"The Dictates of Our Own Hearts": Edward Gibbon and Natural Law

By

Michael Mattair

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Supervisor: Professor László Kontler
Second Reader: Professor Matthias Riedl

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Abstract

This thesis explores the natural law views of Edward Gibbon, which have only been lightly (and inaccurately) accounted for in previous scholarship. Gibbon's views on natural law have relevance for two longstanding research interests: his attitude toward religion and the question of whether his *Decline and Fall* anticipates in some way German historicism. Since natural law is not a widely-understood topic, background is provided for both its history in moral philosophy and the modern issues it has raised in historiography. Gibbon's views on the matter are investigated through a close reading of *Decline and Fall*, along with evidence from his other writings. Of special note is the role which Gibbon's natural law ideas play in his history. The results of this investigation are then compared with moral ideas in two contemporary historians, David Hume and William Robertson, to assess the uniqueness and significance of Gibbon's views. Gibbon's natural law outlook having been outlined, the question is brought back to his religious and historiographical views, where a revision of previous scholarship is offered.

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Introduction

When Gibbon began writing his *History of the Decline and Fall of the Roman Empire* in 1772, European natural law theory was on its last legs. Although Kant had yet to formulate his ideas on reason and moral law, the tradition had been dealt a severe blow by Hume, whose *A Treatise of Human Nature* (1739) questioned the logic behind systems of moral theory. Hume had observed that moral theorists always move from statements of what "is" or "is not" (positive) to statements of what one "ought" or "ought not" do (normative); the fallacy behind this movement between unlike statements put to question their prescriptive claims. In pointing this out, Hume cut an essential connecting thread that no one of his time was able to retie.

It has been observed that eighteenth-century natural law theory generally relied on an implicit Christian scheme which contrasted what humankind was intended to be with what it was; remove the scheme and one removes the hidden basis of the theory.[1] This removal was slowly accomplished by the secularization of European intellectual culture. Hume simply pointed out the incoherence of what was left without such a theological basis, and Kant's later reliance on the 'practical' assumption of God's existence to drive his moral theory further underscores this need. The modern natural law tradition, beginning with Grotius, was all but dry by Gibbon's time; left in its wake was a climate of skepticism that was ripe for the historicizing of all moral ideas that would take place in the nineteenth century.

By all accounts, Gibbon should have been among the skeptics. He identifies himself as a religious skeptic in his *Memoirs*, comparing his development away from the religious enthusiasm of his adolescence to the parallel (as he saw them) paths that had been followed

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[1] Alasdair Macintyre, *After Virtue: A Study in Moral Theory*, second ed. (London: Duckworth, 1985), 54-56.

by seventeenth-century skeptics William Chillingworth and Pierre Bayle.[2] He was an unabashed admirer of Hume, and well familiar with Hume's philosophical writings. His *Decline and Fall* is famous for its numerous acerbic attacks on the Christian religion, to the extent that he is often perceived as having blamed Christianity for Rome's fall.[3] He sought to identify himself with the most progressive currents of intellectual thought, and traditional natural law theory had no place in these trends.

Was Gibbon a skeptic of natural law? Or of objective morality in general? Absent any direct statement on the matter (which statements are rare and cryptic, as will be seen), the best window into his mind is through the warp and weft of his writing, especially the work to which he devoted his life. As one reads the *Decline and Fall*, led by Gibbon through the long panorama of murderous emperors, vengeful armies, feverish church councils, and besieged cities, one begins to notice a curious phenomenon. Recurring in the hundreds of pages of detail that form the narrative are certain terms and phrases which, on their own, fade easily into the surrounding illustrations but, taken together, seem to form a pattern. Such usages as "the laws of humanity and justice," "the sentiments of nature and humanity," "the simple dictates of nature and reason," and "the unalienable rights of human nature" occur often enough to suggest that these are not chance phrases gleaned unconsciously through Gibbon's wide reading, but rather the outlines of a fundamental framework for looking at the past. Meanwhile, although no perfect causal explanation pervades Gibbon's account of the Roman empire's decline, statements on the luxury of the Romans, among other factors, are made often enough to leave the impression that a judgment is being delivered, one based on atemporal standards that could be brought to bear on any human society.

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[2] See Memoir F in Edward Gibbon, *The Autobiographies of Edward Gibbon*, ed. John Murray, second ed. (London: John Murray, 1897), 89, Internet Archive, <http://www.archive.org> (accessed May 3, 2012).
[3] See, for instance, Johnson Kent Wright, "Historical Thought in the Era of the Enlightenment," in *A Companion to Western Historical Thought*, ed. Lloyd Kramer and Sarah Maza (Oxford: Blackwell, 2002), 138.

The question is made all the more important when one considers that Gibbon is perhaps the most renowned historian of the eighteenth century, writing at a time when both the art and the science of narrative history were at a landmark stage of development. Could a historian of Gibbon's time still have believed in natural law? Could someone who believed in natural law have written history with the color and sensitivity of Gibbon's? The answer to these questions could significantly shape our view not only of the place of natural law in Gibbon's time, but of the kind of history that is possible in a natural law framework at any time.

Much modern research on Gibbon has leaned towards the conclusion that his universe was not governed by any fixed moral scheme. Giuseppe Giarrizzo begins his seminal work on Gibbon with a discussion of his "*conversione alla historia,*" citing the young historian's reading of natural law thinkers Grotius and Pufendorf as the background for his later development into a more historically-minded thinker of the nineteenth-century type. In Giarrizzo's account, comparison between different societies forces Gibbon to abandon belief in rational principles of human nature, but rather than fall into absolute skepticism, he finds a middle road in the relativism of history.[4] David Womersley alters this thread of thought by noting that Gibbon's early volumes do seem to rely on timeless notions of human nature and hence could be classed as "philosophical history." In the process of writing the last volumes, however, Gibbon evolved into a progressive historian of a new type, no longer resting on ideas of changeless human nature or moral law. Biographer Roy Porter similarly emphasizes the "radical contingency" of human nature in Gibbon's mindset.[5] J.G.A. Pocock, in his monumental study of Gibbon and his time period, mentions Giarrizzo's and Womersley's conclusions without criticism, exploring along with

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[4] Giuseppe Giarrizzo, *Edward Gibbon e le Cultura Europea del Settecento* (Naples: Istituto Italiano per gli Studi Storici, 1954), 33-35, 40-41.
[5] Roy Porter, *Edward Gibbon: Making History* (London: Palgrave Macmillan, 1988), 136.

Womersley the thesis that Gibbon moved from Montesquieuan philosophical history to "a more complex vision."[6]

On the other hand, certain historians have noticed Gibbon's prevailing ahistoric moralism (and the continuity of human nature that it presupposes), at times critiquing the views of the historians mentioned above. David Dillon-Smith, in an unpublished dissertation, explores Gibbon's moralism under a wide range of aspects, both in his duties as a historian and in his treatment of history. He reads *Decline and Fall* as a "secular *Paradise Lost*" detailing "the fall of man from a state of intellectual and political freedom into servitude and barbarism."[7] P.R. Ghosh directly criticizes Pocock, Womersley, and others for their "failure to observe the elementary truth that Gibbon was a moralist rather than a political economist or sociologist," citing both the centrality of luxury in Gibbon's explanation of Rome's decline and Gibbon's own professed view of history as offering "a long series of instructive lessons."[8] Against Womersley's thesis of Gibbon's abandonment of a 'Polybian' philosophical approach to history, Ghosh holds that "there is no foundation to the idea that, as time passes, Gibbon somehow dropped or matured out of the [Polybian] usage."[9] In his reading, Gibbon's judgments maintain their atemporal, moralizing quality.

Although Gibbon's moralism has been underlined by these historians, especially in reference to his Polybian condemnation of luxury (to which could be added his Tacitean indictment of the debilitating effects of monarchy[10]), neither writer makes an effort to explore the philosophical underpinnings of this moralism, nor Gibbon's related concepts of

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[6] J.G.A. Pocock, *Barbarism and Religion. Volume 1: The Enlightenments of Edward Gibbon, 1737-1764* (Cambridge: Cambridge University Press, 1999), 84-85, *passim*.
[7] David Dillon-Smith, "The Historian as Moralist: A Study of Edward Gibbon and *The Decline and Fall of the Roman Empire*," (Ph.D. diss., University of Wollongong, 1982), xi, <http://ro.uow.edu.au/theses/> (accessed March 3, 2012).
[8] P.R. Ghosh, "Gibbon Observed," *The Journal of Roman Studies* 81 (1991): 137 n. 37, 148 n. 120. See Edward Gibbon, *The History of the Decline and Fall of the Roman Empire* (1776-88), ed. David Womersley (London: Penguin, 1996), II.507.
[9] *Ibid.*, 137.
[10] See especially his account of the formation of the principate in chapter 3 of *Decline and Fall*, in which begins a long line of regretful references to the "health and vigour" of the republic.

justice and right. Gibbon's own occasional mentions of the problem, viz. of whether he held an objective philosophical doctrine of moral issues, suggest ambivalence. In the first volume of his history, he names "the whole compass of moral, natural, and mathematical science" as being "the knowledge that is suited to our situation and powers."[11] That moral science should be placed alongside natural and mathematical science would seem to strongly endorse its universality and intelligibility. But in another passage, he shies away not only from wanting to know the details of this science, but even from its nature as a science:

> The urgent consideration of the public safety may undoubtedly authorize the violation of every positive law. How far that or any other consideration may operate to dissolve the natural obligations of humanity and justice, is a doctrine of which I still desire to remain ignorant.[12]

Here Gibbon raises the distinction made by Thomas Aquinas between natural and positive law and promptly expresses disinterest in the issue.

Why would Gibbon desire to remain ignorant? The attitude is strange for a mind which seems to hold curiosity for every inquiry under the sun, whether Adam Smith's theories of political economy, the circumference of Aurelian's walls, or the delineation of a giraffe. One possible answer suggests itself: because the question reeks of theology. When one proposes a realm of legal obligations beyond the positive, one raises the prospect of intelligible principles that do not have a human source, and such questions usually venture in a theological direction. Gibbon, as any reader of even brief sections of his work can attest, did not like theology, and summoned all of his ire and considerable wit in commenting on the interminable controversies of the early Christian church.

He avoided the subject in part because he did not deem the human mind capable of grasping its problems, as he explains regarding the Christian doctrine of the divine Logos:

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[11] Gibbon, *Decline and Fall*, I.368.
[12] *Ibid.*, I.1040.

> In every step of the inquiry we are compelled to feel and acknowledge the immeasurable disproportion between the size of the object and the capacity of the human mind. We may strive to abstract the notions of time, of space, and of matter, which so closely adhere to all the perceptions of our experimental knowledge. But as soon as we presume to reason of infinite substance, of spiritual generation, as often as we deduce any positive conclusions from a negative idea, we are involved in darkness, perplexity, and inevitable contradiction....[13]

A further reason for Gibbon's disinterest in theological matters is psychological: having found himself the focal point of a religious tug-of-war when, following his conversion to Catholicism at age sixteen, his father sent him to live with a Protestant minister in Switzerland until he should be reconverted, Gibbon developed an understandable distaste for the subject. A passage in which he describes the adolescent education of the Emperor Julian (the famed "Apostate"), who left Christianity for paganism and is one of the heroes of *Decline and Fall*, more than likely contains an autobiographical dimension:

> Their [the "haughty ministers of the church"] speculative opinions were imposed as positive laws, and guarded by the terrors of eternal punishments; but while they prescribed the rigid formulary of the thoughts, the words, and the actions of the young prince; whilst they silenced his objections, and severely checked the freedom of his inquiries, they secretly provoked his impatient genius to disclaim the authority of his ecclesiastical guides.[14]

Gibbon's intellectual and personal distaste for theological speculation could well have formed a limiting point to his investigation of morality.

Whether or not Gibbon professes a direct interest in natural law, however, he has much to say on the topic. Tracing and identifying his ideas will be the goal of this thesis. First and foremost, I want to know what can be understood of Gibbon's natural law views, based on his many statements on the issue. My investigation will focus mainly on the *Decline and Fall* but will also take into consideration his other writing, including especially his journals and the six drafts of his *Memoirs*. Secondly, provided that any views can be with little doubt ascribed, I want to place Gibbon in his Enlightenment context, asking how well his natural law views fit into his time and place. Were these the views one would expect of an eminent European historian in 1776-88? Lastly, continuing from the previous

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[13] *Ibid.*, I.746.
[14] *Ibid.*, I.836.

question, I want to investigate what Gibbon's orientation in the natural law thought of his time might say about his personal character and convictions. If he was out of step, then why? With whom did he agree or disagree, and what do these agreements or disagreements reveal about him?

My purpose in investigating Gibbon's natural law views is twofold: to better understand the moral dimension of Gibbon's mind and how it might relate to his general worldview, especially regarding religion; and with this in mind, to better understand his history, what he was doing in writing it and why he wrote it the way he did. Except for a few stray mentions by lesser known scholars, Gibbon's moral outlook has largely fallen off the radar in the secondary literature, and this has resulted in a crucial dimension of his work being neglected. One of the differences between Gibbon's time and our own is that in his era, even the most radical intellectuals could agree that the moral dimension in human life is worth serious scholarly study, an outlook that is no longer very common; hence, to fully grasp a work of this period, the moral views of the author must be understood.

My first chapter attempts to outline theoretical issues involved in natural law and its relationship to history, moving from a more abstract discussion to an overview of what has been said concerning Gibbon. Also in this chapter I touch on some considerations of methodology, especially concerning language analysis, necessary to an investigation of this type. In the second chapter I attempt to provide some order to the confusing history of natural law, surveying the major thinkers of possible relevance to Gibbon. My third chapter then directly treats Gibbon's notion of natural law, understanding what his mindset was and how it relates to his history. Chapter four offers a survey of the moral outlooks of Gibbon's two chief contemporary historians, David Hume and William Robertson, comparing Gibbon with them to better contextualize his ideas. Finally, in my conclusion I treat of the larger

issues of religion and historiography mentioned above, attempting to shed some new light on the writer and his work.

Chapter 1

The Problem of Natural Law and History

Perhaps the chief objection to natural law theory, not only since its decline in the late eighteenth century but in some form throughout its history, has been that it is not historical. It does not, in other words, take into account the varying moral rules that have been posited at different times and places, instead supposing that a single set of laws could hold for all humans. This notion of a single set of laws, however adaptable they might be to circumstance, struck nineteenth-century and later thinkers as dogmatic or naïve. The decline of natural law was also due in large part to another objection, that not only can there not be a single moral law, but in fact there is not even a single human nature, and that all the truths a philosopher might declare about human nature are subject to the vicissitudes of history. Hence, even philosophy itself was challenged as a viable discipline. Let us examine this tension between philosophy and history, and the problem that it poses for natural law.

> History as history seems to present to us the depressing spectacle of a disgraceful variety of thoughts and beliefs and, above all, of the passing-away of every thought and belief ever held by men. It seems to show that all human thought is dependent on unique historical contexts that are preceded by more or less different contexts and that emerge out of their antecedents in a fundamentally unpredictable way….[1]

Leo Strauss tackles a fundamental problem of history: its tendency to dissolve philosophy. In his presentation, it is of the very nature of history that any philosophy appears ephemeral, a development of a specific situation in time that loses relevance when new situations arise. The important word here is "seems": it only seems this way because history is not philosophy. History presents human events, usually in chronological order, among which are included developments in philosophy, but with an emphasis on their place

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[1] Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953), 18-19.

in the ongoing, relentless chronology rather than an investigation of their truth. Or if such an investigation is ventured, as for instance in Bertrand Russell's *A History of Western Philosophy* (1945), it is a compromise of the work's nature as history – it is history-*cum-*philosophy rather than strictly history. The general tendency for the reader who sees the events go by, and the philosophies come and go with the events, is to lean towards the conclusion that no human truth transcends history.

This poses a particular problem for the philosophy of natural law, which Strauss terms 'natural right',[2] and accounts for what Strauss considers the most common argument against it: "there cannot be natural right if there are no immutable principles of justice, but history shows us that all principles of justice are mutable."[3] In other words, the sheer variety of principles of justice in human history, often flatly contradicting each other, and the transitory nature of each one, apparently shows that there is no such thing as natural right. From this point of view, any natural right doctrine is either a hopelessly wishful attempt to find constancy in endless variety, or else a brazen and ignorant privileging of ideas developed at a certain time over the rest of history. Strauss however critiques this argument, pointing out that although history may teach that a certain principle of justice was abandoned, "it does not teach us whether the change was sound or whether the rejected view deserved to be rejected."[4] It could be that the people who abandoned the idea simply made a poor decision: they abandoned a just principle for one that was less just, or not just at all. Of course, this would imply a detached, atemporal standard of what is just, raising again the question of how to identify such a standard when history does not give any evidence of one.

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[2] I use these two terms interchangeably, although chapter 2 will discuss debates over whether laws or rights are primal.
[3] Strauss, *Natural Right and History*, 9.
[4] *Ibid.*, 19.

The problem, Strauss would argue, is ultimately not for history to decide, since history cannot philosophize about what is just. In fact, it is not history at all which has led thinkers to abandon natural right but rather a movement in philosophy which only uses history for its argument: "the contemporary rejection of natural right in the name of history is based, not on historical evidence, but on a philosophic critique of the possibility or knowability of natural right."[5] Historians did not abandon natural right, philosophers did, or at least historians acting as philosophers. Past natural right philosophers were well aware of the dizzying variety of notions of justice exhibited by history, and the knowledge did not deter them from their pursuit; thus it could not have been simple awareness of history that overthrew natural right philosophy at the end of the eighteenth century.[6] Still, history does have a tendency to lead those who ponder it to the view that all philosophy is transient, since as history it is "particularly and primarily concerned not with the permanent and universal but with the variable and unique."[7]

In view of this aspect, it is curious for our investigation that Gibbon's work should stand right at the moment of shift in the European intellectual world towards the rise of the historicist viewpoint, and the hatching of history from its previous philosophical shell. It does not seem like an accident that the practice of writing history with full appreciation for the "variable and unique" aspects matured during the same era in which natural right was being questioned and abandoned. So well does the writing of history seem to fit with the belief in the temporality of all ideas that this belief has frequently, over the past two hundred years, been identified as a criterion for any authentic history. One is not a historian, the thinking goes, if he writes history in which a continuous, overarching philosophical or moral scheme is apparent; he is at best a philosopher, more often an ideologist, polemicist, or dogmatist. Strauss is unclear on who precisely instigated the

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[5] *Ibid.*, 12.
[6] *Ibid.*, 9-10.
[7] *Ibid.*, 18.

change. He identifies the development of the new "historical school" with a reaction to the French Revolution, where the violence of the revolution was blamed on the absolutism of those who thought that their principles were the only correct ones and tolerated nothing that opposed them.[8] This would put the rise of historicism sometime after 1789. Meanwhile he gives some credit to Hume and Kant for their "philosophic critique of philosophic and scientific thought" – in Hume's case, dealing particularly with natural law – thus softening any resistance that philosophy might have made to the new trend.[9] As Hume began publishing as early as 1739, we might identify the transition period as having taken place in roughly the second half of the eighteenth century. It was to find its spiritual home especially in German historiography, emerging from the writings of Herder to become the dominant European mode of historiography in the nineteenth century.

Strauss differentiates historicism from skepticism. Skepticism means the doubt of any posited philosophical view whatsoever, while historicism sees certain views as being quite correct and appropriate, but only within a given historical context: "For the skeptic, all assertions are uncertain and therefore essentially arbitrary; for the historicist, the assertions that prevail at different times and in different civilizations are very far from being arbitrary."[10] Each era has its truths, but the truths are only relevant as long as the era lasts. We need not follow Strauss's account of the later developments of historicism; suffice it to say that the end result is painted in dark colors, with the term 'nihilism' invoked.[11] More interesting is the relationship between historicism and skepticism, and their relevance to the late eighteenth century. It seems clear that, while skepticism is different from historicism, it works toward it somehow. Strauss views the work of Hume and Kant which prepared the

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[8] *Ibid.*, 13.
[9] *Ibid.*, 20.
[10] *Ibid.*, 20.
[11] *Ibid.*, 18.

way for historicism as being in a skeptical direction.[12] At what point does skepticism become historicism?

Gibbon would not have known the word 'historicism', but would have been well familiar with 'skepticism'. As already mentioned, he proudly identifies his religious development in his *Memoirs* with that of the famous skeptic Pierre Bayle. Skepticism had its own antagonistic relationship with natural law long before historicism; the ancient philosopher Carneades challenged the Stoic natural law thinkers by arguing that there was no natural justice, only self-interest and custom.[13] Historicism might be said to offer a temporal challenge to natural law, pointing to the changes of justice in history, but skeptical thinkers have additionally offered a spatial challenge, as with Montaigne's observations about the wide variance of custom in contemporary societies around the world.[14] Both the temporal and the spatial challenges to natural law well predate historicism, but neither eclipsed it as historicism did. Looked at another way, historicism might be said to offer a "way out" for those who do not wish to embrace complete skepticism; rather than abandon belief in all philosophical truths altogether, they can simply assign different truths to different eras in the past, and appreciate the flexibility of truth that history offers (this is the path which Giarrizzo ascribes to Gibbon[15]). But to someone like Strauss, interested in principles of justice that can be strongly defended, this simply leads to the same paltry conclusion: all principles are subject to change, hence all are flexible.

Historicism, it should be noted, does more than reject natural law; it rejects any unchanging elements in human nature, or at least declares them beyond the realm of human knowledge. One who believes in such fixed elements need not believe in natural law; Hume, for example, did not believe in natural law but thought that human nature was to

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[12] *Ibid.*, 20.
[13] Cicero, *De Re Publica*, III.9b, 21a.
[14] Michel de Montaigne, "Of Custom, and That We Should Not Easily Change a Law Received," in *Essays* (1575), trans. Charles Cotton, <www.oregonstate.edu> (accessed March 25, 2012).
[15] See above, p. 3.

some extent constant.[16] But a belief in natural law typically presupposes some constancy in human nature, since a changing species cannot be held to unchanging laws. Historians seeking to locate a proto-historicist view in Gibbon are not therefore so concerned with whether he had natural law ideas as with whether he had any fixed conception of human nature; if he did not, then it would follow that he did not subscribe to natural law.

In recent years, David Womersley has focused more than anyone on Gibbon's relationship with historicism. His *The Transformation of* The Decline and Fall of the Roman Empire (1988) is a careful working-out of the thesis that, while Gibbon began *Decline and Fall* in the mindset of philosophical historiography, by the third and final publication installment, he had come to something more like a historicist vision. Womersley bases his understanding of 'philosophical', or 'pragmatic', historiography on Friedrich Meinecke's *Die Entstehung des Historismus* (1936). For Meinecke, the most salient feature of the older way of thought is its "assumption of an invariable human nature."[17] This assumption leads to an instrumental attitude towards the past, using it as a source from which lessons can be drawn and applied to the present day, since there is never any total break or discontinuity between former times and the present. The result is historical writing that is cold and empty; as Womersley summarizes,

> The belief of the pragmatic historian that the discrepancies between one period and another betray not genuine discontinuities, but mere fluctuations in the mix of the small number of constant elements which always and everywhere combine in human affairs, deprives the present of the possibility of invigorating contact with the completely foreign. In pragmatic historiography time contains no radical revolutions or innovations.[18]

Only when the past is completely, radically different from the present, to the extent that human nature itself is different, does history become exciting.

[16] For a strong statement on this matter, see Part I of the chapter "Of Liberty and Necessity" in his *An Enquiry Concerning Human Understanding* (1748), par. 7.

[17] Quoted in David Womersley, *The Transformation of* The Decline and Fall of the Roman Empire (Cambridge: Cambridge University Press, 1988), 2.

[18] *Ibid.*, 2-3.

Meinecke had included Gibbon in his list of historians who practice philosophical history, but Womersley sets out to find for him a place more honorable. He does this by a careful literary reading of the *Decline and Fall*, noting changes in style and tone when dealing with parallel subjects in earlier and later volumes. The evidence is more circumstantial than direct, relying on literary analysis. Interestingly, Womersley does not directly state that Gibbon adopted a historicist perspective, although his wording leaves the impression that Gibbon came only barely short:

> It is my contention that, when he begins *The Decline and Fall*, Gibbon embraces the pragmatic, philosophic historiography of his predecessors; that he is gradually forced to revise and supplement that historiography when he moves into a region of the past hostile to its central tenet of the uniformity of human nature; and that the dislodgement of this keystone of philosophic historiography entails far-reaching changes, *akin to historism but not identical with it*, in the most diverse areas of the history.[19] [Emphasis added.]

Womersley never explains precisely what differentiates Gibbon's view from the historism, or historicism, to which it is kin, calling it merely "a new historiography which is both more ample in its sympathy and hesitant in its judgement."[20] One may suspect that he avoided ascribing the term to Gibbon so as not to make his thesis too easily the target of criticism, as well as to avoid the anachronism of using a term traditionally ascribed to later (usually German) historians.

In an essay published not long after *Transformation*, Womersley states the issue more strongly. After tracing the influence on Gibbon of Francois Jean, Marquis de Chastellux, whom Womersley argues helped Gibbon to escape the ahistoric, Polybian way of looking at the past, he concludes that Chastellux, although he "prepared some of the ground for the advent of historism," nevertheless "was no historist himself." Turning by way of contrast to Gibbon, a different conclusion is reached: "Yet Gibbon…eventually comes to understand the autonomy of the past, its absolute independence of the present, in a

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[19] *Ibid.*, 4-5.
[20] *Ibid.*, 6.

way that would have been unthinkable for Chastellux."[21]   Here it seems that Womersley comes as close as one can to saying that Gibbon was a historicist, without actually saying so. He then finishes the essay by speculating that Gibbon may have been influenced by Giambattista Vico, although this is no more than an "intriguing" thought.

Womersley says nothing in either work about natural law. His main interest is Gibbon's notion of historical causation, dealing with such issues as whether luxury causes the inevitable decline of a society, and I have no qualms with his conclusion that Gibbon reached a view of history that was more sensitive to the alterations of time and place than that of his eighteenth-century predecessors. But if Gibbon is thought to have seen "the autonomy of the past, its absolute independence of the present," and if his outlook is to be contrasted with those who view human nature as "invariable," this most likely precludes, for the reasons already mentioned, Gibbon's having held a belief in natural law.

A different but related view about Gibbon can be found in the work of J.G.A. Pocock, who frames Gibbon as part of a group of historians and social thinkers who share a common approach to European history which Pocock calls "the Enlightened narrative." The members of this group, including such Scottish Enlightenment thinkers as Hume, Robertson, and Adam Smith, see European history culminating in the establishment of "civil society," which entails "the formation of a culture of enlightened manners based upon commerce,"[22] where the rules of morality supplied in the past by religion are replaced by the 'sentiments' arising from social intercourse and commerce. According to Pocock, Gibbon makes "little or no significant dissent" from this account of Enlightenment:

> He [Gibbon] repeatedly makes it clear that he is living and writing in, for and on behalf of a civilization of commerce rather than slavery or feudalism, of polite manners rather than warrior virtue or religious faith, of trade and treaties between a system of states rather than a universal empire or an anarchy of contending theocracies; and he upholds this civilization as against its predecessors, with few doubts expressed as to its future.

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[21] David Womersley, "From Polybianism to Perfectibilism: The Influence on Gibbon of 'Le Chevalier de Chastellux," *British Journal for Eighteenth-Century Studies* 13, no. 1 (1990): 55.
[22] J.G.A. Pocock, *Barbarism and Religion. Volume 2: Narratives of Civil Government* (Cambridge: Cambridge University Press, 1999), 370.

Pocock's conclusion is stark: "The Enlightened narrative is the metanarrative of the *Decline and Fall*, the history in which it is written and which explains how it has become possible to write it."[23] While Pocock says nothing in this about natural law, we will find that there are certain strains of natural law thought which, if employed by Gibbon, would put to question whether Gibbon really follows his Scottish contemporaries in substituting "polite manners" for "warrior virtue or religious faith." We shall also have to explore just what is entailed by these theories which see polite manners as a source of (or replacement for) virtue, if we are to ascribe this view to Gibbon.

How then should one approach investigating Gibbon's possible views concerning natural law? As mentioned already, there is a considerable number of passages in *Decline and Fall*, as well as his other writings, where Gibbon uses language that seems to point unmistakably to natural law theory. Deciding the question of whose or what variety of natural law theory Gibbon invokes, or if he invokes only one theory and not several (perhaps contradictory) theories, is more difficult. This is especially the case since Gibbon never clearly professes a natural law outlook, and in fact expresses disinterest in the matter.[24] We do not want to make the mistake that Quentin Skinner devastatingly attacks of attributing a doctrine to an author that he could not possibly have held. Such a tendency usually involves "convert[ing] some scattered or quite incidental remarks by a classic theorist into his 'doctrine' on one of the mandatory themes," with the result that one "understand[s] the agent to be doing something which he would not – or even could not – himself have accepted as an account of what he *was* doing." We may avoid this fallacy by not asserting that Gibbon held any *doctrine* of natural law, understanding doctrine as a view that he wished to advance or instruct the reader of. What we are dealing with instead are

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[23] *Ibid.*, 371.
[24] See quote above, p. 5.

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traces of a way of thinking that existed, consciously or unconsciously, in Gibbon's mind, and that was prevalent enough to manifest itself in quite a large number of statements in his writing. What reasons or significance there may be for such a prevalence we might later speculate; in the meantime, our task is to determine as precisely as possible the nature and sources of these statements.

We are in the position of the historian whom Pocock says is "constantly surprised and delighted by discovering languages grown familiar from other sources in familiar texts where their presence has been neglected."[25] In this case, we are surprised to discover in Edward Gibbon, not known to be a thinker on natural law, the terminology and style of natural law language. By 'language' I mean one of those "specialized idioms" in which Pocock says the meaningful statements of political thought have historically been carried out and even made possible, and which themselves largely make up the history of political thought. Languages condition what authors are able to say, providing them with linguistic tools for articulation but at the same time shaping and forming what an author is able to articulate. An author is typically influenced by not a single language but several, and himself manipulates the various languages he has inherited in order to make meaning.[26] Pocock lists as examples of languages the idioms of "medieval scholastic, of Renaissance emblematic, of biblical exegesis, of common law, of civil law," etc.;[27] natural law might easily be thought of as one of these. They are all idioms of discourse containing their own specialized vocabulary and rhetorical conventions, and often have their origin in professional or corporate bodies such as the legal profession or the clergy. Natural law language in Gibbon's time would have been the idiom of the various thinkers in academia,

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[25] J.G.A. Pocock, "The Concept of Language and the *Métier d'Historien*: Some Considerations on Practice," in *The Languages of Political Theory in Early-Modern Europe*, ed. Anthony Pagden (Cambridge: Cambridge University Press, 1987), 23.
[26] J.G.A. Pocock, "Texts as Events: Reflections on the History of Political Thought," in *Politics of Discourse: The Literature and History of Seventeenth-Century England*, ed. Kevin Sharpe and Steven N. Zwicker (Berkeley: University of California Press, 1987), 26-28.
[27] Pocock, "The Concept of Language," 23.

political life, the legal profession, and perhaps some of the clergy who discussed and debated it.

One might raise the question of whether there was only one natural law language available to Gibbon or not more. Pocock cautions that, although highly "powerful and idiosyncratic" authors (e.g. Edmund Burke) might give rise to their own language, there must be at least two authors using a language for it to properly be termed as such.[28] The next chapter will survey the major thinkers who might have had an impact on Gibbon; how these various thinkers might be grouped into different languages or sub-languages is perhaps not so important as what sort of philosophical assumptions or propositions their ideas contained, and whether these ideas show up in Gibbon's writing. It may be that certain statements Gibbon makes could be as easily attributable to not one but several thinkers, e.g. Cicero, Augustine, and Aquinas; or Locke and Pufendorf; or Hume and Smith; if this is the case, we might speak of Gibbon as using the language of Stoic natural law in the former case, or of some variety of early modern natural law in the latter cases. We are attempting to trace influence, and Pocock's aim is to show that what we call "influence" might best be seen not as discrete individual authors of texts acting on other authors of texts, but rather as languages or "continuities of discourse" encapsulating many authors, which both make possible and constrain what each of those authors is able to say.[29] Whether Gibbon was influenced by single authors individually or by modes of discourse spun out of several authors with whom he had passing contact, only our empirical work can decide.

Having once identified a certain specimen of natural law language as existing in Gibbon's writing, we must then consider just how special it is for such language to be there. It may after all be only conventional that a certain language was used in 1776-88; this mode

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[28] *Ibid.*, 25, 21.
[29] Pocock, "Texts as Events," 28-29.

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of discourse might have been so prevalent at the time that virtually every author writing in England on political or historical subjects used it, and one could hardly expect that Gibbon could have gotten through three thousand pages of *Decline and Fall* without sometimes touching on its terms or usages. A term like 'sentiment', for example, was in such common usage in the educated English of the time that an author who uses it cannot be supposed thereby to have given any strong endorsement to Adam Smith's *The Theory of Moral Sentiments* (1759), or any other moral treatise that uses the term. We are at the tricky problem that Skinner outlines of "the relations between what a given writer may have *said*, and what he may be said to have meant by saying what he said."[30] Granted a particular author says something, just how significant of a statement can he be said to have made? Was he even conscious at all of having chosen a particular term or language by which to make his statement?

Skinner's proposed solution to this is to develop the historical context of the time period, in order to know the 'status' of the idea at that time.[31] My way of developing Gibbon's historical context will be through the comparative approach. By placing Gibbon alongside the other two major British historians of his time, with both of whom he corresponded and both of whose works he had read by the time he began the *Decline and Fall*, and by looking particularly at how these authors use the same natural law terms that appear significant in Gibbon, we may learn how "characteristic or unusual"[32] these terms were in the contemporary intellectual climate. Having done so, we will be in a position to move from merely understanding the sources of Gibbon's ideas in what he says to assessing the significance of his saying it, thus painting a more vivid portrait.

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[30] Quentin Skinner, "Meaning and Understanding in the History of Ideas," in *Meaning and Context: Quentin Skinner and His Critics*, ed. James Tully (Cambridge: Polity Press, 1988), 50.
[31] *Ibid.*, 56.
[32] *Ibid.*

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Chapter 2

Natural Law: A Brief Background

Natural law is a hazy and confusing subject, and many students of the field have been dumbfounded when asked to say what, precisely, it is. Adding to this confusion is the inconsistency of terminology that has been used throughout its history, as well as by present-day scholars. For some, natural law is equivalent to natural right; for others, a natural right thinker cannot be a natural law thinker. For many it is theology by a different name, while a few scholars identify its origins in a breakaway from thinking about divinity. The umbrella of thinkers included in most surveys of natural law is such that certain ones would seem to be diametrically opposed to others in worldview, especially regarding the nature of morality or virtue. In many cases natural law would seem to apply strictly to matters of justice and legal rights, while in some formulations it extends all the way to individual sexual preferences. And it is very hard to tell, based on what has been written, whether the tradition ended at some point in the eighteenth century (before or perhaps after Kant), or if it is alive and well today.

So before discussing Gibbon's relationship with natural law ideas, some organization and clarification of these ideas is necessary. We cannot attribute any significance to something Gibbon says on the matter if we have not first sorted out the background ideas he refers to and how they relate to one another, as well as their significance to other questions one might wish to explore. In doing this, chronology appears to be the best method. Gibbon read an incredibly wide range of books, and his mind was acutely sensitive to their ideas, a fact to which *Decline and Fall* bears witness. The sources from which he may have drawn notions of natural law extend from arguably as far back as Plato to his own contemporaries. A brief survey, running the length of that

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history, of the authors Gibbon might have read and the main ideas that may have influenced him, would then be helpful.

Before conducting this survey, we must first at least briefly identify, in the face of so many abstruse doctrines and unresolved scholarly debates, what element or orientation of natural law most concerns our study of Gibbon. Only by doing this can we decide which of the various doctrines that have been labeled 'natural law' is relevant to our inquiry, or to what extent such distinctions as between "laws" and "rights" are likewise relevant. I have already raised the issue of his ambivalence in considering the natural law/positive law distinction, and the possible connection this may have had to his adolescent religious experiences and subsequent rejection of theology. Hence of prime interest will be the connection to theology or notions of divinity of natural law theories. To what extent, in other words, does a given natural law theory rely on the legislation or action of a god?

A second line of inquiry, proceeding from this, is the transcendental nature of a natural law theory. Is the theory a construct of human beings or is it something discovered by human beings? In other words, is it universal and atemporal, or historically contingent? This characteristic does not necessarily require the involvement of divinity – it may, perhaps, be due to chance rather than design that a certain rule of behavior is right or wrong for all of humanity – but it at least suggests such involvement. With this interest in mind, it will be less important whether a given theory of justice or morality is based on rights or on laws than whether such rights or laws are universal and transcendent or contingent and local. Hence there is no reason to get mired in the question of whether a natural right thinker is also a natural law thinker, since for the interests of this study the two types may indicate essentially the same frame of mind (viz. a transcendent, universal notion of justice or morality), albeit with slightly different approaches to the matter. The greater factor is the issue of transcendence vs. contingency, atemporality vs. historicity, universality vs. locality.

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A final consideration is whether a given natural law theory involves notions of right that can be understood by reason, or whether they are based on emotion or 'passion'. This distinction may be seen to parallel the previous one, in most but not all cases. Generally, discovery by reason is more indicative of transcendence and universality, as individual subjectivity is believed to be removed, reason itself being traditionally understood as a kind of transcendent faculty enabling apprehension of things beyond the human realm. By contrast, emotion-based theories tend to place natural law within the human realm, although considerations that certain sentiments are universal to humans may save universality for such non-transcendent theories. Universality is not itself a guarantee of transcendence. Nor, by itself, is rationality: one may reason from one's subjective experience to laws that will thus remain human-based. But if a law is apprehended purely by reason, this suggests something beyond the human sphere.

A note on terminology: it would be useful to have a few working definitions of terms like 'natural law', 'morality', 'justice', or 'virtue' before delving into these theories. The problem is that the theories themselves usually offer definitions for these terms, and thus any pre-assigned definition would work well for some theories but not for others. But since some basic notion is necessary, we can say that 'morality' encompasses the entire field of what is viewed, reasoned, or felt to be "right" or "wrong" in human behavior; 'natural law' is a specific type of morality which assumes that there are laws governing behavior that are somehow related to nature (where 'nature' roughly means "the world as it exists," including potentially physical and metaphysical realms); 'justice' is a concept that partially overlaps morality and concerns notions of what is right or wrong in relations between individuals or groups of people, which relations may or may not be governed by natural law; and 'virtue' is a term roughly equivalent to "excellence," which can be used in the context of morality as well as other areas of life, and which in a moral context has as its

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opposite 'vice'. These are roughly what I have in mind when I use these terms, unless the usage is further shaped by a specific theory.

Classical Natural Law

Setting these general considerations aside, the first author who may be considered a possible source of natural law ideas for Gibbon is Plato. A lively debate could be had on whether Plato produced a doctrine that could properly be termed 'natural law', but it is clear that he had a notion of morality and justice that is transcendent, objective, and universal.[1] Thus we can speak of Plato's 'natural law doctrine' in the broad sense that, although he did not use the term, he had all the ingredients of what would be called 'natural law' in another author. Understanding what is right or just for Plato requires knowing the form of justice, which like all Platonic forms is transcendent. This is the theme of the *Republic*, and the idea of justice contained therein applies both to the city and to the soul.[2] Of course, what sorts of laws or behavior this form entails cannot be directly stated: one has to know the form itself. But Plato does affirm that the knowledge of justice involves the institution of "a natural order and government" in the soul or city, leading to virtue, and which is instituted by reason.[3] This natural justice is to be distinguished from legal justice (i.e. justice as contained in an existing set of laws) as well as from merely human morality (i.e. morality as is commonly practiced).[4] It is, however, realizable for both the city and individual, provided that they are ruled by reason and have grasped the form of justice.

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[1] Gisela Striker makes the point that although Plato has an objective standard of justice, it cannot be called natural law because it does not involve an "unchanging set of laws" that can be written down and used to rule a state. Her conception of natural law seems more narrow and literal than most, and would exclude, among others, Thomas Aquinas as an adherent of the doctrine. See Gisela Striker, "Origins of the Concept of Natural Law" in *Essays on Hellenistic Epistemology and Ethics* (Cambridge: Cambridge University Press, 1996), 213-14.

[2] Plato, *The Republic*, 435, 442. I have used the Stephanus numbers for citations. Translation is that of Benjamin Jowett, *The Republic of Plato*, third ed. (Oxford: Oxford University Press, 1888), The Liberty Fund, <http://files.libertyfund.org/> (accessed March 11, 2012).

[3] Plato, *Republic*, 444, 441.

[4] Strauss, *Natural Right and History*, 121.

As regards a divine element, one must observe that Plato was not a theologian and that reference to divinity is never at the fore of his philosophy. However, the distinction between natural justice and legal (positive) justice, or between natural morality and human morality, parallels the distinction between what Plato calls the 'divine' and the 'human'.[5] The rule of reason in the soul is alternately called the rule of "the Divine" or of "divine wisdom,"[6] and the nature of justice is known by the gods, the just human being one "whose desire is to be just and to be like God, as far as man can attain the divine likeness, by the pursuit of virtue."[7] Some may argue that Plato's references to divinity are less an important element in understanding what justice is than a way of ennobling the endeavor after its details have been explained, and perhaps only rhetorical. Whether or not this is true, they nonetheless serve to accentuate the transcendent element, placing justice and morality beyond the realm of the strictly human.

Aristotle's account of natural law is more brief and practical than Plato's. In contrast with Plato, Aristotle is concerned entirely with political justice: there is no justice for the soul that can serve to put an individual at odds with the polity that exists around him, provided that the polity has just laws; the philosopher never transcends political life.[8] Hence the only justice proper is political justice. Aristotle divides this into natural justice and conventional justice, where conventional justice is arbitrary (e.g. weights and measures) and natural justice "has the same validity everywhere, and does not depend on our accepting it." Importantly, however, although natural justice is "ordained by nature," it is nonetheless variable, and naturally just laws will not be the same in all places. For each polity, however, there is only one natural form of government possible: "the best form."[9] As with Plato, natural justice does not consist in a set of specific laws or rules, but rather involves a

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[5] Plato, *Republic*, 497.
[6] *Ibid.*, 590.
[7] *Ibid.*, 613.
[8] Strauss, *Natural Right and History*, 156.
[9] Aristotle, *Nicomachean Ethics*, 1134b-1135a.

philosophical ability to apply natural principle to the specifics of a situation. As Strauss describes it, "Both [Plato and Aristotle] avoided the Scylla of 'absolutism' and the Charybdis of 'relativism' by holding…[that] there is a universally valid hierarchy of ends, but there are no universally valid rules of action."[10] Thus we do not have specific natural laws, but a conception of natural justice or right that is at once objective and universal. Whether Aristotle's natural justice is transcendent or divine is a different question; he mentions that rules of justice perhaps do not vary "among the gods" as they do among men,[11] but aside from this (and as befits his common stereotype as more "grounded" than his teacher Plato) he does not at all speculate on the origins of natural justice, heavenly or otherwise, only observing that it exists.

Cicero is the final of the three major classical authors of natural law doctrine, and his discussion is considered the best available summary of the Stoic tradition of natural law. Like Plato and Aristotle, he draws a distinction between the various laws enacted by humans and true justice, which is unitary. This one justice is "established not by opinion but by nature;" it is "established by the one law," and the one law "is right reason in commands and prohibitions."[12] What is the connection between reason, law, and nature? On first glance, they are almost the same thing: "law is the highest reason, rooted in nature."[13] The connection cannot be understood, however, without divinity, which Cicero frequently invokes. Nature is ruled by the immortal gods, and humans are unique among animate creatures in sharing with the gods the most divine characteristic, which is reason.[14] The "true and original law" is the right reason of Jupiter, "which the gods have given to the

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[10] Strauss, *Natural Right and History*, 162.
[11] Aristotle, *Nicomachean Ethics*, 1134b.
[12] Cicero, *De Legibus*, I.28, 42. Translation is from Cicero, *On the Commonwealth and On the Laws*, ed. James E.G. Zetzel (Cambridge: Cambridge University Press, 1999).
[13] *Ibid.*, I.18.
[14] *Ibid.*, I.21-22.

human race."[15] All humans have reason, and thus all humans can know the natural law and reach virtue, which is "reason brought to completion."[16] There is no privileging, as in Plato, of the philosophical few: the highest justice is universally attainable. This is even true in the absence of any human law to teach people what justice is, an idea very far from Plato or Aristotle.[17]

One might ask, given the role of the gods in Cicero's account, whether one needs any special knowledge of the gods to attain virtue, but apparently all is achievable through observation of nature: "we can divide good laws from bad by no other standard than that of nature;" the highest good, furthermore, is "to live in accordance with nature."[18] It is not so much the case then that consideration of divinity is negligible for Cicero as that understanding nature, through reason, is itself a divine act – there is no separating nature from divinity. Although such an interpretation might suggest pantheism, Cicero's gods nonetheless seem separate and active, the "lords and managers of all things" who "keep account of the good and the wicked."[19] Cicero's emphasis on divinity and the opportunity (and responsibility) of every human to live rightly makes his doctrine well adaptable to Christian natural law, for which it would serve as a ready template. Some have questioned whether the doctrine is actually Cicero's, or only his presentation of the Stoic teaching.[20] Since, however, our focus is on what may have influenced Gibbon, I will refer to the teaching as Cicero's, and leave the question of authorship for a better qualified scholar.

It may briefly be mentioned that Cicero's writings on law, and the Stoic tradition that he represents, were of such influence in the Roman world that natural law became a common element of Roman law. As formulated by Ulpian (ca. 200 A.D.), a Roman citizen

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[15] *Ibid.*, II.10, 8.
[16] *Ibid.*, I.30, 45.
[17] *Ibid.*, I.30, 42.
[18] *Ibid.*, I.44, 56.
[19] *Ibid.*, II.15.
[20] Strauss, *Natural Right and History*, 154.

was tasked with keeping in mind the *ius naturale*, the *ius gentium*, and the *ius civile*; that is, the natural law, the law of nations, and the civil law. The *ius naturale* covered such areas as one's right to defend oneself; the *ius gentium* pertained, among other things, to marriage; and the *ius civile* included the proceedings of courts. In Ulpian's conception, as with Cicero, the *ius naturale et gentium* would be in effect even if Rome did not exist.[21] It should be noted that *ius* can translate as both *law* and *right*, a fact which pertains to Cicero as well; hence a reader of Latin such as Gibbon might understand such formulations as either laws or rights. Indeed, Ulpian has been cited as "the first lawyer who can…properly count as the pioneer of the human rights movement."[22] The notion of rights will become an important stream of early modern natural law thought.

Christian Natural Law

The next major development to affect Western ideas of natural law is Christianity, where notions similar to Stoic natural law were present from an early date. Paul, in his letter to the Romans, references both nature and conscience in his notion of morality:

> For when the Gentiles, which have not the [Jewish] law, do by nature the things contained in the law, these, having not the law, are a law unto themselves: Which shew the work of the law written in their hearts, their conscience also bearing witness, and their thoughts the meanwhile accusing or else excusing one another.[23]

Here the point is made that, with or without God's revelation, all people have knowledge of the moral law and are responsible for it. It may perhaps be speculated that Paul, a Hellenized Jew from the Greek city of Tarsus, had absorbed Stoic views from his cultural milieu. A similar passage can be found in Jeremiah, where God says that He will "put [His] law in their inward parts, and write it in their hearts," but since "their" refers only to the

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[21] Merio Scattola, "Before and after Natural Law: Models of Natural Law in Ancient and Modern Times," in *Early Modern Natural Law Theories: Contexts and Strategies in the Early Enlightenment*, ed. T.J. Hochstraasser and P. Schröder (Dordrecht: Kluwer Academic Publishers, 2003), 2.

[22] Tony Honoré, *Ulpian: Pioneer of Human Rights*, second ed. (Oxford: Oxford University Press, 2002), 76, Google Books, <http://books.google.com> (accessed March 12, 2012).

[23] *Romans* 2:14-15, King James Version.

House of Israel and not all humans, it cannot be taken as an instance of universal natural law.

Augustine quotes Paul's passage in his *Confessions*, adding the comment that "iniquity itself effaces not" nature's commands.[24] Augustine makes a further contribution to natural law thought with his observation, in the *City of God*, that God has instilled into all His creation a love of peace and harmony. Even wicked men cannot remove this desire for peace, for "the laws of man's nature" move him to make peace with others, and no vice can obliterate all traces of nature.[25] That nature exhibits such peace is a result of the "eternal law," whereby God instills order and harmony into His creation.[26] As with the Stoics, Augustine sees a divine plan to the universe which operates to the benefit of its inhabitants, and in fact he comes very close to Cicero's statement that law is "something eternal which rules the entire universe" and renders life happy.[27] Augustine also follows his classical predecessors in distinguishing between laws as they are made by humans and a law beyond humans which is truly just: "men derive all that is just and lawful in temporal law from eternal law…. There is this single law, from which all temporal laws from human government derive their various forms."[28] This distinction between the single eternal law and the many temporal laws would be a crucial starting point for Thomas Aquinas.

Aquinas, who forms a kind of apex of medieval Christian moral thought, carries on the Stoic tradition, but with a difference: although he references Cicero in addition to Paul and Augustine, he adds to this conception a strong Aristotelian element, as well as something unique to Judeo-Christian tradition. He begins with the concept of eternal law,

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[24] Augustine, *Confessions*, II.4, quoted in Scattola, "Before and after Natural Law," 3.
[25] Augustine, *De Civitate Dei*, IX.12.
[26] *Ibid.*, IX.13.
[27] Cicero, *De Legibus*, II.8, 11.
[28] Augustine, *The Problem of Free Choice*, trans. Dom Mark Pontifex (Westminster, Maryland: The Newman Press, 1955), 49, Internet Archive, <http://www.archive.org> (accessed March 13, 2012).

stating that "the whole community of the universe is governed by divine reason."[29] This eternal law is imprinted on all of God's creatures, but as humans are rational creatures, it is imprinted on us in a special way, such that we do not blindly follow it as animals but actually have "a share of the eternal reason." This sharing, or "participation of the eternal law in the rational creature," is the natural law.[30] One can see the similarity in this to the Stoic idea that humans are like the gods in that they have reason, and it is divine reason and its law which governs all.

Natural law exists in humans as a set of general, self-evident principles from which determinations are made for particular situations. Such determinations are human laws.[31] Every human law is derived from natural law, although it is possible that human laws can deviate from the natural, in which case one is "no longer a law but a perversion of law."[32] Natural law operates in the human mind through a habit (*habitus*, an Aristotelian notion) whereby the mind recognizes the precepts of the law. This specific habit is termed *synderesis*, a corruption of the Greek word for conscience, although Aquinas somewhat confusingly calls conscience an action of the mind accompanying *synderesis*.[33] The natural law has as its first apprehension the good, from which our practical reason derives precepts that whatever belongs to the good is to be sought, and whatever is contrary (evil) avoided. Thus self-preservation, procreation, knowledge of God, and social life are all precepts of natural law.[34] Out of the unchanging general precepts come a secondary class that vary according to situation; hence the law is at least partly variable, in contrast to Cicero for whom it is always eternal.[35] Lastly, in addition to the natural law God has given humans

[29] Thomas Aquinas, *Summa Theologica* I-II, Q. 91, A. 1. Translation is from Saint Thomas Aquinas, *On Law, Morality, and Politics*, ed. William P. Baumgarth and Richard J. Regan (Indianapolis: Hackett Publishing Company, 1988).
[30] *Ibid.* I-II. Q. 91, A. 2.
[31] *Ibid.* I-II. Q. 91, A. 3.
[32] *Ibid.* I-II. Q. 95, A. 2.
[33] *Ibid.* I-II. Q. 94. A. 1., I. Q. 79. AA. 12-13.
[34] *Ibid.* I-II. Q. 94. A. 2.
[35] *Ibid.* I-II. Q. 94. AA. 4-5.

the divine law, divided into the Old Law of the Old Testament and the New Law of the New Testament. This is because, while the natural law directs us toward our natural happiness on earth, the divine law directs us to our eternal happiness beyond.[36] Thus we have a Judeo-Christian addition to a doctrine that is otherwise part Ciceronian in its conception of an eternal law of divine reason, and part Aristotelian in its understanding of practical reason and the final cause of the good.[37]

Modern Natural Law

Although there were many debates within scholasticism, Aquinas's moral theory remained a dominant force up until the seventeenth century, where it continued to influence such thinkers as Francisco Suárez and Domingo de Soto. Meanwhile the Reformation had taken place, and Protestant thinkers did not accept the intimate relationship between human reason and divine reason that Aquinas had taken for granted, emphasizing instead the radical discontinuity between humans and God as a result of the fall. At the same time, in the wake of discoveries of new continents and human societies, a current of skepticism had taken shape from the ideas of Montaigne, Charron, and others, questioning whether there could be any moral truths common to the whole human species.[38] This, along with moral issues raised by Dutch colonialism overseas, was a prime motivating factor for the jurist Hugo Grotius, commonly considered the founder of modern natural law. Against the skeptics who argued that humans' only motivation in making laws was their own personal interest, Grotius maintained that in human nature there is universally a desire for society with other humans which exists even when it is not required for physical well-being.[39] In

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[36] *Ibid.* I-II. Q. 91. A. 4.
[37] I am indebted to Baumgarth and Regan's introduction (*ibid.*) for understanding the Aristotelian element in Aquinas.
[38] Knud Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment* (Cambridge: Cambridge University Press, 1996), 25.
[39] Richard Tuck, *Philosophy and Government 1572-1651* (Cambridge: Cambridge University Press, 1993), 196.

order for society to exist, however, each human must maintain his *suum*, or right, which is based on the natural instinct for self-preservation and right reason as to what makes life with others possible. The *suum* includes personal liberty, power over one's children and slaves, property, and "faculty of demanding what is due." Natural law, or *ius naturale* (better translated, in Grotius's case, as "natural right"), thus includes one's *suum* and every action which does not injure another person's *suum*.[40] It is because we all instinctively desire social life that respect for one another's rights has legal power; we are obligated by our very wish to be sociable not to do that which would destroy sociability.[41] In his great work *De Iure Belli ac Pacis* (1625), Grotius provides historical examples to show that the instinct to sociability has been a persistent factor in human law over the centuries, thus nullifying the skeptics' claim that there is no universal factor in law.[42]

In conceiving natural law thus, Grotius does away with scholastic obligations that all action be oriented toward the good, and thus provides a new freedom for moral life. As Richard Tuck comments, "There was an excitement in his claims about the inherent freedom of human beings, and their liberation from a weight of moral and juridical dogmas: the world could be constructed by men in many different ways, and they were responsible for their own ethical life."[43] A salient feature of the new conception is the absence of God, at least from the forefront. Although Grotius believes that God prescribes to humans a respect for their mutual rights, reasoning that God must do so since such respect is good, nonetheless God plays no role in the reasoning by which Grotius develops the theory. The natural law and the rights contained therein can all be understood without reference to God. The author himself intended this, hoping to develop a theory whose influence would transcend the warring of religious confessions, and famously observed, "All we have now

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[40] Haakonssen, *Natural Law and Moral Philosophy*, 27.
[41] Tuck, *Philosophy and Government*, 197.
[42] T.J. Hochstrasser, *Natural Law Theories in the Early Enlightenment* (Cambridge: Cambridge University Press, 2000), 9.
[43] Tuck, *Philosophy and Government*, 176.

said would take place, though we should even grant, what without the greatest Wickedness cannot be granted, that there is no God, or that he takes no Care of human Affairs."[44] It should be noticed that God does enter the theory in an oblique way, as it is due to His design that human nature and the laws that spring from it are what they are: "And even the Law of Nature itself…though it flows from the internal Principles of Man, may notwithstanding be justly ascribed to God, because it was his Pleasure that these Principles should be in us."[45] Still, a revolution of sorts was apparent: although anticipated in certain ways by medieval nominalist thinkers, Grotius had unhinged natural law from its divine anchor. He had likewise made an empirical or externalizing revolution, as the natural law was now understood through a sober evaluation of what made for sociability, rather than an internal conscience or connection with divine reason. Reason and universality remained in the new conception, but henceforth natural law theory would follow an increasingly secular path.

If Grotius's provocative conclusions stirred European moral thought, Thomas Hobbes shocked it. Hobbes' theory is essentially Grotius's without the desire for sociability: the instinct for self-preservation instead supplies the basis for all,[46] the rest being supplied by a kind of shrewd pragmatism. *Jus Naturale*, as Hobbes understands it, is our natural "Right to every thing; even to one anothers body."[47] We possess no "desire for society" which limits us from transgressing on the rights of others. Instead, our very interest in self-preservation leads us to accept a *Lex Naturalis* that will mutually limit our boundless natural right. On the subject of whether such a "Law of Nature" is really

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[44] Quoted in Tuck, *Philosophy and Government*, 198-99.

[45] *De Iure Belli ac Pacis*, *Prolegomena* 12. Translation used is Hugo Grotius, *The Rights of War and Peace*, ed. Richard Tuck (Indianapolis: Liberty Fund, 2005).

[46] Hobbes in fact thought that the instinct for sociality was the fundamental flaw in the tradition of political philosophy running through Plato, Aristotle, and Cicero. He considered himself the true founder of political philsosophy; Leo Strauss calls him the "creator of political hedonism." See Strauss, *Natural Right and History*, 166, 169.

[47] Quoted in Haakonssen, *Natural Law and Moral Philosophy*, 31.

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something transcendent or rather just a human invention, Hobbes arguments are mild at best; his alarmed contemporaries suspected the latter, and scholars since have suggested that he merely used natural law language as a "bow to conventional wisdom."[48] One senses reading Hobbes that the *lex naturalis* is simply for humans to draw wherever they best see it fit, based on what answers to their needs. Hobbes does propose, though somewhat ambiguously, a divine origin for *lex naturalis*, saying that on their own his conclusions amounted to only "Theoremes," but that "if we consider the same Theoremes, as delivered in the word of God…then are they properly called Lawes."[49] Because Hobbes does not allow for any objective limitations on claims of right (such as Grotius's *suum*) other than a merely subjective perception of where to draw the line, he in fact has to introduce God as an "absolute sovereign" in order for his moral law to be binding. Where Grotius' recognition of objective boundaries and duties was reminiscent of scholastic realism, Hobbes' derivation of moral duty as essentially "self-interest well understood," to use the phrase of another thinker, appeared relativist and radically skeptical (he owes something to Machiavelli in this respect), setting aside the cosmetic theistic treatment he gives.[50]

Samuel Pufendorf hoped to overcome the implicit skepticism of Hobbes without resorting to the inherent realism or essentialism of Grotius. Thus, whereas Grotius had conceived a doctrine where rights were primary and inherent in nature, Pufendorf in his *De Jure Naturae et Gentium* (1672) conceives of one where law is primary, but where nature itself, i.e. physical nature, contains no moral values. Nonetheless, *human* nature involves certain attributes, including a concern for self-preservation (rather than a *right* to self-preservation) and a desire for society.[51] Out of these attributes comes a recognition that

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[48] *Ibid.*, 32.
[49] *Ibid.*, 33.
[50] Haakonssen describes the contemporary reaction in *Natural Law and Moral Philosophy*, 35.
[51] *Ibid.*, 38.

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certain laws are fit to provide guidance for human nature; these make up the natural law.[52] Pufendorf here follows a path similar to Grotius, but with the discovery of appropriate laws replacing the recognition of inherent rights as the manner in which natural law is formulated. First and foremost is the idea that humans should live socially, out of which comes the understanding that certain duties, *officia*, are necessary, duties which require corresponding *officia* such that others respect one's powers to perform the basic duties. The duties include being a human being, being a member of a family, and being a member of political society, these being the three broad categories of Pufendorfian natural law.[53] The powers that must be respected include chiefly *libertas*, or the power over one's actions; our respect for one another's powers to perform their duties means recognizing that they have the *rights* to perform these duties.[54] Thus Pufendorf derives rights from law, in contrast with Grotius who derives law from rights. Regarding God, Pufendorf like Grotius sees a deeper meaning to moral theory in the fact that God chose to make human nature as He did, but again, none of his logic in developing the moral theory relies on God. A more vexing question, which Pufendorf never answered to the satisfaction of contemporaries, was how human sociability could be conceived of as a law without invoking God as lawmaker.[55] Pufendorf wanted to avoid the latter because he wanted to separate natural jurisprudence from theology, giving it the same logically self-evident status as mathematics, but it is not clear whether or how he was successful in doing so.

John Locke was, on the whole, less concerned to separate natural law from theology. His initial approach to moral science was, like his approach to human understanding in general, empirical. Like Pufendorf, whom he admired, he thought of physical nature as value-neutral, and morals as artificial, constructed by human beings from their wish to

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[52] *Ibid.*, 39.
[53] *Ibid.*, 41-42.
[54] *Ibid.*, 41.
[55] *Ibid.*, 43.

experience happiness and avoid pain.[56] So far, this sounds very far from theology. In order to prevent the sort of unbridled relativism such an approach would suggest, however, Locke attempts to show the existence of an absolute moral standard from which our man-made moral ideas can and should be derived. He does this by establishing, in a Cartesian manner, first the existence of the self and then the existence of God, which he proves by an argument derived from Aristotle's cosmological proof.[57] He then argues that the self is immortal, allowing that such a fact cannot be shown by reason but arguing that, since self-consciousness is not of bodily nature (again showing his Cartesianism), there is no reason to think that it will not survive the death of the body. And if the self is immortal, and God exists, it is only safe to assume that God might have rewards and punishments for the self based on how it behaves.[58] This is, again, not provable, but rather "a sensible expectation and a rational possibility."[59] With this conclusion in mind, there must be some "Rule whereby Men should govern themselves."[60]

What does this rule entail? Locke holds that human reason "teaches all mankind, who will but consult it," that all humans are the property of their Maker, and thus bound to preserve themselves, and that furthermore, there is no subordination between people such that one might justify harming another's life. Hence the basic law of nature is to preserve others as well as ourselves as much as we can, and to do nothing that could impair life, health, or property.[61] In fact, before there is even a law concerning preservation there is a right of self-preservation; right is in fact more fundamental than law for Locke, and the most basic right is that of self-preservation, followed closely by the pursuit of happiness.[62] A corollary of the right to self-preservation is the right to own property, since Locke views

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[56] *Ibid.*, 52-53.
[57] John Locke, *An Essay Concerning Human Understanding*, IV.10.
[58] Haakonssen, *Natural Law and Moral Philosophy*, 54-55.
[59] *Ibid.*, 57.
[60] Quoted in *ibid.*, 55.
[61] John Locke, *Two Treatises of Government*, II.2.vi.
[62] Strauss, *Natural Right and History*, 226-27.

owning property as necessary to self-preservation (the simplest example of this is food, which must in some sense be owned before being consumed).[63] From these basics, one can derive the rest of the natural law, which consists in those rules that reason discovers which make possible the maintenance of these rights in society. The natural law, being rational, can thus be understood entirely by all human beings, regardless of their religion.[64] One cannot help but wonder how many non-religious readers found Locke's arguments convincing. He writes in his late theological works that Christian revelation teaches the natural law in a more perfect form than it had ever been taught before, but maintains nonetheless that a full system of morals could be discovered by human reason, although few humans are capable of such a feat.[65] Like his contemporaries Grotius and Pufendorf, Locke is concerned to preserve the moral principles of Christianity in a way that does not rely on Christian belief, and from an objective rational standpoint that can resist skepticism.

Francis Hutcheson introduces a tradition of Scottish thought which holds that moral values objectively exist absent any law. This contradicts the view shared by Pufendorf and Locke in which moral values depend on laws, a view that Hutcheson thought was derived from the Christian doctrine of the fall, where an angry God prescribes laws to reshape an inherently sinful humanity.[66] Rather than see humans as sinful, Hutcheson thought that moral attitudes come to us naturally, and the foundation of his moral theory is thus not a law or a right but a feeling: human benevolence. Hutcheson here owes something to his predecessor Shaftesbury's notion of a moral 'sense'. Although a basis in feeling (or 'sense') may lead one to think that Hutcheson's theory is subjective, the case is actually quite different: although the person who *performs* a moral action must be motivated by benevolence for that action to be moral, the *judgment* by which that action is deemed moral

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[63] *Ibid.*, 235-36.
[64] Haakonssen, *Natural Law and Moral Philosophy*, 57.
[65] *Ibid.*
[66] *Ibid.*, 66.

is an objective one. It consists in the observer's use of reason to determine that the agent's action was motivated by benevolence.[67] From this judgment arises a moral sensation in the observer that approves of the agent's motivation and ascribes to it a moral quality. Hence, although the process begins and ends with subjective feelings, the core of moral judgment is a rational operation that consists strictly of true/false determinations.[68]

Where does this leave natural law? In a manner not entirely different from Pufendorf and Locke, Hutcheson postulates a divine law which will advocate those actions which moral judgment has already revealed to be good:

> But when we have ascended to the notion of a divine law, requiring whatever tends to the general good, and containing all these practical dictates of right reason, our definition of moral qualities may be abridged by referring them to a law; and yet they will be of the same import; if we still remember that the grand aim of the law of nature is the general good of all, and of every part as far as the general interest allows it.[69]

This also includes certain actions not necessarily deemed good by the moral faculty, but which seem to promote human life. Hutcheson like Locke assumes that whatever is in the common good must be the subject of divine law, although "common good" is a phrase new to his philosophy. Deriving from this divine law, furthermore, are rights such as are necessary to enable the performance of the law; as Haakonssen summarizes, "A person has a natural right to perform every action by which he can best maximize the common good."[70] One might wonder why Hutcheson brought law into his theory of morals if he did not like the pessimistic tone it had carried in previous thinkers, but even an optimistic thinker such as he was might have reasoned that humans are not always benevolent, and at certain times obligation is necessary. The notion of human beings as naturally good and benevolent was, however, something new to natural law philosophy (again he is indebted to Shaftesbury here, although Shaftesbury did not teach a doctrine of natural law, replacing

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[67] *Ibid.*, 73.
[68] *Ibid.*, 74.
[69] Francis Hutcheson, *A Short Introduction to Moral Philosophy in Three Books; Containing the Elements of Ethicks and the Law of Nature*, English ed. (Glasgow: Robert Foulis, Printer to the University, 1747), 119-20.
[70] Haakonssen, *Natural Law and Moral Philosophy*, 80.

law entirely with sense), as well as the empirical approach that influenced successive Scottish thinkers. On the other hand, connecting Hutcheson's insight into human benevolence with his divinity-based explanation of law relies on a natural theology that was already in his time under challenge.

David Hume, the philosopher who would do more than anyone to revolutionize natural law thinking and ultimately bring about its decline, found much to like in Hutcheson's philosophy. What he appreciated concerned not the rational or theological elements in it but Hutcheson's attribution of moral behavior and judgment to feelings (instead of reason) present in the agent and the judge. That Hutcheson's ideas of reason and objectivity were the crucial link between the two was ignored by Hume when he wrote, in 1748, that "a late Philosopher has taught us…that Morality is nothing in the Abstract Nature of Things, but is entirely relative to the Sentiment or mental Taste of each particular Being."[71] The quote reveals one of the main projects of Hume's moral philosophy, which was to disengage morality and justice from any notion of God or of human reason, and to make it solely a matter of individual feeling. His first step in doing this is to separate morality from reason, with which it had been lodged in philosophies stretching back to Plato. He accomplishes this by pointing out that, since moral judgments involve impressions of blame or praiseworthiness, they cannot be based on reason, which is a dispassionate process: "Morals excite passions, and produce or prevent actions. Reason of itself is utterly impotent in this particular. The rules of morality, therefore, are not conclusions of our reason."[72] Gone with this is the idea that morality can be objective or transcendent. What morality is, instead, is a feeling: "To have the sense of virtue, is

[71] Quoted in Alasdair Macintyre, "Introduction," in *Hume's Ethical Writings: Selections from David Hume*, ed. Alasdair Macintyre (Notre Dame, Indiana: University of Notre Dame Press, 1965), 13.

[72] David Hume, *A Treatise of Human Nature* (1739), ed. L.A. Selby-Bigge, revised ed. (Oxford: Oxford University Press, 1978), III.I.I, 457.

nothing but to *feel* a satisfaction of a particular kind from the contemplation of a character. The very *feeling* constitutes our praise or admiration."[73]

On his way to this conclusion, Hume makes a passing observation that has probably done more than any other sentence to damage the philosophical viability of the previous works surveyed in this chapter. Referring to "system(s) of morality" that he has read, Hume notes

> the author proceeds for some time in the ordinary way of reasoning, and establishes the being of a God, or makes observations concerning human affairs; when of a sudden I am surpriz'd to find, that instead of the usual copulations of propositions, *is*, and *is not*, I meet with no proposition that is not connected with an *ought*, or an *ought not*.[74]

One can see what Hume means when surveying those theories of natural law that move from the observation that there *is*, e.g., a personal instinct of self-preservation, or a common good, to the notion that all humans *ought* to behave with respect toward the "right" of self-preservation or the common good.

Does Hume then make morality nothing more than a function of self-interest, as Hobbes did, or even do away with it altogether? In fact, he does neither. He argues, first, that we all have natural inclinations towards what is called moral or benevolent behavior: "if ever there was any thing, which cou'd be call'd natural…the sentiments of morality certainly may; since there never was any nation of the world, nor any single person in any nation, who was utterly depriv'd of them."[75] To some extent Hume's belief in the commonality of inclinations owes to his view of human nature, which he saw as largely uniform.[76] Where people may lack a sufficient amount of natural moral inclination, this is made up for by an inclination that is socially instilled. As society finds that certain patterns of behavior tend to the betterment of social life, it begins to collectively promote such behavior, until such promotion is internalized in the individual, who then feels self-loathing

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[73] *Ibid.*, III.I.II, 471.
[74] *Ibid.*, III.I.I, 469.
[75] *Ibid.*, III.I.II, 474.
[76] See ch. 1, n. 16 above.

when he or she does not live up to it. Thus, the common good of Hutcheson is replaced with a social good, and the internalization of God's will in the theories of Pufendorf and Locke is replaced with the internalization of the social will.[77] As one might expect from these arguments, Hume likewise sees such notions as 'justice' and 'rights' as nothing other than social constructs, and the moral life becomes a natural behavior springing from personal sentiment, aided and abetted by a process of socialization. Much of Hume's motivation came from his wariness of the influence of religion on English political life, especially after the upheavals of the seventeenth century, and his moral philosophy thus was designed to free the public discourses concerning justice and virtue from religious influence.

Adam Smith follows Hume in making morality an internalization of the social will, although his understanding of how this internalization works represents an advance in sophistication over his predecessor and friend. Smith begins with the notion of the 'self', which each person forms for their own out of interaction with other people. Through a process called 'sympathy', we each identify with other selves around us, leading us not only to view others as beings like ourselves, but to view ourselves the way others might view us – a step which awakens our moral self-judgment. As Haakonssen summarizes, "Awareness of being the object of other people's observation and assessment leads us to pre-empt their assessment by self-observation and self-assessment."[78] After some experience in learning to judge ourselves according to the wishes and demands of those around us, we seek a standpoint of judgment free of the various biases of individuals we encounter. In doing so, we create an ideal 'impartial spectator' that becomes our new standard of moral judgment and the basis of our conscience.

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[77] Haakonssen, *Natural Law and Moral Philosophy*, 109.
[78] *Ibid.*, 131.

One might guess that such a subjectively-created conscience would lead to moral relativism but, as with Hume, Smith views human nature as being to some degree uniform, and thus expects that there will be certain basic ideas of moral virtue common to all times and places. Smith departs from Hume, however, in invoking the terminology of human 'rights', which as we saw has no place in Hume's theory. For Smith, whenever an impartial spectator might view a person as having received an unjust injury, one would say that the person's right has been infringed. Justice exists to protect people's rights, and violations of those rights are injuries, unless the violation is done to protect other rights. One might ask which is more primary, the rules of justice or the rights which they protect, but both are equally derived from the impartial spectator and his or her sense of what is wrong.

With Hume and Smith we have arrived at Gibbon's time. Although Hume was a generation older, both thinkers overlapped much of Gibbon's career, both corresponded with Gibbon, and both were admired by the younger historian. But these were by no means the only thinkers in this survey who influenced Gibbon profoundly, and the writings of almost all of them were present in his library. Whether or to what extent the ideas of all, or some, or only a few appear in Gibbon's writing is our next task to investigate.

Chapter 3

Edward Gibbon and Natural Law

We have surveyed the history of natural law leading up to Gibbon, and now may turn to Gibbon's own views. Approaching this issue, we must keep in mind the observation in Chapter 1 that Gibbon did not intend to promulgate any natural law *doctrine*. Rather than a mature or thorough system we are instead looking for habits of thought, patterns of influence made by the natural law language(s) to which he was exposed. A statement that Gibbon himself makes in the third draft of his *Memoirs*, written after *Decline and Fall* was finished, is instructive. After describing his reading of Grotius and Pufendorf as a young man, he explains how their ideas affected him:

> Without being disgusted by the pedantry of Grotius or the prolixity of Puffendorf [sic], I investigated in their ~~writings the dut~~ Systems the rights of a man, the duties of a Citizen, the Theory of justice, and the laws of peace and war…. From these serious and scientific pursuits I derived a maturity of judgment, a philosophical spirit of more value than the sciences themselves….[1]

His distinction between the science and *system* of theorists like Grotius on the one hand, and the philosophical *spirit* that he absorbed, indicates that Gibbon distrusted the exact moral precepts of any one system, but nonetheless was conscious of having a spirit of moral judgment derived from several such systems. As he writes in the same paragraph, "a novel has often suggested a train of moral or metaphysical thinking;" hence his approach was conditioned by many influences.

A crucial consideration is that of evolution or change in Gibbon's thought. In light of Womersley's investigation of Gibbon's changing views towards historicity, we cannot be sure that an idea expressed however forcefully at a certain point in his work was equally

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[1] Edward Gibbon, *The Memoirs of the Life of Edward Gibbon with Various Observations and Excursions by Himself*, in *Britain's Literary Heritage: British Literary Manuscripts from the British Library, London*, Series 2, Part 3, Reel 1(Reading, England: Research Publications Ltd., 1990), fol. 64v. Hereafter cited as *Memoirs*.

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held by him at other times. Whatever philosophical attitudes are found then in Gibbon's writings must be assigned only to the period of time in which he wrote that section of the work, at least until corroborating evidence is found to suggest that these attitudes remained in place at other stages of his career. Still, in the absence of strong evidence either way, some benefit of the doubt must be allowed: if, for example, Gibbon attacks the notion of universal laws of justice in volume three of *Decline and Fall* and then says nothing of it afterwards, we should not assume that there may have been a strong positive upswing in his view of the matter (the example here is purely hypothetical). Absent any contradictory statement, it is likely that his attitude remained largely the same later that it was earlier.

Moral judgments abound throughout Gibbon's history, but at certain moments they tend to cluster, and it is at such moments that the philosophy undergirding these judgments is exposed to view. One such scene occurs in the feverish pages of the third volume, as Gibbon narrates in detail the plunging fortunes of the fifth-century empire. Theodosius is dead, the last ruler of the united empire, and Gibbon leaves little doubt of what he thinks of the "feeble and inexperienced" sons who take his place.[2] But his judgment of the sons' inability is mild compared with his views of the crimes which their weak administration permits. A minister, Rufinus, who had gained some power under Theodosius, is able to take effective control of Constantinople and the eastern empire from the feckless emperor Arcadius. Rufinus, as Gibbon introduces him, is an "odious" character who "has deserved, from every party, the imputation of every crime."[3] Gibbon gives a full account of the actions by which Rufinus acquires power and exacts revenge on his enemies, actions which include such gory scenes as a father forced to watch the violent death of his son.

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[2] Gibbon, *Decline and Fall*, II.98.
[3] *Ibid.*, II.99.

Rufinus's insidiousness, as with so many of Gibbon's villains, prepares the public hatred which leads to his fate. His darkest crimes remain secret, but all the citizens of Constantinople are acquainted with his greed:

> His avarice, which seems to have prevailed in his corrupt mind, over every other sentiment, attracted the wealth of the East, by the various arts of partial, and general, extortion; oppressive taxes, scandalous bribery, immoderate fines, unjust confiscations, forced or fictitious testaments, by which the tyrant despoiled of their lawful inheritance the children of strangers, or enemies; and the public sale of justice, as well as of favour, which he instituted in the palace of Constantinople.[4]

Gibbon employs an interesting phrase to characterize Rufinus's misdeeds. Commenting on the nature of avarice and where it leads Rufinus, Gibbon offers this observation:

> If avarice were not the blindest of the human passions, the motives of Rufinus might excite our curiosity; and we might be tempted to inquire, with what view he violated every principle of humanity and justice, to accumulate those immense treasures, which he could not spend without folly, nor possess without danger.[5]

What are the "principle[s] of humanity and justice" for Gibbon? The wording offers no more than a clue to his mindset, but apparently implies standards of human conduct that would render Rufinus's actions unjust and inhuman whether he lived in fifth-century Constantinople or eighteenth-century London. Gibbon in fact uses the term 'inhuman' shortly after to characterize Rufinus's murder of an official who had refused to take part in one of his schemes.

Perhaps the strongest wording in this section, however, is used not to describe Rufinus, but the circumstances which surround his death. His rival, Stilicho, the general of the western empire, engineers a military plot which results in Rufinus's unexpected slaughter by the eastern troops on an occasion when they were supposed to present themselves to him outside the gates of Constantinople. Gibbon suggests that "our humanity" might be affected by what happens next: His body is mangled and trampled by angry crowds of people who issue out from the city for the purpose. His head is carried through city streets on a long lance, and his severed hand is held comically by the parading

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[4] *Ibid.*, II.102.
[5] *Ibid.*, II.103.

citizens as though still requesting money. Where some readers might smile at an act of revenge, Gibbon censures: "The servile poet of Stilicho applauds, with ferocious joy, this horrid deed, which, in the execution, perhaps, of justice, violated every law of nature and society, profaned the majesty of the prince, and renewed the dangerous examples of military license."[6] The avenger and the crowd are just as contemptible for their barbarity as was the victim, and the scene closes as another sordid page in the annals of a decaying society.

The wording that Gibbon uses to describe this episode reveals the outlines of a moral outlook; by comparing these phrases with similar ones elsewhere in the history, the outlines can be darkened and the full image drawn in. The final quote is most revealing, where Stilicho and the crowd are said to violate "every law of nature and society," suggesting that there is a law of nature which exists apart from any socially-based law. Such language is used often: Constantine, for instance, having been guilty of such crimes as the murder of his son, is described as "a tyrant, who had violated every law of nature and society."[7] A similar distinction between the natural and the social is made when Gibbon comments that "it is undoubtedly his [an absolute monarch's] interest that all his subjects should respect the natural and civil obligations of society."[8] Not only is there a natural law that is separate from civil law, but reason works with nature to reveal this law: "In the comparison of the tables of Solon with those of the Decemvirs, some casual resemblance may be found; some rules which nature and reason have revealed to every society; some proofs of a common descent from Egypt or Phoenicia."[9] Hence at least one explanation for the similarity between the primitive laws of Athens and Rome is the use of reason by both cities to understand nature's principles.

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[6] *Ibid.*, II.111.
[7] *Ibid.*, I.701.
[8] *Ibid.*, I.700.
[9] *Ibid.*, II.782.

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In all of this, one notices a strong resemblance to the ideas of Stoic natural law, particularly as put forth by Cicero. Gibbon in fact gives an account of Cicero's doctrine of the law of nature and its origin in divinity in his famous chapter on the development of Roman law:

> Cicero, his [Sulpicius Severus'] contemporary and friend, declined the reputation of a professed lawyer; but the jurisprudence of his country was adorned by his incomparable genius, which converts into gold every object that it touches. After the example of Plato, he composed a republic; and, for the use of his republic, a treatise of laws; in which he labors to deduce from a celestial origin the wisdom and justice of the Roman constitution. The whole universe, according to his sublime hypothesis, forms one immense commonwealth: gods and men, who participate of the same essence, are members of the same community; reason prescribes the law of nature and nations; and all positive institutions, however modified by accident or custom, are drawn from the rule of right, which the Deity has inscribed on every virtuous mind.[10]

All of the essential ideas of *De Legibus* are present here, and the theory is given the compliment of being "sublime," although Gibbon often uses this term more to describe the spiritual loftiness of an idea than its convincingness or truth value.[11] Still, his attraction to the idea is evident, since rarely does Gibbon explicate the theory of a philosopher in such detail. Gibbon's relationship with Cicero was unique: he discovered the Latin thinker at the age of eighteen in a formative period when, following the turbulence of his being sent to Switzerland and reconverted to Protestantism, he first fully embraced scholarly study. As he recounts in the *Memoirs* of reading Cicero at that time, "I tasted the beauties of language, I breathed the spirit of freedom, and I imbibed from his precepts and examples the public and private sense of a man." He goes on in the same passage to recommend Cicero and Xenophon as "the two ancients whom I would first propose to a liberal scholar," in large part for "the admirable lessons, which may be applied almost to every situation of public and private life."[12] The references that Gibbon makes to Cicero throughout his writings reiterate his special affinity for the Roman sage; his was the first volume that Gibbon

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[10] *Ibid.*, II.793.

[11] Another example of his usage can be found in a footnote on the various theories on the origin of the human soul. After mentioning the prevailing modern view that the soul is embodied at the moment of conception, in contrast to earlier theories involving separate states of existence, Gibbon remarks, "our spiritual history is grown less sublime, without becoming more intelligible." *Ibid.*, II.935 n. 8.

[12] Edward Gibbon, *Memoirs*, fol. 34r.

opened after his time in the military,[13] and he is one of the only thinkers who entirely escapes Gibbon's caustic wit and criticism.

In Gibbon's approach, as with Cicero's, one discovers the law of nature by the use of reason and human law can be designed to either agree or disagree with these natural precepts. As Gibbon writes concerning the revival of Roman law in the dark ages, "it was the aim of artificial jurisprudence to restore the simple dictates of nature and reason."[14] Gibbon also extends this way of thinking to the terminology of human 'rights', even if rights so-called are not a part of Cicero's philosophy. He writes that Theodoric "had been tempted to deprive the whole party of Odoacer of the civil and even the natural rights of society,"[15] again invoking the civil/natural distinction; later, in describing Greek contact with Western literature following the Crusades, he mentions that though the Greeks might despise it due to its Western source, "its free spirit would instruct them in the rights of man."[16] The universal and natural foundation of human rights suggested in these quotes is of a piece with the Ciceronian approach to law.

Gibbon's use of the term 'rights' is worthy of further scrutiny in that it reveals the reading, if not necessarily the absorption, of modern natural law thinkers. Grotius, the first major thinker who uses the term, was indeed a formative influence on Gibbon's development. The passage from the *Memoirs* quoted at the beginning of this chapter describes how the Dutch jurist introduced an adolescent Gibbon to the "Theory of justice"; interestingly, when Gibbon first wrote this passage in draft B, he added in parentheses "it is alas! a theory."[17] That he deleted this note in a later draft suggests once again his ambivalence about the topic. He describes Grotius in *Decline and Fall* as "a man of genius and learning," and in one footnote calls *De Iure Belli et Pacis* a "great work," even while he

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[13] *Ibid.*, fol. 51v.
[14] Gibbon, *Decline and Fall*, II.791.
[15] *Ibid.*, II.547.
[16] *Ibid.*, III.725.
[17] Gibbon, *Memoirs*, fol. 35r-v.

critiques it.[18] But Grotius's empirical and socially-based approach to natural law finds little register in Gibbon, whose writing points to a more purely rational and internal source. Gibbon also borrows from Locke in his understanding of the rights of toleration, calling religion and property "the dearest of human rights" and referring to religious liberty as "an inalienable right" (the term 'inalienable' originates with Hutcheson, although its use was widespread by Gibbon's time),[19] but little else of Locke's approach seems to have strongly affected him. On a related issue in modern thought, the debate over the primacy of 'law' or 'rights', Gibbon shows no concern at all, using the terms almost interchangeably.

One aspect of Gibbon's thought seems to be Ciceronian but, in his specific usage, points to a slightly different source: this is his use of 'conscience'.

> In the most corrupt state of Christianity, the Barbarians might learn justice from the law, and mercy from the gospel; and if the knowledge of their duty was insufficient to guide their actions, or to regulate their passions, they were sometimes restrained by conscience, and frequently punished by remorse….[20]

Here, the law of Moses is seen as a way of conveying principles of justice to the barbarians, and even if they have not been informed of it, their conscience itself is a source of understanding. The idea comes from another thinker of the Stoic natural law tradition, the apostle Paul, whose letter to the Romans suggests that the pagans will know the law because it is "written in their hearts, their conscience also bearing witness,"[21] even if they have not been exposed to the Jewish law.

This passage from the New Testament stamps Gibbon's writing more than once. In the first volume of *Decline and Fall*, when describing the general appeal of religion amid a discussion of Zoroastrianism, he observes, "Every mode of religion, to make a deep and lasting impression on the human mind, must exercise our obedience, by enjoining practices

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[18] Gibbon, *Decline and Fall*, I.550, II.676 n. 107.
[19] *Ibid.*, III.282, III.438.
[20] *Ibid.*, II.433.
[21] See above, p. 28.

of devotion; and must acquire our esteem, by inculcating moral duties analogous to the dictates of our own hearts."[22] Here as with Paul, the heart dictates the moral law to every human being. Of course, Hume had used the same phrase to describe the benevolent acts of Jane Shore, although his usage does not suggest that such dictates exist in the hearts of *all* people;[23] still, because of this the evidence of this quote cannot be too weighty. A more striking example is in volume five, where Gibbon ventures to explain the similarities between the Mosaic law and that of the Koran: "The God of nature has written his existence on all his works, and his law in the heart of man."[24] The sentence is surprising, as Gibbon seldom expresses a religious opinion so forcefully. In the non-specific nature of its phrasing, it may be considered a specimen of "natural religion," but the source of the wording makes it clear enough that Gibbon's biblical background remains alive. There is nothing quite like it in Cicero: although the Latin writer says that when "reason is secured and established in the human mind, it is law,"[25] he does not speak of the heart in the way that Gibbon and Paul both do, nor does he ever use the metaphor "written" to show how humans have knowledge of the law. The connection between Gibbon and Paul is a curious one, given how often Gibbon has been cast as an opponent of Christianity. Although we will have occasion to explore the issue further, for now it is enough to say that while Gibbon employs Ciceronian ideas throughout his history, in the most strongly-worded passages, the accent is Pauline.

We must consider another term that occurs frequently in Gibbon's judgments, that of 'humanity'. In the chapter on Rufinus, we saw that Rufinus violates "every principle of humanity and justice," that his murder of an official was "inhuman," and that "our humanity

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[22] *Ibid.*, I.188.

[23]David Hume, *The History of England from the Invasion of Julius Caesar to the Revolution in 1688* (1754-62), 1778 ed. (Indianapolis: Liberty Fund, 1983), II.323, The Online Library of Liberty, <http://files.libertyfund.org> (accessed May 21, 2012).

[24] Gibbon, *Decline and Fall*, III.178.

[25] Cicero, *De Legibus*, I.18.

might perhaps be affected" by the circumstances of his death. Elsewhere in the history, Gibbon writes that "a people impressed with a sense of humanity would have abhorred so cruel a practice" as the Sarmatians employed in poisoning the points of their weapons, that the "laws of humanity and justice" were violated by the Romans when they used an assassin to kill a German prince, and that "the common duties of humanity prohibited the mixture of chalk, or other poisonous ingredients" in the bread which the Byzantines gave to the Crusaders as they passed through their empire,[26] to name just a few of many instances. What idea is at work here, and what does it mean for Gibbon's moral mindset?

The term originates with Cicero, whose *humanitas* is a characteristic of proper and virtuous human behavior; malicious actions, especially brutal ones, are therefore "inhuman" even if they are often done by humans. Both Cicero and Gibbon, for instance, refer to gladiatorial combat as 'inhuman'.[27] That Gibbon uses these terms so often through his history again testifies to his absorption of the Roman author.

There is another term, however, which Gibbon at times uses in conjunction with 'humanity', that is rarely found in Cicero: this is 'sentiment', or in some cases the (for Gibbon) equivalent term 'feeling'. Here we must introduce another author who often speaks of 'humanity', and who likewise pored over Cicero as an adolescent (and who himself was read by the young Gibbon at the same time that Gibbon was discovering Cicero): David Hume. Hume uses the notion of humanity frequently throughout his *A History of England* (1754-62), often together with 'sentiment':

> But the crimes of Richard [III] were so horrid and so shocking to humanity, that the natural sentiments of men, without any political or public views, were sufficient to render his government unstable....[28]

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[26] *Ibid.*, I.626, I.961, III.620.

[27] For Cicero see *Tusculan Disputations*, trans. C.D. Yonge (New York: Harper & Bros., 1877), 80, Project Gutenberg, <http://www.projectgutenberg.org> (accessed May 6, 2012). For Gibbon's usage see *Decline and Fall*, II.138.

[28] Hume, *History of England*, II.331.

> The room was crowded with spectators; and no one was so steeled against all sentiments of humanity, as not to be moved, when he reflected on her [Mary Queen of Scots'] royal dignity…[29]

> Montreville, the French minister, interested for the king more by the natural sentiments of humanity, than any instructions from his court, which seemed rather to favour the parliament, had solicited the Scottish generals and commissioners, to give protection to their distressed sovereign….[30]

Gibbon uses the two terms in a strikingly similar way:

> Such was the deserved fate of a brutal savage, destitute, as he has generally been represented, of every sentiment that distinguishes a civilized, or even a human being.[31]

> Yet, notwithstanding the severity of this law, the virtuous courage of many of the Pagans, in concealing their friends or relations, affords an honourable proof that the rage of superstition had not extinguished in their minds the sentiments of nature and humanity.[32]

> They [the Jews] trusted to the intercession of their old allies of Medina; they could not be ignorant that fanaticism obliterates the feelings of humanity.[33]

Humanity for both authors is a characteristic of certain sentiments or feelings which leads to praiseworthy conduct. In both authors such sentiments are strongly associated with civility; people who lack humanity and behave 'inhumanly' are frequently labeled 'savage' or 'barbarian'.[34] Likewise, both Hume and Gibbon frequently pair 'humanity' with 'justice'; in fact, Gibbon's view that Rufinus "violated every principle of humanity and justice" finds an exact analogue in Hume: "His [Edward V's] exorbitant ambition, unrestrained by any principle either of justice or humanity, made him carry his views to the possession of the crown itself…"[35] Such a similarity, needless to say, is beyond the bounds of coincidence.

That Gibbon greatly absorbed Hume's style is no wonder: of all modern thinkers, no one seems to have impressed Gibbon more greatly. Hume might be said to form a modern counterpart to Cicero in this respect. Gibbon describes in his *Memoirs* his encounter with the *History of England* as a young adult: "the calm philosophy, the careless inimitable

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[29] *Ibid.*, IV.161.
[30] *Ibid.*, V.315.
[31] Gibbon, *Decline and Fall*, I.174.
[32] *Ibid.* I.539.
[33] *Ibid.* III.202.
[34] See, e.g. Gibbon, *Decline and Fall*, II.473; Hume, *History of England*, V.226.
[35] Hume, *History of England*, II.319.

beauties of [Hume], often forced me to close the volume with a mixed sensation of delight and despair."[36] His letters to Hume soliciting comment for his first published work are nothing short of worshipful, and in a jesting letter to his close friend J.B. Holroyd, who had previously commented on being recommended to the "dukes, lairds, [and] chieftains" of Scotland, he writes, "I should prefer one David to them all," and goes on to call him "the fattest of Epicurus's hogs," an apparent (though puzzling) reference to Horace.[37] Later comments refer to Hume as "that truly great man,"[38] an "oracle,"[39] etc. Nor is Gibbon's esteem limited to Hume's history; he writes of his "impartial philosophy"[40] in the *Memoirs* and cites more than once his *Natural History of Religion* (1757) in *Decline and Fall*.

We have established that Gibbon absorbed Hume's style; did he likewise adopt his ideas? Such a question is critical on multiple levels, for not only was Hume the most radical thinker of Gibbon's era on the question of morality, his sociological approach to the question was a critical foundation of "the Enlightened narrative" that has been attributed to Gibbon and his Scottish contemporaries.[41] Both the terms 'humanity' and 'sentiment' have special connections to Hume's moral philosophy (the latter moreso than the former), and his moral philosophy, as we shall see, is highly relevant to his history. But any adoption of this philosophy would be difficult to reconcile with Gibbon's references to the 'law of nature', or to 'reason' as the means by which humans have knowledge of it. Hume explicitly rejects reason as playing any part in human morality, and he admits the term 'law of nature' in his *A Treatise of Human Nature* only as a concession to tradition, and in a way largely emptied of its former meaning.[42]

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[36] Gibbon, Memoir B in *Autobiographies*, 167.
[37] Edward Gibbon, letter 227 in *The Letters of Edward Gibbon*, ed. J.E. Norton (London: Cassell and Company, 1956), I.372.
[38] *Ibid.*, letter 335, II.101.
[39] Gibbon, Memoir E in *Autobiographies*, 308.
[40] *Ibid.*, Memoir B, 196.
[41] See above, p. 16.
[42] Hume, *Treatise.*, III.II.II, 484.

What seems more likely is that Gibbon found a way of incorporating Hume's quite sophisticated understanding of the role of feelings and 'sentiments' in human morals while still preserving a belief in clear natural laws that are universal and written in the human heart. The presence of feelings or sentiments inclining humans to moral action does not obviate the proposition that there are fixed laws governing what those actions should be. Gibbon sees both law and feeling working side-by-side when he refers to Constantine as "a prince, who could sacrifice without reluctance the laws of justice, and the feelings of nature, to the dictates either of his passions or of his interest."[43] Here law and feeling pose cooperative (though ineffective) barriers to prevent Constantine from acting on his passions. It is a situation which calls to mind the classic struggle between reason and the passions, much discussed by Cicero and other ancient authors. We have already seen Gibbon's debt to Cicero for much of his moral approach; for now it will be worthwhile to note that Cicero too makes a place in his natural law philosophy for emotional motivation: "we are inclined by nature to love other humans, and that is the foundation of justice."[44] Gibbon draws strains from both Cicero and Hume in his moral thought, fusing the legal and rational principles of the one with the psychological insight of the other.

Gibbon appears to have arrived early at his understanding of the cooperation of feeling and reason in moral actions. A passage in his journal dated August 22, 1762, records his thoughts:

> Except in some particular cases where we are blinded by popular prejudices, we are in general so well acquainted with our duty, that it is almost superfluous to convince us of it. It is the heart and not the head that holds out; and it is certainly possible by a moving eloquence to rouze the sleeping sentiments of that heart & incite it to virtue.[45]

Gibbon uses the language of sentiment here – he had already read Hume's history – but while he stresses its importance as a motivating factor, this is set against concepts of duty

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[43] Gibbon, *Decline and Fall*, I.616.
[44] Cicero, *De Legibus*, I.43.
[45] Edward Gibbon, *Ephemerides* in *Gibbon's Journal to January 28th, 1763: My Journal I, II & III and Ephemerides*, ed. D.M. Low (London: Chatto & Windus, 1929), 127.

and virtue which are of the mind rather than the heart, and have all appearances of being objective. Thus the mind understands what one's moral duty is, but the heart must supply the emotional will to follow it: the rational and sentimental elements are combined. The situation of journal entry, we might note, is also rather un-Humean: Gibbon is complaining of the poor hortatory style of many preachers after having attended church with a friend.

Do Gibbon's views evolve or change in the later parts of his history? Specifically, does he move from a belief in a uniform human nature with fixed philosophical truths to something more variable? There is little evidence of this. A glance over the quotes used in this chapter to detail Gibbon's most strongly stated convictions of natural law shows that they are scattered almost evenly throughout the history. A certain concentration appears evident in volumes two and three (of the original history, that is; the edition cited here combines the original six volumes in three), but this can perhaps be explained by the compression of events over a short time period in those volumes (roughly from the reign of Constantine to the fall of the Western empire), a period which Gibbon himself admitted he had described too minutely.[46] Arguably Gibbon's most striking statement of natural law, that "the God of nature has written…his law in the heart of man,"[47] comes in the fifth volume, and one is hard pressed to find any notable change of opinions or outlook from volume five to volume six. Even in the waning pages of the last volume, Gibbon makes such observations as that the feudal system of Europe seldom heard "the still voice of law and reason," that the medieval Italian republics vindicated "the rights of human nature," and that Cantacuzene's conscience "would have been relieved by an act of justice."[48] The mindset of the earlier volumes seems fully present. A lone contrary phrase gives us pause: in writing about the character of Tamerlane, Gibbon observes that "the rules of morality are

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[46] Gibbon, Memoir E in *Autobiographies*, 324.
[47] Gibbon, *Decline and Fall*, III.178.
[48] *Ibid.*, III.983, III.1012, III.782.

founded on the public interest,"[49] an idea which seems more in line with the characteristically empirical and utilitarian mindset of modern natural law thinkers than with the transcendental attitude of the ancients. Whatever one makes of it, it does not seem to be a strong departure from the inscribed law of nature that Gibbon had mentioned so baldly in volume five. Such inconsistencies as this serve to illustrate more than anything the non-systematic nature of Gibbon's approach, one which eschews elaborate doctrines and accommodates a broad range of theoretical insights.

A final question: what difference does any of this make? Gibbon's natural law references, however frequent they are, are not pervasive enough that they restructure the history in any drastic way. Rufinus would still be a villain whether examined from a mindset that subscribed to universal and atemporal principles of conduct or from one which saw moral ideas as only products of feeling. However much a historicist might see human society as changing or evolving through time and space, it is unlikely that anyone would view in a better light a figure who systematically robbed his people, openly auctioned off the government offices subordinate to him, and single-mindedly hunted and killed all those who challenged or threatened his power. But Rufinus's actions by themselves do not explain Gibbon's judgments.

To understand the language that Gibbon uses, one must consider how the chapter fits into the larger work. We are in the fifth century. It is a far cry from the era that Gibbon praises at the outset of the *Decline and Fall*, under the philosophical rule of the Antonines, and an even further cry from the days of the Republic. Not only have circumstances and events changed, but the people themselves have changed. Gibbon's description of the Romans under the early emperors in the opening pages of the history offers a clue to his vision of human society:

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[49] *Ibid.*, III.851.

> Oppressed beneath the weight of their own corruption and of military violence, they for a long while preserved the sentiments, or at least the ideas, of their freeborn ancestors…. From Grecian philosophy they had imbibed the justest and most liberal notions of the dignity of human nature, and the origin of civil society. The history of their own country had taught them to revere a free, a virtuous, and a victorious commonwealth; to abhor the successful crimes of Caesar and Augustus; and inwardly to despise those tyrants whom they adored with the most abject flattery.[50]

The people of the Roman Republic, of whom the early empire gives a faded image, were formed in a society that instilled just and liberal philosophical notions in its people, notions that would lead to virtue[51] in any society that adopted them. Much has been made of the 'Polybianism' of Gibbon's early career and how he presumably matured out of this to a more complex understanding of human affairs, but Gibbon's assertion here that the Romans had learned from Greek philosophy (largely through Cicero) "the justest and most liberal notions of the dignity of human nature" strongly resembles his suggestion, in the sixth volume, that the Western literature introduced to the Greeks after the Crusades would "instruct them in the rights of man."[52] His belief that there are certain principles which are better fit to guide human societies than others, regardless of historical situation, remains as strong at the end of *Decline and Fall* as it is at the beginning. We must count Gibbon among those historians who, like Polybius or Thucydides, believe that certain moments in the past really are better than others, and that these differences have something to do with the ideas upon which societies are built.

Not only did the fifth century of Roman history enable such figures as Rufinus to hold sway over society (and it must be granted that the Republic produced its share of awful figures), more importantly, the people of this time had been degraded from the "virtuous" freeborn citizens of the Republic to the "brutal" mobs who tear apart Stilicho's body and

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[50] *Ibid.*, I.76.

[51] This term has a meaning in classical writings that is different from its Christian meaning (civic or military virtue vs. personal moral virtue), but Gibbon's usages throughout his history suggest a synthesizing of the two uses. Compare the "vice and virtue" of the early emperors with the same terms used for Christian monks, I.74, II.424. See also his discussion of virtuous and vicious ages of history in his early *Essai*, where the usage clearly refers to personal morality. Edward Gibbon, *Essai sur l'Étude de la Littérature* (1761), (London: T. Becket & P.A. De Hondt, 1762), 67-68, Google Books, <http://books.google.com> (accessed June 3, 2012).

[52] See n. 16, this chapter.

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who Gibbon indicts in scores of other passages about this era. Something had happened in the interim, or rather a great number of things, the nature of which is the business of Gibbon's history to explore. Whatever were the reasons for the change, and the chapter on "Observations" makes clear that there were several, the results were evident in spheres of life ranging from industry and military valor to respect for the natural laws of justice. The people of the fifth-century empire are not the same as the people who had seen Rome in its most triumphal period: this is the tragedy of the first three volumes, and the stark conclusion of this tragedy in volume three explains why Gibbon considered his main task accomplished after publishing it, and pondered whether or not to continue the history.[53] That such 'Polybian' passages are less frequent in the final three volumes is explained not because Gibbon abandoned his former views, but because there was not as stark of a story to tell, since none of the societies he covers in the period from A.D. 476 to 1453 earn nearly the respect that he held for republican Rome. But the term 'Polybian' is not quite adequate to Gibbon's vision, since it was not merely his interest in political power and the effects of luxury that formed his respect for the earlier period, but a perception of the laws of human conduct that made the earlier time seem preferable.

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[53] For Gibbon's hesitancy on whether to continue see Memoir E in *Autobiographies*, 325.

Chapter 4

Natural Law and the "Triumvirate"

> The old reproach, that no British altars had been raised to the muse of history, was recently disproved by the first performances of Robertson and Hume, the histories of Scotland and of the Stuarts. I will assume the presumption to say that I was not unworthy to read them ; nor will I disguise my different feelings in the repeated perusals. The perfect composition, the nervous language, the well-turned periods of Dr. Robertson, inflamed me to the ambitious hope that I might one day tread in his footsteps : the calm philosophy, the careless inimitable beauties of his friend and rival, often forced me to close the volume with a mixed sensation of delight and despair. [1]

Gibbon writes in his *Memoirs* of his encounter in his early twenties with the two major British historians of his day. It is not hard to see that he admired both. That he discovered them in his formative period was fortuitous, as he would someday join them as the three major British historians of their century; with Voltaire, they might be reckoned the essential authors of Enlightenment narrative history. By the time that Gibbon had published half of his history, the term 'triumvirate' had already been bestowed on the three by public opinion, and Gibbon can hardly contain his enthusiasm in a letter to Robertson: "I will frankly own that my pride is elated as often as I find myself ranked in the triumvirate of the British historians, of the present Age and though I feel myself the Lepidus, I contemplate with pleasure the superiority of my Colleagues."[2] Of course, Gibbon scholars chuckle at the contradictory view professed several years later in his *Memoirs* when he remarks, "I have never presumed to accept a place in the triumvirate of British historians."[3] Great writers often struggle with modesty.

The situation is ideal for a comparative approach to Gibbon's natural law views: not only do Hume and Robertson represent the two major specimens of historical writing in English of Gibbon's time, but they are in fact the chief contemporary sources from which

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[1] Gibbon, Memoir B in *Autobiographies*, 166-67.
[2] Gibbon, Letter 677 in *Letters*, III.100.
[3] Gibbon, Memoir E in *Autobiographies*, 312.

his own approach to history was formed. Looking back today, one is charmed to see how tightly knit the world of British history was: all three corresponded with the other two, and the acknowledged rivalries were carried on in friendship. One aspect of this camaraderie which astonishes the 21st century reader is the degree to which both of the younger authors (Robertson and Gibbon) showed their respect by not only mimicking the prose of their predecessors, but in at least one case even borrowing (we would say "plagiarizing") almost an entire sentence. Compare Gibbon's famous sentence:

> If a man were called to fix the period in the history of the world, during which the condition of the human race was most happy and prosperous, he would, without hesitation, name that which elapsed from the death of Domitian to the accession of Commodus.[4]

And the original sentence in Robertson's *History of Charles V*:

> If a man were called to fix upon the period in the history of the world during which the condition of the human race was most calamitous and afflicted, he would without hesitation name that which elapsed from the death of Theodosius the Great to the establishment of the Lombards in Italy.[5]

This is tribute of a kind impossible today. Nor was Gibbon the first to make such borrowings. Hume, writing about the Reformation in the *History of England*, says that "men, roused from that lethargy, in which they had so long sleeped [sic], began to call in question the most ancient and most received opinions."[6] Robertson, writing about the same time period in his *History of Charles V* (1769), says, "The human mind…roused of a sudden and became inquisitive, mutinous, and disdainful of the yoke to which it had hitherto submitted."[7] Gibbon borrowed from Hume as well: we have already seen the younger writer's debt for such phrases as "the principles of humanity and justice," and Gibbon's frequent acerbic attacks on clerical corruption owe much in style to similar attacks

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[4] Gibbon, *Decline and Fall*, I.73.
[5] William Robertson, *The History of the Reign of the Emperor Charles V. With a View of the Progress of Society in Europe, from the Subversion of the Roman Empire, to the Beginning of the Sixteenth Century* (1769), first American (from tenth London) ed. (New York: Hopkins & Seymour, 1804), I.8, Google Books, <http://books.google.com> (accessed May 24, 2012).
[6] Hume, *History of England*, III.93.
[7] I am indebted to Karen O'Brien for noticing the parallel. See her *Narratives of Enlightenment: Cosmopolitan History from Voltaire to Gibbon* (Cambridge: Cambridge University Press, 1997), 145.

in Hume. That the three writers were so connected should cast in sharp relief their differences.

Hume

What sort of moral framework does Hume give his history? We have already examined Hume's moral views as developed in his philosophical writings. Recalling the main points, we saw that he did not believe that morality or justice have anything to do with reason; they are rather functions of our sentiment which are made into law by the agreement of members of a society. There is an extent, however, to which all human beings are similar, due to their partaking in a common human nature, and thus all moral systems, however different, will have certain basic principles in common. A striking passage in Hume's *An Enquiry Concerning Human Understanding* (1748) connects this idea of common human nature with what he believes to be the task of history:

> Mankind are so much the same, in all times and places, that history informs us of nothing new or strange in this particular. Its chief use is only to discover the constant and universal principles of human nature, by showing men in all varieties of circumstances and situations, and furnishing us with materials from which we may form our observations and become acquainted with the regular springs of human action and behaviour.[8]

Such a view might serve as a useful mission statement for "philosophical history." One of the ironies of the present essay is that, while Hume was more radical and avant-garde than Gibbon in his approach to morality, having a subjective and individualist scheme versus an approach that emphasized reason and objective law, he is clearly of an older generation in his historiography. He clearly states his goal of discovering "principles of human nature" through history, whereas Gibbon's ideas of human nature are more subtle and less schematized in his writing, subordinating theory more strongly to fact. Although we must disagree with those who say that Gibbon abandoned the philosophical approach altogether,

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[8] Hume, *Enquiry Concerning Human Understanding*, Part I of "On Liberty and Necessity," par. 7.

still, as one who came directly to history rather than through a career in philosophy, Gibbon's ideas are less pronounced than in his predecessor.

Hume's inspiration in writing the *History of England* follows the great Livian and Machiavellian tradition of history as political philosophy (or political science), analyzing how historical events had made or destroyed a free polity. In the case of Livy and Machiavelli, the problem had been the transformation of the Roman Republic into an Empire and the consequent loss of liberty. Hume, armed with a mature philosophy from his earlier writings, grappled with how to preserve a free British polity. As Nicholas Phillipson summarizes, "Hume was about to tell the story of the decline and fall of the Elizabethan constitution and the rise of another which had made Britain great and wealthy but which seemed to contain the seeds of its own destruction."[9] Hume was concerned that the British people of his time did not realize what had made their constitution successful, and hoped to explain to them, through history, the principles by which they could maintain their liberty. Essential to this project was his notion of 'sentiment'. Sentiment is commonly read today as a synonym for "emotion," but Hume is careful to distinguish it from the 'passions', even if the distinction might to a modern reader seem to blur. Sentiment lies somewhere between passion and reason; it is a belief or a feeling one develops based on how one's passions are molded through social interaction: "The more we converse with mankind, and the greater social intercourse we maintain, the more shall we be familiarized to the general preferences and distinctions, without which our conversation and discourse could scarcely be rendered intelligible to each other."[10] Sentiments, as we have already seen, are the basis of morality for Hume; they are likewise the root of historical events.

Hume thus takes great interest in his history in the sentiments of different times and historical figures, and this entails some notice of their moral character. Hume believes that

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[9] Nicholas Phillipson, *Hume* (London: Weidenfeld & Nicolson, 1989), 80. I am indebted to Phillipson for my explanation of Hume's historical philosophy in this paragraph.
[10] Quoted in *ibid.*, 47-48.

commerce, society, luxury, and all that could be called 'civility' were necessary to make people virtuous,[11] and his analysis of the different times and places covered in his history bears the imprint of this belief. Such beliefs are the philosophical basis for what Pocock calls "the Enlightened narrative."[12] Ancient Ireland does not fare well:

> The Irish, from the beginning of time, had been buried in the most profound barbarism and ignorance; and as they were never conquered or even invaded by the Romans, from whom all the western world derived its civility, they continued still in the most rude state of society, and were distinguished by those vices alone, to which human nature, not tamed by education or restrained by laws, is for ever subject.[13]

Lacking contact with the Romans, the primitive Irish had no civility, and thus were hopelessly lost in vice. The situation does not improve very much in medieval England, but immorality did have its limits:

> But it was impossible, that the people, however corrupted by the barbarity of the times, still farther enflamed by faction, could for ever remain insensible to the voice of nature. Here, a wife [Isabella] had first deserted, next invaded, and then dethroned her husband [Edward]; had made her minor son an instrument in this unnatural treatment of his father; had by lying pretences seduced the nation into a rebellion against their sovereign; had pushed them into violence and cruelties, that had dishonoured them: All those circumstances were so odious in themselves, and formed such a complicated scene of guilt, that the least reflection sufficed to open men's eyes, and make them detest this flagrant infringement of every public and private duty. [14]

An interesting aspect of this passage is the use of nature: it is the "voice of nature" which tells the people that what Isabella does is wrong, and the son's mistreatment of his father is considered "unnatural." Is nature a source of law, as it is in Gibbon?

Hume's philosophy would not lead us to think so, but it is worth examining the history for any departures from his prior ideas. Another passage renders the question more clear:

> But the crimes of Richard were so horrid and so shocking to humanity, that the natural sentiments of men, without any political or public views, were sufficient to render his government unstable; and every person of probity and honour was earnest to prevent the scepter from being any longer polluted by that bloody and faithless hand which held it.[15]

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[11] See his "Of Refinement in the Arts," Essay 2 of Part II in *Essays Moral, Political, and Literary* (1742).
[12] See above, p. 16.
[13] Hume, *History of England*, I.234.
[14] *Ibid.*, II.110.
[15] *Ibid.*, II.331.

Nature is a source, not of law, but of basic sentiments which, even in an undeveloped society, are offended by certain crimes. This would seem to contradict what Hume says about the "most profound barbarism" of the early Irish, as well as similar comments he makes about the Saxons;[16] perhaps an explanation is that, although such barbarous peoples possess a few rudimentary sentiments inclining them to humane action, these are overpowered by savage habits. Whatever the case, "the natural sentiments of humanity" is the basic source of morality for Hume, and he uses some form of this phrase numerous times throughout his history, often pairing together "justice and humanity," "virtue and humanity," "humanity and morality," or "duty or humanity" as limits on vicious behavior.[17] All of these formulations fit well within his original philosophy, as stated in the *Treatise*, of moral principles arising from sentiments that, to some degree, are common to human nature.

Twice Hume comes close to what may seem like a more classical notion of natural law: when he mentions "the plainest dictates of natural morality" as having been overcome by illusion among the followers of Cromwell, and when he writes, "So deeply are the sentiments of morality engraved in the human breast, that it is difficult even for the prejudices of false religion totally to efface them…." [18] These sound almost like such natural law statements as Gibbon would later make, and we can again raise the question of how much overlap there is between the two thinkers. But Hume speaks here of sentiments, not of laws; he in fact never uses the terms 'law' or 'reason' to describe this natural morality; and, in keeping with his anthropocentric philosophy, he does not cite God or anything above nature as a source of these moral sentiments. A hazier issue is that of rights. Although in most cases Hume speaks of rights in the sense of "privileges," as the term is used in Roman law, he mentions equal justice and free enjoyment of property as

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[16] *Ibid.*, II.335.
[17] See, e.g., *ibid.*, V.315, II.261, III.270, IV.103, IV.62.
[18] *Ibid.*, VI.71, IV.135.

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"the great objects for which political society was at first founded by men, which the people have a perpetual and unalienable right to recal [sic]."[19] But although the wording might suggest something more lofty, the notion of rights invoked here seems based on contract rather than any transcendent principle, implying the Lockean theory that it is in order to ensure justice and protect property that people enter into political society. Nor is there any distinction between civil and natural rights such as we find in Gibbon.[20] Hume's moral outlook, in his history as in his philosophy, is an affair of strictly *human* feeling and sentiment.

The barbarism described in the passages we have seen does not continue indefinitely. Eventually England acquires "that science and civility, which has so close a connexion with virtue and humanity, and which, as it is a sovereign antidote against superstition, is also the most effectual remedy against vice and disorders of every kind."[21] Largely this is a result of commerce, but for the civility and sociability of modern life to be a success requires also blunting the effects of religion, especially those of superstition and enthusiasm, which throughout Hume's history appear as forces antithetical to human progress. Hume was in fact never fully at ease writing about the Middle Ages (nor was Robertson, for that matter), because the turbulent political conditions and unrefined manners presented a picture so detestable in comparison with the society he valued, whose real origins he felt went no further back than the sixteenth century. His conviction that no constitutional principle could be learned from medieval society[22] is in fact analogous to his disbelief in natural law: in politics as in morals, only "refined" peoples can discover worthy principles. As to his criticism of religious influence, Gibbon would absorb much of this

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[19] *Ibid.*, I.301.
[20] Gibbon, *Decline and Fall*, II.547.
[21] Hume, *History of England*, II.333.
[22] Discussed in Phillipson, *Hume*, 136.

attitude and adapt it to his own history, although there is a distinction between his and Hume's understandings of religion which we will have a chance to return to.

Robertson

One might guess that Robertson, having been a Presbyterian minister and in fact leader of the Church of Scotland from 1762 to 1780, would have held a strong traditional version of natural law such as one finds in the ancient Christian thinkers, or at least something akin to seventeenth-century Protestant natural law. This office by itself, however, does not guarantee too much about his religious or theological opinions. The Scottish ministry was much more doctrinally flexible in the middle of the eighteenth century than it had been a century earlier, and Robertson, who has been called "the most discreet of ecclesiastics,"[23] left little in writing of his theological views. His main interests while a student at Edinburgh University were literature and philosophy, and his entry into the ministry does not seem to have been accompanied by any great outburst of conviction. From what we know, his family played a large role in the choice, and he distanced himself from the religious revivals and enthusiastic movements of the day.[24]

Perhaps the best approach to his religious beliefs is through his only published sermon, *The Situation of the World at the Time of Christ's Appearance*, given to the Society for Propagating Christian Knowledge in 1755. In it he outlines a providential picture of Christianity's influence on human progress, surveying the world as it existed when Christ came down and the way in which Christ's teachings and example moved mankind, in the centuries following, to higher moral and cultural ideals. Certain passages give a strong idea of objective morality founded on divine law, if not also natural law. Describing the world before Christ's entry, Robinson writes,

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[23] Nicholas Phillipson, "Providence and Progress: An Introduction to the Historical Thought of William Robertson," in *William Robertson and the Expansion of Empire*, ed. Stewart J. Brown (Cambridge: Cambridge University Press, 1997), 71.
[24] Stewart J. Brown, "Robertson and the Scottish Enlightenment," in *ibid.*, 8-9, 15.

> Let us consider the state of the world, with regard to morals. We cannot expect to find pure and undefiled virtue, among those people who were destitute of the instructions, the promises, and assistance of divine revelation. Unenlightened reason often errs: Undirected virtue frequently deviates from the right path.[25]

It is clear from this that there are absolute, atemporal standards of morality, based upon God's prescriptions. Whether such a law is accessible to human reason without revelation, as Cicero and Paul would have thought, is less obvious:

> What the wisdom of men could do for the encouragement of virtue in a corrupt world, had been tried during several ages; and all human devices were found, by experience, to be of very small avail: So that no juncture could be more proper for publishing a religion, which, independent on human laws and institutions, explains the principles of morals with admirable perspicuity, and enforces the practice of them by the most persuasive arguments.[26]

It is not clear whether humans can be expected to understand moral principles by themselves, or if they must wait for revelation to enlighten them (an interesting peripheral theological question is whether humans would then be guilty of violating moral rules that they did not understand). What is apparent is that there is a divine moral law, revealed both in Judaism and more fully in Christianity, and as is shown through the rest of the sermon on such questions as slavery and the nature of marriage, Robertson has no trouble using it as a yardstick by which to measure history.

It would perhaps be simple to trace Robertson's moral views if all his writings presented his theology in such an overt way, but although his interest in the relationship of human progress to God's revelation may have continued, his later writings are generally cast in the same secular terms as much contemporary Scottish historiography. From his exposure to Adam Smith in the 1740's-50's he learned a materialistic approach to human progress in the form of 'stadial history', where the experience of humankind is divided into stages that are distinguished by the means of subsistence and the distribution of property. Thenceforth, as Phillipson writes, "All of his [Robertson's] historical thinking was geared

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[25] William Robertson, *The Situation of the World at the Time of Christ's Appearance, and Its Connexion with the Success of His Religion, Considered*, third ed. (Edinburgh: Hamilton & Balfour, 1759), 14, Google Books, <http://books.google.com> (accessed May 26, 2012).

[26] *Ibid.*, 17.

to a recognition of the transformational effects of commerce on civilization."[27] Meanwhile, under the influence of Hume, a friend of his whom he had defended from excommunication for skepticism in 1755-56, he imbibed an anthropological approach to human culture and belief:

> Hume had argued that those conceptions of time, space, substance, and causation which allow us to formulate general ideas about the world and to plan our responses to it had their roots in custom, habit, and education, and were, in fact, a part of the history of human language. It was a line of argument which suggested that all knowledge, including knowledge of the Deity, had its roots in culture and the material circumstances of society. Devout Christian though he was, Robertson agreed with Hume's analysis....[28]

How Robertson was able to reconcile an outlook that would appear to undermine any religious belief (and in fact, one might say, was designed to do so) with his abiding belief in Christianity is a question which goes to the core of his historiography as developed in three major works. Although we might note that Robertson was no slavish disciple of Hume, writing much in his *The History of America* (1777) to confute Hume's ideas on primitive religion, it is enough here to wrestle with the smaller question of how Robertson drew from these issues the moral apparatus of his history.

We will examine two works, *History of the Reign of Charles V* and *The History of America*, as these display Robertson's mature thought most extensively (this leaves aside his *The History of Scotland* (1759) and the late *An Historical Disquisition Concerning the Knowledge Which the Ancients Had of India* (1791)). Between the introductory essay to the *History of Charles V*, "A View of the Progress of Society in Europe," which examines European history through a stadial as well as a moral lens, and the speculations on the societies of the native Americans in the *History of America*, we should have a rich mine for possible ideas of natural law.

Perhaps the strongest concept we find in Robertson is that of 'natural rights', a phrase which occurs several times in his writing, especially in his discussion of the

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[27] Phillipson, "Providence and Progress," 71.
[28] *Ibid.*, 65.

American natives. Commenting on the loose social bonds between the members of "savage nations," Robertson writes that "their union is so incomplete, that each individual acts as if he retained all his natural rights entire and undiminished." He does not articulate precisely what these rights are, but from his description following, they would seem to amount essentially to doing as one pleases.[29] In another passage, Robertson relates, "the Spaniards who served in America had such contempt for the natives, and thought them so little entitled to the common rights of men, that Cortes might hold the Cholulans to be guilty upon slight and imperfect evidence."[30] Here it is apparent that the common rights of men include presumed innocence at trial, but what other common rights there are are not mentioned. Often when Robertson refers to natural rights, it is unclear whether he is speaking in another person's voice, as when he speaks of a law of Charles V that empowers ecclesiastics "to inform and admonish the civil magistrates, if any Indian is deprived of his just liberty and rights."[31] Is "just liberty and rights" Robertson's wording, or Charles V's? A different case is a passage in "A View of the Progress of Society in Europe," where Robertson writes that "the inhabitants [of feudal cities] were deprived of those rights, which, in social life, are deemed most natural and inalienable," and goes on to enumerate property, the right of appointing a guardian to one's children, marriage, and other more minor examples.[32]

Do we find in these passages the traces of a natural right doctrine? If so, what sort of right doctrine – are the rights embedded in nature or derived from society? discovered by reason or based on feeling? There is unfortunately not much further evidence, but a couple of passages may contain keys. Describing the hostility of tribes in Mexico, Robertson pauses to observe:

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[29] William Robertson, *The History of America* (1777), sixth ed. (London: A. Strahan, T. Cadell, and J. Balfour, 1792), II.214-15, Google Books, <http://books.google.com> (accessed May 26, 2012).
[30] *Ibid.*, II.485 n. LXXXI.
[31] *Ibid.*, III.402 n. XLIII.
[32] Robertson, *History of Charles V*, I.24-25.

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> In proportion as mankind combine in social union, and live under the influence of equal laws and regular policy, their manners soften, sentiments of humanity arise, and the rights of the species come to be understood. The fierceness of war abates, and even while engaged in hostility, men remember what they owe one to another. The savage fights to destroy, the citizen to conquer. The former neither pities nor spares, the latter has acquired sensibility which tempers his rage. To this sensibility the Mexicans seem to have been perfect strangers....[33]

An important sequence is given here: first people are brought together in society under laws, then a change in their manners occurs, "sentiments of humanity" develop, and finally with these sentiments, the "rights of the species" are understood. Once he understands these rights, the citizen is distinguished from the savage. We see here both an explanation of the civilizing role of society that would have been shared by Hume and many other thinkers of the time, and also a psychological notion of how humane sentiments lead to an understanding of rights. Rights are indeed "discovered," not fabricated – they are common and universal, not local and contingent – but the process by which they are discovered is subjective, a product of the "sentiments of humanity." Elsewhere in the same vein, Robertson writes,

> All [people in the hunting stage of society] are freemen, all feel themselves to be such, and assert with firmness the rights which belong to that condition. This sentiment of independence is imprinted so deeply in their nature, that no change of condition can eradicate it, and bend their minds to servitude.[34]

Here it is a "sentiment of independence" that gives the hunting peoples their sense of the "rights" of freedom. As both passages make clear, one's understanding of one's rights is a product of sentiment, an idea Hume would surely have applauded, although he likely would not have used 'rights' in the universal sense that Robertson uses it. Meanwhile, Robertson says not a word about reason in the understanding of rights – in either history – nor does he ever mention law in any sense other than positive laws and physical laws of nature.[35]

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[33] Robertson, *History of America*, III.184-85.

[34] *Ibid.*, II.132.

[35] One possible exception to the latter statement is Robertson's observation that in despotic governments, the sovereign "consults no law but what is deposited in his own breast," but since the tone of this passage does not indicate that the law thus consulted is just, it is not likely that Robertson refers here to natural law. *Ibid.*, III.265.

We can tentatively conclude that Robertson owed a significant debt to Hume's psychology of sentiment, as well as to his work in abolishing reason from the field of moral discourse. The language of sentiment abounds in Robertson's writing, accompanied as in Hume by the notion of humanity. Writing about medieval Europe, Robertson observes that in order for absurd longstanding customs such as trial by combat to be abolished, what is necessary is that people's sentiments must change.[36] Similarly, it is "feelings of humanity" which prevent Almagro from shedding the blood of his opponents, and "sentiments of humanity" which rouse protest among ecclesiastics who witness the violent treatment of natives in Hispaniola.[37] Robertson also writes that the basic morality of uncivilized peoples is provided by "the sentiments of social affection and the obligations arising from the ties of blood."[38] Moral ideas have their foundation in sentiment, and all moral progress requires a progress in sentiments.

There is an important difference with Hume, however, in that it is not entirely owing to secular causes such as society and commerce that sentiments become more humane. Christian teaching is also responsible for key advances. Thus, the chief service of the Reformation was that it produced "a revolution in the sentiments of mankind, the greatest, as well as the most beneficial, that has happened since the publication of Christianity," whence we can deduce that Christianity's own great service was to bring about such a revolution in sentiments.[39] Another example concerns the manumission of slaves in the Middle Ages, for which "the humane spirit of the Christian religion struggled long with the maxims and manners of the world, and contributed more than any other circumstance to introduce the practice."[40] We detect here a model of human progress wherein the teachings of God revealed by religion serve to awaken the humane sentiments of His believers, who

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[36] Robertson, *History of Charles V*, I.44.
[37] Robertson, *History of America*, III.69-70, I.305.
[38] Robertson, *History of Charles V*, I.34.
[39] *Ibid.*, 68-69.
[40] *Ibid.*, I.220-21.

then slowly recognize the truth of those teachings and put them into action. But Christianity by itself does not accomplish everything: as Robertson made clear as early as his 1755 sermon, most human progress is owing to natural rather than to supernatural events, progress of the type that Hume had analyzed.[41] Thus, before the rights of toleration could be recognized in Europe, there had to be "long experience of the calamities flowing from mutual persecution, the influence of free government, the light and humanity acquired by the progress of science, together with the prudence and authority of the civil magistrate," all secular causes.[42] One might say that Robertson offers "the Enlightened narrative" with a Christian twist, a curious hybridization – from one angle clever, from another perhaps messy – of Scottish stadial thought of a Humean or Smithian variety with Christian belief in God's providence as the guide of history.

Conclusion

How might we compare the historians we have investigated? Clearly there are certain ideas running through all three, an outstanding example of which is Hume's idea of the role of sentiments in moral behavior (though not fully adopted by Gibbon). Certain common terms and phrases clearly identify what might be called a "family" relationship, the chief among which is "sentiments of humanity," but which also include the pairing of "justice and humanity," the use of 'dictate' as in "dictates of humanity" or "dictates of conscience," and such terms as "unnatural" in reference to celibate clergy.[43] Where Robertson falls clearly in line with Hume, and where both differ sharply from Gibbon, is in the complete reduction of the human moral understanding to a sentiment-based endeavor

[41] Robertson avers that "The Almighty seldom effects, by supernatural means, any thing which could have been accomplished by such as are natural." Robertson, *Situation of the World*, 12. For a nuanced discussion of Robertson's interplay of natural and supernatural causes, see László Kontler, "Time and Progress – Time as Progress: An Enlightened Sermon by William Robertson," in *Given World and Time: Temporalities in Context*, ed. Tyrus Miller (Budapest: Central European University Press, 2008).
[42] Robertson, *History of Charles V*, III.273.
[43] For these phrases in Robertson see, e.g., *History of America*, II.310 for "justice and humanity;" *History of Charles V*, II.136 and III.120 for "dictates;" and *History of Charles V*, II.91 for "unnatural."

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(although in Robertson this is aided by divine revelation). For the two of them, humane moral standards do not develop until sentiments develop, and for sentiments to develop, human society must first advance. Robertson's rejection of the role of reason might be part of a larger skepticism concerning the human mind's ability to understand God:

> So unable are the limited powers of the human mind to form an adequate idea of the perfections and operations of the supreme being, that in all the theories concerning them, of the most eminent philosophers in the most enlightened nations, we find a lamentable mixture of ignorance and error.[44]

Such skepticism could hardly be more different than the Stoic view, found in Cicero and many Christian thinkers, that reason is the divine element in human life, the feature that human beings share with God and that allows access to His principles. Robertson does not devalue human reason completely – the term often appears in his writing, usually as a rough synonym for 'logic', but it never provides understanding of moral principles. For Hume, the removal of reason from moral discourse was imperative to prevent any theological element from entering in, and in this respect was part of his larger attempt to drive Christianity from the intellectual world.[45] That Robertson likewise devalued moral reasoning while remaining a devout Christian perhaps only shows the unusual directions that such thought could take.

Whatever Hume, Robertson, and Gibbon each thought about Christianity, it is nonetheless clear that all three believed in a human nature that was to some extent universal, and which could be judged at different points in history by unchanging moral standards. This belief in human nature formed a central part of their respective projects in philosophical history. Gibbon alone, however, believed that such moral standards were discoverable by human reason, and that they constituted a law of nature that had been written in the heart by God.

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[44] Quoted in Phillipson, "Providence and Progress," 71.

[45] For a discussion of both points, see Phillipson, *Hume*, 35-46. Hume had specifically in mind the writings of Christian philosophers such as Malebranche.

Conclusion

Having come to an understanding of Gibbon's natural law views and compared them with the moral outlooks of his fellow British historians, we can make some basic conclusions. It is clear that Gibbon wrote the *Decline and Fall* with a conception of natural law that gives a profound place to the idea of reason as the instrument by which such law is understood, while at the same time appreciating the role of sentiments and feelings as motivating our obedience to such law. In these respects he is different from Hume and Robertson, both of whom had conceptions of morality where all moral belief is a matter of sentiment, which sentiments are in Hume's case developed by social interaction and the conditions of material life, in Robertson's case by these same factors but with the occasional addition of God's teaching. Neither of the latter allows the role to reason or to nature that Gibbon does. We saw that for Gibbon, the moral law not only exists in nature, as Cicero would have it, but that it is also written on the human heart by God, a metaphor taken from the apostle Paul. His outlook in this respect had more in common with classical and Christian thinkers than it did with European thinkers of the eighteenth century, and as such was unique within his milieu.

Throughout this essay we have considered two questions regarding the significance of Gibbon's natural law views. The first was how these views might alter our view of his religious position, given his famous status as a deconverted skeptic and a vigorous opponent of Christianity. The second was how these views might affect our understanding of Gibbon's history, given the proto-historicist position that has been claimed for it. Let us consider these two questions in turn.

Our discoveries concerning Gibbon's natural law views suggest that they were of a more traditional and of a more religious type than one would expect considering Gibbon's

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reputation. Cicero, of course, was not what most people would call a religious thinker, and Gibbon's natural law views are in the main Ciceronian, but looking into Cicero's *De Legibus*, one finds that divinity – "the gods" – is an essential part of his conception. That certain laws exist in nature is due to the fact that the gods placed them there; nature would not be what it is without the gods' intent. Natural law of the Ciceronian kind, with its emphasis on law and the dignity of reason, is inherently religious; no wonder Hume was so insistent on removing reason from moral thought. One aspect of Gibbon's thought that has never been challenged is his strong respect for "natural religion." Writing of the Emperor Julian, a figure whom he greatly respected, he observes, "The theological system of Julian appears to have contained the sublime and important principles of natural religion."[1] He does not explain what these principles entail, but they are likely not far from theosophical speculation of the kind Cicero had practiced (Gibbon lists *De Natura Deorum* among his early readings[2]), or from the "natural theology" of eighteenth-century writers interested in finding a "rational religion" that was above sectarian dispute. Such a line of inquiry might have attracted a young man who had been fond of religious questions since childhood and had at age sixteen taken the bold step of jeopardizing both his university education and his civil liberties by converting to an outlawed faith, but whose firsthand experience of religious conflict following this step had sickened him of the rival creeds of his day.

It is not clear, however, that Gibbon wished to sanitize his religious ideas entirely of Christian belief. No doubt he became uninterested in the Protestant or Catholic alternatives as they existed in his time, and was intensely skeptical of the elaborate doctrines, the partisan zeal, and the psychological mechanisms of institutional religion as a whole. His lengthy and approving quote of a passage from Hilary of Poitiers may represent his own impatient feelings:

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[1] Gibbon, *Decline and Fall*, I.840.
[2] Gibbon, *My Journal I* in *Gibbon's Journal*, 22.

> "It is a thing," says Hilary, "equally deplorable and dangerous, that there are as many creeds as opinions among men, as many doctrines as inclinations, and as many sources of blasphemy as there are faults among us; because we make creeds arbitrarily, and explain them as arbitrarily. The Homoousion is rejected, and received, and explained away by successive synods. The partial or total resemblance of the Father and of the Son is a subject of dispute for these unhappy times. Every year, nay, every moon, we make new creeds to describe invisible mysteries. We repent of what we have done, we defend those who repent, we anathematize those whom we defended. We condemn either the doctrine of others in ourselves, or our own in that of others; and, reciprocally tearing one another to pieces, we have been the cause of each other's ruin."[3]

But Gibbon's rendering of his moral ideas in Pauline terms may suggest that he was interested in something more than religion within the limits of reason alone. His interest in Paul's letters is apparent from his journals, written in 1761-63 in his mid-twenties after he had already read Cicero and Hume, where he describes attending church on Sundays with his family. He recounts following the lessons in his Greek Bible, and often notes what the readings were that day, although a few times he only mentions the reading from Paul. No mere obligated attendant, Gibbon often compliments the sermon, expressing satisfaction or dissatisfaction and occasionally expatiating his views in a way that suggests sympathy with the goals of the minister. As we have seen already, his main concern in these passages is the call to moral virtue of the listeners.[4]

Unfortunately, Gibbon's journals do not extend much beyond this time, so we cannot examine whether he continued this habit throughout his adult life. An anecdote told by Gibbon's physician and recorded by one of that physician's descendants is that Gibbon, in his last years in Lausanne, frequently attended St. Francis' Church near his house and followed the lessons in the original Greek. Of course, we cannot allow much weight to a report so many degrees removed from the original source.[5] A better source might be the *Decline and Fall* itself. Readers typically smile at the praise that Gibbon gives to Christianity at the beginning of his famous fifteenth and sixteenth chapters on the origins

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[3] Gibbon, *Decline and Fall*, I.755.

[4] See above, p. 54. For other examples of these entries see Sunday entries throughout 1762.

[5] Paul Turnbull collects several anecdotes of this questionable kind, though taken together they seem to suggest some color of truth. See his "The 'Supposed Infidelity' of Edward Gibbon," *The Historical Journal* 25, no. 1 (March 1982): 37.

and growth of the faith, praise which at its strongest moments seems clearly designed to satisfy censorial readers and deflect suspicion of his more controversial views, but a close examination of some of these passages reveals a consistent method to what Gibbon selects for praise. Although Gibbon frequently attacks the abuse and corruption of clergy in his history, throughout the six volumes he is careful to distinguish between the abuses of ecclesiastics and the "pure and simple maxims of the Gospel."[6] The original disciples, unlike later church authorities, were "distinguished" by "meekness and resignation,"[7] and with the heroic Emperor Julian, whose valiant attacks on church power Gibbon narrates with delight, the historian wonders at the "contradiction" whereby he "disdained the salutary yoke of the Gospel, whilst he made a voluntary offering of his reason on the altars of Jupiter and Apollo."[8] In light of such comments as these, we should probably accept as genuine Gibbon's description of "the purity of the Christian religion, the sanctity of its moral precepts, and the innocent as well as austere lives of the greater number of those who during the first ages embraced the faith of the Gospel."[9] Gibbon never does other than praise Christian moral teaching in his writings, and while he doubts the miracles, he does not impugn the moral virtue of its early practitioners.

Belief in miracle was, perhaps more than anything, the major obstacle for someone like Gibbon, so wary of superstition, to religious faith, and a fascinating page in his *Memoirs* records his struggles with this issue. A folio inserted into draft D, of a smaller size than the rest of the folios, contains an outpouring of thoughts on the "evidence of Christianity," and the frequent struggles that this question had elicited from him:

> Since my escape from Popery I had humbly acquiesced in the common creed of the Protestant Churches ; but in the latter end of the year 1759 the famous treatise of Grotius (de veritate Religionis Christianae) first engaged me in a regular tryal of the evidence of Christianity. By every possible light that reason and history can afford, I have repeatedly viewed the important subject; nor was it my fault if I said with Montesquieu, " Je lis pour

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[6] Gibbon, *Decline and Fall*, I.794.
[7] *Ibid.*, I.876.
[8] *Ibid.*, I.838.
[9] *Ibid.*, I.484.

m'edifier mais cette lecture produit souvent en moi un effet tout contraire," since I am conscious to myself that the love of truth and the spirit of freedom directed my search.[10]

That Gibbon apparently devoted so much thought to the question is remarkable considering that nowhere else in his writings do we find any evidence of this concern. The conclusion of the passage contains an intriguing note on the role of grace:

> The most accurate philosophers and the most orthodox Divines will perhaps agree that the belief of miracles and mysteries cannot be supported on the brittle basis, the distant report, of human testimony, and that the faith as well as the virtue of a Christian must be formed and fortified by the inspiration of Grace.[11]

Gibbon's comment on grace here is ambivalent: Does it undermine the concept of faith that it must rely on grace, a concept which many readers of Gibbon (and certainly any reader of Hume) would expect to fall under the category of superstition? Or does the sentence offer a singular acknowledgment in Gibbon's oeuvre of a power beyond human understanding?

Whatever the case, we can at this point disagree with the facile characterization of Gibbon as "pagan" that we find in scholars such as Peter Gay, who in his seminal work on the Enlightenment writes that "the French philosophes and British infidels like Hume or Gibbon rejected revealed religion so vehemently and so completely that the Christian contribution to their ideas was modest and subterranean; they were usually unaware of it."[12] One wonders how careful a reading of Gibbon is reflected in the phrase "so vehemently and so completely." Such views tend to fall into what David Sorkin has called "the master narrative of a secular European culture that commenced with the Enlightenment," where the Enlightenment is given a "triumphalist linear teleology" of "secularization and the ascendancy of reason."[13] Gibbon might have believed strongly in reason, but in his case, the use of reason did not imply secularization. The same can be said of the attempt to place

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[10] Gibbon, *Memoirs*, fol. 68v. Patricia Craddock writes of this "regular tryal" that Gibbon "implies" that "Christianity was not the victor." I do not find this implication in the passage. If one or the other side was victorious, why was the trial a "regular" one? See Patricia Craddock, *Young Edward Gibbon: Gentleman of Letters* (Baltimore and London: Johns Hopkins University Press, 1982), 139.

[11] *Ibid.*

[12] Peter Gay, *The Enlightenment: An Interpretation. The Rise of Modern Paganism* (New York: Knopf, 1966), 326. Quoted in Turnbull, "The 'Supposed Infidelity' of Edward Gibbon," 23.

[13] David Sorkin, *The Religious Enlightenment: Protestants, Jews, and Catholics from London to Vienna* (Princeton and Oxford: Princeton University Press, 2008), 1.

Gibbon into a simplified "Enlightened narrative" *a la* David Hume, where the forming of refined manners based on society and commerce replaces older ideas of moral virtue based on religion.[14] Gibbon's moral outlook contains something of the Enlightenment, something of Roman Republican virtue, and something of Christianity, in a complex synthesis that is uniquely his.[15] His history is no doubt strongly averse to institutional religion, and his views would not satisfy many definitions of Christian belief, but to the notion that he rejected "Christianity" as a whole, the truth is rather more complex.

As to the second question, we have seen how Gibbon's moral views influenced the notion of decline in his history: the Romans of the fifth century were less virtuous than those who lived under the Republic, and although 'virtue' as Gibbon uses it encompasses all the human excellences, from martial valor to the civic energy of public life, moral virtue was certainly one of them. In the first chapter, we considered the criticism that historians who believe in basic continuities of human nature, and who judge different societies according to this basic scheme, deprive their histories of "radical revolutions or innovations."[16] Without getting too entangled with this argument, it may be enough to observe that the question is not so much a matter of what makes for satisfying history as of what is an appropriate view of human existence. If one does not believe in continuous truths of human nature such as natural law, any history with a natural law scheme will seem stodgy and contrived; if one believes in natural law, any history that ignores it will appear to

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[14] Pocock, to his credit, criticizes the assumption that Gibbon "was writing history with the intention of destroying Christian belief," pointing out that "this assumption remains current today." Still, his entire volume on Gibbon's chapters on early Christianity is written from the assumption that Gibbon shared the "unbelief" of Hume. See his *Barbarism and Religion. Volume 5: Religion: The First Triumph* (Cambridge: Cambridge University Press, 2010), ix, xiii.

[15] Gibbon appears to have had some idea of this synthesis at an early age. Craddock describes a passage in the 1758 draft of Gibbon's *Essai sur l'Étude de la Littérature* (1761), in a chapter devoted to "La Religion" that was deleted from later drafts, where he considers whether the "system of duties" taught by Christianity already existed in the world or were introduced by revelation. He concludes that the truth is somewhere in the middle and emphasizes Christ's role as "the legislator of the Christians." Original draft in Edward Gibbon, Draft of *Essai sur l'Étude de la Littérature*, fols. 154r., 155r., Add. MS 34880, Gibbon Papers, British Library, London. Quoted in Craddock, *Young Edward Gibbon*, 130.

[16] See above, p. 14.

miss an essential, perhaps *the* essential element in the events that it describes. As has been said before, the issue is ultimately a decision for philosophy rather than for history.[17] For Gibbon's part, the vast collapse of "just and liberal notions of the dignity of human nature" between the Roman Republic and the fifth century would lose half its drama if one did not believe that these notions contained an essential truth about human reality. Measured by these standards, the change was a revolution, and a radical one.

Did Gibbon ever consider to what extent the value he bestows on classical authors and ideas might be conditioned by his own (and their own) place in history, and inapplicable to other human societies? Such a question could be interesting, given how much those who draw inspiration from the same authors that Gibbon read must grapple with this question today. Although Gibbon cannot be supposed to have anticipated the arguments of twentieth-century cultural relativism, it does at least appear that he was aware of the question:

> Our education in the Greek and Latin schools may have fixed in our minds a standard of exclusive taste; and I am not forward to condemn the literature and judgment of nations, of whose language I am ignorant. Yet I know that the classics have much to teach, and I believe that the Orientals have much to learn; the temperate dignity of style, the graceful proportions of art, the forms of visible and intellectual beauty, the just delineation of character and passion, the rhetoric of narrative and argument, the regular fabric of epic and dramatic poetry. The influence of truth and reason is of a less ambiguous complexion. The philosophers of Athens and Rome enjoyed the blessings, and asserted the rights, of civil and religious freedom. Their moral and political writings might have gradually unlocked the fetters of Eastern despotism….[18]

This passage comes amid Gibbon's overview of the development of Islam, a section of his work which has been praised for its fairness and scholarly sensitivity.[19] He seems willing to accept that there might be some latitude in the aesthetics of different societies, but on the issue of "truth and reason," especially as regards the moral and political realms, he remains a stick in the mud.

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[17] See above, p. 11.

[18] Gibbon, *Decline and Fall*, II.353.

[19] Bernard Lewis, "Gibbon on Muhammad," *Daedalus* 105, no. 3 (Summer 1976): 97-98. Lewis praises Gibbon for his critical instinct and faults him mainly for his overly positive picture of Islamic history.

Gibbon's critiques of earlier cultures were not, by any means, limited to "Oriental" societies however, and if anything were sharper and more pronounced when applied to Western Europe. A specimen of these criticisms, taken from the final chapter of his work, shows his judgmental temper in as fine a form as ever it was in the earlier volumes. The topic is a familiar one: the abuses of the ecclesiastical establishment, in this case the mode of selecting a Pope:

> The successful candidate is drawn from the church, and even the convent; from the mode of education and life the most adverse to reason, humanity, and freedom. In the trammels of servile faith, he has learned to believe because it is absurd, to revere all that is contemptible, and to despise whatever might deserve the esteem of a rational being; to punish error as a crime, to reward mortification and celibacy as the first of virtues; to place the saints of the calendar above the heroes of Rome and the sages of Athens; and to consider the missal, or the crucifix, as more useful instruments than the plough or the loom.[20]

This pungent attack on the most important political and religious office of the European Middle Ages should help absolve Gibbon of any criticism that he is biased towards Western culture at the expense of others. More importantly, it demonstrates that the very qualities which historicists condemn in writers like Gibbon, that they judge all human societies by the same rigid standards and thus leave their works clumsy and wooden, are exactly what makes the *Decline and Fall* so entertaining, and have guaranteed its popularity for over two centuries. However comical Gibbon's judgments may seem when taken to the extreme of the above quote (Why was the clerical life so terrible, one asks? Because it was so different from Republican Rome…), at their worst they display honestly the prejudices of the author; at their best, they serve to remind us why certain times and places were more congenial to human creativity and achievement than others, and what we may like or dislike about the societies that we ourselves inhabit.

One might venture to suggest that most historians today, whatever their view on the question of historicism, would find something to appreciate among Gibbon's principles. Not a few would agree that "there is nothing perhaps more adverse to nature and reason

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[20] Gibbon, *Decline and Fall*, III.1059.

than to hold in obedience remote countries and foreign nations, in opposition to their inclination and interest."[21] Many would applaud the idea that the Persian envoys murdered by the Byzantines after the siege of Constantinople "were entitled to the rights of humanity, if they were not protected by the laws of nations."[22] Both of these statements are echoed in the values of our own time, values often urged as being universally applicable. As I have not lived under a tyranny, I will not speculate on what the inhabitants of one would think of Gibbon's characterization of despotic regimes, but I think that many who value political freedom and prosperity would find interest in Gibbon's observation that "the invariable laws of nature…have connected peace with innocence, plenty with industry, and safety with valour."[23] Such maxims as Gibbon states do not arise from a philosophy divorced from the facts of history, nor would they be possible from a study of history that eschews all philosophy; they are philosophical history, a synthesis of the two fields, and contribute both to the value and the pleasure of his work.

Of all historians, Tacitus was Gibbon's favorite. In a moving comment about this writer who diagnosed the reasons and results of Rome's change from a republic to a monarchy, Gibbon calls him "the philosophical historian, whose writings will instruct the last generations of mankind."[24] We can close with the expectation that, thanks in large part to Gibbon's philosophical observations, including his moral ones, his writing will inform the last generations as well.

[21] *Ibid.*, III.142.
[22] *Ibid.*, II.923.
[23] *Ibid.*, II.151.
[24] *Ibid.*, I.299.

Bibliography

Primary Sources:

Aquinas, Saint Thomas. *On Law, Morality, and Politics*. Edited by William P. Baumgarth and Richard J. Regan. Indianapolis: Hackett, 1988.

Augustine. *The Problem of Free Choice*. Translated by Dom Mark Pontifex. Westminster, Maryland: The Newman Press, 1955. Internet Archive. http://www.archive.org (accessed March 13, 2012).

Cicero. *On the Commonwealth and On the Laws*. Edited by James E.G. Zetzel. Cambridge: Cambridge University Press, 1999.

———. *Tusculan Disputations*. Translated by C.D. Yonge. New York: Harper & Bros., 1877. Project Gutenberg. http://www.projectgutenberg.org (accessed May 6, 2012).

Gibbon, Edward. *The Autobiographies of Edward Gibbon*. Edited by John Murray. Second edition. London: John Murray, 1897. Internet Archive. http://www.archive.org (accessed May 3, 2012).

———. *Essai sur l'Étude de la Littérature*. 1761. London: T. Becket & P.A. De Hondt, 1762. Google Books. http://books.google.com (accessed June 3, 2012).

———. *Gibbon's Journal to January 28th, 1763: My Journal I, II & III and Ephemerides*. Edited by D.M. Low. London: Chatto & Windus, 1929.

———. *The History of the Decline and Fall of the Roman Empire*. 1776-88. Edited by David Womersley. 3 vols. London: Penguin, 1996.

———. *The Letters of Edward Gibbon*. Edited by J.E. Norton. 3 vols. London: Cassell, 1956.

———. *The Library of Edward Gibbon*. Edited by Geoffrey Keynes. Second edition. St. Paul's Bibliographies, 1980.

———. *The Memoirs of the Life of Edward Gibbon with Various Observations and Excursions by Himself*. In *Britain's Literary Heritage: British Literary Manuscripts from the British Library, London*, Series 2, Part 3, Reel 1. Reading, England: Research Publications, 1990.

Gibbon Papers. Additional Manuscripts. British Library, London.

Grotius, Hugo. *The Rights of War and Peace*. Edited by Richard Tuck. Indianapolis: Liberty Fund, 2005.

Hume, David. *An Enquiry Concerning Human Understanding*. 1748.

———. *Essays Moral, Political, and Literary*. 1742.

———. *The History of England from the Invasion of Julius Caesar to the Revolution in 1688*. 1754-62. 1778 edition. Indianapolis: Liberty Fund, 1983. Online Library of Liberty. http://files.libertyfund.org (accessed May 21, 2012).

———. *A Treatise of Human Nature*. 1739. Edited by L.A. Selby-Bigge. Revised edition. Oxford: Oxford University Press, 1978.

Hutcheson, Francis. *A Short Introduction to Moral Philosophy in Three Books; Containing the Elements of Ethicks and the Law of Nature*. English edition. Glasgow: Robert Foulis, 1747.

Locke, John. *An Essay Concerning Human Understanding*. 1690.

———. *Two Treatises Concerning Civil Government*. 1689.

Montaigne, Michel de. "Of Custom, and That We Should Not Easily Change a Law Received." In *Essays* (1575), translated by Charles Cotton. http://www.oregonstate.edu (accessed March 25, 2012).

Plato. *The Republic of Plato*. Translated by Benjamin Jowett. Third edition. Oxford: Oxford University Press, 1888. The Liberty Fund. http://files.libertyfund.org (accessed March 11, 2012).

Robertson, William. *The History of America*. 1777. Sixth edition. London: A. Strahan, T. Cadell, and J. Balfour, 1792. Google Books. http://books.google.com (accessed May 26, 2012).

———. *The History of the Reign of the Emperor Charles V. With a View of the Progress of Society in Europe, from the Subversion of the Roman Empire, to the Beginning of the Sixteenth Century*. 1769. First American (from tenth London) edition. New York: Hopkins & Seymour, 1804. Google Books. http://books.google.com (accessed May 24, 2012).

———. *The Situation of the World at the Time of Christ's Appearance, and Its Connexion with the Success of His Religion, Considered*. 1756. Third edition. Edinburgh: Hamilton & Balfour, 1759. Google Books. http://books.google.com (accessed May 26, 2012).

Secondary Sources:

Brown, Stewart J. "Robertson and the Scottish Enlightenment." In *William Robertson and the Expansion of Empire*, edited by Stewart J. Brown, 55-73. Cambridge: Cambridge University Press, 1997.

Craddock, Patricia. *Young Edward Gibbon: Gentleman of Letters*. Baltimore and London: Johns Hopkins University Press, 1982.

Dillon-Smith, David. "The Historian as Moralist: A Study of Edward Gibbon and *The Decline and Fall of the Roman Empire*." Ph.D. diss., University of Wollongong, 1982. http://ro.uow.edu.au/theses/ (accessed March 3, 2012).

Gay, Peter. *The Enlightenment: An Interpretation. The Rise of Modern Paganism*. New York: Knopf, 1966.

Ghosh, P.R. "Gibbon Observed." *The Journal of Roman Studies* 81 (1991): 132-56.

Giarrizzo, Giuseppe. *Edward Gibbon e le Cultura Europea del Settecento*. Naples: Istituto Italiano per gli Studi Storici, 1954.

Haakonssen, Knud. *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment*. Cambridge: Cambridge University Press, 1996.

Hochstrasser, T.J. *Natural Law Theories in the Early Enlightenment*. Cambridge: Cambridge University Press, 2000.

Honoré, Tony. *Ulpian: Pioneer of Human Rights*. Second edition. Oxford: Oxford University Press, 2002. Google Books. http://books.google.com (accessed March 12, 2012).

Kontler, László. "Time and Progress – Time as Progress: An Enlightened Sermon by William Robertson." In *Given World and Time: Temporalities in Context*, edited by Tyrus Miller, 195-220. Budapest: Central European University Press, 2008.

Lewis, Bernard. "Gibbon on Muhammad." *Daedalus* 105, no. 3 (Summer 1976): 89-101.

Macintyre, Alasdair. *After Virtue: A Study in Moral Theory*. Second edition. London: Duckworth, 1985.

———. "Introduction." In *Hume's Ethical Writings: Selections from David Hume*, edited by Alasdair Macintyre. Notre Dame, Indiana: University of Notre Dame Press, 1965.

O'Brien, Karen. *Narratives of Enlightenment: Cosmopolitan History from Voltaire to Gibbon*. Cambridge: Cambridge University Press, 1997.

Phillipson, Nicholas. *Hume*. London: Weidenfeld & Nicolson, 1989.

———. "Providence and Progress: An Introduction to the Historical Thought of William Robertson." In *William Robertson and the Expansion of Empire*, edited by Stewart J. Brown, 55-73. Cambridge: Cambridge University Press, 1997.

Pocock, J.G.A. *Barbarism and Religion. Volume 1: The Enlightenments of Edward Gibbon, 1737-1764*. Cambridge: Cambridge University Press, 1999.

———. *Barbarism and Religion. Volume 2: Narratives of Civil Government*. Cambridge: Cambridge University Press, 1999.

―――. *Barbarism and Religion. Volume 5: Religion: The First Triumph*. Cambridge: Cambridge University Press, 2010.

―――. "The Concept of Language and the *Métier d'Historien*: Some Considerations on Practice." In *The Languages of Political Theory in Early-Modern Europe*, edited by Anthony Pagden, 19-38. Cambridge: Cambridge University Press, 1987.

―――. "Texts as Events: Reflections on the History of Political Thought." In *Politics of Discourse: The Literature and History of Seventeenth-Century England*, edited by Kevin Sharpe and Steven N. Zwicker. Berkeley: University of California Press, 1987.

Porter, Roy. *Edward Gibbon: Making History*. London: Palgrave Macmillan, 1988.

Scattola, Merio. "Before and after Natural Law: Models of Natural Law in Ancient and Modern Times." In *Early Modern Natural Law Theories: Contexts and Strategies in the Early Enlightenment*, edited by T.J. Hochstrasser and P. Schröder, 1-30. Dordrecht: Kluwer Academic Publishers, 2003.

Skinner, Quentin. "Meaning and Understanding in the History of Ideas." In *Meaning and Context: Quentin Skinner and His Critics*, edited by James Tully, 29-67. Cambridge: Polity Press, 1988.

Sorkin, David. *The Religious Enlightenment: Protestants, Jews, and Catholics from London to Vienna*. Princeton and Oxford: Princeton University Press, 2008.

Strauss, Leo. *Natural Right and History*. Chicago: University of Chicago Press, 1953.

Striker, Gisela. "Origins of the Concept of Natural Law." In *Essays on Hellenistic Epistemology and Ethics*, 209-20. Cambridge: Cambridge University Press, 1996.

Tuck, Richard. *Philosophy and Government 1572-1651*. Cambridge: Cambridge University Press, 1993.

Turnbull, Paul. "The 'Supposed Infidelity' of Edward Gibbon." *The Historical Journal* 25, no. 1 (March 1982): 23-41.

Womersley, David. "From Polybianism to Perfectibilism: The Influence on Gibbon of 'Le Chevalier de Chastellux." *British Journal for Eighteenth-Century Studies* 13, no. 1 (1990).

―――. *The Transformation of* The Decline and Fall of the Roman Empire. Cambridge: Cambridge University Press, 1988.

Wright, Johnson Kent. "Historical Thought in the Era of the Enlightenment." In *A Companion to Western Historical Thought*, edited by Lloyd Kramer and Sarah Maza, 125-42. Oxford: Blackwell, 2002.