

Natural Law

9 March 2024

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This may seem to be a bit esoteric, but after my discussion about how the mathematical worldview of Euclid and Newton underlay America's Enlightenment founding principles, and in particular as expressed in the idea of natural laws that were discoverable by human reason, I was startled and confused by a reference to natural law by Heidi Przybyla in her recent explanation of Christian Nationalism.¹



But the thing that unites them as Christian nationalists, not Christians because Christian nationalists are very different, is that they believe that our rights as Americans and as all human beings do not come from any Earthly authority. They don't come from Congress, from the Supreme Court, they come from God. The problem with that is that they are determining, **men, are determining what God is telling them. In the past, that so-called "natural law,"** it is a pillar of catholicism for instance, it has been used for good in social justice campaigns. Martin Luther King evoked it in talking about civil rights.

This suggested that natural law derived from divine law or revealed law, which was the opposite of my understanding. What was going on?

Przybyla did post a follow-up article "clarifying" her remarks² that again discussed natural law in a religious setting, but this time it reinforced Enlightenment rationalism as the basis for our founding principles. Hoping to gain more insight into the apparent contradiction, I sought Wikipedia's view on the matter. It was most revealing and I feel I need to quote it at some length (without the footnotes and with my own highlighting):³

Natural law (Latin: *ius naturale*, *lex naturalis*) is a system of law based on a close observation of natural order and human nature, from which values thought by the proponents of this concept

¹ Clip of 2/22/2024 appearance on MSNBC (https://twitter.com/JJ_Poff/status/1761105784543326243) with transcript from https://www.realclearpolitics.com/video/2024/02/23/heidi_przybyla_extremist_conservative_christian_nationalists_believe_your_rights_come_from_god_not_government.html

² Przybyla, Heidi, "The Right Way to Cover the Intersection of Religion and Politics", *Politico*, 2/29/2024. (<https://www.politico.com/news/magazine/2024/02/29/the-right-way-to-cover-the-intersection-of-religion-and-politics-00144261>)

³ https://en.wikipedia.org/wiki/Natural_law

to be intrinsic to human nature can be deduced and applied independently of positive law (the express enacted laws of a state or society). According to the theory of law called jusnaturalism, all people have inherent rights, conferred not by act of legislation but by “God, nature, or reason.” Natural law theory can also refer to “theories of ethics, theories of politics, theories of civil law, and theories of religious morality.” ...

Although the central ideas of natural law had been part of Christian thought since the Roman Empire, the foundation for natural law as a consistent system was laid by Aquinas, as he synthesised ideas from his predecessors and condensed them into his “Lex Naturalis” (lit. ‘Natural law’). Aquinas argues that **because human beings have reason**, and because reason is a spark of the divine (see: image of God), all human lives are sacred and of infinite value compared to any other created object, **meaning all humans are fundamentally equal and bestowed with an intrinsic basic set of rights that no human can remove.**

(In Catholic countries in the tradition of the early Christian law and in the twelfth century, Gratian equated the natural law with divine law. Albertus Magnus would address the subject a century later, and his pupil, Thomas Aquinas, in his *Summa Theologica* I-II qq. 90–106, restored Natural Law to its independent state, asserting natural law as the rational creature's participation in the eternal law. **Yet, since human reason could not fully comprehend the Eternal law, it needed to be supplemented by revealed Divine law.** [JOS: all from *Summa Theologica*])

Modern natural law theories took shape in the Age of Enlightenment, combining inspiration from Roman law, Christian scholastic philosophy, and contemporary concepts such as social contract theory. It was used in challenging the theory of the divine right of kings, and became an alternative justification for the establishment of a social contract, positive law, and government—and thus legal rights—in the form of classical republicanism. In the early decades of the 21st century, the concept of natural law is closely related to the concept of natural rights. Indeed, many philosophers, jurists and scholars use natural law synonymously with natural rights (Latin: *ius naturale*), or natural justice, though others distinguish between natural law and natural right.

Because of the intersection between natural law and natural rights, natural law has been attributed as a key component in the Act of Abjuration (1581) of the Netherlands, the Declaration of Independence (1776) of the United States, the Declaration of the Rights of Man and of the Citizen (1789) of France, the Universal Declaration of Human Rights (1948) of the United Nations, and the European Convention on Human Rights (1953) of the Council of Europe.

I had not realized the idea of natural law had been formulated so strongly by Aquinas. That tends to put a religious gloss on it that is misleading, at least as it became interpreted in the Enlightenment, which was the foundation of our government. As Aquinas asserted, it is rationalism that is the guide. He labors to combine rationalism with faith, but I feel the Enlightenment shows that to be difficult, if not in vain. The thrust of the Enlightenment is to base the organization of society on rationalism and not revelation. Natural law is not revealed law—it comes from an inherent law of nature, much like Newton’s physical laws of nature. (See my post <http://josmfs.net/2019/10/24/newton-and-the-declaration-of-independence/>.)

So amazingly and unfortunately there are two, apparently contradictory, interpretations of natural law, where the later Enlightenment meaning is the basis for our governing documents for democracy. Advocates of Christian Nationalism—essentially Christian theocracy governed by a Christian sharia law—try to distort the views of our Founding Fathers with a pre-Enlightenment cast to natural law that asserts a divine revealed basis rather than human rationalism. (See also such advocates as former Attorney General William Barr and his 2019 Notre Dame speech.⁴)

⁴ Speech (<https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-law-school-and-de-nicola-center-ethics>) and commentary (<https://www.theatlantic.com/ideas/archive/2020/09/bill-barr-founders/616445/>)