

# HENRY GEORGE AND THE FORGOTTEN LAW OF NATURE

Henry George often speaks of the law of nature, and he links this with his understanding of justice. He assumes everyone has a sense of justice and that this ought to inform us of the proper order of society, including the economic order. It was his appeal to the universal sense of justice that made his *Progress and Poverty* so widely popular. To understand economics, he insists, requires the understanding of natural law.

George says, for example, in *The Science of Political Economy*, 'It is only as we know the natural laws of the production and distribution of wealth that we can pre-see the result of the adjustments and regulations which human laws attempt.' Human laws should be made in accord with the laws of nature. All the higher or 'moral' laws of a society should spring from the economic laws. This assures justice from the bottom up. In support of this view George quotes from Henry Dunning Macleod's *Elements of Economics* published in 1881:

*Natural justice is the conformity of human laws and actions to natural order, and this collection of physical and moral laws existed before any positive institutions among men. And while their observance produces the highest degree of prosperity and well-being among men, the non-observance or transgression of them is the cause of the extensive physical evils which afflict mankind.*

George's and Macleod's appeal to the laws of nature and natural justice had roots in an ancient tradition that was already vanishing in the nineteenth century. The newly emerging social theories sought to reduce society to a set of mechanistic laws, which had no inherent moral ground. Herbert Spencer's conception of social evolution, ruled by the survival of the fittest, was a prime example, in which poverty was regarded as merely a symptom of human weakness or degeneracy. By a kind of brutal justice 'evolution' would gradually eliminate the poor, while charity or any kind of 'state intervention' could only hinder this evolutionary process. Such a vision of society was not the result of any empirical investigation of human social nature, or of the moral law, but rather an attempt to reduce social laws to a purely mechanistic system of matter and motion. Creating such reductive social theories came to take precedence over the actual study of society. And it is still present in modern genetic determinism, for example in Dawkins' *The Selfish Gene*.

## GREEK AND ROMAN ORIGINS

The tradition that George calls upon, and which he directly opposed to the social theory of Herbert Spencer in his *A Perplexed Philosopher*, goes back to the Greek and Roman philosophers. Although it is unclear which ancient philosophers George read directly, he certainly read of them in history, and of this he seems well informed. His world view and sense of the natural order of things is far more in accord with the classical vision than with the materialistic theories emerging in the nineteenth century with Darwin, Spencer and Huxley. For example, he saw cooperation and exchange as foundational to society, distinguishing humanity from all other species.

It was a view directly contrary to the liberal individualism espoused by Spencer and the *laissez faire* defenders of 'freedom of contract' with whom Spencer allied himself. Far more in accord with George's vision of society and our place in Nature would be that of the Roman philosopher and jurist Cicero. For example he says:

*How can I help being convinced, when it has just been proved to us, first, that we have been provided and equipped with what we may call the gifts of the gods; next, that there is only one principle by which men may live with one another, and that this is the same for all, and possessed equally by all; and, finally that all men are bound together by a certain natural feeling of kindness and good-will, and also by a partnership in justice? Now that we have admitted the truth of these conclusions, and rightly, I think, how can we separate Law and Justice from Nature? (Cicero, *De Legibus*, 1.35)*

In this view, all our human advantages are the gifts of Nature or the gods. Law and Justice are part of Nature. Nothing could be further from Spencer's brutal justice of social materialism.

On the contrary, the principle which Cicero declares that all men share in living together is 'reason', and it is reason that discerns Justice in the natural order of things. And contrary to the notion of the survival of the fittest, 'all men are bound together by a certain natural feeling of kindness and good-will'. This, for the ancient philosophers, is the natural foundation of all human communities – not any kind of social contract or spirit of strife or competition as many of the early modern economic theorists held.

For Cicero, following Plato and Aristotle, all people 'are bound together by a partnership in Justice'. Justice is not merely an aspect of the human realm but belongs to the whole order of things. It arises from the Law of Nature and so cannot be separated from Nature. It can be articulated in human laws and institutions, and ought to be, but does not originate in them.

According to Cicero the constitution of any state is legitimate only so long as it has legitimate laws, laws that are recognised by the whole community as just. But further, no laws are just if they are contrary to the universal order of Nature. Any man-made law that is contrary to Nature does not have legitimacy as a law according to the ancient definition of law, as we see in St Augustine, the *Institutes of Gaius*, in Gratian's *Treatise on Laws*, and in Aquinas's *Summa Theologiae*. Justice is the harmonious order of Nature, and in human nature it informs the rational faculty of the mind. This conception of law understands that 'reason' runs through all things, and it is because human intelligence participates in universal reason that it is able to discern the laws of Nature. Cicero expresses this universal view:

*Law is the highest reason, implanted in nature, which commands what ought to be done and forbids the opposite. This reason, when firmly fixed and fully developed in the human mind, is Law.... Law is intelligence, whose natural function is to command right conduct and forbid wrongdoing.... Now if this is correct, as I think it to be in general, then the origin of Justice is to be found in Law, for Law is a natural force; it is the mind and reason of the intelligent man, the standard by which Justice and Injustice are measured. (De Legibus, 1.18-19)*

This understanding of Law as intelligence or reason present throughout the universe as well as within the human mind goes back to birth of Greek philosophy. In 500 BC Heraclitus said 'all the laws of men are nourished by one law, the divine law'. (Heraclitus *Fragment 114*). He also asserts that Justice will always be restored in Nature. Heraclitus stands historically between the poetic language of myth and rational language of philosophy and often speaks in both ways at once. In either case, both myth and philosophy begin by placing the human race within the intelligent order of the universe.

The development of philosophy in Plato and Aristotle remains grounded in the question of how we ought to live in harmony with the cosmic intelligence or *nous*. They observed that everything in nature sought its due place within the greater order of things, and that each particular being strives for its perfection in harmony with the whole. Modern physiology is rediscovering something of this way of understanding nature, for example in *The Symphony of Life* by Denis Noble. Modern economics and politics, on the other hand, lag far behind in studying the place of humanity within the order of Nature.

According to Cicero, those who fail to see that reason exists throughout the universe are 'foolishly proud' and are lacking in appropriate gratitude:

*Indeed, what is more true than that no one ought to be so foolishly proud as to think that, though reason and intellect exist in himself, they do not exist in the heavens and the universe, or that those things which can hardly be understood by the highest reasoning powers of the human intellect are guided by no reason at all? In truth, the man that is not driven by gratitude by the orderly course*

*of the stars, the regular alternation of day and night, the gentle progress of the seasons, and the produce of the earth brought forth for our sustenance – how can such an one be accounted a man at all? And since all things that possess reason stand above those things which are without reason, and since it would be sacrilege to say that anything stands above universal Nature, we must admit that reason is inherent in Nature. (De Legibus, 1.23)*

It is significant that Cicero was himself a Roman lawyer and statesman as well as a philosopher. He lived in times of great political turmoil, yet he sought to connect his studies of Platonic and Stoic philosophy with good law-making and bringing harmony to society. His influence extended far beyond the fall of the Roman Empire and resonates through the study of jurisprudence and law-making throughout the Middle Ages.

Along with Plato's *Timaeus*, Cicero's conception of the intelligent order of Nature shaped the way medieval society conceived the world, and how the order of life on the land and in the cities should reflect the harmonious order of the universe. The city was conceived as a *micro cosmos* or image of the *macro cosmos*.

To live in accord with Nature, the sustainer of all, was simultaneously rational and ethical. It was to live according to reason and conscience. The natural condition of the human race was to live in harmony with Nature. Living in harmony with Nature was seen as the basis of the human community, the precondition of society. To break with the law of Nature was to break with human society and become an alien. Nature shows in all its provisions how all things grow and prosper in cooperation together, and how they disintegrate when that cooperation is broken. It was regarded as irrational, immoral and impious for anyone to disregard this providential universal order and the mutual sustenance that springs from it.

## COMMUNITY AS A MERE ABSTRACTION?

But by the fifteenth century this vision of universal order had already begun to wane. There were many complex reasons for this, but one major factor was the rise of nominalism – the theory that universals exist in name only, and that each particular thing exists by and in itself. So, for example, while one could speak of 'humanity', for the nominalist only discrete individual persons existed and so the word 'humanity' was no more than a convenient word of classification. This atomistic view of nature spread widely, and although hotly debated, it gradually became the common way of viewing things.

It had profound effects on the understanding of human society. It implied that the human 'community' was itself only an abstract construct and that in reality only private individuals existed. If society and community were simply linguistic abstractions, then society itself must be an 'artificial construct'. And indeed, this is what it was for Hobbes for whom the 'state of nature' was perpetual war of all against all. Contrary to the ancient view, Hobbesian man is not a social being but a natural enemy of his neighbour. Nothing could be further from the all-inclusive view of the ancient philosophers or the medieval lawyers and scholastics.

If society and the state are indeed artificial constructs, what then can be the basis of law and justice in society? There can be no appeal to Natural Law or to universal Justice or universal Reason as conceived by the ancient philosophers. 'Nature' could provide no answer since, at best, it acted through a mere instinct for





individual survival – Spencer's 'survival of the fittest' or Hobbes's 'fear of death'. Reason now belonged exclusively to the human mind while Nature was rendered inert and blind, or a mere resource to be mastered or plundered.

Given this atomistic conception of things, a compromise was sought. If there is no universal Justice or Law according to which society should naturally be ordered, then some kind of contract or agreement must be reached so that a society can at least live in peace.

So a compromise was proposed to live under the restraint of an imposed law of the state, or sovereign, in which each individual pursues their own private ends, while interfering with each other as little as possible. The idea of mutual support is replaced by the pursuit of private interests. Since society was no longer seen as part of Nature, there was no common ground for the establishment of rights or duties. So artificial individual rights were created, replacing the Natural Law.

It is important to understand that these new rights did not establish a community, or the common good in the traditional sense, since they were only claims made by individuals upon the state or upon one another. And since society, or the state, is 'artificial', rights, though described as universal, are in practice only utilitarian, or simply contractual. In *A Perplexed Philosopher* George challenges the idea that true rights derive from the state, or from contract, as argued by the slave owners and defenders of private property. The state cannot substitute the Natural Law with positive laws contrary to Natural Law without instituting injustice.

Compared with the ancient tradition of Natural Law, the contractually conceived society, with law having no other source than the state or Rousseau's mythical 'will of the people', is only a second or third best kind of society. And the fathers of modern politics, such as Machiavelli and Hobbes, acknowledged it as such a compromise, a second best. It is a vision of society in which no noble virtues are necessary, and no general recognition of universal Law or Justice is required. Ethics is relegated to the private domain.

Yet, from the point of view of classical Natural Law and universal Reason, such a society must inevitably suffer great injustices and misfortunes, as Macleod observed. And for this reason it will be constantly seeking remedies for the injuries it gives rise to and inflicts upon itself. For while it claims all are equal in terms of human rights, the most original Natural Right to the gifts of Nature, to the land, is denied.

## LEGAL VERSUS JUST

It would be truer to say that modern society is founded on privileged proprietorial claims on land than upon human rights. For, as George insisted, it was the 'legal' claim on the land and its fruits that established the division between rich and poor, and between employer and employed. Modern rights, at best, only mitigate to some degree the injustices that inevitably follow.

While only the few have a legal claim on land there can be no establishment of the common good. And it is the establishment of the common good that defines society as society; 'all men are bound together by a certain natural feeling of kindness and good-will, and also by a partnership in Justice' as Cicero said.

# cover story

That is the true 'state of nature', contrary to Hobbes or Spencer. The real human community is not an artificial construct, but a 'partnership in Justice'. It is built on the natural perception of the harmonious order of things and the innate desire to live together in harmony and in mutual benefit. This is a conception of society to be found among even the most 'primitive' people. Cicero gives a description of the natural state of society as membership of the whole universe:

*...it is a city or state of which both men and gods are members, and each one of us is a part of this universe; from which it is a natural consequence that we should prefer the common advantage to our own. For just as the laws set the safety of all above the safety of individuals, so a good, wise and law-abiding man, conscious of his duty to the state, studies the advantage of all more than that of himself or of any single individual. (De Finibus, III. 64)*

## THE COMMON GOOD AND THE MODERN COMPROMISE

The modern compromise is to live in an industrial society without virtue or any preference for 'the common advantage'. Yet, the individual good cannot be assured without first securing the common good, 'the advantage of all' above that of the individual. That is the first principle of the Law of Nature, which always acts for the sake of the whole. And the study of primitive societies shows clearly that they are built on each member contributing to the whole, and the produce of the land and the game from hunting being shared among all.

The 'state of nature' as envisioned by Hobbes and Locke, where individual nomads claim a portion land for themselves, is contradicted by the empirical evidence demonstrating precisely the opposite. The great jurist and historian Henry Maine (1822-1888) had established this in his *Ancient Law*. The earliest condition of man was that of close communities where everything was shared in common. The earth and the sky were universally regarded as sacred. That they could become private property was inconceivable.

Living in the modern compromise has demanded massive elaboration of property law since the fifteenth century. This necessarily follows since land, by nature, is common to all living beings, and so a sophisticated body of legal arrangements is required to depart from that natural condition. Likewise, the state must constantly intervene to mitigate the consequences of living out of accord with the Natural Law, while law-making itself must endlessly seek to reconcile all the contrary aspirations of society. Rule and freedom appear as contraries, while in Nature they are not. Law is experienced as restraint, and rights experienced as never actually attained freedoms. In the general production of wealth, one person's gain becomes another's loss. So private property in land and the welfare state inevitably arise together as a single system constantly in conflict with itself.

It may well be that our modern age can live only in second or third best, reluctant or simply unable to rise to the question of Justice as the ancients did. George invoked the Sermon on the Mount as the surest way to a good society. Yet he saw that this council of perfection must first be founded in economic Justice.

## AN INHERENT CONTRADICTION

The most obvious example of injustice in George's own times was the glaring rise of poverty alongside the increase in wealth. How could increase bring about decrease? That is the great contradiction that the modern compromise embodies and the





consequences of which law-making and governments struggle in vain to mitigate.

For George the root of the contradiction lay in the wrong relation with the land and the consequent abuse of the gifts of Nature. This wrong relation with the land symbolises all that is amiss in the modern conception of society. We do not regard ourselves as citizens of the universe as Cicero described it. Our false relation to the land expresses itself in economic terms most obviously as a failure to acknowledge the law of rent, and the natural revenue that arises over and above the effort of labour. As elsewhere in Nature, work produces an abundance greater than the effort expended. Nature inherently regards the greater whole. The only place where this natural providence fails is in the modern industrial society where the natural abundance, articulated in the law of rent, is largely misappropriated as private property. The human species is the only species that directly creates its own disadvantages.

In ancient and medieval times the providential abundance of nature was acknowledged with public harvest festivals, with thanksgivings to Mother Earth and to the Creator, and some portion offered sacrificially to the heavens. It is worth considering that the law of rent has a sacrificial element in it, and in a certain sense the private appropriation of this portion is an offense to the gods as well as an affront to universal Justice. In Genesis the first murder is due to a dispute over sacrificial offerings.

As far back as we can look in history or myth, there was always a sacred element attached to our relation with the gifts of the land or Mother Earth. Compared with this, the law of rent looks a very cold and dark shadow of an ancient truth once universally acknowledged. Nevertheless, it is what we might call a 'fiscal image' of that ancient truth. Indeed, it has implications far beyond the economic realm.

### THE PREREQUISITE FOR THE FLOURISHING OF SOCIETY

It is clear that George sensed these implications, and often early Georgists picked up on them too, for example in Francis Neilson's *In Quest of Justice*. While at one level George sought to remedy the rise of poverty that came with technological progress, he saw Justice as a universal law that all human activity must be brought into accord with if society is to endure and flourish.

Although not an end in itself, Justice is for George the prerequisite for the flourishing of society. It is not something to be arrived at in some far off future, as Spencer held, but rather what must be established first. Historically, he argues, the fall of societies is linked with the misappropriation of the land and the gifts of Nature intended for all. He insists that reason can discern the lawful working of the economy and our proper relation with the land.

George's call upon reason shares common ground with Cicero, and there is a passage in *The Science of Political Economy*, which echoes Cicero directly:

*Natural laws, on the other hand, belong to the natural order of things; to that order in which and by which not only man himself but all that is, exists. They have no sanctions in the sense of penalties imposed upon their violation, and enforced subsequent to their violation; they cannot be violated. Man can no more resist or swerve a natural law than he can build a world. They are acknowledged not only by all men in all times and places, but also by all animate and*

*all inanimate things; and their sway extends not merely over and throughout the whole earth of which we are constantly changing tenants, but over and through the whole system of which it is a part, and so far as either observation or reason can give us light, over and through the whole universe, visible or invisible. So far as we can see, either by observation or by reason, they know not change or the shadow of turning, but are the same— yesterday, to-day, tomorrow; for they are expressions, not of the mutable will of man, but of the immutable will of God.*

This passage is a paraphrase of Cicero's *De Republica*, III, 22, 33. George was obviously familiar with this great work of Cicero and here adapts it to his own style of writing. But also George calls upon the Roman Stoic Marcus Aurelius on the opening page of *Progress and Poverty* to apply reason to discover the truth of things.

George also cites the Natural Law tradition in his *Open Letter to Pope Leo XIII, The Condition of Labour*, with his references to Aquinas, while Pope Leo had erroneously claimed private property was a 'sacred right' decreed in Natural Law – a claim specifically revoked in later encyclicals.

With exceptions such as the early Physiocrats, Patrick Edward Dove and Macleod already quoted, few economic thinkers in George's time called upon the wisdom of the Greek philosophers, the Stoics or the medieval scholastics. On the contrary, ancient philosophy was largely dismissed or relegated to an 'early stage' of society. So George had few allies in seeking the roots of the land question in history or ancient philosophy. Yet he clearly saw a timeless truth about our relation to the land and to Nature, a truth once universally recognised.

Yet, given the general disregard for ancient philosophy in the nineteenth century, and the new materialist outlook, George could hardly have directly called upon the authority of Cicero, Aristotle or Plato. This remains a task still to be undertaken. A splendid start has been made by Francis Neilson just mentioned, and also by Charles Avila in his 1983 book *Ownership: Early Christian Teaching*.

There is a forgotten tradition to build upon, and it may now be an auspicious time to restore it, especially as we are confronted with ecological crisis and global warming as direct consequences of our abuse of the land. There are some encouraging signs. A new generation of scholars have shaken the arrogant prejudices and narrow historical outlook of the nineteenth century, acknowledging that the ancient philosophers and the Natural Law tradition have contributed substantially to the understanding of society.

### THE WIDER VISION

George was a social philosopher as well as a political economist, and therefore he had a wider vision of the place of economics in society as a whole.

Georgists can build on this wider vision, for it is only in the broader context of Justice in society that his fiscal proposals show their true depth and significance. It is only on these grounds they can be argued for. Economic Justice and the right relation with Nature are bound together. And it is only from this greater perspective that they can be connected with the insights of the ancient lawmakers and philosophers. ■