

NATURAL LAW IN THE GREEK PERIOD

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THE problem of natural law, which this Institute has worthily undertaken to reexamine, is certainly one of the most ancient in human thought as well as one of the most subtle in its aspects and one of the most far reaching in its conclusions. Lawyers and philosophers have long been waging an enormous battle of books and ideas over it, so that I owe the perilous honor of delivering this address to the fact that I am neither a lawyer nor a philosopher. And it is very much to be regretted, for, to treat natural law in Ancient Greece, as it should be treated, to see it and present it as a whole, one should be altogether a lawyer and a philosopher, an historian and a humanist. This is not said to overexaggerate the difficulties of the question, but to emphasize, right at the beginning, both its academic and practical importance.

It is customary to praise our age as being unique for its practical science. But its achievements in other fields are equally remarkable, although they may not always be obvious to the public. There has been lately, for instance, an outstanding revival of interest in the study of Antiquity; our contemporaries are burning with the desire of finding the primitive sources of truth and of the past institutions. Moreover, we are eager to rebuild the social unity of the world, which has been broken up in its religious origin ever since the Reformation, to mention only one cause of division; we are trying to organize the

State on the basis of a common law, better appropriate to the nature of man; our world, however chaotic and troubled it may appear to the observer, is earnestly searching for unity. *One World* seems to be the motto of our century.

Natural law may be one of the bases of unity for our world. China, the mother of civilization, with a population of over 400,000,000 people, managed to live on natural law for over three thousand years, from 2600 B.C. to 600 A.D.¹ After the First World War, the new Republic of Austria, strange as it may seem, officially recognized natural law in the seventh article of her National Code. A good deal of contemporary jurisprudence, for instance, in America and in Great Britain, is still based on natural law, although many writers on legal science never use the expression, partly because they find it too ambiguous, partly because they do not recognize natural law. With the ever-growing importance of the international law and with the deep changes in the life of nations brought about by war and conquest, it is not surprising that a revival of interest in natural law should take place nowadays; the science of natural law has got to be reviewed afresh and to be restated in the light of progress, almost in the same way as the love and the taste for the Classics have got to be fostered every generation by popular and scholarly editions and translations.

Besides being commanded by the extraordinary development of international relations, the study of natural law

¹ In Indonesia, *Adath* is the word for Natural law; with a present population of about 40,000,000 people. Indonesia still administers justice for the natives according to natural law.

may be regarded as a vigorous element in the new Humanism which is taking place under our eyes. Dr. Carrell's book, *Man The Unknown*, which will perhaps remain the greatest book of the first half of the century, was certainly written to be a beacon to man, who, in his desire to conquer matter, is rather inclined to forget himself and his nature. A great many men have forgotten, if they have ever known it, where they come from and where they are going to; all of us may know more or less about our specialized field. But what do we know about Man? "I look into myself," first said Heraclitus.² "Know Thyself" was written on the fronton of the temple of Delphes.³ "Man is the measure of all things," said Protagoras.⁴ The study of natural law may teach us something about the true nature of man.

To avoid a good deal of confusion prevalent on the subject, I shall first endeavor to define and describe the terms of the question, without indulging in too many abstract definitions and thus losing ground with reality and synthesis. After trying to clear the ground of any misunderstanding, I shall pass on to the main point: Natural Law in the Greek Period, which I shall present in two parts; in the first, it will be natural law as seen by the non-philosophers; the second will deal with natural law

² Heraclitus, fr. 116 (106): ἀνθρώποισι πᾶσι μετέσται γιγνώσκειν ἑαυτοὺς καὶ σωφρονεῖν.

Heraclitus, fr. 115 (O): ψυχῆς ἐστὶ λόγος ἑαυτὸν αὖξων. Diels, *Die Fragmente der Vorsokratiker*)

³ Plato, *Theaet.* 183 B: Πάντ' ἄνδρα πάντων χρημάτων μέτρον εἶναι.

⁴ Γνῶθι σεαυτόν. Plato, *Phaedrus* 229 e: οὐ δύναμαί ποω κατὰ τὸ Δελφικὸν γράμμα γινῶναι ἑμαυτόν.

as seen by the philosophers. In the conclusion, I shall summarize my paper and draw the main conclusions.

To begin with, by Ancient Greece I mean primarily Athens, "the school of Hellas," as Pericles and Euripides used to call the Athens of their day. Since the history of Greece is generally centered upon that of Athens because her past happens to be better known than that of the other city-states, I shall leave aside the colonies and the islands, as well as the city-states of the homeland; our knowledge of their legal institutions and literature is too fragmentary to be relied upon for this paper. On the other hand, the principles of Athenian law are well known; it is in Athens that the study of Greek law was most flourishing and produced fundamental works, which are still analyzed in Colleges of Law.

Law is a Greek invention, the word itself and the conception. It is grossly inexact and unfair to repeat the commonplace that Greece gave the world arts and philosophy, whereas it was left to Rome to give mankind government and jurisprudence, as though reality could produce such cleavage. Too many Greek laws, it is true, have perished. Nevertheless, Greek law is original; limited by time and space, it was not, like that of Rome, adopted and applied for centuries in a huge empire made up of divers races. Yet, Plato's Academy, which was, in some measure, the first College of Law, used to teach jurisprudence and draw up codes for colonies, which were the very basis of the Roman law; Plato's *Laws* are the legislator's masterpiece, and he would certainly not have written the four last books of his *Laws*, which deal mostly with civil and criminal law, had there not been any

systematic and technical study of Greek jurisprudence in his Academy. Isaeus was the first jurist of Greece in the fourth century; Aristotle and Theophrastus were the greatest jurists of Greece, since they were the first to write an *Esprit des Lois* and to compare divers legislations and constitutions. Although it is difficult to talk about the spirit of Greek Law, since Greek jurisprudence and court practice underwent only a slight development from Solon to Aristotle, yet the conception of law is originally Greek and is the result of a long process of thought.

The Greeks used several words for law: ὀρθός, λόγος, νόμος, τὸ δίκαιον. Ὀρθός is a metaphor belonging to geometry; it means that which is right, the right line, rectum, regula, as in orthopaedics; there is no equivalent in Greek to the Latin *jus*, that which unites or binds men, *jungere*, *jugum*, *conjugium*. The word λόγος means law made by reason and based upon reason, in opposition to fatality or Destiny; it means also relation, principle or formula. The word νόμος, which does not exist in Homer and is first found only in the seventh century poet Hesiod, means till the second part of the fifth century the old and traditional custom; it means also the habit resulting from the necessity of conforming to existing conditions, that is to say the political and social environment as well as the psychological dispositions that go with the existing conditions; the word νόμος suggests the idea of sharing, of division, separation, equal parts; it is used for law, justice, statute. The word τὸ δίκαιον (δίκη) is the abstract and absolute right or justice; δίκαιον is a part of it in the same way as *lex* is a part of *jus*;

δίκη is that which directs, shows the way towards an aim, as can be seen in the Latin words: *dicere, digitur, indicare, judicare*. And natural law is rightly called by Aristotle: Τὸ φυσικὸν δίκαιον, φύσει δίκαιον, natural justice, that is to say, justice recognized and admitted without any formal or conventional declaration, resulting from the nature of men and based upon the nature of our being.

The Greeks had a peculiar conception of law. To us, the word suggests a court and a judge, a set of technical rules or regulations which are accumulated, revised and understood by specialists especially. The Greeks did not regard the law exactly in the same way, since their genius was rather metaphysical. They were inclined to consider the law as something absolute, permanent, which it was not a good thing to change, because they thought that law, like poetry, was of divine origin; although Greek laws were changed and revised at times, yet the Greeks were inclined to regard the law as sovereign. Socrates is not speaking metaphorically when he declares himself the slave of the law, in the *Crito*, where he converses with the Laws and admits the absolute sovereignty of the law. To the Greeks law stood over the society; it was the binding force of the city, it was born with the city itself, it was the force that brought and held the city together. The Greek city was an ethical society, originally formed to secure justice to all; it is essentially an educational institution, the city itself being the organ of education for the citizens. The keyword is education; Plato's *Republic* contains the ideal curriculum of secondary education, the *Laws* present the ideal curriculum of university edu-

cation, in the same way as Aristotle's *Politics* deals with the best form of government and the best form of education. There is no distinction in Greek between the science of politics and the science of jurisprudence; to look for the best form of government to live in so as to fully develop one's self as a citizen, is to look for the ideal law and the best theory of law; the subtitle of Plato's *Republic* is "Concerning Justice."

The expression "natural law" is ambiguous, confusing and misleading, not to the Greeks who believed in city education and in generation, but to us who have a two thousand year old heritage of Christianity, for the expression "natural law" has today a definite Christian connotation; it has none, of course, in pagan Greece, where natural law is considered as a thing of human reason alone. Moreover, the word law suggests nowadays something fixed, laid, proclaimed, written; the word natural connected with law suggests something peculiar to human nature. On the other hand, natural law is unwritten, and, as such, cannot always be defined and grasped easily; it is universal, all men have a natural, infallible and practical knowledge of it; man must do good and avoid evil; he who sins should be punished; man must preserve his own being. These precepts are immanent in human nature, they are part of our nature, they are the very expression of the universal notion of justice; they are implanted in us, we would not be what we are without them.

Having described the terms of the question, I shall now turn to the first part of this paper. How did the Greek writers, the non-philosophers, express the idea of univer-

sal justice? Is it possible to see in their expression a development of the concept of natural law? That is the point now under discussion, and I shall follow the chronological order.

Partly because poetry is several centuries older than prose in Greece, partly because poets are usually endowed with deeper feeling and insight than most people, I shall begin with Homer, the father, the source of all poetry. In the *Iliad*, where we can trace the beginning of the international law with Achilles and Agamemnon being made friends, Homer does not use the word law, but he clearly sets forth, in the first book of his epic poem, the problem of justice and injustice, of right and wrong. For him, justice is of divine origin; in the very first lines of the poem he describes the Achaeans carrying a staff in their hands, as "the judges who under Zeus preserve the ordinances."⁵ In the eighteenth book of the *Iliad*, there is, on the shield of Achilles, a lively description of justice in a city, and that is new and important.

"The folk gathered in the meeting-place. Here a dispute had arisen, and two men were disputing over the price of a man slain; the one claimed to have paid all, putting his case to the people, while the other denied having got any payment and both were eager to get a settlement by a referee. The folk were shouting for both, helpers on either side, and heralds were keeping them back. And the elders were sitting on seats of stone in a stately circle, and they held in their hands the staves of the loud-voiced heralds; with these they got up and gave their judg-

⁵ Homer, *The Iliad* I, 237-239: νῦν αὐτέ μιν υἱες Ἀχαιῶν ἐν παλάμαις φορέουσι δικασπόλοι, οἳ τε Θέμιστας πρὸς Διὸς εἰρῶνται.

ments, each in his turn. In their midst were set two talents of gold, to give him among them who should pronounce the decision most rightly.”⁶

Strange as it may seem, justice is still administered almost in the same way in China today. In Homer, law was customary.

Hesiod is the first poet to have coined the word “law.” His most famous poem, *Works and Days*, he wrote to protest against the injustice of which he had been the victim; he dedicated his work to his brother Perses, to whom he gives the following advice:

“Perses, take this to heart and so lend an ear to justice and put violence from your mind utterly, for this is the law that the son of Cronus ordains for mankind: Though fishes and beasts and winged birds devour one another, since justice is not in them, yet to men he has given justice, and best it is by far. For if one has a mind to know and to speak what is just, to him far seeing Zeus gives a good life; but whosoever wilfully bears false witness and forswears himself, and therein offending justice suffers hurt incurable, his offspring in time to come are left the more in darkness; but the man whose oath is true, his off-

⁶ Homer, *The Iliad* XVIII, 497-508

Λαοὶ δ' εἰν ἀγορῇ ἔσαν ἀθρόοι· ἔνθα δὲ νείκος
ὀρώρει, δύο δ' ἄνδρες ἐνείκεον εἵνεκα ποινῆς
ἀνδρὸς ἀποφθιμένου· ὃ μὲν εὔχετο παντ' ἀποδοῦναι
δήμῳ πιψαύσκων, ὃ δ' ἀνάνητο μηδὲν ἐλέσθαι.
ἄμφω δ' ἰέσθην ἐπὶ ἱστορίῳ πείραρ ἐλέσθαι.
λαοὶ δ' ἀμφοτέροισιν ἐπήτυον, ἀμφὶς ἀρωγοί.
κήρυκες δ' ἄρα λαὸν ἐρήτυον· οἱ δὲ γέροντες
σκῆπτρα δὲ κηρύκων ἐν χερσὶ ἔχον ἡεροφώνων·
εἶατ' ἐπὶ ξεστοῖσι λίθοις ἱερῶ ἐνὶ κύκλῳ.
τοῖσιν ἔπειτ' ἦμισον, ἀμοιβῆδιν δὲ δικάζον.
κεῖτο δ' ἄρ' ἐν μέσσοισι δύο χρυσοῖο τάλαντα
τῷ δόμεν ὅς μετὰ τοῖσι δίκην ἰθύντατα εἴποι.

spring are the better in time to come.”⁷

This conception of law and justice is much clearer than that of Homer. Theognis, who was robbed of his property by tyrants in the sixth century, asks himself this burning question, which is still very modern in tone:

“Yet how can it be rightful, Father Zeus, King of the Immortals, that a man that hath no part in unrighteous deeds, committing no transgression nor any perjury, but is a righteous man, should not fare aright? What other man living, or in what spirit, seeing this man, would thereafter stand in awe of the Immortals, when one unrighteous and wicked that avoideth not the wrath of God or man, indulgeth wanton outrage in the fulness of his wealth, whereas the righteous be worn and wasted with grievous Penury?”⁸

⁷ Hesiod, *Works and Days*, 274-285:

ὦ Πέρση; σὺ δὲ ταῦτα μετὰ φρεσὶ βάλλεο σῆσι,
καὶ νῦ δίκης ἐπάκουε, βίης δ' ἐπλήθεο πάμπαν.
Τόνδε γὰρ ἀνθρώποισι νόμον διέταξε Κρονίων,
ἰχθύσι μὲν καὶ θηροῖ καὶ οἰωνοῖς πετεηνοῖς
ἐσθέμεν ἀλλήλους, ἐπεὶ οὐ δίκη ἐστὶ μετ' αὐτοῖς·
ἀνθρώποισι δ' ἔδωκε δίκην, ἣ πολλὸν ἀρίστη
γίγνεται· εἰ γὰρ τίς κ' ἐθέλη τὰ δίκαι' ἀγορεύσαι Ζεὺς·
γινώσκαν, τῷ μὲν τ' ὄλβον διδοῖ εὐρύοπα
ὃς δέ κε μαρτυρήσῃ ἐκὼν ἐπίορκον ὁμόσσιας
ψεύσεται, ἐν δὲ δίκην βλάβας νήκεστον ἄσθῃ
τοῦ δέ τ' ἀμαυροτέρῃ γενεῇ μετόπισθε λέλειπται·
ἀνδρὸς δ' εὐόρκου γενεῇ μετόπισθεν ἀμείνων.

⁸ Theognis, 743-752:

Καὶ τοῦτ', ἀθανάτων βασιλεῦ, πῶς ἐστὶ δίκαιον,
ἔργων ὅστις ἀνὴρ ἐκτὸς ἐὼν ἀδίκων,
μὴ τιν' ὑπερβασίην κατέχων μῆδ' ὄρκον ἀλιτρόν,
ἀλλὰ δίκαιος ἐὼν, μὴ τὰ δίκαια πάθῃ;
Τίς δὴ κεν βροτὸς ἄλλος, ὄρῳν πρὸς τοῦτον, ἔπειτα
ἄζοιτ' ἀθανάτους, καὶ τίνα θυμὸν ἔχων,
ὅππότε' ἀνὴρ ἄδικος καὶ ἀτάσθαλος, οὔτε τευ ἀνδρὸς
οὔτε τευ ἀθανάτων μῆνιν ἀλευόμενος,
ἰδριζῇ πλούτῳ κεκορημένος, οἱ δὲ δίκαιοι
τρύχονται χαλεπῇ τειρόμενοι πενίῃ;

This passage shows that the objective notion of justice and injustice, independently of the legislator's will, is the real foundation of natural law; this feeling of what is just and of what is unjust in this world is implanted in human nature, it is universal. Moreover, the idea of justice being satisfied in another world is implied.

It was left to Sophocles to be the champion of natural law in the Athens of the fifth century; no other poet, I should say, not even any philosopher, has more exactly and poetically described the concept of natural law than Sophocles. He makes us conscious of it, in the same way as Paul Claudel makes us conscious of the presence of God and of the working of Grace in man's soul. *Oedipus Tyrannus* contains several passages on natural law, among which I have chosen this short prayer.

Listen to this magnificent prayer for purity in word as in deed. The theme of this prayer is the following: May I ever be pure in word and in deed, loyal to the unwritten and eternal law.

"May destiny still find me winning the praise of reverent purity in all words and deeds sanctioned by those laws of range sublime, called into life throughout the high clear heaven, whose father is Olympus alone; their parent was no race of mortal men, nor shall oblivion ever lay them to sleep; the god is mighty in them, and he grows not old."⁹

⁹ Sophocles, *Oedipus Tyrannus*, 863-872:

XO εἰ μοι ξυνεῖη φέροντι
μοῖρα τὰν εὖσεπτον ἀγνεῖαν λόγων
ἔργων τε πάντων, ὧν νόμοι πρόκεινται
ὑψίποδες, οὐρανίαν
δι' αἰθέρα τεκνωθέντες, ὧν Ὀλυμπος
πατὴρ μόνος, οὐδέ νιν
θνατὰ φύσις ἀνέρων
ἔτικτεν, οὐδὲ μὴ ποτε λάθρα κατακοιμάσῃ·
μέγας ἐν τούτοις θεός, οὐδὲ γηράσκει.

The play of *Antigone* contains a passage even more explicit: it reaches the sublime. The whole tragedy itself is based on the distinction between the written law and the unwritten law; Creon sticks to the word of the law, his son and his wife pay for it with their lives; Antigone sticks to the spirit of the law, but she dies gladly for it, she even rushes to death, which is unique in Greek literature; her sacrifice has made the world brighter.

Cr. Now, tell me thou — not in many words, but briefly — knewest thou that an edict had forbidden this?

An. I knew it; could I help it? It was public.

Cr. And thou didst in deed dare to transgress that law?

An. Yes, for it was not Zeus that had published me that edict; not such are the laws set among men by the Justice who dwells with the gods below; nor deemed I that decrees were of such force, that a mortal could override the unwritten and unfailing statutes of heaven. For their life is not of today or yesterday, but from all time, and no man knows when they were first put forth. Not through dread of any human pride could I answer to the gods for breaking these. Die I must — I knew that well (how should I not?) — even without thy edicts. But if I am to die before my time, I count that a gain: for when any one lives, as I do, compassed about with evils, can such an one find ought but gain in death? So for me to meet this doom is trifling grief; but if I had suffered my mother's son to lie in death an unburied corpse that would have grieved me; for this, I am not grieved. And if my present deeds are foolish in thy sight, it may be that a foolish judge arraigns my folly."¹⁰

¹⁰ Sophocles, *Antigone*, 446-470:

KR σὺ δ' εἶπέ μοι μὴ μῆκος, ἀλλὰ συντόμως,

The grave Thucydides, the most scientific historian of Antiquity, admits the existence of the unwritten law. He makes Pericles say in his famous funeral speech:

“Our form of government does not enter into rivalry with the institutions of others. We do not copy our neighbors, but are an example to them. It is true that we are called a democracy, for the administration is in the hands of the many and not of the few. But while the law secures equal justice to all alike in their private disputes, the claim of excellence is also recognized. . . . We are prevented from doing wrong by respect for the authorities and for the laws, having an especial regard to those which are ordained for the protection of the injured as well as to those unwritten laws which bring upon the transgressor of

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- ἦδησθα κηρυχθέντα μὴ πράσσειν τάδε;
 AN ἦθη· τί δ' οὐκ ἔμελλον; ἐμφανῇ γὰρ ἦν.
 KR καὶ δῆτ' ἐτόλμας τοῦσδ' ὑπερβαίνειν νόμους;
 AN οὐ γάρ τί μοι Ζεὺς ἦν ὁ κηρύξας τάδε,
 οὐδ' ἡ ξύνοικος τῶν κάτω θεῶν Δίκη
 τοιούσδ' ἐν ἀνθρώποισιν ὥρισεν νόμους·
 οὐδὲ σθένειν τοσοῦτον φόβῳ τὰ σὰ
 κηρύγμαθ', ὥστ' ἀγραπτα κάσφαλῇ θεῶν
 νόμιμα δύνασθαι θνητὸν ὄνθ' ὑπερδραμεῖν·
 οὐ γάρ τι νῦν γε κάχθές, ἀλλ' αἰεί ποτε
 ζῆ ταῦτα, κοῦδεις οἶδεν ἐξ ὅτου 'φάνη.
 τούτων ἐγὼ οὐκ ἔμελλον, ἀνδρὸς οὐδενὸς
 φρόνημα δέισας', ἐν θεοῖσι τὴν δίκην
 δώσειν· θανουμένη γὰρ ἐξήδη, τί δ' οὐ;
 καὶ μὴ σὺ προῦκήμενος· εἰ δὲ τοῦ χρόνου
 πρόσθεν θανοῦμαι, κέρδος αὐτ' ἐγὼ λέγω.
 ὅστις γὰρ ἐν πολλοῖσιν, ὥς ἐγώ, κακοῖς
 ζῆ, πῶς ὅδ' οὐχὶ κατθανὼν κέρδος φέρει;
 οὕτως ἔμοιγε τοῦδε τοῦ μόρου τυχεῖν
 παρ' οὐδὲν ἄλλος· ἀλλ' ἂν, εἰ τὸν ἐξ ἐμῆς
 μητρὸς θανόντ' ἄθραπτον ἡνσχόμην νέκυν,
 κείνοις ἂν ἤλγουν· τοῖσδε δ' οὐκ ἀλγύνομαι.
 σοὶ δ' εἰ δοκῶ νῦν μῶρα δρῶσα τυγχάνειν,
 σχεδὸν τι μῶρῳ μωρίαν ὀφλισκάνω.

them the reprobation of the general sentiment.”¹¹

Xenophon, who was in his youth the disciple of Socrates, has imagined the following dialogue between Hippias and Socrates in his *Memorabilia*:

Socrates Do you know, Hippias, said Socrates, what is meant by the unwritten laws?

Hippias These laws, replied Hippias, are those which are observed everywhere in any country.

Socrates Could you say that they have been established by men?

Hippias How could I say that, Socrates, knowing that men cannot get together and that they do not speak the same language?

Socrates Who do you think is the author of those laws?

Hippias I believe that these laws are from the gods, for, among all men, the first law is to respect the gods.

Socrates And to respect parents is it not also a universal law?

Hippias It is so, Socrates.

The dialogue, which deals with justice, is rather long. It ends this way.

Socrates Then, Hippias, do you believe that the gods command what is just or what is contrary to justice?

Hippias No, by Jove, they do not command what is contrary to justice; for, if a god did not make just laws, it would be very difficult for another legislator to make some.

¹¹ Thucydides, L. II, 37: 'Ανεπαχθως δὲ τὰ ἴδια προσομιλοῦντες τὰ δημόσια διὰ θεὸς μάλιστα οὐ παρανομοῦμεν, τῶν τε αἰεὶ ἐν ἀρχῇ ὄντων ἀκροάσει καὶ τῶν νόμων, καὶ μάλιστα αὐτῶν ὅσοι τε ἐπ' ὠφελίᾳ τῶν ἀδικουμένων κείνται καὶ ὅσοι ἀγραφοὶ ὄντες αἰσχύνῃν ὁμολογουμένην φέρουσιν.

Socrates In consequence, Hippias, the gods recognize the identity of what is just and of what conforms to law."¹²

As we see from those quotations, and I could still multiply them, we are now a long way from Homer; there has been in Greece a gradual development of the concept of natural law and also a gradual improvement in the description of it in poets and historians especially; it is of divine origin, natural, universal, known to all. I intentionally started with the non-philosophers in order to show that natural law is not a philosopher's conception alone; it was talked about in conversation, it was brought on the stage, it was admitted in the writing of history. And as we move towards the fourth century, the concept is clearer and more easily understood and defined.

II

There is also a certain evolution in the philosopher's conception and expression of natural law. I shall now turn to the second part of this paper. To begin with, I shall try to show the origin and the development of the

¹² Xenophon, *Memorabilia*, L. IV, ch. IV: 'Αγράφους δέ τινας οἶσθα, ἔφη, ὃ 'Ιππία, νόμους;

Τοὺς γ' ἐν πάσῃ, ἔφη, χώρα κατὰ ταῦτά νομιζομένους.

"Ἐχοις ἄν οὖν εἰπεῖν, ἔφη, ὅτι οἱ ἄνθρωποι αὐτοὺς ἔθεντο; Καὶ πῶς ἄν, ἔφη, οἱ γε οὔτε συνελθεῖν ἅπαντες ἄν δυνηθεῖεν οὔτε ὁμόφωνοι εἶσι; Τίνας οὖν, ἔφη, νομίζεις τεθεικέναι τοὺς νόμους τούτους; 'Εγὼ μὲν, ἔφη, θεοὺς οἶμαι τοὺς νόμους τούτους τοῖς ἀνθρώποις θεῖναι. Καὶ γὰρ παρὰ πᾶσιν ἀνθρώποις πρῶτον νομίζεται θεοὺς σέβειν. Οὐκοῦν καὶ γονέας τιμᾶν πανταχοῦ νομίζεται; Καὶ τοῦτο, ἔφη.....

Πότερον οὖν, ὃ 'Ιππία, τοὺς θεοὺς ἡγῆ τὰ δίκαια νομοθετεῖν ἢ ἄλλα τῶν δικαίων; Οὐκ ἄλλα μὰ Δί', ἔφη. Σχολῇ γὰρ ἄν ἄλλος γέ τις τὰ δίκαια νομοθετήσκειν εἰ μὴ θεός. Καὶ τοῖς θεοῖς ἄρα, ὃ 'Ιππία, τὸ αὐτὸ δίκαιόν τε καὶ νόμιμον εἶναι ἀρέσκει.

concept of natural law from Pythagoras to the Stoics. Then I shall endeavor to show that the evolution of the concept of natural law is bound up in Greece with the evolution of the concept of the individual. And lastly I shall study natural law in relation with slavery and usury.

The first difficulty concerns the definition of natural law. Its existence is admitted by experience and reason; its subject is man or human nature; its object is made up of a few general principles such as: good must be done and evil, avoided; damages must be repaired; its basis is the sense of justice; its qualities are based on human nature: it is universal and it is immutable. But it is only after a long process of thought that this definition has been arrived at; the main phases of this development may be seen in Pythagoras, Heraclitus, Plato, Aristotle and the Stoics.

It is to Pythagoras that we owe the first study of the principles of justice. For him and for his disciples, justice was a square number, that is to say, a number multiplied into itself; the word number had then a wider meaning than today: it meant both quantitative relation and qualitative essence. Anyhow, a square number, being composed of equal parts, is perfectly harmonious; each part has an equal numerical value and the whole is perfect. It follows from that conception of justice as a square number that the State is made up of equal parts, is the sum of equal members. The state will live and justice will be preserved as long as its parts are kept equal; it is only a matter of adjustment and equilibrium. Equality is conceived as the principle of law. But how is

equality going to be kept? By measuring out to everybody what is measured to him: justice is requital. Hence the theory of punishment, the law of retaliation; everybody must suffer as he has acted.

Pythagoras' theory of justice perfectly conforms to the deep rooted feeling of the Greeks for equality. When a colony was founded, and even on the homeland, the heads of the families used to think of themselves as equals; they thought of forming a sort of community of equals. That feeling is thus expressed by Aristophanes, in *The Clouds*: "What is the use of geometry? says Strepsiades. Why, for measuring lands into equal portions. — Do you mean the colonists' land? No, I mean all the land."¹³ Plato adopted the Pythagorean conception of justice in the *Republic*, but he greatly enlarged upon it by giving it a deeper meaning and a more spiritual content. Aristotle objected to the conception of justice as mere requital, in his *Ethics*, but he admitted that proportionate requital was the very bond of the state.¹⁴ Moreover, Aristotle's theory of "particular" justice, as distinguished from "universal" justice, owes something to Pythagoras.

If Pythagoras may be credited with being the first to have thought of equality as the principle of justice, which

¹³ Aristophanes, *The Clouds*, 202-204:

ΛΑΑ. Γεωμετρία.

ΣΤ. Τοῦτ' οὖν τί ἐστι χρήσιμον;

ΜΑ. Γῆν ἀναμετρήσαι.

ΣΤ. Πότερα τὴν κληρουχικήν;

ΜΑ. Οὐκ, ἀλλὰ τὴν σύμπασαν.

¹⁴ Aristotle, *Nichomachean Ethics* 1132b: Δοκεῖ δέ τισι καὶ τὸ ἀντιπεπονθὸς εἶναι ἀπλῶς δίκαιον, ὥσπερ οἱ Πηθαγόρειοι ἔφασαν· ὠρίζοντο γὰρ ἀπλῶς τὸ δίκαιον τὸ ἀντιπεπονθὸς ἄλλῃ. τὸ δ' ἀντιπεπονθὸς οὐκ ἐφαρμόττει οὐτ' ἐπὶ τὸ διανεμητικὸν δίκαιον οὐτ' ἐπὶ τὸ διορθωτικόν

is so important in the concept of natural law, Heraclitus is the first philosopher to have shown the relation between the divine law and the human laws.

Heraclitus, one of the greatest political thinkers of Greece in the fifth century, is remembered mostly for this hatred of democracy, his prophecy about global war and his pre-Christian utterances on the vanity of all human affairs. But he does not seem to have been, so far, fairly appreciated by scholars. To begin with, long before Plato and Socrates, he had a lofty conception of the law and he was the first to transform the concept of law into something real. For him law is reason; it must rule and govern, because it is neither transitory nor capricious; it is constant, serene, eternal; it deals with the general and the universal. The city where man lives must be based on law, because law is reason and reason is universal; the science of politics is derived from the knowledge of the universal law. Although his theory is not systematically expressed, yet his fragments are numerous enough to reveal his conception of the law. "The people must fight for the law just as for a city wall." (fr. 44 /100/) "With god all is beautiful, good, and just, but men hold that this or that is unjust or is just" (fr. 102 /61/). "All human laws are sustained by the one divine law, which is infinitely strong, and suffices, and more than suffices, for them all" (fr. 114 /91b/).¹⁵

¹⁵ Heraclitus, fr. 44 (100) μαχεσθαι χρή τὸν δῆμον ὑπὲρ τοῦ νόμου δικασπερ τείχεος.

Heraclitus, fr. 102 (61): τῷ μὲν θεῷ καλὰ πάντα καὶ ἀγαθὰ καὶ δίκαια, ἄνθρωποι δὲ ἃ μὲν ἄδικοι ὑπειλήφασιν ἃ δὲ δίκαια.

Heraclitus, fr. 114 (91b) τρέφονται γὰρ πάντες οἱ ἀνθρώπειοι νόμοι ὑπὸ ἑνὸς τοῦ θεοῦ κρατεῖ γὰρ τοσοῦτον ὁκόσον ἐθέλει καὶ ἐξαρχεῖ πᾶσι καὶ περιγίνεται: (Diels, Die Fragmente Der Vorsokratiker).

Heraclitus was the first to see man or the human soul as the center of the world. He was the first to ask himself the ever burning question. What is man doing in the cosmos? What is his place in the universal struggle between Being and Becoming? "I look into myself," he used to say. In fact, by looking into himself, he became conscious of his place and of his effect in the world, for knowledge has a relation to life. And the soul has a deep insight; reason is universal. Man sees the laws of the universe; his duty is to learn and obey them. He must follow the truth of nature which is infallible, because it is the divine law of nature. Man is a whole in the scheme of the universe; he is not only a physical being that has to obey the laws of the universe; he is also an intellectual being who has to obey the laws of the city in which he lives. In short, Heraclitus was the first to see and to express the relation between the divine law and the human laws. He humanized the law, and that is new.

Plato, who owes so much to Heraclitus, does not seem to have ever forgotten the oath which he took, like the other Athenian boys, when he was entered on the role of his deme: "I will hearken to the magistrates, and obey the existing laws, and those hereafter established by the people."¹⁶ As a matter of fact, Plato seems to have been obsessed all his life with the idea of justice; it forms, with the true, the good and the beautiful, the basis of his conception of the moral order. But justice is never a legal matter for him; throughout the *Republic*, he never sees society as a legal society, being busy with the maintenance

¹⁶ Poll. VIII, 105; Stoll, Floril., XVIII, 48.

and the correction of rights; for him society is ethical, citizens have got special duties and functions to perform; justice is in the soul, it is a spirit, an attitude, a habit of life that animates the citizen in the accomplishment of his duties and functions.

In *Minos*, which is a short dialogue dealing with natural law, Plato — the question is still debated as to whether he is the author of this dialogue — tries to discover an absolute and immutable law behind the diversity and the contradictions of the laws established by different societies. In *Crito* and the *Apology*, he analyzes the rights and duties of the individual in his relation to the state and to the law. Socrates, like Antigone, dies for something higher than the law of the state. Should Socrates obey the law or stick to the inner sense of justice with which the law is conflicted? That is the eternal question of all martyrs. “Acquit me or condemn me, I shall never alter my ways,” says Socrates, preferring death when something spiritual, a spiritual question is at issue. In the *Laws* Plato admits the sovereignty of law; that legislator’s masterpiece contains an interesting passage on natural law, on matters about which written law is silent:

“In the private life of the family many trivial things are apt to be done which escape general notice, — things which are the result of individual feelings of pain, pleasure, or desire, and which contravene the instructions of the lawgiver; and these will produce in the citizens a multiplicity of contradictory tendencies. This is bad for a State. For while, on the one hand, it is improper and undignified to impose penalties on these practices by law, because of their

triviality and the frequency of their occurrence, on the other hand, it detracts from the authority of the law which stands written when men grow used to breaking the law in trivial matters repeatedly. Hence, it is impossible to pass over these practices in silence, it is difficult to legislate concerning them.”¹⁷

There is also in *Protagoras* a beautiful passage on the sanctity of law and the equality of members of the state.

“So Zeus, fearing that our race was in danger of utter destruction, sent Hermes to bring respect and right among men, to the end that there should be regulation of cities and friendly ties to draw them together. Then Hermes asked Zeus in what manner then was he to give men right and respect: “Am I to deal them out as the arts have been dealt? That dealing was done in such wise that one man possessing medical art is able to treat many ordinary men, and so with the other craftsmen. Am I to place among men right and respect in this way also, or deal them out to all?”—“To all,” replied Zeus; “let all have their share; for cities cannot be formed if only a few have a share of these as of other arts. And make thereto a law of my ordaining, that he who

¹⁷ Plato, *Laws*, 788 a-b: 'Ιδίᾳ γὰρ καὶ κατ' οἰκίας πολλὰ καὶ σμικρὰ καὶ οὐκ ἐκφανῆ πᾶσι γιγνόμενα, ῥαδίως ὑπὸ τῆς ἐκάστων λύπης τε καὶ ἡδονῆς καὶ ἐπαθυμίας ἕτερα παρὰ τὰς τοῦ νομοθέτου ξυμβουλὰς παραγενόμενα, παντοδαπὰ καὶ οὐχ ὅμοια ἀλλήλοις ἀπεργάζονται· ἂν τὰ τῶν πολιτῶν ᾗθη· τοῦτο δὲ κακὸν ταῖς πόλεσιν· καὶ γὰρ διὰ σμυδρότητα αὐτῶν καὶ πυκνότητα, ἐπιζήμια τιθέντα ποιεῖν νόμους ἀπρεπὲς ἅμα καὶ ἀσχημον· διαφθείρει δὲ καὶ τοὺς γραφῇ τεθέντας νόμους, ἐν τοῖς σμικροῖς καὶ πυκνοῖς ἐδισθέντων τῶν ἀνθρώπων παρανομεῖν. ὥστε ἀπορία μὲν περὶ αὐτὰ νομοθετεῖν σιγᾶν δὲ ἀδύνατον. ἃ δὲ λέγω, δηλῶσαι πειρατέον ὅλον δείγματα ἐξενεγκόντα εἰς φῶς· νῦν γὰρ λεγομένοις ἔοικε κατὰ τι σκότος.

cannot partake of respect and right shall die the death as a public pest.”¹⁸

Plato seems to have been conscious of the rigidity of the law in the mind of his countrymen, who were not very keen on changing the law. In order to better the laws and to accommodate them to particular situations, Plato becomes the champion of equity, as may be seen in *Gorgias*. Equity, in Greek, has a non-technical meaning. Aristotle defines it: “that natural justice which exists independently of human laws.”¹⁹ It was very often resorted to in Athens by the orators, following Aristotle’s advice: “If the written law tells against our case, clearly we must appeal to the universal law and insist on its greater equity and justice.”²⁰ The Athenian judges used

¹⁸ Plato, *Protagoras*, 322c-324A: Ζεὺς οὖν δείσας περὶ τῷ γένει ἡμῶν μὴ ἀπόλοιτο πᾶν, Ἑρμῆν πέμπει ἄγοντα εἰς ἀνθρώπους αἰδῶ τε καὶ δίκην, ἵν’ εἰεν πόλεων κόσμοι τε καὶ δεσμοὶ φιλίας συναγωγοί. Ἐρωτᾷ οὖν Ἑρμῆς Δία, τίνα οὖν τρόπον δοίη δίκην καὶ αἰδῶ ἀνθρώποις. Πότερον ὥς αἱ τέχναι νενέμηνται, οὕτω καὶ ταύτας νείμω; Νενέμηνται δὲ ὧδε· εἰς ἔχων ἰατρικὴν πολλοῖς ἱκανὸς ἰδιώταις, καὶ οἱ ἄλλοι δημιουργοί. Καὶ δίκην δὴ καὶ αἰδῶ οὕτω θῶ ἐν τοῖς ἀνθρώποις, ἥ ἐπὶ πάντας νείμω; Ἐπὶ πάντας, ἔφη ὁ Ζεὺς, καὶ πάντες μετεχόντων. οὐ γὰρ ἂν γένοιτο πόλεις, εἰ ὀλίγοι αὐτῶν μετέχοιεν ὥσπερ ἄλλων τεχνῶν καὶ νόμον γε θὲς παρ’ ἐμοῦ τὸν μὴ δυνάμενον αἰδοῦς καὶ δίκης μετέχειν κτείνειν ὥς νόσον πόλεως.

¹⁹ Aristotle, *Rhetoric* I, 1374a: Τὸ γὰρ ἐπαικὲς δοκεῖ δίκαιον εἶναι, ἔστιν ἐπαικὲς τὸ παρὰ τὸν γεγραμμένον νόμον δίκαιον.

²⁰ Aristotle, *Rhetoric* I, 1375a: Φανερόν γὰρ ὅτι, ἐὰν μὲν ἐναντίος ᾗ ὁ γεγραμμένος τῷ πράγματι, τῷ κοινῷ χρηστέον καὶ τοῖς ἐπαικιστέροις καὶ δικαιότεροις.

Demosthenes, *Contr. Lept*, 118: Χρὴ τοίνυν, ὦ ἄνδρες Ἀθηναῖοι, κάκειν’ ἐνθυμείσθαι καὶ ὁρᾶν, ὅτι νῦν ὁμομοχότες κατὰ τοὺς νόμους δικάσειν ἤκατε, οὐχὶ τοὺς Λακεδαιμονίων οὐδὲ Θηβαίων, οὐδ’ οἷς ποτ’ ἐχρήσανθ’ οἱ πρῶτοι τῶν προγόνων, ἀλλὰ καθ’ οὓς ἔλαβον τὰς ἀτελείας, οὓς ἀφαιρεῖται νῦν οὗτος τῷ νόμῳ, καὶ περὶ ὧν ἂν νόμοι μὴ ᾧσι. γνώμη τῇ δικαιοτάτῃ κρινεῖν.

cf. *Contr. Timocr.* 149-151; *Contr. Aristocr.* 96.

to swear that they would judge according to equity all the cases which the law had not foreseen. Equity was conceived as being halfway between natural law and positive law, between natural justice based on the nature of man and positive justice which is established by laws or statutes. The notion of equity, as expressed by Plato and Aristotle, is in accordance with human nature and the unwritten common law; it is like a link between the absolute perfection of natural law and the relative imperfection of human laws.

It is in Aristotle, the greatest exponent of moral philosophy, that we are bound to find the most complete definition of natural law; Aristotle is more systematic than Plato, whose statements are often contradictory. Besides analyzing and summarizing the conclusions arrived at by his predecessors, Aristotle marks the concept of natural law with the stamp of his own genius.

He thus defines nature in his *Politics*: "What each thing is when fully developed we call its nature, whether we are speaking of a man, a horse or a family." That conception of nature is typically Greek, and is that of a biologist; the child does not count much in Greek art, as in classical ages on the whole. "It is characteristic of a man, says Aristotle, that he alone has any sense of good or evil, or just or unjust; and the association of living beings who have this sense makes a family and a state."²¹ Moreover,

²¹ Aristotle, *Politics*, I, a: 'Η δ' ἐκ πλειόνων κοινῶν κοινωνία τέλειος πόλις, ἥ δὴ πάσης ἔχουσα πέρας τῆς αὐταρχείας ὡς ἔπος εἰπεῖν, γινομένη μὲν οὖν τοῦ ζῆν ἐνεκεν, οὐσα δὲ τοῦ εὖ ζῆν. Διὸ πᾶσα πόλις φύσει ἐστίν, εἴπερ καὶ αἱ πρῶται κοινωνίαι. Τέλος γὰρ αὕτη ἐκείναν, ἥ δὲ φύσις τέλος ἐστίν· ὅλον γὰρ ἑκαστὸν ἐστὶ τῆς γενέσεως τελεσθέλης, ταύτην φαμέν τὴν φύσιν εἶναι ἐκάστου, ὥσπερ ἀνθρώπου ἵππου οἰκίας... ἐκ τούτων οὖν

he establishes the following distinction between natural and conventional justice:

"Of political justice part is *natural*, that which everywhere has the same force and does not exist by people thinking this or that; *legal*, that which is originally indifferent, but when it has been laid down is not indifferent. The things which we are just by virtue of convention and expediency are like measures; for wise and equal measures are not everywhere equal. Similarly the things which are just not by nature but by human enactment are not everywhere the same . . . though there is but one which is everywhere by nature the best."²²

In his *Rhetoric* Aristotle draws a distinction between particular and common law, and then describes natural law:

"Law is in part particular and in part common; the particular is that which different peoples establish among themselves, and is in part unwritten and in part written; the common law is the law of nature. It is what all men, by a natural intuition, feel to be common right and wrong, even if they have no common association and no covenant with one another.

φανερὸν δὲ τῶν φύσει ἢ πόλις ἐστί, καὶ δὲ ἄνθρωπος πολιτικὸν ζῶον . . . τοῦτο γὰρ πρὸς τὰ ἄλλα ζῶα τοῖς ἀνθρώποις ἴδιον, τὸ μόνον ἀγαθὸν καὶ κακὸν καὶ δικαίον καὶ ἀδίκον καὶ τῶν ἄλλων αἰσθησὶν ἔχειν.

Plato, *Phaedrus*, 230 d: τὰ μὲν οὖν χωρία καὶ τὰ δένδρα οὐδὲν μ' ἐθέλει διδάσκειν, οἱ δ' ἐν τῷ ἄστει ἄνθρωποι.

For Socrates, both the country and the trees are not willing to teach him anything; it is the men living in the city that are willing to do so.

²² Aristotle, *Nicomachean Ethics*, V, 1134b-1135a: Τοῦ δὲ πολιτικοῦ δικαίου τὸ μὲν φυσικόν ἐστι τὸ δὲ νομικόν, φυσικὸν μὲν τὸ πανταχοῦ τὴν αὐτὴν ἔχον δύναμιν, καὶ οὐ τῷ δοκεῖν ἢ μή, νομικὸν δὲ ὃ ἐξ ἀρχῆς δὲν οὐθὲν διαφέρει οὕτως ἢ ἄλλας, ὅταν δὲ θῶνται, διαφέρει, οἷον τὸ μῆλ' αὐτῶν, ἢ τὸ αἶγα θύειν ἀλλὰ μὴ δύο πρόβατα . . .

Thus Sophocles' Antigone is represented as saying that it is right to bury Polynices despite the interdiction, because she feels that this is a natural right; for nowise today nor yesterday, but through all time, this law has its life, and none knows whence it came. And, as Empedocles says of the prohibition against taking life, this is not in some cases right and in others wrong, "but this universal law reaches on and on through the broad domain of heaven and over the immensity of earth."

"Whereas rights and wrongs were of two kinds, the written and the unwritten, those for which the law makes provision have been discoursed, and the unwritten are of two kinds. They are partly matters connected with exceptional goodness or badness, the occasions of denunciations or eulogies, disgraces or preferments, or gifts or honor — as, for example, being grateful to a benefactor and repaying kindness with kindness and helping one's friends and all such things — and they are partly matters not covered in particular written codes. For it is admitted that what is reasonable is right, and it is a kind of right which goes beyond the written law. This is brought about partly by the intention of the legislators, partly without their intention — without their intention when a point is overlooked, by their intention when they cannot define precisely, but have to use language of universal application, and cannot but make a rule that will apply in a majority of cases.

"It is also reasonable to make allowance for human limitations; also to consider not the law but the legislator, and not the legislator's language, but his intent, nor the action but the motive, not the part but the whole, and not what a man's character is at the moment but what it has been always or predominantly in the past."

And he concludes this part by saying that one could go “into arbitration rather than a court of law, in order that equity might prevail.”²³

Aristotle’s concept of natural law is somewhat limited to the philosopher’s concept of the city and of men; it excludes the slaves, the greatest number of people. For Aristotle man was a political animal that could not live and develop himself but in a city. The Stoics were the first to draw a sharp distinction between the city and the

²³ Aristotle, *Rhetoric*, I, 1373b-1374b: Λέγω δὲ νόμον τὸν μὲν ἴδιον, τὸν δὲ κοινόν, ἴδιον μὲν τὸν ἐκάστοις ὠρισμένον πρὸς αὐτούς, καὶ τοῦτον τὸν μὲν ἄγραφον, τὸν δὲ γεγραμμένον, κοινὸν δὲ τὸν κατὰ φύσιν. Ἔστι γὰρ ὃ μαντεύονται τι πάντες, φύσει κοινὸν δίκαιον καὶ ἀδίκον, κἂν μηδεμία κοινωνία πρὸς ἀλλήλους ἢ μηδὲ συνθήκη, ὅλον καὶ ἡ Σοφοκλέους Ἀντιγόνη φαίνεται λέγουσα, ὅτι δίκαιον ἀπειρημένον θάψαι τὸν Πολυνείκη, ὥς φύσει ὃν τοῦτο δίκαιον.

οὐ γὰρ τι νῦν γε καχθές, ἀλλ’ αἰεί ποτε

ἦ τοῦτο, κοῦδεὶς οἶδεν ἐξ ὅτου φάνη.

Καὶ ὥς Ἐμπεδοκλῆς λέγει περὶ τοῦ μὴ κτείνειν τὸ ἔμψυχον· τοῦτο γὰρ οὐ τοῖς μὲν δίκαιον τοῖς δ’ οὐ δίκαιον,

ἀλλὰ τὸ μὲν πάντων νόμιμον δία τ’ εὐρυμέδοντος

αἰθέρος ἠνεκέως τέταται διὰ τ’ ἀπλέτου αὐ γῆς.

Aristotle, *Rhetoric*, I, 1374a: Ἐπεὶ δὲ τῶν δικαίων καὶ τῶν ἀδίκων ἦν δύο εἶδη· (τὰ μὲν γὰρ γεγραμμένα τὰ δ’ ἄγραφα), περὶ ὧν μὲν οἱ νόμοι ἀγορεύουσιν εἴρηται, τῶν δ’ ἀγράφων δύο ἐστὶν εἶδη· ταῦτα δ’ ἐστὶν τὰ μὲν καθ’ ὑπερβολὴν ἀρετῆς καὶ κακίας, ἐφ’ οἷς ὀνειδῆ καὶ ἔπαινοι καὶ ἀτιμίαι καὶ τιμαὶ καὶ δωρεαί, ὅλον τὸ χάριν ἔχειν τῷ ποιήσαντι εὖ καὶ ἀντεποιεῖν τὸν εὖ ποιήσαντα καὶ δοθητικὸν εἶναι τοῖς φίλοις καὶ ὅσα ἄλλα τοιαῦτα, τὰ δὲ τοῦ ἰδίου νόμου καὶ γεγραμμένου ἔλλειμμα.

(1374b): Καὶ τὸ τοῖς ἀνθρωπίνους συγγινώσκειν ἐπεικές. Καὶ τὸ μὴ πρὸς τὸν νόμον ἀλλὰ πρὸς τὸν νομοθέτην, καὶ μὴ πρὸς τὸν λόγον ἀλλὰ πρὸς τὴν διάνοιαν τοῦ νομοθέτου σκοπεῖν, καὶ μὴ πρὸς τὴν πράξιν ἀλλὰ πρὸς τὴν προαίρεσιν, καὶ μὴ πρὸς τὸ μέρος ἀλλὰ πρὸς τὸ ὅλον, μηδὲ ποιός τις νῦν, ἀλλὰ ποιός τις ἦν αἰεί ἢ ὥς ἐπὶ τὸ πολὺ. Καὶ τὸ μνημονεύειν μάλλον ὧν ἔπαθεν ἀγαθῶν ἢ κακῶν, καὶ ἀγαθῶν ὧν ἔπαθε μάλλον ἢ ἐποίησεν. Καὶ τὸ ἀνέχεσθαι ἀδικούμενον. Καὶ τὸ μάλλον λόγῳ ἐθέλειν κρίνεσθαι ἢ ἔργῳ. Καὶ τὸ εἰς διαίταν μάλλον ἢ εἰς δίκην βούλεσθαι ἵεναι· ὃ γὰρ διατηρῆς τὸ ἐπεικὲς ὀρεῖ, ὃ δὲ δικαστὴς τὸν νόμον· καὶ τούτου ἔνεκα διατηρῆς εὐφρόνη, ὅπως τὸ ἐπεικὲς ἰσχύη. It is also in his *Nicomachean Ethics* (V, 10, 1137 a 31 sqq.) that Aristotle studies equity (ἐπεικεια, ἐπεικὲς) and distinguishes it from justice (δικαιοσύνη, δίκαιον).

world, or the relations between all human beings, independently of any origin and of any political philosophers. And their cosmopolitan outlook was based on a new conception of law and justice; it came about when the Greek city states were falling into partial bankruptcy; instead of clinging, like Aristotle, to the conception of the city, they wanted "to embrace under a unique law all the families of reasonable beings."²⁴ For Aristotle, law and justice do not go beyond the city; the Stoics, like the sophists, call themselves citizens of the world. With them, justice governs the relations of men, no matter where they are. This natural law of theirs is based upon the identity of the nature of men and gods as reasonable beings. Plato's conception of society is based upon a distinction of classes and the inequality of individuals; Aristotle does not consider slaves as citizens, although he is convinced that slavery is natural and also that the city itself is natural. Completing and correcting Pindar, who had already said: "custom is the king of all things."²⁵ Chrysippus says: "Law is the king of all things divine and human."²⁶ The Stoics build their society on equality; the individual becomes the moral unity, the law becomes universal. Following Heraclitus, they made the individual the center of the world and in consequence abolished the different classes established by Plato and Aristotle. For them the principle of justice is in common nature; it is from that principle we must start if we want to talk of good and bad. All men are equal; the prin-

²⁴ Dio Chrysost., *Orat.*, 36, 29.

²⁵ Herodotus, 3, 38: νόμος πάντων Βασιλεὺς

²⁶ Chrysippus, *On Law*: "Law is the king of all things divine and human." (Marcianus, *Instit.*, *Arm.*, III no 314).

ciples of unity, of equality and community that exist in the physical universe, are also the principles of life among men. For the first time the idea of a moral person appears, that person having nothing to sacrifice in order to become a member of society.

This rapid review of the most important philosophers that have dealt with the concept of natural law, covers about four centuries of thought and reveals both the continuity and the tenacity of Greek thinkers about natural law. From Pythagoras to the Stoics there is a definite growth and development in the expression of the concept of natural law. Aristotle accepted, with certain modifications, the principles of equality and reason set forth by Pythagoras and Heraclitus respectively, may be seen in his conception of justice. Justice, for him, is a virtue, and virtue consists in keeping the just middle between two extremes. Moreover, Aristotle is the last of the great thinkers to have considered natural law as something divine and universal, one and above man; with the Stoics the concept of natural law becomes human, universal in name, intrinsic and as manifold as the individuals.

Such evolution of the concept of natural law is closely connected with the evolution of the concept of the individual, for the individual is the subject of natural law. And the clear, distinct concept of the individual is a conquest of human thought. Moreover, in Greece, man was not the only legal subject, for the Greeks considered also the gods, the animals and the inanimate objects as legal subjects. But I do not want to enter into the details of this question. What I want to stress rapidly before concluding this paper, is that the clear notion of the indi-

vidual took several centuries to be expressed properly and that it has some bearing upon natural law, even upon practical life, since slavery was found natural and usury unnatural in Ancient Greece.

There may be seen two phases in the evolution of the concept of the individual, as may be gathered in a study of the Greek institutions relating to murder; I take murder to illustrate my point, because the Greeks, from Homer to Pobylius, used to be fond of murder stories or of murder tragedies; that is why they always preferred the murder to the trial, the *Iliad* to the *Odysseus*, *Agamemnon* to the *Eumenides*.

At the beginning, there was the clan in which the honor of the murdered person is absorbed in a divine or mythical force which symbolizes the group; the honor of the murdered person is satisfied by the clan or the family, gathered together in religious ceremonies; these ceremonies, accompanied with magical expressions, are carried out to satisfy the gods or to reveal the god's sanction. The outrage is objective and religious. With time, under different economic factors, the clan transforms itself into the city, and the city marks the beginning of individualism; the concept of offense becomes secular, the offense tends to be regarded as an attempt at the individual. From the primitive and religious concept of offense, was born the concept of the individual as an object of respect; the outrage done becomes the offended individual; and as it is the city now that reproves and corrects the insolence, the concept of the individual becomes closely associated with that of the city. There is a gradual sec-

ularization of the idea of offense, and with it appears the concept of the individual.

This development can be seen in Greek literature, from Homer to Pindar; it reaches its climax in the 5th Century with Aeschylus and Sophocles. Aeschylus was fond of treating the problem of sin and individual responsibility on the stage, particularly in his famous trilogy, where he abolishes hereditary responsibility and replaces the blood for blood vengeance by a religious sacrifice; Sophocles treated the problem of suffering, particularly in *Oedipus Tyrannus*, where the distinction between voluntary and involuntary responsibility is clearly presented.

The concept of the individual was evolved in a Greek world, where the problem of the city-state and of the mutual relations of city-states occupies the mind of most thinkers. Herodotus divides the individuals into Greeks and Barbarians. He is the first to have described the Greeks in a manner which must be most agreeable to our contemporary nationalists and racists. He makes the Athenians say before the battle of Plataea:

“There was nowhere in the world so much gold, or land so excellent in beauty or worth, as would induce them to be willing to join the side of Persia and to enslave Greece, for that would be treachery to the Greek nation, which had one blood, one speech, one religion and one culture.”²⁷ Isocrates regarded himself as a citizen of

²⁷ Herodotus, VIII, 144: 'Ατὰρ αἰσχρῶς γε οἴκατε ἐξεπιστάμενοι τὸ Ἀθηναίων φρόνημα ἀρρωθεῖσαι· ὅτι οὔτε χρυσός ἐστι γῆς οὐδαμῶθι τοσούτος οὔτε χώρα κάλλει καὶ ἀρετῇ μέγα ὑπερφέρουσα, τὰ ἡμεῖς δεξάμενοι ἐθέλομεν ἂν μηδίσαντες καταδουλώσαι τὴν Ἑλλάδα..... τὸ Ἑλληνικόν, ἔδν ἑμαιομόν τε καὶ ὁμόγλωσσον, καὶ θεῶν ἰδρύματα τε κοινὰ καὶ θυσαῖαι ἥθεά τε ὁμότροπα.

Greece and the champion of the pan-hellenic world order, an idea which Aristotle disliked immensely. Not only did Isocrates want Athens to place herself at the head of all the Greek peoples against Asia, but he considered Greek culture as something far superior to Greek race. "Thanks to Athens, says he, the name of Hellenes seems to mean less a race than a way of thinking, and one deserves much more to be called a Greek, if he has received the Athenian culture, than if he is only a Greek by birth." ²⁸ Plato held the same view as Isocrates and limited his brotherhood to the Greek world; but he strongly emphasized the idea of a common law which regulates the relations of the Greek states. On the other hand, Plato's bitterest enemies, the sophists, Protagoras and Hippias — to whom Plato was so unjust — regarded themselves as citizens of the world, for, together with the Cynics and the Stoics, they held that all men were by nature fellow-citizens. Aristotle was far too much of a Macedonian to agree with Plato, Isocrates and the sophists; he limited his outlook to the city, to the citizens only, the slaves being considered by him merely as tools.

For Aristotle, slavery is natural, like maternity and paternity. He justifies it by saying that it is based on human nature. Although a slave is a property with a soul, yet it is a natural institution. The slave is an instrument for use in the family; it is even indispensable to it,

²⁸ Isocrates, *Panegyric*, 50: Τοσοῦτον δ, ἀποτέλειται ἡ πόλις ἡμῶν περὶ τὸ φρονεῖν καὶ λέγειν τοὺς ἄλλους ἀνθρώπους, ὥσθ' οἱ ταύτης μαθηταὶ τῶν ἄλλων διδάσκαλοι γεγόνασιν, καὶ τὸ τῶν Ἑλλήνων ὄνομα πεποιήκεν μηκέτι τοῦ γένους, ἀλλὰ τῆς διανοίας δοκεῖν εἶναι, καὶ μᾶλλον Ἑλλήνας καλεῖσθαι τοὺς τῆς παιδείας τῆς ἡμετέρας ἢ τοὺς τῆς κοινῆς φύσεως μετέχοντας.

it is a natural wealth. But he does not recognize slavery as the result of war, because that form of slavery comes from war, which is against the common good of the city, whereas the natural slaves are essential to the wellbeing of the city. He writes in his *Politics*:

“The first coupling together of persons then to which necessity gives rise is that between those who are unable to exist without one another, namely the union of male and female for the continuance of species; and the union of natural ruler and natural subject for the sake of security. Thus the female and the slave are by nature distinct. Yet among barbarians the female and the slave have the same rank; and the cause of this is that barbarians have no class of natural rulers, but with them the conjugal partnership is a partnership of female slave and male slave. Hence the saying of the poets:

‘’Tis meet that Greeks should rule barbarians, implying that barbarian and slave are the same by nature.’ “He is by nature a slave who is capable of belonging to another (and that is why he does so belong), and who participates in reason so far as to apprehend it but not to possess it; for the animals other than man are subservient not to reason, by apprehending it, but to feeling. And also the usefulness of slaves diverges little from that of animals; bodily service for the necessities of life is forthcoming from both, from slaves and from domestic animals alike. The intention of nature therefore is to make the bodies also of freemen and of slaves different — the latter strong for necessity service, the former erect and unserviceable for such occupations.”²⁹

²⁹ Aristotle, *Politics*, I, 1252a: ‘Ανάγκη δὲ πρῶτον συνδυάζεσθαι τοὺς ἄνευ ἀλλήλων μὴ δυναμένους εἶναι, ὅλον θῆλυ μὲν καὶ ἄρρεν τῆς γενέσεως ἕνεκεν. . . ἄρχον δὲ φύσει καὶ ἀρχόμενον διὰ τὴν σωτηρίαν. τὸ μὲν γὰρ δυνάμενον τῇ διανοίᾳ προσορᾶν ἄρχον φύσει καὶ δεσπάζον φύσει,

The Sophists, the Cynics and the Stoics did not reason in the same way as Aristotle; for them slavery was unnatural; they preached the equality of human beings, whether they were citizens or slaves, whether they were living in Greece or elsewhere, whether they belonged to a democracy or to a kingdom. Hippias writes in *Protagoras*: "I hold you all kinsmen, relatives and fellow citizens by nature, though not by law; for like is kin to like, but law, the tyrant of mankind, often constrains by violence in contravention of nature." Philemon, a comic writer of the fourth century, holds the following views on the stage: "Although one is a slave, master, he is none the less a man as a man is." "Even if one is a slave, he has the same skin. For nobody has ever been born a slave by nature. On the contrary it is destiny that has

τὸ δὲ δυνάμενον ταῦτα τῷ σώματι ποιεῖν ἀρχόμενον καὶ φύσει δοῦλον διὸ δεσπότη καὶ δούλῳ ταῦτ' ἀποφέρει· φύσει μὲν οὖν διώριστα τὸ θῆλυ καὶ τὸ δοῦλον... ἐν δὲ τοῖς βαρβάροις τὸ θῆλυ καὶ τὸ δοῦλον τὴν αὐτὴν ἔχει τάξιν.

Aristotle, *Politics*, I, 1252a: αἴτιον δ' ὅτι τὸ φύσει ἄρχον οὐκ ἔχουσιν, ἀλλὰ γίνεται ἡ κοινωνία αὐτῶν δούλης καὶ δούλου. διὸ φασιν οἱ ποιηταὶ "βαρβάρων δ' Ἑλλήνας ἄρχειν εἰκός", ὥς ταῦτ' ἀνθρώπων καὶ δοῦλον ὄν.

Aristotle, *Politics*, I, 1253b-1254a: οὕτω καὶ τὸ κτῆμα ὄργανον πρὸς ζωὴν ἐστὶ, καὶ ἡ κτήσις πλῆθος ὀργάνων ἐστὶ, καὶ ὁ δούλος κτῆμά τι ἐμψυχον. καὶ ὥσπερ ὄργανον πρὸ ὀργάνων πᾶς ὑπερέτης... ὁ γὰρ μὴ αὐτοῦ φύσει ἀλλ' ἄλλου ἀνθρώπου ὢν, οὗτος φύσει δούλος ἐστίν, ἄλλου δ' ἐστὶν ἀνθρώπος, ὃς ἂν κτῆμα ἢ ἀνθρώπος ὢν, κτῆμα δὲ ὄργανον πρακτικὸν καὶ χωριστόν.

Aristotle, *Politics*, I, 1254b: Ἔστι γὰρ φύσει δούλος ὁ δυνάμενος ἄλλου εἶναι (διὸ καὶ ἄλλου ἐστίν) καὶ ὁ κοινωνῶν λόγου τοσοῦτον ὅσον αἰσθάνεσθαι ἀλλὰ μὴ ἔχειν. τὰ γὰρ ἄλλα ζῶα οὐ λόγῳ αἰσθανόμενα, ἀλλὰ παθήμασιν ὑπηρετεῖ. καὶ ἡ χρεία δὲ παραλλάττει μικρόν· ἡ γὰρ πρὸς τάναγκα καὶ τῷ σώματι βοήθεια γίνεται παρ' ἀμφοῖν, παρὰ τε τῶν δούλων καὶ παρὰ τῶν ἡμέρων ζώων. βούλεται μὲν οὖν ἡ φύσις καὶ τὰ σώματα διαφέροντα ποιεῖν τὰ τῶν ἐλευθέρων καὶ τῶν δούλων, τὰ μὲν ἰσχυρὰ πρὸς τὴν ἀναγκαίαν χρῆσιν, τὰ δ' ὀρθὰ καὶ ἄχρηστα πρὸς τὰς τοιαύτας ἐργασίας.

cf. *Nicomachean Ethics*, VIII, 11.

enslaved the body." The sophists, as well as the Cynics and the Stoics, were cosmopolitan citizens; they recognized the individuality of men; they opposed Nature to positive law; for them, nature is enthroned alone positive law.³⁰

There is one point, however, on which all Greek philosophers seem to have agreed, and this is so rare — for a philosopher is a man who by nature picks a bone with another philosopher — that it is worth mentioning: that point is usury, they were all against it. The rate of interest, in the fourth century, ranged between 12 and 48 per cent. Usury, for them, is against nature; they even find interest on borrowed money quite unnatural.³¹ Aristotle has thus forcibly summarized the Greek philosophers' point of view on the matter:

"The branch connected with exchange is justly discredited (for it is not in accordance with nature, but

³⁰ Plato, *Protagoras*, 337c: Ὡς ἄνδρες, ἔφη, οἱ παρόντες, ἡγοῦμαι ἐγὼ ὑμᾶς συγγενεῖς τε καὶ οἰκείους καὶ πολίτας πάντας εἶναι φύσει, οὐ νόμῳ· τὸ γὰρ ὁμοῖον τῷ ὁμοίῳ φύσει συγγενές ἐστιν, ὃ δὲ νόμος, τύραννος ὢν τῶν ἀνθρώπων, πολλὰ παρὰ τὴν φύσιν βιάζεται.

³¹ Philemon, op. Stob. *Floril.* LXII, 28:

Κἄν δοῦλος ἢ τις, οὐθεν ἤτιον, δέσποτα
Ἄνθρωπος οὗτός ἐστιν, ἂν ἄνθρωπος ᾖ.

Id., *Fragm.* 39 op. Meineke *Com. Nov.* 1 IV, p. 47.

Κἄν δοῦλος ἢ τις σάρκα τὴν αὐτὴν ἔχει·
Φύσει γὰρ οὐδεὶς δοῦλος ἐγεννήθη ποτέ,
Ἢ δ' αὖ τύχη τὸ σῶμα κατεδουλώσατο.

Chrysippus goes as far as to consider slavery as an exchange of service between the master and the servant. Moreover, the slave may be a blessing for the master, as much as the master may be a blessing for the slave (Seneca, *De Ben.*, III, 22; Athenaeus, *Deipnos.*, VI, 267b; Arn., III, nos 351-353).

Ulp. 1 *Instit. Dig.* I, 4: "Jure naturali omnes liberi nascuntur. Uno naturali nomine homines appellamur."

involves men's taking things from one another.) As this is so, usury is most reasonably hated, because its gain comes from money itself and not from that for the sake of which money was invented. For money was brought into existence for the purpose of exchange, but interest increases the amount of money itself (and this is the actual origin of the Greek word: offspring resembles parent, and interest is money born of money); consequently this form of the business of getting wealth is of all forms the most contrary to nature."³²

Aristotle finds usury unnatural. The money-lender's activity is unnatural because he does not use money which is an artificial medium of exchange, according to its functions; it follows that usury, which is the result of this misuse is against nature. Interest tends also towards the infinite, there is no end to it, and, for Aristotle and all the Greek philosophers, the infinite is irrational and against nature.

From these considerations it follows that natural law is far from being a purely academic speculation, just good enough for people with leisure to brood over; it is fundamental even in practical life. It follows also that the concept of natural law has had a very strange destiny in Greece. If we recall the sayings of Homer and Hesiod, Theogenis and Sophocles, Xenophon and Plato, we shall

³² Aristotle, *Politics*, I, 1258b: Διπλῆς δ' οὐσης αὐτῆς, ὥσπερ εἶπομεν, καὶ τῆς μὲν κατηλικῆς τῆς δ' οἰκονομικῆς, καὶ ταύτης μὲν ἀναγκαίας καὶ ἐπαινουμένης, τῆς δὲ μεταβλητικῆς ψεγομένης δικαίας (οὐ γὰρ κατὰ φύσιν ἀλλ' ἀπ' ἀλλήλων ἐστίν), εὐλογώτατα μισεῖται ἢ ὀβολοστατικῇ διὰ τὸ ἀπ' αὐτοῦ τοῦ νομίσματος εἶναι τὴν κτῆσιν καὶ οὐκ ἐφ' ὅπερ ἐπορίσθη. μεταβολῆς γὰρ ἐγένετο χάριν, ὃ δὲ τόκος αὐτὸ ποιεῖ πλέον. ὅθεν καὶ τοῦνομα τοῦτ' εἴληφεν· ὅμοια γὰρ τὰ πικτόμενα τοῖς γεννώσιν αὐτὰ ἐστίν, ὃ δὲ τόκος γίνεται νόμισμα ἐκ νομίσματος. ὥστε καὶ μάλιστα παρὰ φύσιν οὗτος τῶν χρηματιστῶν ἐστίν.

remember that, in the minds of these writers, natural law is something divine and universal; it is a gift of the gods, like justice and poetry; it is to be found everywhere in the world, because it is based on reason, which is proper to man, it is immanent in human nature. For Pythagoras and Heraclitus, the principles of justice, upon which natural law is based, are to be found in equality and in insight, in the law of retaliation and in the law of reason; justice is harmony and equilibrium, man is the center of the cosmos. For Plato, justice is a spirit, a habit of life that animates man's action; the inner sense of justice, which is felt by the conscience, is something much higher in spiritual truth and content than the law of the State; natural law is eternal, like the gods who have given it to mankind. With Aristotle, natural law is one, divine, universal,³³ with the Stoics, it is human, universal, as manifold as the individuals themselves.

Strange destiny indeed is that of the natural law, for it was first called divine and then, in the course of centuries, became human. This destiny is quite as strange as that of Fire, which was too, divine in its origin, gave birth to love and kept unity as long as it was in the hands of the gods; placed in the hands of Prometheus, it became the source of the arts and of the inventions, the very principle of division on earth.

There is, however, a much more tragic and strange destiny than that: it is the destiny of men in the world.

³³ The words "god," "divine" do not imply the same meaning today as they did with the Greeks. They never believed in Creation. It is therefore a grave mistake to translate Θεός by God with a capital G, as is usually done even in the best translation of Plato and Aristotle. Now, ὁ Θεός, God is not to be found in Aristotle.

Looking back on this achievement of the Greeks, who were the first to conceive and express the concept of natural law, of a law which exists for every human being, whether he is a slave or a freeman, looking back on this achievement, with all its consequences on practical life, one cannot help admiring the acuity of their mind as well as their tenacity in research and their burning love of man. With Saint Paul, they could have defined natural law: "*Quod semper aequum ac bonum est*";³⁴ this formula is far too wide to be contained in any positive law. One then easily understands Sophocle's enthusiasm, I should say, his overwhelming pride in man as a creative being; when he writes this beautiful ode, which is the first definition of humanism, in *Antigone*:

"Wonders are many, and none is more wonderful than man; the power that crosses the white sea, driven by the stormy south-wind, making a path under surges that threaten to engulf him; and the Earth, the eldest of the gods, the immortal, the unwearied, does he wear, turning the soil with the offspring of horses, as the ploughs go to and fro from year to year.

And the light-hearted race of birds, and the tribes of savage beasts, and the sea-brood of the deep, he snares in the meshes of his woven toils, he leads captive, man excellent in wit. And he masters by his arts the beast whose lair is in the wilds, who roams the hills; he takes the horse of shaggy mane, he puts the yoke upon its neck, he tames the tireless mountail ball.

And speech, and wind-swift thought, and all the moods that would a state, hath he taught himself;

³⁴ Paul, 14 ad Sal.

and how to flee the arrows of the frost, when 'tis hard lodging under the clear sky, and the arrows of the rushing rain; yes, he hath resource for all; without resource he meets nothing that must come; only against Death shall he call for aid in vain; but from baffling maladies he hath devised escapes.

Cunning beyond fancy's dream is the fertile skill which brings him, now to evil, now to good. When he honors the laws of the land, and that justice which he hath sworn by the gods to uphold, proudly stands his city; no city hath he who, for his rashness, dwells with sin. Never may he share my hearth, never think my thoughts, who do these things!"³⁵

³⁵ Sophocles, *Antigone* 332-375:

ΧΟ. Πολλά τὰ δεινὰ κούδεν ἀνθρώπου δεινότερον πέλει·
τοῦτο καὶ πολιοῦ πέραν πόντου χειμερίῳ νότῳ
Χωρεῖ περιβρυχίοισιν
περῶν ὑπ' οἰδμασιν·
θεῶν τε τὰν ὑπερτάταν, Γᾶν
ἄφθιτον, ἀκαμάταν ἀποτρύεται,
ἰλλομένων ἀρότρων ἔτος εἰς ἔτος,
ἱπτεῖφ γενέει πολεῦων.
κουφονόων τε φύλον ὀρνίθων ἀμφιβαλὼν ἄγει
καὶ θηρῶν ἀγρίων ἔθνη πόντου τ' εἴναμμαν φυσιν
σπείραιοι δικτυοκλωστοις,
περιφραδῆς ἀνήρ·
κρατεῖ δὲ μηχαναῖς ἀγροῦλου
θηρὸς ὀρεσσιβάτα, λασιαύχενά θ'
ἵππον ὀχμάζεται ἀμφὶ λόφον ζυγῶν,
οὐρεῖόν τ' ἀκμήτα ταῦρον.
καὶ φθέγμα καὶ ἀνεμόεν
φρόνημα καὶ ἀστυνόμους ὁργὰς ἐδιδάξατο καὶ δυσαύλων
πάγων ἐναΐθρεια καὶ δύσομβρα φεύφειν βέλη,
παντοπόρος ἄπορος ἐπ' οὐδὲν ἔρχεται
τὸ μέλλον Ἄϊδα μόνον φεῦξιν οὐκ ἐπάξεται.
νόσων δ' ἀμηχάνων φυγὰς ξυμπέφραστοι.
σοφόν τι τὸ μηχανόεν
τέχνας ὑπὲρ ἑλπίδ' ἔχων τοτὲ μὲν κακόν, ἄλλοι ἐπ' ἐσθλὸν ἔρπει·
νόμους γεραίρων χθόνος θεῶν τ' ἔνορκον δίκαν,
ὑψητολὺς ἀπολις, ὅτῳ τὸ μὴ καλὸν
ξύνεστι τόλμας χάριν· μήτ' ἐμοὶ παρέστιος
γένοιτο μητ' ἴσον φρονῶν, ὅς τὰδ' ἔρδει.

The Greeks centered their interest on man especially. Their concept of natural law was born of their study of man. It is one of their greatest contributions to the world's culture and civilization. It is a new idea, which is still alive today; and the Greeks had the genius of coining words for this new idea. Thanks to natural law, there is something humane and personal in Greek law, there is a soul, a spirit in it. There is even too much poetry in natural law not to be divine. The Greek saw it and expressed it, for they were poets, they looked at the world in awe, like children. That is why everything they have invented still looks so fresh; their literature and their philosophy seem to be less old than yesterday's newspapers; one never tires of studying Greek, as one never tires of looking at the sun on the Aegean sea.

Natural law is, in fact, the expression of the divine law in man. As long as man respects the divine in himself, he lives in peace, for the divine, which is measure and order, is peace. Socrates used to smile, when looking at the Parthenon, for the Parthenon was for him the symbol of order and harmony, of measure and proportion; it may also be regarded as the symbol of natural law for the Greeks of old.

