

NATURAL JUSTICE

In his *The Origin and Goal of History* the philosopher Karl Jaspers writes:

Since the earliest times man has attempted to picture the whole to himself: first in mythical images (in theogonies and cosmogonies, in which man has his appointed place), then in the image of divine activity operating through the decisive events of world politics (the historical vision of the prophets), then as a process of revelation through the whole course of history, from the creation of the world and the fall of man to the end of the world and the last judgement (St Augustine).

The quest to picture the whole continues in our modern age, through the sciences, the arts, philosophy, and religion, and any notion of human society will be conceived before the backdrop of this quest to understand and envision the whole. The quest to envision the whole is inseparable from the quest to understand human society. The human species is characterised by *reflecting on the nature of things*. It is this that distinguishes it from all other species.

Since earliest times this capacity to reflect on the nature of things has been bound up with the question of justice. The Greek word 'kosmos' contains justice as part of its meaning, and the notion of cosmic order meant the justice of the universe. This sense of cosmic justice grounds the quest for the just society. For the ancient philosophers, the question of the nature of society is bound up with the question of the place of human society in the natural order of things. This concern was universal and can be traced in the earliest Greek, Indian, Chinese and Jewish writings. It is with us in our times in ecology and the pressing need to preserve the environment.

What is the place of society in the natural order of the earth? This question arises with human reflection and calls for a response in every age. It is part of the human situation. The human species is confronted with a world which demands an intelligent and ethical response. If the response is unintelligent and unethical, nature inflicts hardship on society. Where a society tolerates injustice, it also acts against nature as a whole. How a society lives reveals its stance towards nature as a whole. The two spheres cannot be separated. These are truths expressed in the ancient prophets of Israel, the Greek philosophers Plato and Aristotle, the Chinese philosopher Confucius, and the Indian teachings of the Buddha. Ultimately all philosophy is concerned with how the human race can live justly and in accord with nature. Every other question follows from this.

Modern environmentalists grapple with this fundamental question in the way it forces itself upon us through the industrialisation of mankind. Some make powerful arguments for a return to pre-reflective society, such as David Abram in his *The Spell of the Sensuous*. In this view the rise of writing and technology have broken the natural link of man with the other creatures – the animals and the trees and rivers with which we once communed. Less radical than this is the call to cease wasting the resources of nature, and to return to farming practices in accord with the restorative cycles of nature, to care for the earth rather than blindly exploit it through greed. The perils of global warming are gradually impinging on our consciousness and demanding an intelligent and ethical response from the whole race. The notion of the seventeenth century that nature is just a machine which human ingenuity can master and control, an idea meant to overthrow all

ancient superstitions, turns out to be an arrogant illusion and itself a mere superstition. There was no need for the new scientific discoveries of the Enlightenment to reduce nature to an inert machine. The new discoveries showed the reverse; that nature was highly complex and intelligent, and interconnected in all its parts from stone to thought or consciousness. But the mechanistic view, the materialism, made it possible to separate knowledge from ethical responsibility. It gave permission to exploit nature, to view it as mere material for the pursuit of luxury and the enslaving of the majority to harsh labour. The exploitation of nature corresponds exactly with the exploitation of man and society. The mechanistic view of nature, as brutish, self-interested and in perpetual war with itself, relieved industrialists and money changers of all moral responsibility. It was a political view, not a scientific one, imposed upon the investigation of nature. And so the advances of science have been crippled and prevented from serving the common good in a society essentially unjust and stifling the flowering of human talents. So profound has the rift between natural knowledge and ethics become in our culture that modern philosophy stumbles in confusion in the field of morality, and positive law cannot ground itself in natural justice any longer. The ethical relations between citizens and nations have become an artificial construct and a new market-place for litigious exploitation.

As with the scientific discoveries of the seventeenth century, so the economic discoveries were likewise reduced to mere mechanism. Human nature was diminished to mere labour, land to mere resource, and capital to a mere tool for making a monetary return. Society was now conceived as an economic machine, a production line. Government became the servant of the merchant and the money-lender, with the ethical in necessary conflict with the efficient.

All this follows from a failure to take proper thought. Economic and social injustice are the result of ignorance, of disregard of what enquiry can discover. Material injustice is the manifestation of rational dishonesty. But, as Henry George observed, economic injustice is maintained by an intellectual laziness, a reluctance to enquire into the laws of nature and the natural order of society. This reluctance of itself imprisons society in ignorance and poverty, and invites the exploiter. This by no means indicates that justice is easy to understand or accomplish. It remains always what a society aspires towards, just as a musician aspires towards perfection. For civilisation it is a work always underway, requiring continuous effort. Our age makes little advance towards social and economic justice because the reduction of society to a production machine continues to rule economic enquiry. It is easy to forget that the science of economics began in the scientific spirit that sought to grasp human life as a clockwork machine, rather than the flowering of culture. The human person was conceived as at war with every other person, and so order and peace needed to be imposed through the will of the legislator to create society. Society and citizenship were perceived as artificial entities which needed to be imposed upon an essentially savage human nature. These conceptions were posited in direct opposition to the traditional understanding of human nature and society, which conceived society as part of the intelligent and providential order of the universe. The notion that society is artificial still colours and distorts economic and political enquiry. It means that justice itself must be conceived as artificial, and therefore ultimately arbitrary.

We can trace the rise of these ideas through a profound change that took place in the conception of natural law, beginning in the

sixteenth century. Indeed the words 'natural' and 'law' both lost their original meanings at the same time. So although the early economists use the expression 'natural law', they do not mean by it what it originally meant. From classical times until the end of the Middle Ages 'nature' meant the arising of all things and their growth towards perfection. It is essentially an activity. So the 'nature' or 'essence' of anything was the perfect actualisation towards which it strove. For example, the essence and nature of the human baby was the 'adult' it was by nature maturing towards. The nature of anything was understood to be its completed actualisation. Nature is seen as teleological, striving for perfection and completeness. This was the case for each individual thing and for the whole, so that there was a harmony between all things and the entire cosmos, which itself strove towards its perfection. This ancient insight has been rediscovered in the 'anthropic principle', the scientific theory that for the human brain to have evolved on earth the entire universe has to be configured exactly as it is. It is also to be found in the discoveries of systems biology, which studies living organisms as wholes ruled by their life principle.

It is a small step from understanding nature in this way to seeing how 'law' springs from observing the ordered manner in which things go towards their proper ends. Law introduces the concept of the 'good' of each thing and the whole. Law is not a force imposed on things from outside, but is an expression of their nature. For something to be 'unlawful' means it departs from its proper end. Everything in its nature moves itself towards its proper end out of its own nature, not from outside itself. At the same time as it seeks its own proper end or perfection, it also moves and works in harmony with the whole cosmos – with the justice of the universe.

For the Greek philosophers human society was part of nature, a natural phenomenon, just as the flourishing of every other species. And like everything else, it has its proper end or perfection within the total order of things. And like everything else, human nature is known from its proper end or full actualisation. For Plato and Aristotle the full flowering of human nature is possible only through political discourse. *Anthropos* is the being of language. Aristotle says "speech is for making clear what is beneficial and harmful, and hence also what is just or unjust" (*Politics* 1253a8-18). This is what politics is, and thus a society is only a political society insofar as it gives speech to discerning what is just or unjust. By 'speech' is meant 'speaking' and also 'reason', since it is speech that manifests human nature as rational and as continually enquiring into the best way of life. Politics is essentially continual deliberation on justice. A political society therefore is essentially ethical, concerned with the common good, with the best way of life for the human community. This is the proper end of speech, to discern justice and avoid injustice. From this arises the ability to make laws, because the discernment of justice opens the possibility of foresight into the consequences of good or harmful action. The human person is here understood as an essentially *communal* being, a participant in the whole community. The capacity to participate and share in the responsibilities of society is the measure of the stature of the individual. This is why for the Greek philosophers the civic life and the virtuous life were one and the same. And so it was also for the noble Roman Stoics such as Cicero and Markus Aurelius. To discern the law was to be human, and to be just was to be fully human. The law is not a doctrine or a set of decrees, it is the natural motion of nature towards completeness and goodness. The mark of the political society fulfilling its proper end is friendship between all citizens. Friendship arises only between good people, and so only a virtuous society lives in peace and happiness.

It was this conception of human nature and society that was discarded by the seventeenth century philosophers and economists and replaced by the conception of the person as property owning. At a single stroke the traditional relation of society to nature is overthrown. The proprietary self now replaced the civic self, and man as participant in the natural order is replaced by man as owner or titleholder. The modern person owned himself and by extension laid claim on the natural world as a possession. The

earth itself ceased to be the dwelling place of man and became his property. The Lockean conception of the self as bounded or self-contained is no longer the communal self of the classical world, but rather represents the birth of the private self that stands apart from society and over against nature, participating only by way of asserting itself over things. This conception of the human self presupposes the individual arises prior to the species and before political society. It could not be further from the classical self that comes into being as a participant and integral part of the whole society. This proprietary self can never be a citizen by nature, and therefore never be ethical or virtuous by nature. Its law is the law of might rather than right. It is the embryo of the tyrant in classical politics.

With the emergence of the proprietary self, of self-ownership and the sovereignty of the will over nature, a new conception of 'natural law' emerges. This new conception of natural law is no longer the natural justice which brings all things into mutually beneficial harmony, it is the law of mutual opposition, of competing selves each seeking the maximum gain for itself. Politics is no longer deliberation on what is just and unjust, but becomes the endless negotiation of competing self-interests. To mitigate the harmful consequences of such a form of politics, law-making necessarily becomes a form of imposition upon society, rather than the articulation of natural justice. It is not concerned to restore the natural order of the human way of life, or to foster friendship between all citizens, or to assure the common good. There cannot be a common good in a society of persons each seeking to possess what the other seeks to possess. Positive law can no longer aim at what is best, but can seek to only mitigate what is worst.

The conception of society as competing interests gained strong support on the nineteenth century from the theory of biological evolution. Herbert Spencer propounded a theory of social evolution in which only the strongest individuals are meant to survive. In this view, political attempts to mitigate poverty resist natural selection, and are therefore misguided. Poverty is nature's way of eliminating the superfluous and weak. Like Locke before him, Spencer sees the freedom of the individual to pursue their desires, so long as they did not infringe on the similar freedom of others, as the foundation of a social ethics. This ethic of guarded self-interest is not an ethic at all, but a sophistic justification of the primacy of the individual over the common good. The idea of social evolution, as continuous adaptation, defers the fully *evolved society* into an indefinite future, justifying all present ills. The classical understanding that a society flourishes through deliberation on the immediate common good, and that citizenship manifests through mutual concern for justice, now becomes an impossibility, a utopian dream. Social evolution removes the capacity of a society to flourish out of itself. The law of nature now becomes a force shaping the world from outside, not towards some higher end, but as a process of pragmatic adaptation to chance and necessity. In such a vision of nature the features that distinguish the human from the other species are removed. Society, like the Lockean self, is essentially in conflict with nature as a whole. The claim of self-ownership and individual autonomy within such a conception of nature is strictly speaking an illusory act of defiance. Such a self cannot enquire into the nature of justice as the ancient philosophers did. The modern political conception of human nature has been diminished through the separation of the rational and the ethical. Nothing illustrates this more clearly than the incapacity of modern economists to see that the private acquisition of land for exclusive use is both irrational and unjust. The Law of Rent illustrates that the ancient philosophers were right in conceiving society as natural, since the Law of Rent shows how mutual benefit arises spontaneously through citizenship and the emergence of this natural revenue. Rent is the material expression of the ethical relation of man with the land or Mother Earth. It arises only with human settlement. It signifies in a most primordial way that the human species is intended by nature to act for the good of one another through reason and through virtue. This is why the Greek and Roman philosophers saw friendship as the highest human achievement, and as the true purpose of law-

making. Friendship arises only through the common quest for the good life, the life proper to a society or polis. All this becomes invisible under the atomistic conception of the person as owner. A proprietorial relation of the individual to the world is a legal fiction and does not exist by nature. It is maintained only through distorted positive law and is not present at the foundation of human community. It has been maintained by the theory, often repeated by the classical economists, that the socialisation of man came about through isolated individuals gradually coming together to form embryo communities through exchange. But like all primates, man was always a social being, and this theory of the origins of society has been proved to be entirely false and misleading. The individual, on the contrary, arises only through organised society where alone individuation is possible. More than this, as the Stoic philosophers saw, the sense of personhood emerges from the sense of common humanity.

The notion of the proprietorial self has not only shaped economic theory, it has extended into jurisprudence and broken the link between positive law and ethics. Where natural law originally emerged from the communal quest for the common good, positive law grounds itself in the decree of the ruler and replaces the social relations of the person with contractual relations. The true relations between all institutions and the person are distorted by this separation. The 'state' and the 'individual' are consequently seen as in perpetual conflict and as having opposing aims. All this occurs through defining selfhood in terms of claims upon property. It gives birth to a form of economics separate from and at variance with the true nature of society. The enclosures in Britain and this new notion of selfhood arose together, and we observe that the great preoccupation of law in that period was with property. The two notions belong together. It is only through misconceiving human nature that the relation with the land becomes likewise misconceived. This is why the Law of Rent touches a blind spot in modern economic thinking. And it is why economic thinking itself reduces the understanding of society to mere commercial exchange. In a purely commercialised society, founded upon mutual exploitation, the higher institutions, such as education, medicine, jurisprudence, government, the arts, become a 'cost' to the market, rather than the flowering of human potential.

We began with the observation from Karl Jaspers that since earliest times man has always attempted to picture *the whole* and to situate the human species in the cosmic order. This quest continues in our age in the sciences and in philosophy and religion. The concern to understand the truth of things shows itself to be the distinguishing feature of the human species. Man is the being that reflects on the nature of things, with the desire to live according to truth. From this emerges politics in the form of speech, as the deliberation upon what is good and bad, just and unjust. The rational and the ethical manifest simultaneously, as integral thought. The true and the good are two sides of one reality. The quest to understand the truth of things springs from the essence of human nature. It orients humanity towards the world. Yet it ever remains an aspiration, an open-ended quest. Nevertheless, every person knows that to live in accordance with the true and the just is the proper life of the individual and society. It remains to be manifested, like a talent that needs to be nurtured. It is the task calling for fulfilment, the work of the political entity. This aspiration remains, yet is tethered by the prevailing mechanistic and amoral conception of nature, the legalised notion of the self, and the proprietorial notion of the relation of man to the earth. On the other hand, it is precisely through these deep misconceptions that the call to understanding addresses us. Insofar as a society accepts falsehoods and injustice it abdicates from its essential human purpose. The work called for is that of understanding. It is a creative work, natural to the human intelligence, worthy of dedication, and fosters peaceful discourse. A society will only change if its understanding changes, if what it holds to be true changes. I give the last word to Aristotle, "Man's work as Man is accomplished by virtue of Practical Wisdom and Moral Virtue, the latter giving the right aim and direction, the former the right means to its attainment." ■