

The authors state at the beginning that they reject the idea that humans somehow are independent of each other and at some stage consent to becoming members of society; this is usually presented either as an actual historical fact or a conditional requirement on any public decision or as an idea of reason in Kant. The authors think of human beings as naturally social meaning that living in society comes naturally to humans and it is misleading or downright false to think that the primary fact about them is that they are separate individuals that at some stage decide to form a society. Society is part of human life from time immemorial and from the time that any human being is born she is a part of society; she would not stand a chance if she did not have a family to nurture her until she could provide for herself. A family is a social institution. From an evolutionary point of view many developed animals form groups where patterns of behaviour emerge from which human society may have developed. The point is that the question how or when human society was invented does not arise; human society was not invented, it is a basic, internal fact about human life.

One thing the authors discuss is the story behind *Grágás* (grey goose), the first written Icelandic law book. In 1117 the Icelandic parliament, *Alþingi*, decided that the law should be written down and published. *Alþingi* had been established in 930 and for nearly two centuries the laws were recited there during the weeks in late June when the parliament was sitting. It took three years to recite the laws in full so one third was recited every year; they were not all recited annually as it says on p. 1 in the book. Now the question is what is going on from the point of view of the law in this process from the settlement of Iceland in late ninth century AD, in 930 when the parliament was established, and the law recited until it was written down in the winter of 1117-1118? How should we account for this development of the law? The authors' idea is that in any society there is something that might be called a living law which is not judge made law, positive law, in a sense state law, but the living law is the judgements and choices that people in any society make and become gradually accepted and approved in that society when they recur time and again. This process of gradually creating the living law is not formal in any sense, there is no formal debate or decree that establishes this law but it creates habits, practices, customs and mutual expectations that establish the jural relationships in that community. There is no sharp distinction between a legal realm and a moral realm. It is part of what the authors call "the communal law" or "the communal moral law" p. 3-4). So the living law is a moral tradition. Any moral tradition is such that some parts of it are implicit, others are explicit, and it is not possible to codify fully a moral tradition; there is no way that it is possible to write down all the moral rules and practices that make up a moral tradition. Historically the living law of any community is not written down, but it is a defining feature of the community and establishes entitlements which evolve through the interactions of people

living together dealing with the jural demands that this imposes on them. Some of the entitlements may be written down when the communal sense of justice provides a basis for formulated law. Written laws can be either natural or conventional but according to these authors they are not understood as new laws imposed on the community, but are parts of the living law that emerges within the developing communal moral context. So the account to be given of Icelandic law until it was written down in 1117-18 is that at first it grew out of the concerns that the new environment in Iceland created, the judgements and choices of the inhabitants about their own lives and how they resolved their disputes, establishing mutual expectations, a sense of justice and jural relationships and social institutions like *Alþingi*. Ultimately this leads to the writing down of the law, but it does not mean that being written down created in any sense new laws, rather it was part of the living law of the community and had developed out of it.

This is a very interesting view of the origin of *Grágás*. I guess there may be differing opinions about how it squares with all the historical accounts that have been preserved about the development of Icelandic law until it was written down. But it is persuasive. This theory of the development of law is intended by the authors as a general account of how law develops and how various parts of the living law are related, so it should apply to any system of laws we care to examine at least in the European tradition. Their theory is also descriptive, it aims to explain law as a social phenomenon in terms of its function in human affairs. They avoid all normative assumptions in their theory. The third important feature of the theory argued for and applied in this book is a number of distinctions that are used throughout the book between the natural and the conventional, the internal and the external, the intrinsic and the extrinsic. I am not sure that the authors would be willing to call this a theory, but rather a method they use to figure out what is just.

The authors discuss many of the most important topics in modern jurisprudence such as justice, natural and conventional, ownership, law, force of law, natural law, justice and the trading order, to name some of them. There is no way in a short review to give the flavour of the analysis of these different issues but I want to mention one: justice and the trading order. This area is of great importance to modern societies and has been extensively analysed and theorised in various academic disciplines. One obvious question is whether there is anything to be gained from analysing the trading order from the Aristotelian perspective of the authors. The answer is yes; there is surprisingly much to be gained from doing so. The trading order is where reciprocal justice is the proper justice. The authors start by suggesting that “in the trading order free exchanges are reciprocally just.” (p. 91). They make another plausible assumption that it is only in the context of exchange and the trading order that reciprocal justice exists. The trading order exists only as a part of a

wider, more complex social order and is constantly influenced by this wider order. Hence, there is no trading order governed only by reciprocal justice. The authors contend that if a trading order has developed one must first understand how it works to figure out what legislation is necessary. They also argue that it is a difficult question of fact whether the trading order can be centrally managed. It is the considered opinion of the authors that a trading order cannot be centrally managed. They are careful to point out that it does not follow from this that the trading order cannot cause all sorts of social problems that must be dealt with and that there are those who cannot sustain their lives by trading. The idea is that these are not problems of the trading order but must be dealt with by other means. The central idea of the trading order is that the two or more persons who want to trade must always be free not to for the exchange to be just. Any legislation and management, central or otherwise, of the trading order must respect this fact. It seems that any central management aiming to control correct the result of the innumerable exchanges of the trading order becomes problematic given these assumptions.

In modern political philosophy normative issues are contentious and important. Aristotelian political philosophy has not shied away from normative assumptions and issues. It is very informative to see the Aristotelian way of analysing political and jurisprudential problems working from different premises than is ordinarily done. This book is both radical and traditional and it is splendidly argued. It deserves to be widely read and to be influential.

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