

Christian Apologetics  
“always be prepared to give a defense...”

**VIII. The Philosophy of Law**

*“The philosophy in the schoolroom in one generation will be the philosophy of the government in the next.” – Abraham Lincoln*

What is Law?

There is a logical, but often unrecognized, connection between one’s view of creation and one’s view of law and government. Our founding fathers recognized this truth.

- Preamble to the Constitution
- American law was originally built on the classical understanding of jurisprudence
- Jurisprudence – the science or knowledge of law, the philosophy of law
  - The connection between law and morality

Natural Law

Proponents of natural law believe that all human beings are aware of certain laws that exist for the purpose of governing human conduct and protecting the rights of individuals.

- Old Testament - moral principles of the Ten commandments – *Exodus 20*
- New Testament – *Romans 1:20-22; 2:15*
- The Creator illuminates human reason so that natural law may be known
- Human reason discovers natural law when it recognizes the Creator’s eternal law

*“All laws derive from the eternal law to the extent that they share in right reason and right reason is only right if it participates in ‘Eternal reason’.” – Thomas Aquinas*

Positive (Written) Law

Advocates of positive law believe that the only binding laws on humanity are laws imposed by human government (the creature, not the Creator). The two major tenets of positive law are:

1. that there is no necessary connection between morality and law
2. that legal validity is determined ultimately by reference to certain basic social facts.

This makes positive law subjective and *relative* – determined by culture, experience, environment, situations, circumstances – and not *absolute*.

The Rise of Positive (Written) Law

- Friedrich Nietzsche (1844-1900) – “*God is dead and we have killed him.*”
  - Since there is no God to will what is good, we must will our own good
- Utilitarianism (Bentham and Mill) – the original “*whatever feels good*”
  - Actions are morally right if they produce at least as much good as any other alternatives
- Charles Darwin (1809 – 1882) – *On the Origin of Species*(1859)
  - Reduced humanity to the level of animals, macroevolution
  - If there is no Moral Lawgiver, there is no absolute moral law on which to base civil laws

*The tragedy* - as educators integrated these concepts and thoughts into various academic disciplines, students gradually learned that there is no transcendent basis for law and morality and that human behavior was a combination of instinct and genetics.

*Jeremiah 18:1-12... ”so we will walk according to our own plans, and we will every one obey the dictates of his evil heart.”*

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What are the effects?

- What then is the effect on the concept of *justice*?  
Criminals are no longer accountable for their actions.
- What is the effect or influence on the *legislature*?  
Laws are passed without regard to natural law for fear that they may restrict the freedom of individuals to “do as they think best” or the freedom of government to do whatever the “public interest” requires.
- What is the effect on the *sanctity of human life*?  
Abortion and euthanasia
- What is the effect on the *inalienable* human rights?  
“Survival of the fittest” mentality, racial and ethnic bigotry

History has taught us some very important lessons about what a nation is capable of doing when it generates bad philosophy at the academic level and when its government embraces that philosophy. Some of the most powerful lessons history has tried to teach us about law happened during the war-crime trials of the former Nazi leaders. The Nuremberg trials brought the debate between positive law and natural law to a head, setting the stage for the world to see upon which view a nation’s legal system ought to be based.