

DECLINE OF NATURAL LAW IN FRANCE

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INTRODUCTION

During the eighteenth century will have its center in France. The last years of the reign of Louis XIV (1700) were decadent and all of Europe turned their eyes against him. A country in bankruptcy and misery. He was supported by Gallican Catholics and persecuted Protestantism extremely harshly. Faced with this situation, all the branches of literature turned to the social discussion that I popularize more than I think. The legality of natural law was reaffirmed before which an empirical utilitarianism intersected.

Locke's Reception

The criticism of Louis XIV is not born of philosophy but of men and comes from observations of inequality and pressure on agriculture and commerce, postulating a more enlightened form of autocracy. Correctives to absolutism are sought. Criticism of the absolute monarchy needs a philosophy and it will be the philosophy of the English revolution. Voltaire and Montesquieu will reside in England and assimilate Locke being the foundation of the Enlightenment and the note of French liberalism. The rule of nature is supposed to provide an adequate norm of life and this enlightened egoism leads to the good of all considering that governments only exist to promote freedom, security, the enjoyment of property. Create a society in which the keys to power and wealth were individual energy and ability.

The Change of the Environment

The old ideal of a fundamental norm had lost its meaning under the reign of Louis XIV. The rights of the French had been a meaningless, abstract expression. Reason was placed above custom and reality. It will be a doctrine of freedom elaborated under despotism and by men who had no experience of government. The autocracy had managed to make a government whose operation was secret and never divulged information. Nor was there a body of common ideas. French society was a network of privileges where the clergy owned 1/5 of the land and agriculture was at the service of landowners. The middle class hated the nobility and the clergy, it was an urban bourgeoisie that owned capital and was a creditor of the State, so here there is a consciousness of class and exploitation, so the French Revolution will be a social revolution.

The confidence in reason of the eighteenth century was the product of a solid result, Newton's reason seemed to have penetrated into the heart of nature, nothing was beyond the power of reason under which progress and human happiness would be realized.

Montesquieu; Sociology and Freedom

He abandoned the social pact and outlined a sociological relativism incompatible with self-evident moral laws. I develop a plan for the study of government based on the comparison of institutions on a large scale.

In the first place, I develop a sociological theory of government and law, demonstrating that the structure and functioning of both depend on the circumstances in which the people live, a form of government. He abhors despotism because of the possibility of having undermined the constitution. He wants to analyze the constitutional conditions on which liberty

depends and discover how to restore the liberties of the French. In The Persian Letters he will make a social satire of the situation in France where there is a government that crushed the intermediate powers between the King and the people. Law is the will of the sovereign. Freedom must be the result of an adequate organization of the state.

Law and Fear

Law of nature as the necessary relationships that arise from the nature of things, law that is the norm and often violated by the freedom of the will and the defective intelligence of men. That natural law identified with reason has to operate in different environments and produce different institutions, and that diversity constitutes the spirit of the laws. For him the types of government are fixed and the influence of the environment does nothing but modify them. He limited himself to stating that governments are of three kinds:

- Republican.
- Monarchist.
- Despotic.

He attributes to each a motivating force of the character of the subjects from which he derives his power:

- Popular government Civic character of the subjects.
- Monarchy Honor of a military class.
- Despotism Slavery of the subjects.

He seems to have been guided by a subjective interest motivated by an ethical reaction to France's problems and therefore his thoughts were motivated by his prejudices about what was desirable in France. His plan is to follow the legal and institutional changes appropriate to each form of government.

On the one hand, it is inclined to assume that human law is rational and implies that the moral ideas of legislators are independent of social causation. Laws must be adapted to the circumstances in which a nation lives.

Separation of powers

It modified the old doctrine of mixed government and turned the separation of powers into a system of legal checks and balances between the various parts of a constitution.

It does not contemplate an absolute separation between the three powers:

- The legislature must meet when called by the executive.
- The executive retains a vote on legislation.
- The legislature can exercise extraordinary judicial powers.

Voltaire and civil liberty

On his return from England he wanted to popularize Newton's physics and Locke's philosophy and admired English freedom of speech since France was under rigid press censorship defending free speech against Christianity. He had little interest in politics and even less in the masses.

Swiss; french utilitarianism

The expansion of social philosophy will be carried out evenly between France and England. Locke's ideas need revision and come to the conclusion that the end of human behavior is simply to enjoy as much pleasure and suffer as little pain as possible. In England it will still be a theological theory and in France a program for the reformist legislator carried out by Helvetius and making the principle of greatest happiness an instrument of reform.

He says that he has tried to consider ethics like any other science, making it empirical, and morality has to start from an understanding of the forces that produce human action. Selfish interest has in the moral sciences the same role as movement in physics, so the common pattern must be the greatest good of the greatest number and the good of a particular group is

opposed to it. Morality becomes a problem for the legislator who has to make interests consistent with the general and thus they will be able to see how the public welfare includes their own. On the basis of pain and pleasure he erected a psychological theory of culture denying the influence of race and there are no innate moral faculties. Good and bad depend on what the circumstances make pleasurable or painful. Despotism makes men brutal. Therefore, any claim to a natural right is meaningless. The achievement of the principle of utility is that a wise legislator would use penalties and punishments to harmonize the interests of men, which leads us to a position of freedom, while natural law implied that the interests of men were harmonious if left to others. free men.

Physiocrats

They shared the idea of pleasure and pain but postulated that the legislator should have the task of avoiding interference with the natural way of operating economic laws and legislation should be minimal on individual freedom.

Holbach

Holbach will postulate complete atheism or materialism and will make a frank attack on government with a note of middle-class conscience excluded from government, utilitarianism that was brought to England. Bad government makes men bad because it does not make happiness its main objective, a government in the hands of tyrants and priests who exploit. Despotism is a perversion of sovereignty and the division of interest between classes is a source of weakness and the remedy is education, if men see their interests and follow them, the good of all will occur. It postulates that reason does not shed blood and the representatives of the people must be wealthy and thus the true reformer must be the sovereign.

Progress

Turgot and Condorcet convert the idea of progress into a philosophy of history. The first posits that history follows the ever-accumulating experience that constitutes a civilization. Condorcet sees a utopia that has never been seen.

Selfishness.

BIBLIOGRAPHY

- [1] Church, W. F. (1967). The decline of the French jurists as political theorists, 1660-1789. *French historical studies*, 5(1), 1-40.
- [2] Ramiro Troitiño, D. (2022). The Essence of Europe: Understanding Europe Through Its Designers. In *The European Union and its Political Leaders* (pp. 1-4). Springer, Cham.
- [3] Rice, C. E. (1989). Some Reasons for a Restoration of Natural Law Jurisprudence. *Wake Forest L. Rev.*, 24, 539.
- [4] Soll, J. (2011). A Lipsian Legacy? Neo-Absolutism, Natural Law And The Decline Of Reason Of State In France 1660–1760. In *(Un)masking the Realities of Power* (pp. 307-323). Brill.
- [5] Troitiño, D. R. (2014). The Single European Act—the Creation of the Interior Market in Europe. *editorial staff Journal on legal and economic issues of central europe: mgr. Jan gazda, ph. d.*, 8.
- [6] Troitiño, D. R. (2020). La Unión Europea y el Reino Unido. Divergencia histórica y miopismo contemporáneo. *Tempo Exterior*, XX (40), 61, 73.
- [7] Troitiño, D. R. (2022). The European Union Facing the 21st Century: The Digital Revolution. *TalTech Journal of European Studies*, 12(1), 60-78.
- [8] Waldron, J. (2009). The decline of natural right. *THE CAMBRIDGE HISTORY OF NINETEENTH CENTURY PHILOSOPHY*, Allen Wood and Songsuk Susan Hahn, eds., Cambridge University Press, Forthcoming, NYU School of Law, Public Law Research Paper, (09-38).