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NATURAL LAW, LIBERALISM, AND CHRISTIANITY

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Classical liberalism arose at a time when Christian orthodoxy was still vibrant.[1] Liberalism and Christian orthodoxy, sharing a number of fundamental ideas about the nature of man and of interpersonal relations, presuppose the same moral ontology of natural law. The high tide of Christian orthodoxy and classical liberalism belongs to the era when natural law was the fundamental concept of all serious thought about the human world.

Both classical liberalism and Christianity went into sharp decline from the later nineteenth century onward, and, by the beginning of the twentieth century, the concept of natural law was rap-

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[1]By "classical liberalism," I mean the liberalism of those who postulate a necessary link between liberty and objective law and justice, i.e., respect for natural persons, their property, and contractual obligations. By "Christian orthodoxy," I mean the interpretation of the Bible that became authoritative within the main churches as a result of the efforts of Saint Augustine and other early church fathers. However, I shall consider only its moral ontology. Moreover, I shall discount Augustine's doctrine of hereditary sin (see note 15).

idly losing its hold on the intellectual imagination. Today, it is no longer part of the standard intellectual framework. Among intellectuals, the philosophy of natural law has been superseded during the last century by a progressivist belief in the more or less imminent approach of a "new age" in a national or global "social Utopia" (or, more recently, "Ecotopia").

Progressivism is not simply the recognition of the wealth explosion that began in the nineteenth century, an explosion that has been and is the basis of very real progress in science, technology, and the standard of living. Rather, it is a religion that combines millenarian and gnostic themes and presuppositions to justify the compulsory sacrifice of the limited natural rights of individuals on the altar of an unlimited "right to everything"—a right to the total liberation from the natural and social constraints of the human condition.[2] As such, progressivism is a frontal attack on the philosophy of natural law.

After a few explanatory notes on the relevant concepts of natural law and religion, I shall discuss three types of religious moral ontology. The discussion should clarify the very different patterns of interpersonal relationships implied by these ontological types. I shall first consider the biblical account of natural law in Genesis, and then the challenges mounted against it by the millenarian and gnostic traditions. I shall look at these religions in order to determine how they represent interpersonal relations between "I" and "You," or between "I" and "Other."

The discussion also highlights the contrast between the classical liberal politics of liberty, rooted in natural law, and the progressive politics of liberation, premised on the denial of natural law. I shall then mention some currents of thought that are symptomatic of that denial, and conclude with a short assessment of its impact on liberal thought in the twentieth century.

NATURAL LAW

Contrary to the common belief that natural law is a metaphysi-

[2]See Frank van Dun, "Human Dignity: Reason or Desire?" *Journal of Libertarian Studies* (forthcoming).

cal or even theological concept, the word "natural" in this expression is to be taken literally. Natural law refers to the natural, physical world of living human beings. Moreover, "law" should not, in this connection, be understood in its now-dominant sense of a command, directive, or rule (cf. the Latin *lex*[3]). Instead, it is to be understood in its much more profound sense of order, especially the order or bond of conviviality that has its natural foundation in the plurality and diversity of distinct and separate persons.[4] Thus, law is semantically related to the Latin *ius*, which refers to a bond arising out of solemn speech (*iurare*, to make a personal commitment to or covenant with another), and which presupposes the separateness and independence of persons. In that sense, law stands in opposition to the Old English *orlaeg*, fate, the inevitable disappearance of order, as in war.[5] Disorder occurs when the natural separateness of persons is no longer respected, and the distinctions between one person and another, or between the words, deeds, and works of one person and another, are not or cannot be heeded.[6]

Clearly, law (order) can be natural in a straightforward literal sense.[7] However, a rule of law is never natural in such a sense. A

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[3]*Lex* originally had military connotations, cf. *dilectus*, the raising of an army, *legio*, legion.

[4]"Law" derives from the Scandinavian *lög*, the plural of *lag*, order, bond. For reasons of clarity, I prefer to speak of the order of conviviality rather than the social order, because the English word "society" and its derivatives ("social," "sociable," "socialist," "socialisation," and the like) are highly ambiguous and tend to evoke the image of an organisation or company (Dutch *maatschappij*) with a common purpose toward which all of its mem-bers are supposed to work, and a common or social income that is to be distributed according to some organisation-relative criterion of merit. I use "conviviality" because it is the nearest translation of the Dutch *samenleving* that I can find.

[5]"War" derives from the Germanic *werra*, confusion, disorder. In Dutch, to be *in de war* means to be confused. *Orlaeg* is obviously related to the Dutch for war, *oorlog*.

[6]See Frank van Dun, "The Lawful and the Legal," *Journal des économistes et des études humaines* 4, no. 4 (1995).

[7]See especially E.A. Havelock, *The Liberal Temper in Greek Politics* (London: Jonathan Cape, 1957); also Larry A. Eshelman, "Might versus Right," *Journal of Libertarian Studies* 12, no. 1 (Spring 1996), pp. 29–50,

rule of law is an inferred rule that presupposes the value of maintaining, strengthening, or restoring the order of conviviality among natural persons. A rule of law is, thus, not a *lex*, which presupposes a hierarchy of command and obedience in a particular organisation (a *societas*, e.g., an army, company, state). Hence, it is doubly misleading to speak of natural laws (*leges naturales*): it obscures the distinction between a rule of law and a command (*lex*), and it assimilates the nomocratic order of conviviality to the telocratic order of a so-cial organisation set up to pursue a partic ular set of goals.[8]

Human beings have natural rights. Like natural law, a natural right is not some metaphysical or theological object or quality. One's right is that which is under one's control.[9] A natural right in the strict sense is that which is naturally under a person's control, his body with its faculties of movement, feeling, thought, and speech. By extension, a natural right is what a person brings under his control without violating any other person's natural rights.

However, not all rights are natural rights. The strong may establish control over the weak and bring them under their government, and a thief or robber may take possession of and control over what by natural right belongs to another. These established rights may therefore conflict with natural rights.

Hence, the question arises, which of those conflicting rights are respectable or normatively significant? The common answer in classical liberal thought is that natural rights are respectable *per se*, and that established rights are respectable only if they are established with full respect for natural rights.[10] The same answer is also

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who correctly traces the notion of non-metaphysical natural law to the sophists of the fifth and fourth centuries B.C.

[8]The distinction between a nomocratic and a telocratic order is explained in Michael Oakeshott's classic *Rationalism in Politics and Other Essays* (Indianapolis, Ind.: Liberty Fund, 1991).

[9]"Right," from the Latin *rectum*, the past participle of *regere*, to rule, control, or manage.

[10]The argument that natural rights ought to be respected appears in Frank van Dun, *Het fundamenteel rechtsbeginsel* (Antwerpen: Kluwer-Rechtsweten-schappen, 1983); also, independently, in Hans-Hermann Hoppe, *A Theory of Socialism and Capitalism* (Boston: Kluwer Academic

presupposed in Christian natural law ethics (see below).

THEISTIC AND ATHEISTIC RELIGIONS

A religion provides a scheme for interpreting events and evaluating human actions. It is, in Marx's memorable phrase, "the logic of the world in popular form." As such, in this article, "religion" has the broad sense of what holds the world together and gives meaning to human existence, its origin, and its destiny; religion is not used here as a synonym for either "the service of God"[11] or "adherence to a church."

Religion is a common source of the prejudices from which all thinking must start, and to which it is likely to return in the face of doubt or when afflicted by fatigue or stress. Given this understanding of the term, we should note that there can be not only theistic but also atheistic religions.

The most prominent theistic religions are the "religions of the Book" (Christianity, Judaism, and Islam). They postulate the concurrent existence of a personal being with supernatural or incomparable powers. Among the atheistic religions, various forms of gnosticism stand out. They postulate the existence of a process that is bound to "unleash the infinite potential of man" by breaking through the limitations of the finite world of history and nature.

Many intellectuals regard theistic religions—Christianity in particular—as restrictive because such religions deny that human beings are or can be gods. They are inclined to regard atheistic religions as liberating because of their promise of a release from the natural and historical constraints under which humans have laboured since time immemorial. With God out of the way, what (according to theistic religions) belongs to God and to God only—including omniscience and omnipotence—becomes available for human appropriation.

Publishers, 1987). See also N. Stephan Kinsella, "New Rationalist Directions in Libertarian Rights Theory," *Journal of Libertarian Studies* 12, no. 2 (Fall 1996), pp. 313–26. Van Dun's book went virtually unnoticed, but Hoppe's very similar argument was severely attacked (e.g., in the September 1988 issue of *Liberty*). A possible reason for the attacks is given in this paper. See the text to which note 46 is appended.

[11]Cf. the German *Gottesdienst* with the Dutch *godsdienst*.

Theistic religions tend to be adaptive. Typically, though not invariably, they postulate an unbridgeable gap between the natural world and the sphere of God. The natural world is, accordingly, the only place where human beings as they are can ever hope to exist. Therefore, theistic religions tend to focus the mind on the problems of surviving and thriving in this world, and on developing practices and institutions that are well adapted to the conditions of the natural world.[12] The world, or nature, is what is given, and human beings must adapt to it, using all the resources, skills, and experience at their disposal.

Atheistic religions, on the other hand, do not have a high regard for the world as it is. It will either wither away or be overthrown when men become conscious of their own divine nature. The objective distinctions, separations, and consequent limitations, constraints, and scarcities that characterise the natural law are either unreal or only temporary conditions—in any case, devoid of normative significance. Accordingly, such religions tend to imply that rules of conduct, legislation, and policies should not seek to improve the human condition within the set framework of natural law. Rather, they should seek to achieve liberation from natural law's constraints. The leading motive is not adaptation to the world, but liberation from it. In the form of escape from or destruction or subjugation of the natural world, it defines the direction of progress.

Some theistic religions—for example, various forms of Christian millenarianism—resemble gnostic atheism in that they also look forward to a condition of liberation from the natural and historical constraints of life. However, they typically expect that sort of liberation either from a victorious struggle of the true "servants of God" against his enemies or from a direct divine intervention.

THE BIBLICAL ACCOUNT OF NATURAL LAW

[12]As Alfred North Whitehead remarked, it is probably no coincidence that science and technology became integral parts of civilisation only in the Christian West—or that the "heathen philosophers" were actively studied there, even with respect to such sensitive domains as ethics, politics, and metaphy-sics. Alfred North Whitehead, *Science and the Modern World*, Lowell Lectures 1925 (New York: Macmillan, 1925), p. 15.

Christian orthodoxy is based on the religion of the Bible. The first chapters of Genesis give an account of how things came to be ordered as they are, according to a scheme that fixes for all time what is possible and what is impossible. As we shall see, the themes of law and justice are central parts of the biblical myth of creation.

The story is familiar. It is a magnificent story about growing up, about the innocence of childhood and the responsibilities of being an adult, about the rise from a condition of unquestioning obedience and blind acceptance of authority to a condition of seeing for oneself, of questioning things with one's likes, and especially of making choices whose consequences one has to bear oneself.[13]

Before the Fall, Adam was just an innocent child residing in a garden. To be sure, he was able to hear and understand what the Lord of the Garden said to him and instructed him to do, but he was not able to act on his own. He had no care in the world and no responsibilities. The fruits of the Tree of Life were freely available, ensuring him a carefree existence. However, Adam was also told, without his understanding it, that his situation was conditional on his personal immaturity. It would continue as long as he did not eat from the Tree of Knowledge of Good and Evil, that is to say, as long as he was not aware of the difference between good and evil. That knowledge is implied in any act of choosing, but in the Garden of Eden, only the Lord made choices and decisions.[14] He took care of everything. Consequently, Adam, in his childlike innocence, had no need for choosing—so he had no need for that kind of knowledge, just as he had no need to be self-conscious.

When Eve was introduced into the simple hierarchy of the Gar-

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[13]This theme is reflected in God's role in the biblical stories. At first, he is the principal *dramatis persona*, commanding and in charge. Then, he recedes into the background, still issuing stern warnings and direct advice, until his presence is no more than a "still small voice" (I Kings 19:12). In the end, he can only be invoked and prayed to. Yet, he is always there, burning with-out consuming.

[14]In Hebrew, it seems, the word translated as "the Lord" suggests the quality of alertness or readiness—the Lord is "the alert one," "the one who is ready," the doer or the entrepreneur. See M. Reisel, *Genesis, Transcriptie, Verklaring, Vertaling* (Den Haag: Kruseman, 1972), p. 22.

Garden of Eden, Adam discovered that things were not as self-evident as they had seemed. Eve was like him, an equal—not a superior, and not an unquestionable authority. She was a partner who could ask questions without already knowing the answers, and who could answer his questions without at the same time obliterating the doubts that had inspired them in the first place. All of a sudden, Adam and Eve had entered a world in which choices had to be made. They discovered that making choices entails costs, and that they therefore needed to know the difference between good and evil.

In acquiring that knowledge, they inadvertently destroyed the very possibility of maintaining the arrangement of the paradise in which they had been living. Until then, the Lord's rule over them had been justified because they had lacked the knowledge to rule themselves. However, once they knew the difference between good and evil, they could no longer claim the protection of innocence; they had made the transition to adulthood.[15]

As the story goes, the Lord realised that they had become "as one of us" (Genesis 3:22). Therefore, there could no longer be any justice in his rule over them. Here we have the axiom of justice in the biblical religion: One does not rule one's likes, not even if they are inferior in all dimensions of moral excellence—and one does not ask to be ruled by one's likes, even if they are superior in all

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[15]I take it that this—and not Augustine's gloomy doctrine of hereditary sin— is the proper interpretation of their "fall," i.e., their coming into being as independent agents. The English "sin" is related to the Latin *sons* (literally "being," though usually translated as "guilty") and to the German *sein* and the Dutch *zijn*, both meaning "to be" (with no moralistic connotation whatsoever). That human being ("sin") is contingent and imperfect, and therefore different from God's being (*Yhwh*, often translated as "I am myself"), does not imply that a human being is morally bad. Augustine's moralisation of the difference may be an indication of the influence of the gnostic (manichean) idea that good and evil are not inseparable aspects of choice, but radically different and separable things or forces. See Th. Sinnige, "Gnostic Influences in the Early Works of Plotinus and in Augustine," in *Plotinus amid Gnostics and Christians: Papers Presented at the Plotinus Symposium Held at the Free University, Amsterdam, on 25 January 1984*, ed. David T. Runia (Amsterdam: VU Uitgeverij/Free University Press, 1984).

relevant respects.[16]

The expulsion from paradise was, therefore, a requirement of justice. After all, the justice of God's direct rule had depended on the inequality of the moral alertness of the Lord of the Garden and the unself-consciousness of the children who dwelled in it. To have continued the arrangement after the inequality had disappeared would have been the height of injustice. The expulsion was not so much a punishment for the sin of disobedience as the necessary and just price of coming of age and acquiring the power of moral discrimination. That expulsion, however painful and loaded with irrevocable consequences it may have been, was an act of justice and love comparable to that dramatic moment when parents tell their children for the first time that they should stand on their own feet, that love implies neither unconditional dependency nor unconditional obligation.

If, among likes, one's rule over others is out of the question, their relations can only be based on respect for one another's freedom—that is to say, on mutual independence and agreement—even if one is God and the other a mere mortal. Not surprisingly, the biblical religion is the religion of the *covenant*, of faith and trust rather than belief or knowledge. It implies the clear distinction between two separate spheres, one belonging to God, the other to human beings—between heaven and earth, the supernatural and the natural, eternal being and mortal life—each of them with its own reality, integrity, autonomy, and respectability.

God is the archetypal Other in orthodox Christianity, whence

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[16]The Old Testament does not leave that axiom's political implication in the dark: "Pray for thy servants unto the Lord thy God, that we die not: For we have added unto all our sins *this* evil, to ask us a king" (I Samuel 12:19). The same book (I Samuel 8:10–18) gives an account of what the rule of a king amounts to. It also reminds us that while human political ambitions may be blind repudiations of divine judgment, God cannot in justice step in to take command himself. His "reign" is based on the covenant, and hence on advice: "Hearken unto the voice of the people in all that they say unto thee, for they have not rejected thee, but they have rejected me, that I should not reign over them. . . . [H]owbeit yet protest solemnly unto them, and shew them the manner of the king that shall reign over them" (I Samuel 8:7, 8:9).

comes the fundamental ontological axiom of the biblical religion: man and God are not only distinct but also separate beings, yet are alike in that they both have a moral sense. Their relationship must be that of one independent being to another. This is even more true for relationships among human beings. If a human being is "like God," he is even more like any other human being.

The Ten Commandments stand as forceful reminders of the central importance of this axiom. They command men to respect the fact that they are not gods, the children of gods, or the makers of gods. The place of God is already occupied; no human need apply. The divinity of God's judgment is to be neither questioned nor appropriated by man. The commandments tell men to respect the fact that they are human beings brought into the world by human beings, their parents without whom they could not survive, and to respect the fact that they are all like one another, none of them having any prior right or claim to another or to what belongs to another. Thus, men are taught to respect the natural conditions of their existence, and to accept its limitations and constraints as well as their own fallibility. As such, frustration is no injustice.

The covenant is the only possible form that does justice to the separate existence and the likeness of all persons involved in the biblical story. They are all moral or rational agents, though not of the same quality or excellence. That fact defines the world's basic order (or law). It is an order that can be maintained only by mutual respect, not only between God and men but also among men themselves, regardless of their individual differences. As far as relations among men are concerned, it is the order of the natural world, the natural order or natural law. Respect for this order or law is justice, and, therefore, as the saying goes, justice shall be done lest the world perish. Thus, justice emerges as the fundamental virtue in dealing with others, because justice is simply respect for the natural order or law of the human world. If the analysis of that relationship is made in terms of the relationship between "I" and "Other," it is seen to be completely symmetrical. Every person, in his dealings with others, is at once "I" and "Other"—the words are fully interchangeable. Each person is to be taken seriously for what he is.

However, justice is not an easy virtue—not for men and not for God. Abraham had to prove his loyalty to the covenant by showing

his willingness to sacrifice his son: the obligation of justice outweighs even parental affection (Genesis 22:12). In his turn, Abraham had to remind the Lord (Genesis 18:23) that there is no justice in treating the inhabitants of Sodom as if they were indistinguishable parts of an undivided whole: "Wilt thou also destroy the righteous with the wicked?" Looking at the world of human beings from his distant seat, God may be inclined to think that "they are all the same"; they are not. No one is to be judged merely for belonging to a city, class, or group. The principle of solidarity is contrary to justice. Solidarity does not even count as a virtue, for virtue is directed toward other persons as such, not toward statistical artefacts.

It is, therefore, no coincidence that in the orthodox interpretation of Christianity, natural law is the basis for all speculations about human relations in this world. Justice, that is to say respect for natural law, implies respect for the freedom of one's likes, and for their propriety and property, as well as for their *iura* or covenants. Within this natural order, each person must bear his own responsibility, discharging it with love and care for himself and others, especially his children and parents. Love and justice are the foundations of Christian ethics, but it is justice that takes precedence; love is no excuse for injustice. All rules of conduct are to be evaluated in the light of justice, that is to say, for the contribution they make toward the maintenance, reinforcement, and, if need be, restoration of the natural order or law. However, only such rules as are fully attuned to that purpose are to be considered rules of law in the strict sense. An unjust rule imposes no lawful obligation.

To the central themes of natural law and justice, the orthodox interpretation adds another: Until the end of time, the separation of God and man will remain intact. Its message is sobering: The initial condition of the Garden of Eden is irrevocably lost. In their old age, individuals may return to a childlike condition of innocence, but senility is not a phase in the history of the species. There will be no return to paradise, no "kingdom of God on earth" in a literal sense—no new Messiah, no third testament.[17] Human beings *have* knowledge of the difference between good and evil, which is the

[17]This is crucially important to Christian orthodoxy. Jesus Christ is the one and only Messiah; he is not to be outdone by any newcomer.

presupposition of every act of choice, of which good and evil, or better and worse, are distinguishable but inseparable aspects. Therefore, human beings *cannot* in justice be subjects, not even of God or the Jesus of a Second Coming. There is no substitute for the natural human condition.

THE MILLENARIAN CHALLENGE

It is precisely this theme of irrevocable separation of God and man and its cognate theme of the inseparability of good and evil that are denied by millenarian or chiliastic versions of Christianity. Taking literally the vision of the Book of Revelation, they look forward to a return to paradise, a restoration of a condition of life in which frustration is not to be feared because all burdens of choice will be borne again by God himself. The Tree of Life dominates the landscape (Revelation 22:2) of that "paradise regained," but the Tree of Knowledge of Good and Evil is conspicuous only by its absence.

With the expectation of a Second Coming that will not signal the end of time, but only the end of the bad times and the beginning of the good times, the millenarian imagination is driven to reject the permanent value of the natural law of human existence. Human life is viewed only as a transitory condition, and one that cannot pass too quickly. Rather than concentrate on the problems of survival in this world, men should eagerly await or even help to usher in the new era of bliss. In whatever form, withdrawal from the world, antinomian excess, or revolutionary violence, the proper conduct aims to undermine the basic institutions of the world as it is.

The promise of an infinitely better future, not respect for the natural law of this world, guides the behaviour of true believers during their earthly pilgrimage. To be rejected are established churches, along with the institutions of science, property, trade, art, money, and even the family. Because they are the pillars that sustain the natural order, they have no place in the New Jerusalem, where all men will be brothers enjoying life without death, in blissful community without care or need, under "the Throne of God and the Lamb."

Millenarians not only hold out the promise that the separation

between God and men will eventually be undone, at least for the righteous, but some also hold the view that the separation was never complete. The divine spark glows within the heart and soul of those who, because an "inner light" guides them, can do without the conventions of this world. Any one of these could be the next Messiah, the author of a third and final Testament.[18]

From the perspective of moral philosophy, millenarianism differs from orthodox Christianity in that it rejects the latter's basic presupposition of the separateness of persons, and with it the idea that the true religion—what holds the world together—is the covenant. Instead, it assumes a mereological account of human existence, i.e., an account in terms of a whole and its parts. Just as the original Adam had no separate existence, but was merely a subordinate part of the divine household, so, too, will the righteous regain that original condition in the New Jerusalem of the Millennium. The loss of their temporary status as independent but cursed persons is the necessary condition for their liberation from all evils and miseries of their sojourn outside God's kingdom.

God is still the archetypal significant Other, just as he is for ortho-dox Christianity—a distinct entity. In the final analysis, however, he is no longer a separate being; rather, he is the whole of which every righteous person is to be an inseparable part. Religious ethics are governed here by the desire to lose one's personal identity in submitting to God. The human being is nothing; God is all. Similarly, the social ethic of millenarianism is one of extreme altruism. The relationship between one person and another is no longer conceived of in terms of the meeting of two free and equal persons, but of the submission and service of the I to the Other. As Wynstan H. Auden caustically remarked, "We are all here on earth to help others; what on earth the others are here for, I don't

[18]This view would eventually define the other side of "the Enlightenment," the side that was not content to celebrate the progress of science, technology, and the rational appraisal of human affairs, but that claimed instead to be the foreboding of that final stage of world history in which everything would be made new and true to its ultimate destiny. See, e.g., Frances Amelia Yates, *The Rosicrucian Enlightenment* (London: Routledge and Kegan Paul, 1972).

know."[19]

In the chiliastic view, the normative validity of a rule of conduct is not a consequence of its relation to natural law. It derives instead from its relation to something that does not but should and will exist—not from its relation to the natural order but from its relation to an ideal order. The concept of law itself is then imbued with normative meaning. It no longer describes the objective reality to which all sane men have access by the ordinary powers of the senses and of human reason. It projects instead a vision that derives its normative significance from its distance from the natural law. The natural world is reduced to being just one among many possible worlds—and one of the least attractive. From the perspective of the philosophy of law, this is a fateful turn. It marks the shift from the idea that jurisprudence and legislation are the art of inducing respect for one's likes, their being, deeds, words, and works, to the idea that they are tools for reconstructing society according to some grand notion.

THE GNOSTIC CHALLENGE

Gnosticism also denies the separateness of persons, but in a far more radical way than does millenarianism. Gnostic religions typically assert the identity of Man and God, or at least the divine nature of Man, who is then represented as an aspect of the divine. What gives meaning to human existence is the divinity of Man, of his origin and his destiny. The material, historical world obscures that fundamental truth, but cannot destroy it. Gnosticism is a religion of liberation from this world—a liberation that is the common purpose of all men who have knowledge (*gnosis*) of the truth. Therefore, gnosticism is radically opposed to the religion of the covenant, which holds that every moral being has his own rightful place and sphere of life and freedom in this world.

In the original gnostic myths, the God of the Old Testament, code-named the Demiurge, is placed far below Man in the hierarchy of the divine, far below the true God who, being all and nothing

[19]W.H.Auden, *The Dyer's Hand, and Other Essays* (New York: Vintage Books, 1968), p. 14.

simultaneously, transcends all dimensions of thought, existence, and personhood.[20] The God of Moses is the villain of the piece, an evil-minded or at best clumsy imitator of the true God. His crime is to have captured the divine spirit of Man in the material world. Thus, the "true Man" lives in captivity in the earthly realm created by that false God of matter. There, Man can live only the life of a finite, mortal, particular individual, whereas his true nature is that of an infinite, immortal, universal being. Human procreation and worldly institutions such as the family and private property further serve to scatter the divine element among its material containers, thus exacerbating men's alienation from their true nature and forcing them into ceaseless conflict.

However, some men still have communion with their original divinity. They are the "pneumatikoi," conscious of their divine origin and intent on awakening their fellows from their dogmatic slumber. For it is part of the gnostic belief that, once men regain consciousness of their true self, they can recapture the infinite potential that is their divine right. The basic motto of gnosticism is "To know oneself is to know all."[21] In the final analysis, the divine self is the only true reality: it is Man himself, the universal ego. This Man with a capital M is, of course, not the same as human beings who crawl around on this earth. He is truly real, while they have at best only an illusory sort of being.

The gnostic denounces as bad and wrong whatever the Old Testament pronounces good and right. The world of nature and his-

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[20]See, e.g., F. Wisse, trans., *Apocryphon of John,* Nag Hammadi & Manichean Studies 33 (Leiden, 1995); also, J.M. Robinson, ed., *The Nag Hammadi Library in English* (San Francisco: Harper, 1990). The true god is referred to as the "shape of light," but defined only negatively: without beginning, without need, without life, without name, beyond perfection, unlimited, beyond differentiation, immeasurable, invisible, ineffable, neither embodied nor unembodied, without quantity or quality. See G. van Groningen, *First Century Gnosticism: Its Origins and Motifs* (Leiden: E.J. Brill, 1967). For a recent discussion, see Peter Koslowski, *Gnosis und Theodicee: Über der Leitenden Gott des Gnostizismus* (Wien: Passagen Verlag, 1993).

[21]See J.-P. Mahé, ed., *Hermès en Haute-Egypte* (Québec: Peeters, 1982), vol. 2, p. 393.

tory has to be destroyed or overcome because it is an illusory form of existence—a lie. It is the creation of a false god whose powers are far inferior to those of Man himself. The God of the Bible is no more than an arrogant fool, an insignificant part of Man that believes itself to be the whole. Worse fools still are those who worship that false God, because they project the divine outside themselves while it is hidden in their souls. They live in a state of self-inflicted self-alienation.

The proper attitude for Man is to destroy the illusion that there is anything significant outside himself, e.g., a God who is a significant Other, or any person who could claim to be separate and distinct. To destroy that illusion, it is necessary to see that every person who, on the surface, seems to be another, is really only a part of oneself. That is the attitude of universal egoism: *I*, the universal Man, am everything; nothing is apart from me. Its necessary mirror image is the unconditional altruism of any other, who must per force be an insignificant other. He can have no *raison d'être* except to serve the exalted ego of the universal Man. In that sense, the gnostic tradition of the universal ego is complementary to the millenarian tradition of submission and service. However, the millenarian "I serve you" is compatible with voluntarism. If it smacks of the morality of slaves, it is still voluntary slavery. On the other hand, the gnostic "You serve me" leaves no room for voluntarism at all. That Christianity, to the gnostic, is a morality of slaves or *Untermenschen* is an inevitable implication of his egomania. It is not so much a comment on Christianity as on himself. Indeed, the religious logic of gnosticism starts from the assumption that there is, in the final analysis, nothing else to comment on.

MARX AS GNOSTIC

The basic themes of the previous section—alienation and awareness of self, inversion of the categories of reality and illusion and of life and death, opposition between the particular and the universal man—are brought together in the gnostic text best known to students of political philosophy: Marx's indictment of religion in his "Toward the Critique of Hegel's Philosophy of Law." The text teems with gnostic themes and keywords:

> And indeed, religion is the self-awareness and self-regard of man who either has not yet found or has already lost himself again. But [this] man is not an abstract being, crouching outside the world. Man is the *world of men*, the state, society. This state, this society, produce religion, which is an inverted world consciousness, because they are an inverted world. Religion is the general theory of that world, its encyclopaedic compendium, its logic in popular form, its spiritual point of honour, its enthusiasm, its moral sanction, its solemn complement, its general ground of consolidation and justification. It is the realisation in fantasy of the human being because the human being possesses no true reality. The struggle against religion is therefore indirectly the struggle against that world whose spiritual aroma is religion.
>
> Religious misery is in one way the expression of real misery, and in another a protest against real misery. Religion is the sigh of the afflicted creature, the soul of a heartless world, as it is also the spirit of spiritless conditions. It is the *opium* of the people. The abolition of religion as the illusory happiness of the people is the demand for their real happiness. The demand to abandon the illusions about their conditions is *the demand to give up a condition that requires illusions*. Hence criticism of religion is in embryo *a criticism of this vale of tears* whose halo is religion.[22]

In a sense, Marx is the ultimate gnostic in that he turns not only the Bible on its head, but also the hierarchy of the spiritual and the material, a hierarchy common to both the Judaeo-Christian and the original gnostic traditions. For him, the universal Man is no longer a mystic vision but the human species itself. As the universal Man, the species will come into its own when all men and women, upon discovering that they are one with the species as a whole, divest themselves of their own particular individuality.[23] That is the religious essence of his communism. It stands for the end of the world of history and nature as we know it—the world in which the spe-

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[22]Quoted in Saul K. Padover, *Karl Marx on Religion* (New York: McGraw-Hill, 1974), p. 35, emphasis in original.

[23]This is the sense of Marx's "humanism" that made him so appealing to a peculiar sort of humanist.

cies is still scattered among many different particular individuals and therefore divided against itself.

Marx's life-long diatribe against the division of labour and the institutions of family and property in which it is realised is further testimony to his gnosticism. In the final stage of communism, Man will have complete control of all the social and natural conditions of his existence. He will be the author of Man and of Nature as well—he will become the self-sufficient, self-creating God that it was his destiny to be, conscious of his omnipotence, liberated from anyone and anything that might oppose him.

The gnostic has no use whatsoever for an ethic of genuine love and justice. For him, love can only be self-love.[24] Natural law is not something to be cherished and respected. On the contrary, it is the *bête noire* of gnosticism, because natural law stands precisely for that condition of separation and alienation from the divine in which mankind is nothing but a seething mass of particular indivi-duals. Particular men and women are of no account except to the extent that they are swept along in the process of Man's increasing consciousness of his ultimate destiny.

It is not surprising, therefore, that Marx, in his famous essay "On the Jewish Question,"[25] heaped nothing but scorn on the notion of natural rights, i.e., the rights of natural particular individuals that we know through direct empirical and historical observation. To these natural rights, he opposed Rousseau's "rights of the citizen," which belong to a person only insofar as he is a citizen, i.e., a part of a larger whole, the state. According to Rousseau's social contract, every man unreservedly unites himself, his rights, and his possessions with every other, holding back nothing from the community that is to be their common ego (their *moi commun*).[26] By

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[24]G.K. Chesterton, *Orthodoxy* (New York: John Lane, 1908), p. 242, gives an amusing comment on the doctrine of love implied by the notion of the Universal Ego as defended by the ubiquitous and indefatigable Annie Besant (atheist, Fabian, and finally head of the Theosophical Society until her death in 1933).

[25]See Padover, *Karl Marx on Religion*, pp. 169–92.

[26]Jean-Jacques Rousseau, *Du Contrat social* (Amsterdam: M.M. Rey, 1762), book I, chap. 6.

doing so, every man abjures his natural humanity and commits himself to be a citizen, a communal being— a *Gemeinwesen*, to use Marx's term. The true citizen *is* the state, partaking in the exercise of its sovereign legislative power, governing not just himself but all other citizens as well—and doing so without threatening their liberty. Indeed, in making laws, the true citizen only gives expression to the general will, which is, by definition, the same for all citizens. Obviously, then, as Rousseau never tired of insisting, citizenship is the legal form of the final solution to the problem of interpersonal relations in politics. Indeed, for the citizen as such, there are no such relations because the whole of politics is to be internalised within the single person of the state, which is the common ego of all citizens. Of course, as long as citizenship remains no more than a game people play, a mere legal form, the real problem of politics subsists. To solve it, it is necessary to "change human nature" so that citizenship becomes the real nature of man.[27]

From Marx's point of view, the most attractive feature of the rights of the citizen was that they presented a pure form of communist unity, even if Rousseau had meant them to apply only to the political activities of men. Thus, unless Rousseau's rights of the citizen were extended to cover all aspects of human life, they could be no more than a halfway house of political emancipation, not the ultimate destiny of total liberation. Therefore Marx's true communist Man could be no less than the whole of humanity, a species-being or *Gattungswesen*. Marx's communism stands for the complete obliteration of the particular individual in the all-encompassing universal individual whose interests and will are one with the interests and will of the species as a whole. Such obliteration and unity are necessary to make Man whole again, after having been separated from and divided against himself for so long in the natural and historical world.

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[27] Rousseau, *Du Contrat social*, book II, chap. 6. As Shaw put it: "The only fundamental and possible Socialism is the socialisation of the selective breeding of Man: in other terms, of human evolution. We must eliminate the Yahoo, or his vote will wreck the commonwealth." See George Bernard Shaw, "The Revolutionist's Handbook," appendix to *Man and Superman: A Comedy and a Philosophy* (Middlesex, England: Penguin, 1977), p. 245.

THE POLITICS OF LIBERATION VERSUS THE POLITICS OF LIBERTY

The political tendency of gnosticism should by now be clear. On one level, it may be no more than a promise of individual spiritual liberation, but in its most potent form it is a religion of collective unity. This aspect of gnosticism is hidden by its ubiquitous references to the human person, his ego, and his liberty, which give it an air of liberal individualism.[28] However, the references are to the universal individual, the species-being, not the particular individual like you or me. In this sense, "the liberation of the individual" is not the same thing as individual liberty in the classical liberal sense. It is not the freedom of any individual to dispose of his property without being subject to coercive or aggressive interference by others and without subjecting others to such interference. It stands instead for the liberation of the universal individual from all limitations and constraints of this world of scarcity, plurality, and diversity.

Again, it was the young Marx who most clearly stated the essence of the philosophy of liberation (and, by implication, its difference from the liberal philosophy of individual freedom). In *German Ideology, Part I*, he wrote that, under communism, "I can do what I want . . . while society takes care of general production." Marx did not specify how society will take care of general production and who will actually do the work, but it is safe to say that society here is the Insignificant Other: the organised mass of nameless others that is to be made subordinate to the universal individual so that he can enjoy his life without care or worry. The liberated individual, after all, has full control of the social and natural conditions of his existence. He is the master, society is his servant; he exists for his own sake, it exists only for the sake of satisfying his needs and wants.[29] The full socialisation of all others is the precondition of his

[28]My teacher, the late Dr. Leo Apostel, always wondered why I, as a libertarian, could not see Marx as a "kindred spirit" as much concerned with human liberty as any philosopher.

[29]Marx and Engels wrote that those who entered through the gate of a factory should renounce all autonomy. As producers and workers, men partake in "the realm of necessity" where they can have only a heteronomous

autonomy. We are very close here to the modern "welfare individualism" of he who assumes that the world owes him a living, and that he is entitled to do what he wants at the expense of the anonymous masses that must be mobilised and controlled for the sake of his "dignity."

There are echoes of such a liberationist philosophy and its social implications in John Stuart Mill's distinction between production and distribution.[30] Production is supposed to be a more or less automatic process governed by fixed laws of nature; distribution is a free moral activity with no other purpose than to give individuals access to what is socially produced. The same distinction between "the autonomous individual" and society as an anonymous force pervades his *On Liberty*, although, in that grossly overrated booklet, Mill typically tries to embrace both sides of the issue. On the one hand, "the individual is not accountable to society for his actions insofar as these concern the interests of no person but himself." On the other, "for such actions as are prejudicial to the interests of others, the individual is accountable and may be subjected either to social or to legal punishment if society is of the opinion that the one or the other is requisite for its protection."[31] Apart from the hypostatisation of "society," note here Mill's acceptance of the irremediably vague, subjective, and relativistic notion of "an interest" as the criterion for the legal use of violence and coercion. There is little here to remind us of the natural-law philosophy of classical liberalism, which finds expression in the precise categories of law: person, property, contract, liability. Those categories are rooted in the physical or natural aspects of human beings, but Mill has no use for them.

If a person's sphere of individual liberty comprises only those actions not "prejudicial to the interests of others," its extent is not

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existence. This remains true in the early stages of communism, before the advent of total liberation in "the realm of freedom." See Karl Marx and Friedrich Engels, "On Authority," in *The Marx-Engels Reader*, 2nd ed., ed. Robert C. Tucker (New York: W.W. Norton, 1978), pp. 730–33.

[30]John Stuart Mill, *Principles of Political Economy*, 7th ed. (London: J.W. Parker, 1870), book 4, chap. 6, section 7.

[31]John Stuart Mill, *On Liberty*, 4th ed. (London: Longman, Roberts, & Green, 1869), chap. 5.

determined by any objective fact about that person in his relation to others, but by whatever it is that others claim as their interest. Clearly, an individual's liberty cannot be part of his social existence. To the extent that he is free, a human being is not part of society. Conversely, the autonomous individual as such has no social obligations toward others, yet the coercive power of the state should hold them to respect his other-worldly autonomy.

The basic message of Mill's *On Liberty* is liberationist, not liberal or libertarian. However, it had enormous impact, changing the style and substance of liberal discourse. It enthroned the antagonistic dualism of "the individual versus society" which classical liberalism had always been at pains to deny. According to Mill, society, that mass of anonymous others, rests on a mere conventional morality that requires nothing but an "ape-like faculty of imitation," whereas the autonomous individual "employs all his faculties."[32] The basic symmetry between the "I" and "the Other," which is the solid foundation of natural law, is replaced by an uncompromising hierarchy. Whatever Mill's intentions may have been, there can be little doubt that he helped usher in the "progressive" attitude that would soon dominate "enlightened opinion." If the confrontation between Man and apes is really the central issue of political philosophy, then perhaps the state should control or even replace society to make the world safe for true "individuality." In that case, social control and the regimentation of society—not law and justice—should be the primary concern of politics.[33]

GNOSTICISM AS THE RELIGION OF THE MODERN INTELLECTUAL

As the comments on Marx and Mill illustrate, gnosticism is not merely a phenomenon of the first centuries of the Christian era. Amid the religious crises and divisions of the later Middle Ages and

[32]Mill, *On Liberty*, chap. 3.

[33]It is a tragedy that, at the time, no one rose to criticise Mill's romantic individualism from the perspective of classical liberalism. Almost all of his contemporary critics were social and religious conservatives who could not have been happier with any other target. If his liberationism was the essence of liberalism, they could feel free to regard liberalism as an enemy.

the Renaissance, gnosticism made a remarkable comeback, especially among intellectuals—ordinary folk were more easily attracted to millenarianism, which also resurfaced with a vengeance in those critical times.[34]

Archetypal Renaissance intellectual Giovanni Pico della Mirandola, who considered that "mankind contains all things in itself as their centre," wrote, "To [man] it is given to have what he wishes, to be what he wants."[35] Moreover, "the intellective soul in all people is one."[36] Jakob Böhme (1575–1624), perhaps the most influential gnostic of early modern times, announced the themes that would receive rigorous elaboration in Hegel's dialectic of the Spirit.[37]

Gnostic influences have been identified in many great system-building philosophies from Spinoza to Hegel and beyond, and in other attempts to spell out the gnosis systematically in logical and rational terms. By the beginning of the nineteenth century, gnosticism had already established itself as "the third component of the European cultural tradition"[38]—and its fortunes were rising.

The ambiguity of the Ego, at once the universal force of humanity and the secret resource of the divine in the individual soul, proved to be a fruitful asset in the competition for intellectual dominance. Its manner of dispensing with a personal God—the Great Magician, as he was sometimes called—made gnosticism appealing to those who looked with amazement and hopeful expectation at

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[34]Violent outbursts of millenarianism had occurred in the fifteenth century among the so-called Taborites in Bohemia, and a century later in Münster in Germany. See Norman Cohn's classical study, *The Pursuit of the Millennium: Revolutionary Millenarians and Mystical Anarchists of the Middle Ages*, rev. ed. (London: Pimlico, 1993).

[35]E. Garin, ed., *Giovanni Pico della Mirandola: De Hominis Dignitate* (Florence, 1942), p. 106.

[36]B. Kieskowski, ed., *Giovanni Pico della Mirandola: Conlusiones Sive Theses* (Geneva, 1973), p. 34.

[37]See David Walsh, *The Mysticism of Innerworldly Fulfillment: A Study of Jacob Böhme* (Gainesville: University Presses of Florida, 1983).

[38]G. Quispel, *Gnosis: De Derde Component van de Europese Cultuurtraditie* (Utrecht: HES, 1988).

the man-made miracles of scientific progress and the awesome powers of the secular state. Surely, here was proof that "Man is the Temple of the Holy Ghost."[39] On the other hand, gnostic themes of liberation from the constraints of nature and society would resonate in a plethora of romantic and existentialist notions of individuality and autonomy.

Having survived as an esoteric religion in the most diverse circumstances, gnosticism was adept at presenting its basic teachings in the most varied forms. Marx could and did with equal ease clothe his version of it in the garbs of Hegelian dialectic, French revolutionary socialism, and British political economy. He might well have tried to adapt Darwinism to his purposes if he had not lost the energy to continue his theoretical enterprise.[40] Gnosticism could exist and thrive as a sectarian conspiracy of the cognoscenti, and, when the time was ripe, as "an open conspiracy."[41] Without the hoopla of church rituals and reliance on canonised dogma, it could easily provide a religion that would appeal to sophisticated intellectuals. It had absorbed elements from the evolutionary or progressive versions of Christian millenarianism that had come into vogue in the seventeenth century after the earlier disastrous episodes of revolutionary or apocalyptic millenarianism.[42] Above all, it had skillfully blended the contemporary experience of undeniable

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[39] Shaw, "Revolutionist's Handbook," p. 217.

[40] Darwin's *Origin of the Species* appeared in 1859, and his *The Descent of Man* in 1871. By the publication of the first volume of *Capital* (1867), before he turned fifty, Marx had apparently stopped working on his "system," never producing the answers he had always claimed he had to any critical question about it. See W.O. Henderson, *The Life of Friedrich Engels* (London: Frank Cass, 1976).

[41] H.G. Wells coined the phrase in *The Open Conspiracy: Blueprints for a World Revolution* (London: V. Gollancz, 1928). Wells was a prominent member of the Fabian Society and a Labour Party M.P. as well as the author of many popular books, among them the ultimate gnostic utopian novel *Men like Gods* (New York: Macmillan, 1923).

[42] Daniel Whitby's evolutionary interpretation, *Paraphrases and Comments on the New Testament*, appeared in 1703. On Whitby's work, see, e.g., Augustus Hopkins Strong, *Systematic Theology*, 7th ed. (Philadelphia: A.C. Armstrong & Son, 1902), p. 1014.

material progress with its own vision of the inevitable and now imminent end of the natural order and the particular individuals that constitute it.

In the late nineteenth century, religious views fundamentally opposed to the notion of natural law came to dominate the intellectual scene. In the United States, millenarianism, with its stress on voluntary service, may have been the dominant force.[43] In Europe, gnosticism, with its cruel or at best condescending attitude toward others, became for many intellectuals an almost self-evident religion. It was supported by various esoteric currents of thought—theo-sophy, anthroposophy—and what Sir Karl Popper would call pseudo-sciences[44]—psychoanalysis and, of course, Marxism. It was also, perhaps less self-consciously, supported by that curious mixture of hard determinism and ethical relativism that was then about to become the ruling paradigm of a scientific and rational outlook for many intellectuals. By the dawn of the twentieth century, gnosticism had become the main ingredient of the secular religion of the European version of the Progressive Era. Within the space of a few decades after Nietzsche's announcement of God's death, gnosticism would claim to be the universal religion of Man and the definitive form of scientific evolutionism.[45] Among Western intel-

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[43]See, e.g., Hans F.M. Crombag and Frank van Dun, *De Utopische Verleiding* (Amsterdam: Contact, 1997); Paul T. Philips, *A Kingdom on Earth: Anglo-American Social Christianity 1880–1940* (University Park: Pennsylvania State University Press, 1996); E.L. Tuveson, *Redeemer Nation: The Idea of America's Millennial Role* (Chicago: University of Chicago Press, 1968); and G.M. Marsden, *Fundamentalism and American Culture* (Oxford: Oxford Universty Press, 1980). Utopian socialist Edward Bellamy, one of the most successful and popular critics of the "American system," attributed the coming of the next revolution of American society—in fact, the restoration of God's kingdom on earth—to another Great Awakening. He did so in his *Equality* (New York: D. Appleton and Company, 1897), the less successful sequel to his immensely popular *Looking Backward, 2000–1887* (New York: Houghton, Mifflin, 1887).

[44]Karl Popper, *Conjectures and Refutations*, 4th ed. (London: Routledge & Kegan Paul, 1972), pp. 37–39.

[45]Most notably in *Gnosis als Weltreligion* (Zürich: Ortigo Verlag, 1951) by Gilles Quispel, the doyen of students of gnosticism; and in Pierre Teilhard de Chardin's *Le Phénomène Humain* (Paris: Editions Seuil, 1957). Teilhard's work was praised as "an act of spiritual liberation" and "a vision of

lectuals, "the logic of the world in popular form" would never be the same.

Instead of the symmetry of "I" and the "Other" of the natural order, the moral ontology of gnosticism postulates a fundamental asymmetry. The individual is either denigrated as an insignificant other, a nameless part of the grand whole of society, or exalted as the fully autonomous universal ego for whose sake everything else is supposed to exist. Taken together, such mutually inconsistent views offer a golden opportunity for the demagogic use of moral language. That opportunity was not lost either, a fact that the history of the last century amply illustrates.

Moreover, the gnostic asymmetry decisively affected the attitude of intellectuals in their studies of man and society. Assuming that they stand in the same relation to their objects of investigation as natural scientists to their gases and molecules, they create the gap between themselves as autonomous persons and the anonymous insignificant others who are merely social matter, without any real personal being, destiny, or purpose. That gap is the precondition for their social science and technology. It allows them to study others by means of statistics and mechanistic models, and to manipulate them by the careful administration of incentives. In this way, intellectuals and social scientists can maintain their comforting belief that the norms and values that constitute their own community of inquiry, argumentation, and criticism have no application in the world of others. Because the latter are not on their level of being, relations with them cannot be personal; with them, no genuine dialogue is possible. Here is perhaps the fundamental reason why modern intellectuals and social scientists are all too willing to concede that they should respect one another as free and equal persons without having any recourse to violence, theft, or fraud, while simultaneously refusing to accept that other people's natural rights are equally respectable. The dialectical validation of the respectability of the natural rights of others—which can be achieved only in a real face-to-face discussion—makes no sense to the modern intellectual because, however much he may argue

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unity [that] meets a spiritual need of our time" by Arnold Toynbee, as quoted in N.M. Wildiers's introduction to *Het verschijnsel mens* (Utrecht/Antwerp: Het Spectrum, 1960), D. de Lange's Dutch translation of Teilhard's controversial work.

intellectual because, however much he may argue *about* them, he never argues *with* them.[46]

THE DECLINE OF NATURAL LAW AND LIBERALISM

Toward the end of the nineteenth century, liberalism was on the defensive, and, indeed, on its way to defeat in the ideological arena. Complacency and intellectual laziness on the part of liberal thinkers certainly played a role in this process, as did an unfortunate conformist disposition to try to latch on to any intellectual fad that caught the public's eye. Liberals had a tendency to identify themselves with the status quo of bourgeois society even while the status quo became increasingly characterised in terms of the political doctrines of democratic sovereignty, republicanism, and "political rights" of the citizen in the nation-state.

The French Declaration of the Rights of Man and Citizen of 1789 had still insisted that the state is only a means for the better protection of the natural rights of human beings.[47] The citizen was no more than a "legal person," a means designed to that end. However, a century later, Rousseau's republicanism, with its collectivist notion of popular sovereignty and its identification of the state and the citizen, carried the day. In the republican conception, the rights of the citizen were all; the natural rights of men were nothing. However, the citizen as such is no more than an empty legal form. To give it some substance, men and women had to be educated, trained, indoctrinated, and programmed to unconditional loyalty to the state, its laws, and its "general will." According to the

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[46]On the dialectical validation of natural rights, see note 10 above. The modern attitude represents a radical break with the tradition of classical humanism that held that speech and argumentation are the proper form of human interaction, not just among the intellectual elite but among all men and women. See, e.g., Cicero, *De Ira*, book 2, chap. 31.

[47]Art. 2: "Le but de toute association politique est la conservation des droits naturels et imprescriptibles de l'homme. Ces droits sont la liberté, la propriété, la sûreté et la résistance à l'oppression." ("The end of every political association is to preserve the natural and life-long rights of man. These rights are freedom, property, security against arbitrary arrest, and resistance to oppression.")

republican philosophy, only the state could and should provide that kind of education.

But what sort of liberalism was it that shifted the state's role from one of protecting the natural order of conviviality to one of shaping men's minds and controlling their political views? By the end of the century, the rhetoric of natural rights had all but disappeared, and few liberals were protesting. In its most visible political manifestation, as the ideology of a party seeking power, liberalism had surrendered to republicanism. Today, the rhetoric of political liberalism is much more at ease with "the citizen" than with "the natural person."[48]

Utilitarianism, historicism, Darwinism, and other fashionable currents of thought also made inroads into the natural-law philosophy of classical liberalism. In the utilitarian scheme, the natural rights of individual persons were no longer regarded as hard constraints on political action. Rather than law and justice, which pertain to what people do to one another, statistics became the touchstone of policy—but statistics rely on gathering data about people and then aggregating and organising them into databases that obliterate the people whose data they are. The utilitarian's concern is not with persons but with disembodied "needs and wants" that he can arbitrarily describe as "social needs and social wants." In the same way, opinions and expressions of preference can be collected, separated from the people who have them, and transformed into "public opinion" and "social choices."

Historicism and social-Darwinism provided a spurious philosophical and scientific respectability for the idea of a law of progressive evolution according to which conditions are bound to get better and more perfect. It was easy to link this conception of a superhuman involuntary process of progressive evolution to a new conception of rights according to which every human being is as much entitled to the fruits of that progress as any other. Marx's vision—a world in which "I can do what I want . . . while society takes care of general production"—was fast becoming a commonplace. Soon, the natural rights of human beings were to be replaced by that ever-multiply-ing mass of "human rights"—rights to everything de-

[48]E.g., the various "Citizen Manifestoes" produced by Guy Verhofstadt, leader of the Flemish "liberal party" and now prime minister of Belgium. He changed the name of that party from "Party for Liberty and Progress" to "Flemish Liberals and Democrats."

sired and assumed to be available somewhere.

On another front, the increasing popularity of various versions of psychological and sociological determinism began to erode the notion of the human being as a moral agent. The idea that the human being was nothing more than a medium through which impersonal forces exert themselves took its place. Psychologists and psychiatrists were beginning to sing the praises of a "world beyond good and evil" in which men would have "liberated themselves from these moral chains."[49] Was it not the knowledge of good and evil that stood between us and paradise—or between us and Nietzsche's *Übermensch*?

Epistemological relativism and positivism sealed the fate of the philosophy of natural law. In the final analysis, the progressive mind had no use for such notions as "objective truth" and "reality," which it was wont to regard as the hallmarks of unsophisticated or even reactionary thinking. If there is no reality out there, then there are no real distinctions—all distinctions are artificial, conventional. Consequently, there can be no natural order or law; all law is artificial, conventional. Hence, the general formula of positivism: things are what they are said to be—and the formula of legal positivism in particular: the law is what is said to be law. However, if in theory every opinion is as good as any other, in practice the right to define can only be a prerogative of the ruling opinion, the opinion of the powerful.[50] Only their opinion is "objective"; every other opinion is merely "subjective"—it might be tolerated, but is not to be taken seriously.

The idea that theories and social organisations are human con-

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[49]Most famously B.F. Skinner, *Beyond Freedom and Dignity* (New York: Alfred A. Knopf, 1971); but see also G.B. Chisholm, "The Re-establishment of Peacetime Society," *Psychiatry* 9 (1946), from which the quotation is taken. Chisholm was later to head the World Health Organisation.

[50]In theoretical jurisprudence, this position is particularly associated with Hans Kelsen's Pure Theory of Law—see his *Reine Rechtslehre* (Wien: Mohr, 1960)—but it survived in a modified and milder form in H.L.A. Hart's *The Concept of Law* (Oxford: Oxford University Press, 1962), and even in the writings of Ronald Dworkin. In sociology, it is associated with the famous Thomas Theorem, which holds that "a situation defined as real is real in its consequences."

structs that should therefore be subjected to stringent criticism gave way to the idea that human individuals are theoretical or social constructs without any reality of their own. How can the ruling theories and powerful social organisations be put to the test of reality if they *define* what is real and what is not? With progressive intellectuals in charge of producing the ruling opinion in schools, the media, and public administrations, who would be bold enough to criticise it? Eventually, philosophy—once the art of dialogue in the critical pursuit of truth—became mere "conversation,"[51] a trivial pursuit of nothing in particular.

LIBERALISM WITHOUT NATURAL LAW

The denial of natural law is not without its consequences. If the order of the human world is not to be determined by the natural distinctions in a world of separate persons of the same kind, it must be determined by the artificial distinctions produced by partisan ideologies. If order is not to be determined by freedom and equality, it must be determined by servitude or inequality. If the proper relationship of the "I" to the "Other" is not the symmetrical, reciprocal, and horizontal relationship of *ius* or covenant, it must be the asymmetrical, hegemonic, and vertical relationship of command and obedience. If interpersonal relationships are not to be based on respect for others, that is to say, on justice, then they will be based on disrespect and injustice.

Unfortunately, over the past century, only a few liberals rose to meet the frontal assault on the moral ontology that was once the foundation of their outlook. Classical liberalism was gradually displaced by various subjectivist and positivist notions that linked liberty to, among other things, an opportunity to do what one wants, a commitment to democracy and constitutional government, a preference for the market, or even some progressive policy mix favouring economic growth and personal autonomy from social relations. As a result, today, liberal thought is mainly reduced to fighting its intellectual battles with an arsenal of weapons devised by and for its

[51]See, e.g., American post-modernist and would-be post-philosopher Richard Rorty, *Philosophy and the Mirror of Nature* (Princeton, N.J.: Princeton University Press, 1979).

opponents.

With the exception of some neo-Aristotelians,[52] most liberal writers on ethics appear to have abandoned the agent-relative objectivism, i.e., the reality of the person, of the natural-law philosophy for a situation-relative subjectivism that makes the satisfaction of desire into the one moral absolute. Writers on politics and law are so fixated on proving their liberalism by their support for "human rights" that they often fail to see that human rights, unlike natural rights, are really claims to the service of others—claims that must be weighed and rationed by a powerful government capable of mobilising the services and resources of all. "Taking rights seriously" all too often appears as an excuse for not taking persons seriously. Whereas natural rights touch politics at the constitutional level, defining its place and role in the natural order of conviviality, human rights operate at the level of policy-making. They provide at best a basis for criticising the efficiency and style of the government, but they do not constrain the scope of its coercive and managerial actions. In fact, every human right implies a duty of the government to interfere on its behalf. In that sense, the right to government intervention is the most fundamental, and, in any case, the most stable right in the ever-expanding catalogue of human rights.

Most liberal economists, with the exception of certain adherents of the Austrian school, seem quite happy engaging in the game of ingenious model-building in which human relations are reduced to impersonal mechanisms for the satisfaction of disembodied wants and needs. The mythical and perennially shifting concept of efficiency is everywhere; justice—once the defining characteristic of economic (as opposed to criminal or political) action—is no-

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[52]E.g., Tibor Machan, *Human Rights and Human Liberties* (Chicago: Nelson Hall, 1975); Tibor Machan, *Private Rights and Public Illusions* (New Brunswick, N.J.: Transaction Publishers, 1995); D.B. Rasmussen and D.J. Den Uyl, *Liberty and Nature: An Aristotelian Defense of Liberal Order* (LaSalle, Ill.: Open Court, 1991); D.B. Rasmussen and D.J. Den Uyl, *Liberalism Defended: The Challenge of Post-Modernity* (Cheltenham, U.K.: Edward Elgar, 1997); Eric Mack, "Moral Individualism and Libertarian Theory," in *Liberty for the Twenty-First Century*, ed. Tibor Machan and D.B. Rasmussen (London: Rowan and Littlefield, 1995); and Van Dun, *Het fundamenteel rechtsbeginsel*.

where to be found.[53]

The lack of a clear conception of natural law is most evident in the present fascination with "efficiency" and "efficient organisation" as end-all arguments that seem to prevail in the rhetoric of economic liberalism and free-market economics. It takes a supine view of such basic institutions of modern capitalism as fiat money, fractional reserve banking, and the large corporation—even if the suspicion re-mains that such institutions are the privileged creatures of political legislation, not of law.[54] They have, indeed, turned out to be effective and flexible tools for socialising capital and the work-

[53]It seems that the primary meaning of the word "justice" is now that of "distributive justice," which lacks any definite meaning because the problem of distribution is one thing in one organisation and another thing in another. Social justice, which Roscoe Pound defined as "the equal satisfaction of everybody's wants," is even less concerned with natural persons. See Pound, "The Need for a Sociological Jurisprudence," *The Green Bag* (1907).

[54]The late Murray Rothbard and other Austrian-school economists associated with the Ludwig von Mises Institute (among them Hans-Hermann Hoppe, Joseph Salerno, Guido Hülsmann, Walter Block, and Jesús Huerta de Soto) have been among the most persistent critics of fiat money and fractional-reserve banking from the natural law point of view. However, most liberal writers exhibit rather mechanical "free-market reflexes." They strongly favour "deregulating" banks without giving much thought to the privileges that banks enjoy under the basic banking laws of Western society—laws which they do not see as constituting regulatory interventions in the free market. With respect to large, publicly traded corporations, the common liberal opinion seems to be the one propagated by Robert Hessen, *In De-fense of the Corporation* (Stanford, Calif.: Hoover Institution, 1979), and by Armen Alchian, Henry Manne, and Brian Barry, *Business Ethics* (London: Macmillan, 1998): large corporations are merely the outcome of efficiency-seeking behavior in a regime of freedom of contract, and are, in any case, effectively disciplined by "the market," especially "the market for corporate control"—hence, presumably, corporate power is nothing liberals should worry about. Leaving aside the ahistorical nature of the argument and its complete disregard for the legal, political, and sociological factors of corporate development (on this, see, e.g., W.G. Roy, *Socializing Capital* [Princeton, N.J.: Princeton University Press, 1997]), it is far from clear that large corporations can be seen as conforming to the requirements of natural law.

force, providing political and corporate policy-making elites with firm handles to "manage society" by "piecemeal engineering."[55]

It is perhaps no wonder that, after the Soviet Union's collapse, socialists in the West and elsewhere have been able to embrace the market without apparently giving up their commitment to socialist values. This should give us reason to reconsider the comforting pro-position (to which both Mises and Hayek,[56] among others, subscribed) that the debate between socialists and liberals is not about ends, but only means. That proposition abstracts entirely from the moral onto-logy of the participants to the debate, and may well lead one to con-clude that pre-1990 socialists were merely unenlightened liberals. Perhaps they were, but then again, the liberalism of the twentieth century may have been little more than economically enlightened socialism, as much opposed to the classical liberals' moral ontology of natural law as to socialism.

From the classical liberal point of view, the institutionalisation of human life in modern capitalist societies[57] for the greater glory of the sovereign consumer is too reminiscent of the Marxian vision of communist society to give much comfort. It is also far too remini-scent of the related political myth of citizenship. The sovereign voter is supposed to want the high and complex levels of bureaucracy, regulation, and taxation he is getting. Likewise, the sovereign con-sumer is supposed to put his stamp of approval on whatever the big players in the financial and corporate economy are doing. Both are ideological constructs that provide a spurious justification of existing institutions. The one conveys the message that, in the state, citi-zens are only taxing and regulating themselves

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[55]Karl Popper, *The Open Society and its Enemies*, 5th ed. (London: Routledge & Kegan Paul, 1974), vol. 1, p. 158.

[56]E.g., Hayek's statement in "Socialism and Science," in his *New Studies in Philosophy, Politics, Economics, and the History of Ideas* (Chicago: University of Chicago Press, 1978), p. 296: '[M]y concrete differences with socialist fellow-economists on particular issues of social policy turn inevitably, not on differences of value, but on differences as to the effects particular measures will have."

[57]See, e.g., Butler D. Shaffer's *cri de cœur* in his *Calculated Chaos: Institutional Threats to Peace and Human Survival* (San Francisco: Alchemy Books, 1985).

by expressing them-selves politically. The other conveys the similar message that, in the marketplace, people are only organising their own lives by expressing their consumption preferences. Of course, what people do to themselves cannot be unjust. However, the political institutions and some of the most important economic institutions in modern society are convenient means to obscure what people do to one anoth-er—to externalise costs and exploit the commons created by these institutions.

Does classical liberalism have a future to match its past? With "the logic of the world in popular form" in the shape it is in today, classical liberal arguments are not likely to be very effective—if they are understood at all. Nevertheless, in their daily lives and private discussions, people appear to remain generally committed to the common-sense moral ontology of natural law. If, and as long as, that is true, there is a basis from which to attack the high moral and theoretical grounds upon which public and academic speech have erected so many illiberal institutions of mobilisation, control, and manipulation. However, without the support of a popular religion of law and justice, classical liberals will not find it easy to recapture the terrain lost in the past century. And it will be to no avail if they do, if they themselves neglect the moral ontology of the natural order of free and equal persons.

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