



The Fall of the Priests and the Rise of the Lawyers

By PHILIP R. WOOD

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For several millennia, religion served the world as a source of ethics—in other words, to provide answers to how to live, or to Kant's three questions: What should we do? What can we know? and What can we hope for? But during the last century or so, religion is perceived to be in decline. This is true not only for Christianity in the West, but also for Eastern religions or philosophies (such as Confucianism).

By the late 19th century, the main attack on religion appeared to come from science. Western science, which arose, uniquely, from Christianity [1], especially the Christian notion of the absolute (God) [2], whence the ideas of the ordered universe and nature accessible to human reason,¹ begat the further idea that ethics could somehow be derived from objective reality.² Another line of attack was against the teachings of the religions about a future life of bliss after death on Earth, for those who had led ethically admirable lives: Francis Bacon, especially, promulgated the idea that science offered hope for a better life on Earth [3], and by the end of the 19th century science's overwhelming successes in mastering nature carried the argument almost to completion.

Nevertheless, the supremacy of science lasted less than a hundred years. In the latter half of the 20th century, science itself was under attack. One line was the malevolent purposes that had appeared alongside the benevolent ones. The massive bombing campaigns of World War II evoked a peculiar horror, culminating with the ghastly massacres of Hiroshima and Nagasaki. This line of attack has always been rebutted by the argument that the scientists are not in control of the applications. Much more serious is the inconsistency within the ensemble of Western morals underpinning science. Stent gives examples [4]. An acute one is contemporary biology's reification of the soul. Descartes, it will be recalled, separated the body, understandable as a machine, from the incorporeal soul to which morals apply, and from which humans derive the freedom of, and the responsibility for, action. If the soul is thus denied, many cherished moral tenets of our time would have to be abandoned if inconsistency were to be avoided.

Another contender for a system of morals (i.e., ethics) is law. To be sure, the major religions themselves have created laws.³ But, as Philip Wood points out, the amount of such law is quite small and was, moreover, mostly formulated in the era of the foundation of the religions, in a completely nonindustrial, mostly agricultural world. The range of topics covered is rather narrow and much of such law has little relevance to contemporary civilization. The sheer scale of many kinds of modern happenings overwhelms traditional ideas (for example, to be like the good Samaritan is an ideal to which many citizens would aspire, but the approach cannot cope with the floods of destitute refugees arriving across the Mediterranean). In contrast, secular law covers essentially every aspect of living in a human society, and is constantly being updated and expanded. The Romans had a strong sense of law without religion. Wood quotes Cicero in *De Legibus*, "law is the highest reason, implanted in nature ... Law is understanding, whose natural function is to command right conduct and forbid wrongdoing ... The origin of justice is to be found in law, for law is a natural force" and "laws were invented for the safety of citizens, the preservation of states, and the tranquillity and happiness of human life." In England, the signing of Magna Carta in 1215 was the seminal event. Strikingly, since 1830, when the Industrial Revolution was well under way in Great Britain, although world population has grown about sevenfold, and gross domestic product (GDP) about 85-fold, law has grown a thousandfold (chart on p. 25). This fact alone compels attention to the law.

Philip Wood's most fundamental point is that law is actually necessary for human survival. This he evidences by recounting the striking histories of small groups of humans *in extremis* (e.g., on rafts escaping from shipwrecks). Also important is the notion that law does not need to be underpinned by a set of morals derived from ultimate values, such as those espoused by Christianity. Here we have the conflict between two alternative and, fundamentally, mutually incompatible sets of morals so eloquently set forth by Machiavelli [6]. On the one hand

¹ In contrast, Eastern religions such as Buddhism or Taoism consider that nature is inscrutable, and that single causes cannot be isolated.

² Note, however, that Paul of Tarsus suggested the idea of "natural religion" long before modern science got under way—see his *Epistle to the Romans*, especially ch. 1.

³ Science, especially the physical sciences, also has laws, but their purpose is very different. See, e.g., ref. 5.

there is the Christian ideal of the supremacy of individual freedom and justice; on the other there is societal law and order, underpinned by communal purpose.

Another theme developed by Wood is the notion that the sheer complexity of modern life, with its innumerable facets, especially those involving enterprise (company law, intellectual property, employment, banks, insurance and so forth) and the law of tort, dealing with civil liability, and culminating in contract law (“one of the greatest triumphs of the law is that, subject to some very basic restraints, you can agree what you like with whom you like and the state will enforce it”) are unimaginable without a pervasive framework of law. Indeed, many consider that the provision of such a framework is the most fundamental duty of the State. It is sufficient. Almost everything that is enacted (including making the goods, including tools and machinery, that we use, and providing services) is done by a corporation—a juridical person—perhaps the most important creation of the law, and nowadays both beneficiary and target of the law.

Wood takes a narrower view of religion than Erich Fromm, according to whom a religion is anything that offers a person or group of persons ultimate orientation, and an object to which complete devotion can be accorded [7]. The great supernatural religions of the world, as Wood points out, not only explain the cosmos and our rôle, but also offer salvation. Science has done a great deal to explain the cosmos (albeit underpinned by the notion that emerged from Christianity, of a rational, ordered universe), and our rôle might be inferred from that explanation, but cannot offer salvation in the way that the religions do. Instead, Wood suggests, “we have a duty to survive owed to future generations, we have a duty to discover the mysteries of the cosmos ... We have this duty so that we may control our fate instead of being subjected to it ... In order to realize this duty we have to ward off oblivion and to do that we need a moral framework to guide us and keep us alive as long as possible. We need to survive so that our science can protect us by enabling us to meet our destiny with knowledge ... we must promote the ethics of our legal systems to prevent this nullity, the void of nothingness. We do these things knowing that the effort may be doomed and that the universe may be pitiless or just blind” (p. 179). Thus is survival put at the root,⁴ and the rafts of shipwrecked mariners are a microcosm showing how law can enable us to achieve it. The ethical framework is given by the communal purpose, and the ultimate purpose is, indeed must be, survival.

There is a great deal of empirical evidence presented in the book—measurement of the growth of law (e.g., by the number of pages of legislation and the number of lawyers, including the numbers in government, as evidence of secularization), and of the decline of religion (e.g., the numbers of priests and believers, and the number of priests in government). Determining the number of believers is always difficult. Wood takes as his criterion belief in the immortality of the soul and a personal God, and ritual weekly practice. While it is true that in the Middle Ages in Europe the Christian church was omnipresent, compared with marginal today, the great majority of people might still have been pagan at heart [8].

Oddly, the only contenders to the lawyers for “who rules the world” considered by Wood are economists. Scientists are presumably ruled out by the aforementioned inconsistency, even though it is not explicitly mentioned in the book. But what about engineers, who differ from scientists in some fundamental ways [9]? As Wedderburn-Ogilvy points out, they are the right people, who “by their ability to think analytically, objectively and honestly are equipped to cut through the humbug, the entrenched interests, inflexibility and idleness ...” [10]. And, if present trends continue, what about the environmentalists (albeit that they ought to be considered as part of another religion, at least according to Fromm’s definition)? Possibly, economists are merely priests of the religion of Mammon, serving at the altars of plutolatriy. Cupitt makes the case for Mammon: “[he] is an internationalist. He wants people to be healthy and well educated. He wants peace and stability, progress and universal prosperity” [11], and Wood credits the economists for having made some progress in discovering “what is really going on” (microeconomics and macroeconomics). Perhaps this is exaggerated. Even some quite fundamental concepts such as money are still not well understood within the community of economists, with often acrimonious debates between those of opposing viewpoints [12]. Furthermore, discovering underlying mechanisms is not the same as ruling the world: the physicists who formulated the principles of thermodynamics did not drive the Industrial Revolution. Perhaps for such reasons Wood does not consider the economists as serious contenders. In any case, the real priests of plutolatriy are surely accountants, which the author does not mention at all, even though they now dominate the top management of large firms in the UK. Their skill set is almost

⁴ This recalls the words of Shadrach, Meshach and Abed-Nego when threatened with annihilation: “If it be so, our God whom we serve is able to deliver us from the burning fiery furnace, and he will deliver us out of thine hand, O king. But if not, be it known unto thee, O king that we will not serve thy gods, nor worship the golden image which thou hast set up” (Daniel 3, 17–18).

diametrically opposite to that of engineers, which might explain why so many of those large firms seem to be difficulties nowadays. Despite Cupitt's sanguine remarks, the ethics of Mammon are really built upon greed, which, far from promoting survival, is intrinsically self-destructive.⁵ Wood does mention some religious underpinning of greed (the accumulation of material things being one of Krishna's main goals of life—p. 100⁶) but is silent about the roots of modern Western capitalism lying in Protestant Christianity, especially Calvinism [14].

Towards the end of the book, Wood considers some failings of the law, including the unfree state, abusive litigation, excessive size, inadequate harmonization between different legal systems, and abuse of money. The last-named might be considered to belong to the domain of economists but some of the most grotesque abuses of money, namely the ownerless structures that have proliferated in recent years in jurisdictions like the Cayman Islands, are underpinned by a comprehensive legal structure [15]. Regulatory law epitomizes the first-named: Wood points out that “many regulatory bodies are an affront to basic constitutional notions of the separation of powers” (p. 244) because government regulators combine the roles of legislator, executive (monitoring compliance) and judicial tribunal (to punish offences). Given the constant tendency to increase regulation, this trend is likely to worsen. The European Union (EU) has been in the vanguard of inflating the size of the law; with the likes of the 25,000 words used to regulate the import of caramel sweets (as long ago as 1981) it has made itself something of a laughing stock [16].

Discussion of the failings can be expanded. Nazi Germany's “final solution” formulated in the 1942 Wannsee conference, dubbed “clean and tidy”, was made so as much by the comprehensive legal framework within which it took place, and which was meticulously adhered to, as by the accompanying industrial apparatus of gas chambers and incinerators. Existing laws are often simply ignored when administrative shortcomings are criticized (the “cock-up—cover-up—close ranks” progression, rather than remedy the wrong) [17]. Wider issues include the fact that the growth of law does not guarantee that it is becoming better—that is, more civilized, more humane. Buckle, writing in the middle of the 19th century, pointed out that moral truths (as asserted by the great religions) had remained more or

less static for thousands of years; human progress must, therefore, be ascribed to the growth of knowledge [18]. Latterly, however, it has been asserted that research intended to increase knowledge may produce ignorance [19]. Philip Wood castigates the supernatural religions for having failed to keep up with societal changes, whereas the law has done so, but that, after all, is not their purpose, which is to present eternal truths;⁷ whereas the law, serving communal purpose, must inevitably do so. And, the law is now being castigated for failing to keep up with the latest, technology-driven, societal changes, such as social media and Internet trading, whose rapidity of continuous change makes the law seem sclerotic.

Philip Wood concludes the book with an outline of a (voluntary) personal code for a modern way of living, and enunciates seven propositions (of which the first two are the most important): honour and believe in the rule of law; let your moral life inspire others; owe your fealty to all members of the planet; honour and believe in scientific progress; persevere in illuminating your mind; in matters of sex, follow your best moral conscience; and take delight in your existence. And whence cometh the law? It is what we have, which has gradually evolved and developed over several thousand years. Its essentially universal acceptance represents the apotheosis of Machiavelli's view of the triumph of communal purpose over individual freedom. Law, declares Wood, articulates moral ideas and hopes and is an instrument of empowerment and liberation.

The scope of this book is immense, encompassing not only the idea of understanding our place in the universe, but also how we might live with our fellows. Of course, the two are linked, because it is inconceivable that we could reach such understanding without vigorous social intercourse. The main thesis is that law has displaced religion as a framework to which most members of society can accede, and is just as good, if not better at promoting survival than religion. There are substantial surveys of the world's major religions and the world's major legal systems: among which the three biggest are common law (in England and related countries); Roman law (in Germany and Russia); and Napoleonic law (in the Latin world and much of Africa). These surveys alone make the book worth reading.

What of the future? Will law continue to expand? Will it thereby remain tractable? As “artificial

⁵ “... and appetite, an universal wolf, ... Must make perforce an universal prey, And last eat up himself” (W. Shakespeare, *Troilus and Cressida*). Along the way a great deal of general destruction of civilized values takes place, such as via the enormous proliferation of meretricious goods whose sole *raison d'être* is chrematistic.

⁶ See also ref. 13.

⁷ As Powicke remarks, the history of the Christian church in the Middle Ages “is the record of the greatest of all human efforts to find that certainty, that something out of life, which ‘while it is expected is already gone—has passed unseen, in a sigh, in a flash—together with the youth, with the strength, with the romance of illusions.’” [8].

intelligence” becomes more powerful, could it replace lawyers?⁸ Many issues arising under Roman and Napoleonic law can be decided algorithmically. Interestingly, Wood expresses no overarching opinion on whether some of these systems are better than others. One would have to look at the societies in which they are embedded to decide. Voltaire much preferred English society to French, and it may be that England’s common law system represents the best compromise that can be achieved between individual liberty and communal purpose, whereas the Continental systems are more firmly in the camp of communal purpose.

The bottom line is that law, evolving *pari passu* with human civilization and not, therefore, ordained by any arbitrarily supreme authority, is the framework within which communal purpose can prosper, without any obvious limit to its development, without the need to acknowledge exogenous input, and without the need for asserting moral axioms such as the Golden Rule (ethic of reciprocity).⁹

J.J. RAMSDEN

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⁸ It is worth noting that the early Christian community was essentially a movement without priests [20].

⁹ As you would that men should do to you, do ye also to them likewise.