

THE POPE AND NATURAL LAW

by

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Abstract

In his brief comment to the Pope's Speech to German Parliament, Professor Antony Carty points out the relevance of natural law and good reasoning for the West in this period of economic and political crisis.

Only a correct use of reason, understood as phronesis, can constrain and address human appetite.

Nel suo breve commento al discorso del Papa al parlamento tedesco, il Professore Antony Carty sottolinea la rilevanza del diritto naturale e del buon uso della Ragione per l'Occidente in questo momento di crisi economica e politica. Solo un corretto uso della ragione, intesa come phronesis, può limitare e indirizzare il desiderio umano.

The Pope stresses in his talk to the German Parliament *"that natural law is today viewed as a specifically Catholic doctrine, not worth bringing into the discussion in a non-Catholic environment, so that one feels almost ashamed even to mention the term"*. He says that the *"reason for this is that in the meantime, the positivist understanding of nature has come to be almost universally accepted. If nature – in the words of Hans Kelsen – is viewed as "an aggregate of objective data linked together in terms of cause and effect", then indeed no ethical indication of any kind can be derived from it."* The Pope explains that the *"same also applies to reason...Anything that is not verifiable or falsifiable, according to this understanding, does not belong to the realm of reason strictly understood. Hence ethics and religion must be assigned to the subjective field."* He points out correctly that this mindset dominates the public field, excluding thereby the *"classical sources of knowledge for ethics and law."* He concludes that this *"dramatic situation affects everyone, and on which a public debate is necessary"*.

At a time when Europe in particular has reached a state of crisis with respect to its economies and democratic, populist politicians are giving away to virtually unelected technocrats, it is worthwhile to reflect where its legal as well as political ideology of liberal market economy, rule of law and democracy has taken it. This ideology is directly related to the philosophical steps taken by such empiricist British philosophers as Locke and Hume who claim that the ultimate (moral?) essence of the human being cannot be directly known

because it cannot be arrived at through direct sense experience¹. While for Locke the human being is still something other than sensation, "that something other" cannot be sensed or observed and must remain unknown. Hume carries this logic further and denies as unintelligible any idea that people have a meaning or purpose. There is no human nature that can be known: all that exists is a series of sense experiences. Since we cannot observe ourselves, but only notice our own behavior, we have no substance or identity. All that we can know about ourselves is a series of disconnected sense experiences.

The argument needs to be made that this empiricist liberal view of the person fits rather well with a consumer market society. The individual person has an absolute right of free thought and choice, while at the same time there are no absolute standards about what is required for the good of society. The market-consumer society also has the centrality of choice, as markets supposedly function well, when and where there is full freedom to choose goods, to trade and to exchange and prosperity rests upon the capacity of producers and distributors to realize the potential demand of consumers.

This complex of concepts making up a market philosophy rests on the assumption that normally the nature of the demands of the consumer cannot be subject to question. It cannot be said that the consumers do not need and have no right to X,Y, and Z. It cannot be said that these are not good for them. Neither the state, nor the family nor any religious group can say this. Even tobacco and alcohol cannot be prohibited, although drugs appear to be a special case. In other words, it is no longer accepted that there can be any questioning of the social justice of this market. Communism is dead and Islamic or Catholic fundamentalism (how the Pope is generally seen) are under attack. Very rigorous scientific proof of actual physical harm is necessary to ground any restrictions on freedom, e.g. "hard drugs". The struggle over the development of the right to the environment, mentioned by the Pope, shows how difficult proof is. Also arguments about pornography have also largely failed, except in the case of child pornography. At the international, as well as European level, until the recent and still unresolved financial crisis, it was impossible for European or global society to imagine any constraints upon the caprice of individual freedom, empirically and sensorially experienced.²

It is precisely the abyss now facing the West, and especially Europe, in the face of its avarice – unrestrained credit chasing an unlimited consumer fed boom – that marks what Lebow has identified in his groundbreaking study of culture in international relations. Lebow offers a typology of cultural representations of world society in historical perspective, which places liberal democracy as the political theory of appetite. However, there are two other human motives or drives which help to understand conduct, the drive for honor and for esteem. For Lebow the question is whether and how reason can moderate all of these motives or drives. Yet liberalism is itself unable to restrain appetite, and drawing on the Aristotelean tradition, Lebow points to how fear is a negative emotion essentially derivative, marking a loss of goods, and

¹ J. HAARLAND MATLARY, *Democracy and Human Rights in Europe, the Problem of Relativism*, v. <http://www.thomasmoreinstitute.org.uk/node/39>. See also J. HAARLAND MATLARY, *The Relativism at the Basis of European Policy*, v. <http://www.lircocervo.it/index/?p=486>.

² A. CARTY, *Philosophy of International Law*, Edinburgh 2007, chapter 7.

esteem and producing retaliatory measures which are counterproductive. This is because the root of fear is always the unrestrained drive for either appetite or the spirit of honor or both together. This lack of restraint will usually be a failure of leadership by elites. It is the place of reason to exercise restraint on the pursuit of appetite – and not an instrumental reason of the passions of Hume, but a *phronesis*, a capacity to reformulate behavior on the basis of reflection. Drawing throughout on Aristotle, Plato and Socrates, Lebow stresses the importance of affection, closeness of relationships and capacity for meaningful cooperation in the exercise of *phronesis* – all very alien to unrestrained pursuit of individual appetite. Aristotle explained that order breaks down as there is a parochial pursuit of factional goals, leading others to fear exclusion from the ability to satisfy their goals. For Socrates dialogue is the surest means to make people aware of their limited horizons, while Plato thought *eros* could be educated by reason and directed towards the good and beautiful leading even to the wisdom needed for the ordering of states and societies.³

This is precisely what the Pope is calling for, not simply the usual concerns of Catholics to be addressed by natural law, but a reasoned disciplining of European society also in its whole relation to the rest of the planet. For this task the Pope invokes, at the beginning as well as the end of his talk, the Biblical equivalent of the right reason of natural law, the gift of wisdom for which Solomon asked God, the capacity, with a listening heart to discern between good and evil.

³ R.E. LEBOW, *A Cultural Theory of International Relations*, Cambridge 2008.