

Law in a Revolutionary Age

The Concept of Natural Law (Paul Verghese)

"Natural Law" is a term used in so many different senses and put to different uses in varying cultures. Some see it as the basis of positive law. Others see the positive law as primary and natural law to be appealed to only in questions for which there is no legal provision.

Grotius invoked it for building an International law. The Conservative can appeal to it for his purposes as Sir William Blackstone did. But the revolutionary reformers of 17th and 18th century France and England appealed to it as well as a basis for their radical demands. The debates of the Constituent Assembly in France were full of references to Natural Law.

The distinction between a ius divinum and a ius naturale does not remain constant. ~~Neither does the difference between either + the ius gentium.~~ ~~or perhaps~~ ~~for~~ ~~concept~~ of universal law, combining both these elements seems to occur in nearly all ancient cultures which has left us any record.

Law
natural law
civil law
criminal law

schools of philosophy like Logical Analysis or Existentialism which rule out fundamental questions in favour of pragmatic ones.

Philosophically the question of nature is receiving new attention. Particular attention

should be drawn to the study coming from the Vienna

circle of philosophers: Moritz Schlick, Philosophy of Nature (Philosophical Library, New York, 1949)

and the new historical study by R. G. Collingwood:

The Concept of Nature.

In theology, the World Council's Faith and Order Secretariat is beginning to take a keen interest in this question. The forthcoming meeting in Denmark of the Faith and Order Commission has as its main theme:

Phusis of the Concept of Nature. The problem here seems to be a double one: (a) the significant nuances of the Greek concept phusis and the Latin concept natura; and (b) the separation between the 'natural' and the 'supernatural'.

The origins of the concept 'phusis' go back to the pre-Socratics in Western thought. The root verb is phuō, parallel to the Sanskrit bhu or bhrawami and Latin feri, meaning ^{in the active} to occur, to bring forth, to produce, to put forth, ^{and in the passive} to grow, to come into being, to be born, to occur. Phusis could thus mean birth or origin, and derivatively that with which one is born. Natura is also from Latin nascor = to be born

The derivative meaning has been developed in a long course of variations in thought. Parmenides wrote a treatise Peri Phuseōs, kata phusin nomos ho panton basileus. ~~See~~ Aristotle, in his understanding of all things as form and substance already paved the way for the concept of ~~nature~~ ^{phusis} as a comprehensive term for all that exists or has come to be. Phusikē is the science that deals with this.

Aristotle's conception of nature as ~~substance~~ ^{as ~~being~~ the principle of movement or change within all things} animated by form has come to new brilliance in Teilhard de Chardin's conception of the Cosmos as matter moved by consciousness.

The Stoics, ^{following Aristotle, gave the name} ~~called~~ Nature or Phusis only by the active principle in the Cosmos, not the Cosmos itself. Nature was God for the Stoics, immanent in the Cosmos. All things were indwelt by the "logoi spermaticoi" the seminal logoi, which were seeds of the divine fire leading ~~them~~ ^{all things} to growth according to their 'natural' form. For the Stoic, logos was phusis, the ruling principle in each individual existence, parallel to Aristotle's 'form'. In the human being the phusis is logos or reason. In the universe, ^{absolutely} the logos endiaithetos, the Divine Fire, indwells and regulates its movements.

Stoic ethics is closely related to this Stoic understanding of the universe. The rational soul of man is part of the one great Divine Logos which directs the Universe, and therefore it is man's responsibility to live in absolute conformity with this ruling principle in him. Reason is virtue, and is the

Theodosius II, the Younger. (401-450). Was emperor
from 408. Codex Theodosianus was a compilation
of Byzantine law.

Code of Justinian. 482-529. Macedonian. Yugoslav
Educated at Constantinople. At Nicaea - & Code of
Justinian