

1-1-1962

Natural Law the Unknown

Jacques Leclercq

Follow this and additional works at: http://scholarship.law.nd.edu/nd_naturallaw_forum



Part of the [Law Commons](#)

Recommended Citation

Leclercq, Jacques, "Natural Law the Unknown" (1962). *Natural Law Forum*. Paper 69.
http://scholarship.law.nd.edu/nd_naturallaw_forum/69

This Article is brought to you for free and open access by NDLScholarship. It has been accepted for inclusion in Natural Law Forum by an authorized administrator of NDLScholarship. For more information, please contact lawdr@nd.edu.

NATURAL LAW THE UNKNOWN

Jacques Leclercq

THIS PAPER DEALS with the questions of change and immutability of natural law, the development of knowledge of natural law, and the only way this development may be achieved.

I. VARIATIONS IN NATURAL LAW OR IN KNOWLEDGE OF NATURAL LAW?

RESEARCH ABOUT MAN in all domains for the past century has made us realize that the differences between men are much more important than formerly thought. When we consider primitives as they are still found in our time, or primitives as reconstructed on the basis of the findings of paleontological discoveries, we have the impression of a significant gap in personal characteristics between primitives and today's civilized men. The elements of evolution in human nature are considerable. Hence many are inclined to believe that we should no longer speak of a stable human nature but of a nature in evolution. This belief is particularly strong in regard to the social nature of man, for the difference between modern society and a primitive tribe is even greater than the personal differences between the civilized and the primitive.

If the nature of man changed, would one still be able to maintain the existence of a stable natural law, that is, principles of social organization corresponding to the nature of man? Many twentieth century writers have proposed the notion of a natural law with variable content. But, in this case, is not the term "natural law" without meaning? Do we not keep the term out of respect for the tradition while it is emptied of its content?

To deal with the question posed by variations, we have to make some distinctions. We have to separate what is required by nature and what is permitted by it. For example, the nature of man requires that he should have a skin of some color. Man cannot be without color; but he can have only one. He may be black or white; but are the white and the black really men, by the same title, because of their difference in color? Both are men because of certain common characteristics. In the United States, when antinegro sentiment was at full force, some writers tried to prove that the blacks were not men, and referred to characteristics outside of the difference in color. It is now universally recognized that, if a particular man must have a color and only one, men in general may have different colors. Yet observe the com-

plications in such an elementary example of the distinction between what is necessary to human nature and what is conformable to it.

We could complicate the case further. We know men of various colors; but there are certain colors that men are not. We do not meet any sky-blue or apple-green men. Hence, up to now, it has been thought that men may have certain colors and not others. But today the development of science makes it possible to give some living beings colors they never had before. As far as I know, this experiment has not yet been tried with men; but it is currently done with flowers in such a way that new species of flowers are created that were never encountered in the state of original nature. Probably nothing would hinder similar experiments with men, if there were a practical value for it. As soon as it were done, a number of serious folk would state that human nature was changed. Not at all. We would simply determine that some of the characteristics believed necessary were not necessary.

There cannot be a natural law with a variable content. Either natural law remains what it is, or there is none. What can change may be conformable to natural law, but it cannot be a demand of natural law. What natural law demands must have the permanence of nature.

When someone knowing all the abstract rules of medicine is confronted with a real patient, he has to determine in what way the scientific rules should be applied to him. If a drug can cure the patient, but is not available, one must find the best among those available. If a prescription will cure his liver but damage his stomach, it may not be used. If it is desirable that the patient rest, but he is a father of a family who must work to provide for his family, we may have to find a way to give him the maximum of rest without halting his work. The parallel between natural law and medicine is almost absolute. As no one raises problems of "variation" in medicine, it is enlightening to take account of this parallel in order to understand the position of natural law. No one states that medicine has a "variable content" because two patients are treated in different ways.

Medicine rests entirely on a concept of health which is generally not discussed and which is the goal physicians seek when they cure men. This goal is only more or less reached. Perfect health is a delicate balance, easily broken, but it is the goal. No one questions what health is, and no one speaks of health with a "variable content." The purpose of the stomach is *to digest*, and the purpose of the lungs *to breathe*. A good stomach is a stomach which digests well; good lungs breathe well. No one discusses this, and when a doctor examines a patient who does digest poorly, he tries to help him to digest well. The doctor does not ask if the stomach's function has not a "variable content."

The natural law is the rules of social health. As rules of physical health are better and better known with the development of the sciences used by medicine, so the conditions of social health are better and better known as the sciences studying social life develop.

This parallel with medicine shows what might be gained with the progress of natural law as a science. Each time a new property of a chemical element or a new element in the human body is discovered, one can improve the health of man. In the same way each time a rule of natural law is clearly ascertained, it is possible to improve social health and to resolve questions hitherto disputed.

I distinguish, therefore, the reality of natural law — the real, objective, and immutable principles, derived from the social nature of man — and the knowledge we have of natural law. When we speak of natural law we often mean “the knowledge of natural law.” If I were writing a treatise on natural law, I would try to express the reality of natural law, but I would be able to express it only inasmuch as I know it; and should I know only half of it, my treatise would incorporate only half of what is really included in natural law. Human knowledge, of course, changes. The science of natural law, then, changes, whereas the real matter of natural law does not change. It is clear that the knowledge of the natural law in Plato, Thomas Aquinas, Montesquieu, and a writer of today is not identical. If this knowledge is what is meant by natural law, it is true to say that natural law has a variable content or that it changes. But we use the term “natural law” sometimes with one meaning and sometimes with another, without notice, and it tends to become incomprehensible. Often even the authors themselves do not remark that they use the same term in two different senses, and finally such confusion is created that no one can find his way.

The knowledge of natural law can, in fact, advance; and if there were an organized science of natural law, if research in natural law were undertaken as in physics and chemistry, we would make progress. But the questions of natural law are always debated on a level that a scientist would find fantastic.

That the knowledge of natural law could and should develop is no more extraordinary than the development of any science or knowledge of any aspect of nature. The ancients said that fire burns because it has an igneous quality. Today we define fire in an entirely different way; we know gases that the ancients did not know; we know that within fire gases are produced and reach a certain temperature. We know which gases produce fire and which do not. Similarly, the ancients believed that the sky was a sphere in which the stars were hung. Today the notions of astronomy are also different.

Neither fire nor stars have changed. Their reality has not altered. Our knowledge has.

When we know reality better, it is possible to act more effectively. Knowledge or science is not only for the satisfaction of the mind through the joy of knowing, but especially for more effective action.

Every time we know a new property of the human body we can care for it better, and medicine takes a step forward as do the accessory medical sciences like hygiene and surgery. Yet, men have always had the same organs; Achilles and Abraham had glands like ours, but the glands were not known. The discovery of vaccines, glands, hormones, as well as penicillin and other drugs, has transformed medicine in the past hundred years. But these objects and the elements of the drugs existed in the past as today, and the properties of the body were similar. Every time a new property of the human body or a new property of a chemical element is discovered, it becomes possible to cure an illness which could not be cured before.

It is the same with natural law. Natural law is at the basis of what we could call social medicine. As the end of medicine is the health of the human body, so the end of natural law is social health. Its content develops as the knowledge of its principles develops; its application varies with the thousand circumstances in which it is applied.

Let us examine how the positive sciences may aid this development of the knowledge of principles.

II. SCIENTIFIC PRECISIONS ON THE NOTION OF NATURE

THE NOTION OF NATURE is fundamental. The word *nature* has several senses. We deal here with the meaning it has when we speak of the nature of a being. It is a matter of the distinctive characteristics of a being, those which make it what it is, what it would not be if they were missing. When we say it is in the nature of man to have two arms and two legs and to walk with these legs, we mean these constitute signs by which man is recognized. A nature reveals itself by a great number of signs, and a being may keep its nature while being deprived of one of these signs. A man may have only one arm or none at all and still be a man. Among the natural characteristics we have thus to distinguish some more essential than others. If a man has no arms or legs, he shows his human nature by another set of signs. Parenthetically, it may be added that, given the way by which man perpetuates himself, we consider as a man any being born from human parents. There are monsters which do not have human appearance and that, nevertheless, are treated as human beings because they were born of a man and a woman; should we meet them

alone, without knowing their parents, we could not know if they were men.

To know if there exists a common human nature for all those called men is to know if they have some common characteristics proper to all of them. It seems that everyone agrees on this approach. When some prehistoric bones are found and we wonder if they are human, we try to find in them some characteristics which are still proper to the man of today. Paleontologists, in short, apply unconsciously the principle that there is a stable human nature. If a being similar to man is found lacking some of the characteristics that we feel essential to man, we can ask if it is a man. To ask this is to mean that man does not change, and, consequently, to hold that a being is not a man if it does not present the characteristics we know to be those of man. Alternatively, we may think that man does not remain identical, thereby implying that the characteristics of present-day men are not necessary to be a man. Or we may simply reach the conclusion that the stable characteristics of man are less numerous than we believed.

Vercors in *Les Animaux dénaturés* imagines that there are discovered on an unexplored island beings similar to men but with such differences that it is wondered if they are men. A series of questions is raised, as traders start to enslave and exploit the discovered beings under the pretense that they are animals, while others intervene in their behalf to have them granted human rights. It might be possible thus to find a being of whose humanity one would be uncertain, because there is in all matter a borderline where it is difficult to determine a nature precisely: there are beings we cannot classify properly as either animals or plants. But the very expression "borderline" shows that we have a good idea of what man is.

The intellectual process through which we reach the borderline starts from beings who present beyond all question the characteristics globally designated by the word. A collection of beings are — no one denies it — plants, animals, or men. We try, then, to be more precise in studying cases more and more alike. It may be that some characteristics, at first thought necessary to be a man or an animal, no longer appear necessary. But if a being exists which is called "man," we must designate by this name only those who present characteristics proper to man.

Under the influence of the development of relativist thought beginning with the nineteenth century, some attempts were made to prove that no common characteristics existed among men. In France, in particular, Levy-Bruhl distinguished himself by such an effort between 1910 and 1950 in a series of books on primitive men. He tried to demonstrate that there was no similarity between the mind of the primitive and the mind of civilized man. He aroused some attention, but after his death no one took much interest in

the question. The primitives of which he spoke were only a small number, but civilized men exist by hundreds of millions. If we suppose these primitives have a structure of mind entirely different from the rest of humanity, we may question if they are really men. Such a conclusion would, to be sure, present practical problems, but it would not, in theory, alter the question of the existence of human nature.

That there is human nature seems so evident that one could wonder how it could have been debated in principle. It is another matter to know what the specific characteristics of human nature are. Doubtless, the preoccupation of the relativists to demonstrate the absence of human nature comes from the fact that the importance of nature has been often exaggerated. In ethics as well as in natural law, human nature has been conceived as that which is everywhere alike in all respects. The results of today's scientific observations point out differences more considerable than formerly thought. It is easy to go to the other extreme and to say "there is nothing in common."

To limit ourselves to the field of natural law, recall that when Plato described his ideal city he set out almost its precise number of citizens, and that eighteenth century writers considered natural law as an ideal law that the positive legislators had only to copy. The constitution makers of the nineteenth century almost everywhere still believed that in making constitutions such documents expressed "the truth." It was not their aim to devise practical institutions in accordance with the needs of the times, but in accordance with "the truth." This mentality has not yet entirely disappeared; it seems, on the contrary, still particularly strong in England and America. During the Korean war, many Americans wanted to see established in Korea a regime based on our Western idea of universal suffrage, without questioning if such a regime made any sense at all for the Koreans.¹

One may deride the European of the nineteenth century who believed that the domination of the world by Europe was to last forever, who identified civilization with Europe, who believed that the parliamentary regime was the regime proper to civilized people and should be attained by all. We customarily speak of such ideas as dead, and indeed in the scientific world no one believes in them any longer. But the preceding examples show that these dead ideas are still persistent forces in the political world. We should not

1. Consider also the declaration of the universal rights of man made by the United Nations in 1948. Article 21 declares that the will of the people is the foundation of governmental authority, and that "this will should be expressed in honest elections, which take place periodically, in which there is universal equal suffrage, and in which the vote is secret or an equivalent procedure is taken to assure freedom of the vote." This declaration was signed by a great many countries where nothing similar exists, and the authors of it do not appear to have asked if such precise principles could be adopted as universal rules for all mankind.

have any illusion about the influence of the scientists. When we live in a scientific world, we are easily led to believe that the ruling ideas of scholars are evident and universally known. This blindness helps to explain the reactions of the relativists who go to the other extreme and say: "Nothing is absolute; there is no rule applicable to all men; everything is a matter of circumstances."

One of the characteristics of the twentieth century is the great development of the sciences of man, sociology and psychology. Supported by other sciences, they have succeeded better than before in knowing man as he is. When concerned with man, the ancients did little more than philosophize; they built theories about his nature and wondered how he should be, without first taking care to observe him attentively. Today one observes man. Scientific sociology and psychology have no other objective.

I will limit myself as far as psychology is concerned to noting the interest of animal psychology, studied principally to understand man, that is, taking the main problem as finding what is properly human in human activity. All that the animals do as well as men is not properly human. An attempt was made recently to bring up young monkeys with children to find the point to which monkeys could develop as men. Thus some precision was brought to notions we had always held in a vague, nonscientific way. We know that an animal can walk upstairs, climb over obstacles, and retain his balance often better than a man. Those who love animals say that they can show very noble sentiments. Some monkeys have been taught how to ride a bicycle. One does not see why they could not drive a car, as the movements of the driver are almost exclusively, if not entirely, reflexes. Even mothers of animals have attitudes very similar to those of human mothers for the protection of their offspring.

The study of animal psychology leads us then to determine what is not properly human in man. When we will have carefully noted in the activity of men all that can be done without being a man, it will be possible to know accurately what is proper to man.

Other sciences help us refine the data. For example, consider cybernetics. Computers and "thinking" machines are performing jobs formerly thought to require human intelligence. These machines are so surprising that they give the impression to many that nothing is specific to man and that cerebral activity is nothing but a well-regulated mechanism. These are hasty conclusions inspired by emotional evaluations. These machines exist only because men are building them. We ought to hope that these machines reach their maximum possible perfection, as it is only then that we will know what is proper to the human intellect.

These sciences and others have brought confusion to a number of tradi-

tionalist minds contented with ancient concepts. But thanks to these sciences we shall perhaps succeed in knowing one day what is man, that is, what is proper to man in the midst of the beings who surround him.

III. SOCIOLOGY AND THE CONTENT OF NATURAL LAW

NATURAL LAW is a matter of the social nature of man. The demands of that nature should find their application everywhere that men are found. If man, as described by the ancients, is a "political animal," the conditions of his political nature should be as applicable to a tribe of fifty primitives as to a modern state of 200 million inhabitants. What will not apply to both cases will not be natural law. It is possible that not a great deal belongs to natural law. This is not important for now; the question of the existence of a natural law is not a matter of quantity.

One of the first consequences of this approach is that natural law can be determined only if we begin to determine the demands of the social nature of man. This can be done only by observing facts. Sociology is par excellence the science which allows us to attain that knowledge.

This is important, so important that it seems to me to control the whole question. The question of natural law has been approached in a completely different way. Those who speak of natural law and discuss it are generally specialists in other fields, jurists or moralists. There is no specialist in natural law. The scholastic theory of natural law habitually referred to by Catholics has been conceived by theologians as part of ethics, and is not based upon a systematic study of the social nature of man. The eighteenth century school of natural law was a school of social reformers who wanted to build a project of social reforms. They did not know anything but their age, and they did not bother with a systematic, scientific, and disinterested study of the social nature of man, a social nature which manifests itself in all times and in every civilization. Still today those who speak of natural law restrict themselves to generalities, discussing the question of the existence of a natural law, without seeking its content. As their desire is not to spend much time on research in this domain — their interest being elsewhere — they limit themselves, if they want to be precise, to a hasty and general formula such as "Natural law is the rule of the just"; after which one knows nothing, for the "rule of the just" has meaning only if we define what justice consists in, and this leads to the question of knowing in what measure men are equal, in what measure they have a right to liberty, in what measure they can be brought to sacrifice equality and liberty to the demands of social life, etc. These questions in turn are

divided into a multitude of other questions, and the general principle of the just has a specific meaning only in these conditions.

While such principles belong also to philosophy, it is sociology which gives the factual elements by which similarities may be distinguished. Philosophy gives only very general principles. The science of natural law should, then, be a matter of knowing the social nature of man, of studying its requirements — something nobody has ever done systematically. This is why controversies over natural law are so much like the fight of black men in a tunnel.

Let us give an example of the way natural law is constructed in practice. Divorce was established in France by the Revolution at the end of the eighteenth century, then suppressed in 1814 after the fall of Napoleon. After 1879, during the first years of the Third Republic, a campaign for its re-establishment was begun. Those opposed to divorce claimed that divorce was going to destroy marriage, because divorce has a tendency to spread when established. Those in favor of divorce claimed, to the contrary, that divorce was going to reinforce the stability of marriage because the possibility of divorce would make one contemplating marriage reflect more carefully. Of course, they said, during the first years after the legislation there would be a rather large number of divorces, because many painful situations would be resolved, but later the number of divorces would decrease.

As we see, this is a matter of fact, a prediction. But facts are perceivable realities. Just outside France, in Belgium, divorce existed, established by the Napoleonic Code when Belgium was under French rule in the early part of the century. Brussels is 180 miles from Paris. Statistics existed. It would have been easy to consult them. No one thought of it. The dispute went on with obscure arguments and prophetic pronouncements. The idea of going to see what happened in a neighboring country, in which the legislation they wanted to re-establish had been in force for more than sixty years, occurred to no one. This is the way the science of natural law has been made.

Is my example a matter of natural law? Of course it is. Natural law is the rules of social life, derived from the nature of man. To abide by these rules is necessary for the development of man; and if man develops, he will be happy. To insure his development or to insure his happiness is the same thing. If divorce helps man to develop himself, divorce is in conformity with natural law. If divorce prevents man's development, divorce is contrary to natural law. How can we know if it helps human happiness or hurts it? By a study of its results. There is no other way. The rest is only literature.

The question of divorce is, to be sure, bound to the totality of family problems, and the family itself is based on marriage. Is it desirable that the union of man and woman be realized within a stable institution called marriage?

Is it desirable that children be born and raised in homes based on the marriage of the parents? These are basic questions, and these first questions lead the way to others, such as divorce, the relationship of husband and wife, and parental authority. A priori, we do not know which of the above questions are solvable by natural law. Only what can be applied to all men belongs to natural law, for it corresponds to a requirement of the social nature of man. This does not mean that everything which exists in a human group belongs necessarily to natural law. Some institutions may exist which prevent the development of men and thus prevent human happiness; they are then contrary to natural law, and we must try to change them. But these few considerations suffice to show that we deal with a very intricate problem, which should be carefully investigated with the full use of history, anthropology, sociology, psychology and twenty other sciences. To believe that we can solve these questions with some grossly evident facts spontaneously perceived but deprived of any substratum of methodical research is naiveté or laziness, or both.

In this respect Christians, and particularly Catholics, should be careful in determining the exact significance of the moral law they get from their faith. There is a law on marriage in the Catholic Church, set forth as positive law. Catholics are accustomed to refer to it and, without much study of the question, to consider that most of its prescriptions are identical with natural law. This belief diverts them from deeper study. When one is sure of a truth one does not see any reason to undertake long and painful research to establish it.

As far as the family is concerned, there is, indeed, in each country a tradition which most hold to without question. From time to time some advanced thinkers question a point, and the conservatives in turn react without further study and use any argument that comes to mind. There are mixed, in the most confusing manner, opportunistic arguments, considerations drawn from the most various sources, and moral judgments based on custom. The literature on these questions is, by any intellectual standard, very poor. I would like very much to read a book where one studied systematically monogamy in relation to the Mormons' re-establishment of the polygamy of the Old Testament. These events occurred a century ago, and one could hope that they might be investigated without sentiment and without controversy.

In regard to this kind of problem, sociology gives considerable assistance. It has been the first to conduct systematic inquiries on these questions, and for the past forty years it has accumulated a number of carefully verified facts on all the aspects of the family. When a sociologist writes, for example, on the role of sex in marriage, he does not state an intellectual ideal inspired by religious sentiments, but a conclusion based on countless factual inquiries.

Here is an important scientific phenomenon, full of potentialities; for if we can ever make a basic, systematic, and factual study of all the elements of family life, we would be able to determine the natural conditions — that is to say, the requirements of natural law — of the family order. This would be immense progress for the human race. But such a study requires a veritable revolution in our concept of natural law and of the exposition of these questions.

I use the words “exposition of these questions” and not “study of these questions” because they have never been studied before the age of sociology. Some taught, some argued, some advanced arguments based on sentiment. Some traditional thinkers still do not feel really at ease when told that we must look for the conditions of the family and marriage which insure human development and thus human happiness; but the conditions of marriage and the family have no other purpose. We need not believe that marriage has been made indissoluble and the authority of the parents established over the children in the Catholic religion by a caprice of the Creator. The end is to make man happy; and if the indissolubility of marriage is of such a nature that it makes men unhappy, it is inconceivable that the Creator would have imposed it upon man in the natural as well as in the supernatural order.

I refer here to the supernatural order and hence leave natural law. We must put aside the question of the supernatural order when we deal with natural law; but it is yet good to take into account that Christ came to make us happy and that all His prescriptions should, in one way or another, lead to our happiness. And it is true that some particular questions, such as divorce, cannot be understood outside of the totality of Christian revelation.

We have then to discover what natural law is: not the nature of natural law but its content. It is not very helpful to know that natural law exists and to know its nature if we do not know what it embodies. Discussions of the reality of natural law, its nature, its relation to positive law, are only preliminaries; and when we do limit ourselves to them, we go around the problem. The content of natural law is the important question, the question on which its usefulness depends.

To take another example, some writers assert that natural law is intimately tied to democracy, because democracy depends on the rights of men. This could be shown *a contrario* by the study of arbitrary absolutism in history. Where people have been subjugated to despots, natural law is not mentioned. The history of the East makes this radically evident. Even today the victory of natural law is linked to the victory of the people. Constitutions and legislation which invoke natural law or the natural rights of man are those which

assert that the legislator cannot do everything he wills. But is not still something missing?

What is missing, it seems to me, is that no one seems to realize that we must *search* for what natural law consists in; and that to determine this, we must study. When, for instance, in 1949 in the fundamental law of the Federal Republic of Germany it was said in Article 1 that the German people recognize the inviolable and inalienable rights of man as the basis of all human community, or in Article 6 that the education of children is the natural right of the parents, the statements could be noted with pleasure, but they are not determinations reached by an attentive study of the requirements of nature. Under the circumstances, the proclamation of those principles comes only as a consequence of a given set of political and moral attitudes; there is not, properly speaking, any scientific advance.

The law of scientific progress is everywhere the same. It requires systematic and careful research. Natural law cannot be specified without research as to the social nature of man. Some fundamental principles are doubtless, as in any field, a matter of primary observation. Here we could again refer to medicine. It has always been known that man has blood in his veins, that his heart beats, that his stomach digests; but since we have known this, what progress have we not achieved in our knowledge of the human body and of the conditions of physical health? In the same way, if the general principle of human rights is clear enough, do we not need many precisions on the bearing of this principle? Democracy and liberty have often been referred to by opposed social groups. It is necessary to scrutinize them more closely to know at least the meaning of the words used by one side and the other.

The law of scientific progress also requires that research be uncommitted, that is to say, that research should not look for results to satisfy a passion or to advance a cause, that is, an interest we want to defend.

Personally, I am entirely convinced of the benefits of truth and democracy; but we have seen that these words are equivocal. To proclaim liberty and democracy is not sufficient: we have to specify what they consist of; in what way they agree; if they have limits; what the limits are in relation to the principles. Can we do this merely by reasoning, without investigating facts? How can we imagine all the circumstances which may occur in actual life, without observing life?

Once more I encounter an apparent difficulty in the opposition of some common attitudes. I refer to life as it is, and someone will tell me: "But natural law is principles." This is true, but where do these principles come from? Could I know that man has a social nature, and could I know the requirements of such a nature if I had not seen it? The social nature of man,

like his individual nature or his very existence, is known to me because I can perceive it. I know that there are men because I see them, and this is my only way of knowing it. By philosophical reasoning I could as easily demonstrate that man does not exist as demonstrate that he does exist. If I know that man exists it is because I meet men. This is the only reason why I am convinced of their existence. If I know that man has a social nature this is because I perceive it. The laws of the nature of man, personal or social, are those which enable him to develop. We have not to look further. There is no other way. How shall I know these laws? By looking.

Could we not organize a science devoted to the study of the social nature of man and to the determination of its requirements? I wish it could be so, and the recent achievements of sociology give me hope. With sociology, for the first time since there were men on earth, we witness a systematic attempt to observe social phenomena under strict and objective scientific conditions. This is a great date in the history of humanity.

It is true that sociology is only at its beginning. In the nineteenth century there were little more than forerunners who spread the idea, without approaching realization of it. Only in the twentieth century was sociology constituted as a scientific discipline. As the domain to be investigated is huge and as a new science always starts haphazardly, sociology first gave room to a set of ill-assorted inquiries. On the other hand, entering the scientific world after many other already constituted sciences, sociologists followed the fashion of the scientific world in order to be accepted in this world, and often were preoccupied in acting as others did, to avoid the danger of being considered visionaries or artists. As a result the matter of definitions and classifications often had a place not demanded by the requirements of research.

Despite these difficulties, sociology gave birth to a very new spirit. As with anything new, it is possible to link this attitude to older concepts, corresponding to intuitions which were not usually applied. An old English proverb says that Parliament can do everything but change a boy into a girl or change a fact. Applying this, sociology considers society as a fact. One speaks of "a social phenomenon," and this expresses a new attitude of mind.

The idea of making out of natural law a science which grows slowly like the others will seem inadmissible to some people because they believe that they need some certitude to establish social order. When I say that this will seem inadmissible, I recall that no one has ever dreamed that natural law should be made into a science which has to be methodically investigated with the idea that it will advance gradually. We need the same certitude to cure the human body, but medicine has been always practiced, being based on what was known, and being perfected gradually with the advance of knowledge. If

we treat in this way the physical health of man, why should we act differently when we deal with his social nature?

IV. NATURAL LAW AND SOCIAL PHILOSOPHY

THE CONCEPTION of natural law which I have just proposed is rather different from the usual one and risks causing confusion where I seek clarity. I will be told: "To determine the specifics of democracy and freedom is not natural law; it is social philosophy. Do not merge them." But it is natural law to know if man is entitled to freedom and democracy, to know if in the social organization we should try to realize democracy and to make man free. How do we solve these questions if we do not know what freedom or democracy is?

Natural law is very close to social philosophy. Both kinds of knowledge often meet. They are nonetheless distinct from each other. To understand what distinguishes them as well as what unites them, we should know in what they consist, their object, and their methods.

As its name implies, social philosophy belongs to philosophy. The word "philosophy" is a word one debates. To avoid distinctions without utility here, let us say that there is philosophy from the moment we reflect on something, going as far as possible in the reflection. Philosophy is reflection, while science in the customary use of the word means positive knowledge, knowledge of facts studied as rigorously as possible. When we go beyond the purely positive level of facts to reflect and draw from what we know all that can be drawn, then we speak of a philosophy of history, a philosophy of language, a philosophy of science. Social philosophy is, then, a penetrating reflection on social phenomena, pushing this reflection as far as possible.

Social philosophy inevitably treats of the laws of man's social nature. It is impossible to do social philosophy without looking for the laws of social life. But social philosophy goes beyond natural law. If social philosophy tries, for example, to consider how social evolution proceeds, it does not bear solely, nor even principally, on the "requirements of the natural order." In contrast, the aim of natural law is only to bring out certain permanent laws of social order, that is, the elements which should be found in every society from the moment there is a society.

The point of view of natural law, as the words imply, is at once judicial and natural. It is a matter of the rules of law commanded by human nature, the rules of law which should be found in any human society. But in a society there are many other elements than law. Social philosophy will reflect not only upon the influence of law, but also upon the social

role of music and architecture. The proper object of natural law is not to reflect on the influence of law, but to look for the juridical rules derived from the social nature of man. If the natural law were fully developed, we would know the juridical rules corresponding to the social nature of man. This would be a great deal. While it is fundamental to build sound societies, it is not everything. Many theoretical problems remain to be solved. We should not be imperialists for the natural law and relate everything to it; we have to know exactly what we seek when we do natural law.

V. THE FUTURE OF NATURAL LAW

WE ARE in a good era for natural law. To be convinced of this it suffices to run over the past issues of the NATURAL LAW FORUM since 1956. Natural law lives again. Almost everywhere there is being abandoned the positivist conception of law which attempts to limit law to what exists and refuses to consider principles superior to facts. In national or international organizations everywhere there is an invocation of eternal principles, and it does not matter if these are called natural law or by another name. We can almost say that the defeat of the fascist dictatorships in the Second World War was a victory for natural law.

We are at a new stage in a very old history. Reading in the 1959 issue of this review the study of Max Salomon Shellens, "Aristotle on Natural Law," one is surprised to find that Aristotle had most of the fundamental ideas on the permanence of natural law. Two thousand years later have we not perpetually revolved in the same circle, and are we much advanced?

We are, indeed, still at the starting point. It is because natural law has never been systematically studied that natural law has never had any practical use. Natural law has only been used as a banner to defend certain points of view.

The conclusion I reach is that natural law is permanent; that it does not change, but that our knowledge changes; and that to develop our knowledge it is necessary to study. To elaborate theories and reasoning, to argue and oppose different mental attitudes without positive foundations, is of little use, if any use at all. The example given of the introduction of divorce into France shows how these questions have been investigated and why there has been no advance. As I reach the end of my career, I can only hope that more young men will approach the problems of natural law in the only way which seems to me able to lead toward a progress of thought.

(Translated by LOUIS CHATAIGNIER)