

The Natural Law, Religion, And the Crisis of the Twentieth Century

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THE DECAY in the vigor of the natural law tradition in our times of trouble—a decay I take as evident and without need of any special documenting—involves a shift in the status of man himself within the universe, or at least it involves a shift in what men think about man. Natural law convictions take root and flourish only within moments of time when man becomes aware of himself as that curious being who both belongs and does not belong to the world, as that being who has a share in his own perfection and who can say either “yes” or “no” to his own being. The content of natural law, its specific commands and prohibitions, emerge as the result of a series of deepening insights about man made by man himself within the crucible of history. The codification of natural law is not the law itself, which is simply man’s nature understood as the wheel of the barque of humanity. We become keenly aware of this when we remember that the remote origins of natural law were not juridical as such but rather ontological. Natural law, before its articulation at the hands of the Stoics, was thought to be the perfection or full flowering of human nature which thus followed upon a “law” written into the symphony of being, the law dictating that

things grow up, that they throw off the trappings of infancy, that they perfect the latent dynamisms consubstantial with all natures, and that they become themselves. The metaphysical roots of what was to become the natural law tradition were bound up intrinsically with the concept of perfection and with a view of the universe that was both dynamic and constant.

The universe is composed of an indefinite number of constant natures, each one of which is capable of actualizing itself through the individuals sharing that nature. Nature for the Greeks was a principle of birth and growth, *dynamis*, an unfolding of treasures which are written initially like promises within the scroll of being. Natural law as something specifically human involved the recognition of the human spirit by itself and hence the recognition that man alone in the universe can affirm or deny his own nature. This awesome freedom, often frustrated by fate and fortune and by the inscrutability of chance, in a terrible sense involves the whole order of nature: man, when he affirms himself, affirms the whole and when he denies himself he denies the whole. Thus it was that St. Thomas Aquinas could hold that suicide is a sin against the

community of existence; that Chesterton could write that were the trees capable of knowledge they would shed their leaves and wither into hideous stumps when insulted by the same cosmic blasphemy. Nor must we forget that if Justice plays a central role within natural law it is because Justice does mean more than simply to give a man his due. This last is an impoverishment of the classical understanding of Justice. Justice harmonizes into unity what otherwise would be chaos, so Plato teaches us in *The Republic*. It follows that *natural* Justice is a condition not only of justice everywhere but of the very order itself of the cosmos. We can sum up by saying that natural law, as it slowly developed within the Greek tradition, implied three things: (1) natural law was both an extension of, and a crowning of, a dynamic propensity within all nature to develop and become fully itself; (2) natural law was the specific perfection proper to a man who was aware in an adult fashion of the imperatives of his own humanity; (3) natural law was a principle of harmony and of order within society and within the cosmos.

It is, I believe, almost a sign of a man's own nobility that he be able to see the grandeur of this classical conception of natural law. I, for one, feel that I am facing something stunted and not altogether human when I encounter a man who denies—I will not say natural law but the splendid vision of man's greatness that went into its conception. Yet natural law theory, like all things merely human and pagan, was wounded at its center by what might be called its own tragic flaw: it was insufferably impersonal. There was a Law but, strictly speaking, there was no Lawgiver. The supposed lawgiver, human nature, was in all men and therefore was no one of them at all. Socrates does not save for being who he is, but for preaching a Justice

whose dim origins are bathed in mythology. And if there was no Lawgiver, neither was there any Judge. And if there were neither Lawgiver nor Judge, then neither was there any Loyalty to the Law itself. Permit me to distinguish three concepts which play a crucial role in the issue under discussion, concepts developed in our time by the Roman jurist, Alvaro D'Ors: legitimacy; legality; loyalty. *Legitimacy* looks to origins: a legitimate son is truly the issue of his father's marriage; a legitimate king is truly the son of his father; a legitimate government is truly the successor of what properly went before it. *Legality* looks to the law as promulgated, guarded, and judged by a legitimate Lawgiver. *Loyalty* is allegiance, most properly to a Person, as is attested in most oath-taking which involves a personal dimension. Classical natural law theory was neither legitimate nor legal nor loyalist: not legitimate because it had no concrete, existential origin but only the essential constancy of human nature; not endowed with juridical legality because unpromulgated by a Lawgiver who would have been its legitimate origin; bereft of loyalty because nobody can swear allegiance to human nature as such. Where was the flesh and blood, the "Thou," involved in all loyalty?

Classical natural law theory as well as its cause, classical virtue, received at the hands of St. Augustine in the *Civitas Dei* what was probably the most severe criticism ever levelled against it by a representative of Christian orthodoxy and a Doctor of the Church. Augustine's criticism of classical virtue, the end of natural law theory, can be concentrated in the following complaint: you Greeks have built a good motor but you have no oil to make it run! Human perfection and order are goals of natural law but in no sense do they supply sufficient personal motivation. We cannot say that men will be good because good-

ness is beautiful: evil things are often beautiful as well. We cannot say that magnanimity will do the job because the supposed largeness of the philosopher who does not wish the applause of others turns out to be the most crippling and corrupting kind of egotism after all: he may not want the applause of others but he wants to please himself. This kind of Stoic virtue is intolerable to real men who ultimately do good in the world in order that they might make some person or persons happy.

Natural law theory was made to work within Western Christendom because it was lifted into something infinitely larger than itself, the Christian vision of existence. Natural law became that part of the Divine Law which God has apportioned to men. Acquiring legitimacy and legality because it acquired personality, natural law also acquired loyalty, not precisely because it was natural but because its source was supernatural. No Christian seeking the origins of his decision to act like a man, to act decently in a moment of crisis and when passing through the darkness of severe temptation, could do better than appeal to that Pauline text which states that by our sufferings we "fill up what is lacking in the sufferings of Christ." A philosopher's God could not have oiled the machinery of the classical spirit: it took the Christian God on the Cross to do so.

Recently *Time* carried a story about the adverse reaction to remarks made at the Second Vatican Council by Father Arrupe, Superior General of the Company of Jesus, about the growth of atheism within and without the Church. One unnamed Jesuit, presumably an American, was quoted as saying that "appeals to march under the banner of Christ" don't cut any ice anymore. Despite his intentions he fingered the heart of the matter. When Christendom was itself only one Sovereign was recog-

nized, God. In Catholic theology this sovereignty was symbolized in the figure of Christ the King: *Christus vivat; Christus regnat; Christus imperat*. Sovereignty thus looked to the origin, font, and root of all law. Natural law worked, as well as anything can work in an imperfect world, just so long as its source was God and judgment for keeping or transgressing that law was rooted in God.

The creation of the sovereign state as absolute principle of law, first in French absolutism and later in theory in the mind of Bodin, cut the natural law away from God. Thus emasculated, natural law lost its teeth but it did not return to what it had been in classical antiquity. Modern man's ideal was not *arete* or the excellence of human nature but something else: not the persistence of a constant, man, through history but man's creation by history itself, conceived of as though it were a Law unto itself. Thus it is that today the appeal to history is an absolute, almost as though history itself were the Sovereign and almost as though it found in the modern state its concrete existential representative. We are not going to better matters substantially by tinkering with natural law within the presuppositions of contemporary secularism: i.e., all values must somehow square themselves with symbols such as "the modern world," "contemporary civilization," and other such beads within the gnostic rosary. We can make advances toward a restoration of natural law and the human dignity it would defend only if we are able to undergo a massive reaction within the spirit, an agony of loss and gain, which will involve, among other things, a denial of Sovereignty to both History and the Modern State, restoring that Sovereignty to God, Author and Judge of Good and Evil, of the Law. What I am calling for, in effect, is The Counter Revolution.