Brentano). But truth is conformity with reality. And just as the real and the true are one, so too the true and the just are ultimately one. *Veritas facit legem*. And in this profound sense of the unity of truth and justice the words, “And the truth shall make you free,” are applicable to the community of men under law. True freedom consists in being bound by justice.

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