ESSENTIALISM AND THE SEARCH FOR THE ESSENCE OF LAW

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INTRODUCTION

The definition of law has always been a central theme in legal philosophy. In pursuit of this theme, legal philosophers have since the early Greek civilization sought to discover the essence of law. While this pursuit has led to a variety of schools of thought, it is highly significant that the methodology of defining law has remained the same, based upon the Aristotelian concept of essentialism. This concept acquired its popularity and universal acceptance through the works of St. Thomas Aquinas who developed it within the framework of natural law philosophy. Today, even legal positivism which rejects natural law philosophy and stakes everything on concrete *scientific* knowledge applies it.

What is essentialism and what is its methodology of definition? This paper sets out to answer these questions primarily for the purpose of elucidating an important concept that has for too long been taken for granted. In expounding this concept, first, an attempt will be made to illustrate its methodology of definition by demonstrating how the founders of the concept, Aristotle and St. Thomas Aquinas, applied it in their definition of law. We shall then try to examine the concept within the general context of idealist epistemology, philosophy of nature and metaphysics in order to evaluate its impact on the prevailing ideas of law during the classical and feudal times.

I. THE CONCEPT OF ESSENTIALISM

Essentialism is a particular manifestation of the philosophy of *objective idealism*[1] and its methodology of definition. It posits that the task of a definition is to find an accurate expression of the *essence* of an object or phenomenon. Essence in this context has been defined as *the set of fundamental attributes which are necessary and sufficient conditions for a thing to be a thing of that type.*[2] The essence is what the definition of a term fixes: *It is predicate-words, not whole sentences which can stand for essences; and it is definitions which can express the essence in words, i.e. specify what properties are essential to things.*[3] In practice, this translates into a methodology which consists in the analysis of a species in terms of its *genus* and *differentia.* This means that the object of the definition is identified as a member of a larger class and distinguished from other members of that class.

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1. This is one of the main forms in which the philosophy of idealism is expressed. Its major proponents acknowledge the existence of the material world, but argue that concepts or ideas are the true basis (the essence) of the world and are therefore primary. Hegel, whose view typifies objective idealism, contended that all material objects and facts are products and manifestations of the *Absolute idea* or *World spirit*, and are therefore secondary. See Hegel, G.F.W., quoted in G.C. Christie, *Jurisprudence: Text and Readings on the Philosophy of Law* (Minnesota. West Publishing Co., 1973), 81.

2. M. Cohen, & E. Nagel, *An Introduction to Logic and Scientific Method* (Chicago, 1934), 235.

3. A. Edel, *Aristotle and His Philosophy*, (120 Chapel Hill, 1982), 203.

This concept is based upon Aristotle's theoretical assumption that there is a correspondence between the human mind and extra-mental reality. This implied that in the context of the apprehension of a universal proposition by the human mind, the formulation of the essential concept of a thing could be verified by extra-mental reality. Indeed, according to Aristotle, the essential concept of a thing is actually derived from extra-mental reality and, by analysis, the concept in turn could be formulated into a verbal expression which is the concretization of the mental concept referred to as the definition. The function of a definition therefore, according to him, is to give an accurate verbal expression to the essence of this extra-mental reality conceived by the human mind.

This belief led Aristotle to assert that words can stand for essences or natures, and that defining the meaning of a word also, given certain conditions, can specify what the thing is and what kind of nature it possesses. Accordingly, he developed a method of definition that begins with the identification of all the various uses of the word to be defined, proceeds to the identification of the common features, and finally ends with the identification of those common features that embody the essence of the thing.

In formulating this methodology of essentialism, Aristotle relied heavily on what he described as the intuitive capacity for abstraction. It is this capacity, he said, which enables a person to obtain an immediate understanding of what a thing is and, for this reason, allows for an intuitive grasp of the essence of a thing. However, since this process merely yields a grasp and not a definition, Aristotle stressed the point that the task of a definition is not just to clearly distinguish the object by reference to certain parts of its characteristics from other objects in the field of investigation, but also to characterize them in an essential manner. As he explained it:

> The process of accurately expressing the essence of a thing is *essentially discursive*, and its form is ...a formula which is necessarily composed of parts. To define is thus to break down a unitary concept into a multiplicity; to move from an intuitive to a discursive understanding.[4]

The break-down of a unitary concept does not, however, mean fragmenting or atomizing it, for *To define something is not to disintegrate it into atomic parts; for even as he analyzes, the definer is aware that he is dealing with a unitary thing, a single concept.*[5]

II. APPLICATION OF ESSENTIALISM TO THE DEFINITION OF LAW

A. Aristotelian Application of Essentialism

Applying his methodology of essentialism to define law, Aristotle identified *order* as the main characteristic of law that distinguishes it from other social phenomena. The principle of order in a political society, he explained, is justice: corrective justice is judicial while distributive justice is the province of governmental legislation.[6] Law, therefore, to Aristotle implied the notion of justice which, according to him, is only nature's own ordinance as applied to human civilization.

From this intuitive perception of law, Aristotle proceeded to characterize the ordinance of nature as the manifestation of law in society which results from the actualization of the

4. J.M. LeBlond, Aristotle on Definition, *Articles on Aristotle*, (ed. Barnes, J., London, 1979), 64-65.

5. *Id.*, 65.

6. Aristotle, *Politics*, 1326a 29, Trans. by B. Jowett, London: Clarendon Press, 1921).

relevant faculty of cognition, that is, either the sense or intellect. On the basis of this, Aristotle identified law as *reason set forth by the common consent of the community and designed to regulate actions of every kind.*[7]

Later on, in order to understand what is law in the sense of its constitutive essence, the definition of law is further expanded to reflect the concept of the state as *a complementary and co-operative plurality of (free) men founded upon an interdependence of men pursuing the same ultimate goal of the highest good.*[8] From this analysis, the essence of law is defined as *an agreement made by the community which ordains in writing how citizens should act under every kind of circumstance.*[9]

It is instructive to point out that from Aristotle's own point of view, once having arrived at the *constitutive essence* of law, there is no possibility of error in the resulting concept of law. As absurd and anti-scientific as this claim to intellectual perfection might sound, its significance has to be understood within the socio-political context.

In fairness to Aristotle, it may be observed that, true to his materialist conception of reality (that is, the view that human thought is derived from extra-mental reality), his concept of law is derived from an exhaustive analysis of Athenian democratic society and its constitution. Aristotle conceived law as an adjunct of justice. To argue that law or order implies justice is to suggest that Athenian democratic laws were just. This suggestion was secured by the argument that nature is the basis of justice, thus linking law with the concept of natural justice. In other words, the laws of Athenian democracy were deemed to be just not only because they consorted most with the talents of man and the ethics that best suited him, but because they were based upon the intelligence that animates and orders the natural world. Athenian laws thus represent the natural order of organizing society.

The claim to intellectual perfection was therefore at the same time a claim to perfection for and an ideological justification of the laws of Greek democracy, especially the Athenian democracy which endorsed the political philosophy of the Greek oligarchy.

B. Thomist Application of Essentialism

In his work titled *Summa Theologica*, St.Thomas set out to arrive at a *true* definition of law. To this end, he identified four different types of law which, according to him, although not exhaustive of the many uses of the word *law*, are exhaustive of the word in the strict sense. These four-fold division of law, already adumbrated in Stoic philosophy and the writings of St. Augustine, were eternal, natural, divine and human laws. In examining these various types of law, St. Thomas's purpose was to distinguish the senses of law that were essential to it from those which were merely extensions of the proper usage of the term. The painstaking systematic process by which St. Thomas arrived at the essence of law remains up to today the most illustrative application of the methodology of essentialism.

It should be noted in passing that St.Thomas himself did not specify the technique by which he arrived at the definition of law. The claim that his methodology is based upon the Aristotelian concept of essentialism is an assumption derived from the argument that he accepts the various uses of a word in ordinary language as a datum; considers the task

7. Harper, *op. cit.* 91.

8. *Ibid.*

9. Aristotle, *Rhetorica ad Alexandrum*, 1420a, 1422a.

of definition as that of identifying those aspects of the uses of the word which comprise the core meaning and isolating them to form the *essential definition*; acknowledges the congruence of accepted uses of a word and a mental concept reflecting an extra-mental reality; and begins his treatise on law with an inquiry into the *Essence of Law*.[10] In support of this claim, Chenu also argues that:

> Saint Thomas did not ignore the fact that words are irreducibly supple in their meanings. He even formulated a philosophy of language proving how extremely relative he considered it to be. He looks for the *propria ratio nominis* [proper definition of a name] with great care, but this does not mean that he condemns the use of the word in its other meanings, or even in the meanings that have been added to the word or which remain very general. On the contrary, he recognizes that a vital unity holds these meanings together.[11]

To arrive at the *essential definition*, St. Thomas started off with the initial premise that *law is a kind of direction or measure for human activity through which a person is led to do something or held back.*[12] Since the direction and measure of human acts, according to him, is reason, he concluded that law is an activity of reason.[13]

St. Thomas then focussed attention on this direction which he regarded as the course which all men have reasoned out and therefore have an inclination or tendency to follow, and compared it to the tendency to sense gratification which, according to St. Paul,[14] is also law. Even though both were inclinations and directive of human behaviour which is their common feature, St. Thomas argued that the tendency to sense gratification cannot be *law* in the strict sense. This is because, as he contended, the definition of law includes *pertaining to reason* as one of its necessary elements. Therefore, he concluded, that *[L]aw is present wherever it communicates a tendency to something which tendency can be called derivatively, though not essentially, a "law".*[15] On the basis of this argument, he asserted that it is only eternal, natural, human and divine laws[16] that are *law* in the strict sense.

Eternal law, according to St. Thomas, is practically identical with the reason of God. It is the eternal plan of Divine wisdom by which the whole creation is ordered. In itself, this law is above the physical nature of man and, in its entirety, beyond human

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10. St. Thomas's *Essence of Law* was a compilation of Roman Law made at the direction of the Byzantine Emperor Justinian in 533 A.D. As a part of the Corpus Juris Civilis, it was by far the most important in terms of its influence on the civil law tradition, especially in the areas of personal status, torts, unjust enrichment, contracts and remedies.

11. M.D. Chenu, *Towards Understanding Saint Thomas*, Chicago: Regnery, 1964), 119.

12. *Summa Theologica*, I-II, Q 90, art. 1.

13. *Thus one can properly say that reason is the law of the soul because it directs the will in the form of good. Ibid.*

14. The inquiry as to whether sense gratification is a law or not arose out of St. Paul's use of the term law in one of his Epistles in which he said: *I see another law in my members, fighting against the law in my mind.*

15. *Id.* Q 90, art. 1, ad.1.

16. For a detailed discussion of this four-fold division of law, see M. MacQuigan, St. Thomas and Legal Obligation, 1961 35 *New Scholasticism*, 1961, 283 ff.

comprehension. Human beings, as intelligent creatures, could only participate in this eternal reason to the extent that their finite nature and natural aptitudes for their due activity and purpose permitted.

Natural law, on the other hand, is a reflection of Divine reason in created things, reflecting the inclination of man to his self-fulfilment as man. This inclination is manifest in man's quest for good and avoidance of evil, self-preservation, and desire to live as perfectly as possible the kind of life suitable to his natural endowments.

Divine law functions as a supplement to natural law because of man's supernatural rather than merely natural purpose of existing: *[Men] are set towards an eternal happiness out of proportion of their natural resources ... and therefore must needs be directed by a divinely given law above natural and human law.*[17] This law implies substantially revelation, such as, Christian morals or legislation, given through the scriptures or the Church. It is a gift of God's grace rather than a discovery of natural reason.

Finally, human law is the law especially designed for human beings. Derived from natural law, it is the law promulgated in order to provide for the exigencies and special circumstances of human life. This law, divided into the *ius gentium* and the *ius civile*, regulates the lives of men by applying the greater principles of order that prevail throughout the world. Human law, through reason, sets the standard according to which a man is moved to act or restrained from acting. As a product of the whole people acting for their joint good, it has the sanction of a public personage to whom the care of the community has been delegated.

From these various instances of *law* in the strict sense, St. Thomas expressed the essence of law as follows:

> Law is nought else than an ordinance of reason for the common good made by the authority who has care of the community and promulgated.[18]

The particular relevance of this definition of law lay in its conception of law as an ordinance of reason (the divine plan in the mind of God) directed to the common good (of the universe), by him who has care of the community (God). Embedded in this religious conception of law was also the socio-political reality, the secular interests of the Catholic Church.

During the feudal epoch, since legal philosophy was only a branch of theology this gave the Church control in influencing legal ideology. *While pretending that she was only interested in the higher reality of heaven, the Church was not reluctant to embroil herself in the sordidness of power politics.*[19] The Church's claim to superiority over the state during the feudal epoch drew inspiration from St. Augustine's *Civitatis Dei* which deprived the state of its aura of divinity and asserted the superiority of the Church over the state. This theory of state found sustenance in the Thomist concept of law which ascribed the source of law to God. By implication, therefore, all power and authority is derived from God and is given for a special Divine purpose. Of course, this meant also that the sovereign merely occupied a natural place in the total hierarchy of the universe, and his authority was derived from and subordinate to God.

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17. *Summa Theologica*, I-II, Q 90, art. 4.

18. *Ibid.*

19. K. Nkrumah, *Consciencism*, (Panaf, 1982), 44.

Since human positive law (that is, the law of the state) is also, according to St. Thomas, derived from the Divine positive law (that is, the law of God as positively revealed, imperfectly to the Jews and prophets, and perfectly through Christ), this means that the function of the legislator was primarily to apply the natural law as directed by Divine law and to apply sanctions. Above all, since the Divine law is made known only to the Pope (as God's representative on earth), after which it is passed on to the cardinals, bishops, priests and ultimately to the laity, the religious as well as political superiority of the Pope (as the mediator between God and man and the repository of the power of the Church) was safely anchored on the concept of Divine Revelation.

The implications of St. Thomas's concept of law for the raging feudal conflict between man-made law and natural law meant that the sovereign and human law should occupy a subordinate position to the Church and natural law. For this reason, it was officially declared as an authoritative statement of the Church.[20]

III. EVALUATION OF ESSENTIALISM

As the above analysis shows, the application of the concept of essentialism in the Aristotelian as well as the Thomist forms took account of the issue of the validity of human concepts in their application to the world. That notwithstanding, it is also clear that the logic of the methodology sometimes yielded pride of place to definite ideological considerations. How was this concern for objectivity reconciled with the seemingly contradictory ideological perceptions, and what were the ramifications of this for a scientific or objective definition of law? To answer these questions we must examine the concept of essentialism within the framework of the idealist philosophy of nature and its accompanying epistemology and metaphysics as these provided the philosophical basis for the concept and its methodology.

A. The Epistemology of the Philosophy of Nature

The early Greek philosophers, particularly Plato and Aristotle, held the view that what we become aware of by means of our senses does not by itself constitute complete reality, as that is only an appearance or representation of something non-sensory. In their view, in order to gain a complete knowledge of reality, it is not enough to simply rely on what is given to our immediate sensory experience. We must go beyond this to certain intelligible principles or *forms* in which, according to Plato,[21] all things apprehended by the senses participate, and which, according to Aristotle,[22] give actuality to what - as the material side of reality - merely has potentiality for existence, but no reality in itself.

These philosophers rejected the idea that thoughts are forged within the human subjectivity and then imposed on sense-perceptions. On the contrary, they argued that thoughts are intuitively apprehended in the world in a manner similar to the way in which objects of sense-perception are apprehended, and with the same immediacy. For Aristotle, this act of cognition is a two-fold actualization: the first involves the object

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20. Incidentally, this theoretical substantiation of the medieval exaltation of the Church vis-avis the state was closely linked with the concept of special rights which conferred authority on the Pope to rule the world as a dividend of Divine enterprise.

21. See G.C. Field, *The Philosophy of Plato*, (2nd. ed. 1969). For a detailed exposition of the philosophy of nature, see R.G. Collingwood, *The Idea of Nature*, (Oxford University Press, 1965).

22. See Edel, *op. cit* 120.

known with respect to the knowing mind, while the second pertains to the knowing mind with respect to the object known.

Although Plato differed from Aristotle in his method of arriving at the intuition of the intelligible principles that, as it were, form the other side of the world presented to our senses, he shared the same view that in our perception of these principles there can be no doubt or uncertainty. For these two philosophers, nature is itself both ideal and physical and manifests to human cognition from two different directions: first from the external world which we apprehend with our senses, and then it is also revealed to us inwardly in the act of thinking.

For both these philosophers, the fact that human beings are able to gain understanding of nature means that not only is nature herself intelligent, but also that it is this very intelligence that human beings - as the highest beings on the scale of nature - function with when they think. In other words, it was considered that no radical difference exists between the intelligence of man and the intelligence that animated and ordered the natural world.

Knowledge was therefore conceived by Plato as the conscious participation of human thinking in the ideas of which the phenomenal world is a reflection. Aristotle, on the other hand, regarded it as the process of bringing the potentially known *substantial form* or an object to consciousness in the mind of the knower, wherein it assumed actuality as an *intelligible form*. In both cases, knowledge was considered to consist in the mind passively receiving, rather than actively interpreting, the objects towards which it was directed. This led Aristotle to affirm that there is no possibility of error in the apprehension of forms. According to him, error is only possible in the making of judgments, when one idea is linked with another, but *understanding what anything is, in the sense of its constitutive essence is never in error.*[23]

Accordingly, the goal of scientific knowledge was neither the formulation of *laws of nature* that externally condition appearances, nor the invention of likely theories to account for certain natural occurrences. Rather, there was a preoccupation with gaining an insight into the *universal forms* or principles that condition individual sense - perceptible phenomena from within.[24]

On the basis of this epistemology, Greek philosophy for a long time evolved no formalized concept of law, it being considered that it was sufficient that nature should enact laws of her own. Indeed, the first attempts to formally conceptualize law or *nomos* considered law as an order of universal obligation not confined to any one community or *polis*. This cosmic concept of law was explained by the fact that *nomos* originated as an all-embracing order or custom of religious significance, and every human law was believed to be nourished by a Divine and universal law in accordance with the *Logos*, the formulaic constituent of the cosmos.[25]

Even when a formal definition of law was later introduced into Greek philosophy, the platonic hypothesis about the knowledge of truth which emphasised the universal forms

23. Aristotle, *De Anima*, 430b 26, (ed. W.D. Ross, Oxford edition).

24. See Collingwood, *op. cit.*, 3-7.

25. See G.S. Kirk, & J.E Raven, *The Presocratic Philosophers*, (Cambridge University Press, 1971),214. *The belief was prevalent among the Greeks that during the early history of mankind, affairs were regulated largely by means of custom; few laws were required and least of all written laws.* A.W.J. Harper, The Concept of Law in Greek Philosophy, *Second Order*, III, 2, July 1974, p. 90.

of things made it clear that the purpose of a definition was not to give expression to any external objective reality since law was presumed to be an innate category. Plato's description of law as the judgment and *publicly proclaimed decision in an organized society* was therefore merely concerned with the form in which *a resolution is expressed as to which of various human conditions should be best.*[26]

On the other hand, it is a credit to Aristotle that his materialist conception of reality which underscored the primacy of extra-mental reality and the importance of verifying human concepts, such as definitions, required the correspondence of the latter with the former. This conception of reality underscored the recognition of the objectivity of objects and phenomena, a recognition that was extended to Aristotle's notion of essentialism. The epistemological significance of this materialist conception was, however, lost in the Thomist application of essentialism because of the prevailing dominant medieval philosophy.

B. Metaphysics and Medieval Legal Philosophy

During the feudal era, in accordance with the philosophical doctrines inherited from ancient Greece, the medieval philosophers viewed the phenomenal world as a product or an effect of a creative and all-sustaining world of invisible forces or ideas. The human mind, it was believed, had a special affinity with these forces and ideas. Even though inwardly conceived, a concept or ideal was regarded as the actualization of something that exists in the external world. The mode of existence of this creative ideal in nature was recognized as different from its mode of existence as an *intentio* in the human mind. However, the *external* world itself, was not regarded as wholly external. It was believed to have its inward side too, which was reflected in the inner life of the human being.[27]

The medieval philosophers also held the view that the rational principles which are discovered in nature ultimately reside in the mind of God. As Divine ideas, they subsist as the eternal archetypes of all created things, inaccessible to cognition by the merely human intellect, unless this is illumined by a Divine light or *lumen gloria*[28] Hence the pursuit of scientific knowledge was regarded as being intimately connected with a religious end. Nature itself was regarded as essentially sacred, thus making it necessary for natural philosophy to provide a way by which one could ascend to a contemplation of the immutable forms through a kind of platonic ascent.[29] Otherwise, the pursuit of natural philosophy was justified by the fact that the more one immersed oneself in the study of nature, the more one would be moved by the knowledge of creation to the love of its creator.[30] In both cases, what could be achieved by the inquiring mind in terms of

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26. Plato, *Laws*, I, 644d, (ed. E.B. England, Manchester, 1921).

27. See J. Naydler, The Regeneration of Realism and the Recovery of a Science of Qualities, (June 1983) XXIII, No.2 issue No.90 *International Philosophical Quarterly*, 156.

28. *Since man's acquisition of knowledge begins from the senses, that is, from outside, it is clear that the stronger the light of the intellect is, the deeper it can penetrate into the innermost things. But the natural light of our intellect is of limited power; and therefore it can advance only to a certain limit. In order to gain knowledge of something which cannot be gained by the natural light, man requires a supernatural light. And this supernatural light given to man is called "the gift of the intellect".* St. Thomas Aquinas, *Summa Theologica*, II-II, q, art, 1.

29. E.g. as in St. Bonaventure's *Itinerarum Mentis ad Deum* (The Mind's Road to God).

30. For this reason, St. Thomas Aquinas urges the study of science as a means of intensifying man's love for God, for the works of God reveal His wisdom and power. *Summa Contra Gentiles*, II, ch. 2-3.

scientific knowledge was subordinated to the end that could be gained through the metaphysical contemplation of something purely spiritual. In support of this view, St. Augustine awarded the pursuit of wisdom a higher mark than the pursuit of scientific knowledge.[31]

With regard to the epistemological question as to how we come by the knowledge of law, almost all the medieval theologians were agreed that it had something to do with reason or sense experience. However, on account of their profound distrust of man's ability to know anything without the intervention of the power of Divine Revelation, they maintained that it is impossible for man to obtain certain knowledge of anything without *the special illumination of the Uncreated Light.*[32]

Of course, it was clear to some philosophers like St. Thomas Aquinas, that knowledge of some sort can be obtained by man. However, to the extent that he perceived any problem of knowledge at all, it had to do with how to safeguard and justify metaphysics in the face of Aristotelian psychology rather than to justify the objectivity of knowledge of the extra-mental world.[33] To search for an epistemology in St. Thomas's application of the methodology of essentialism in the sense of a justification of knowledge or proof or attempted proof of the objectivity of knowledge would therefore be in vain. Accordingly, the question as to whether essentialism was capable of being applied as a scientific methodology or not was irrelevant to medieval legal philosophy and, consequently, could not have been not raised at all.

This philosophy of nature influenced the idealised interpretation of essentialism by St. Thomas Aquinas who ascribed to definitions a teleological function. St. Thomas's application of essentialism was therefore directed at constructing a universal scheme of God, nature and man within which society, civil authority and law would find their due place. This is clearly reflected in the main aspects of his conception of law which tends to emphasise law as something much broader in scope than a means of regulating human relationships. Derived from a fundamentally religious outlook, it views law as part and parcel of the whole system of Divine government - an emanation from Divine reason - which regulates everything in heaven and on earth. Law, therefore, from the Thomist perspective, represents merely one aspect of a cosmic fact.

The significance of reducing a specifically philosophical issue of defining law to the status of a religious issue is only fully comprehensible when we realize that, for the medieval theologians, law as an idea was not seen as a mere nomenclature that proceeds from the subjectivity of the mind of the philosopher himself. It was rooted in a world of supersensible entities.

In accordance with this belief, it could not be assumed that law - as the name of a thing arrived at through the process of definition - was simply arbitrary. Just as sense-perceptible objects were viewed as representations of spiritual essences that exist in complete purity in the mind of God, so too the names given to things by man arose out of his cognition of their essential nature as this is made manifest in the physical world. As St. Thomas expressed it, what is grasped in the act of cognition by the knowing mind is

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31. According to St. Augustine, science belongs to the sphere of the useful (uti), and it is absurd to take the useful as an end in itself. Wisdom, however, belongs to the order of ultimate ends or goals worthy of pursuit for their own sake, which alone bestows blessedness upon those that pursue them. See J. Maritain, *Science and Wisdom*, (Geoffrey Bless, London, 1940), 18.

32. Duns Scotus, *Philosophical Writings*, (trans. A. Wolter, 1962), 105.

33. See P. Rousselot, *The Intellectualism of St. Thomas*, (trans. Fr. James, O.S.F.C., London, 1935).

then expressed by the concept or word which is *tanquam speculum, in quo res cerniture* - like a mirror in which the object is discerned.[34]

The name of a thing was therefore regarded as having a similar relationship to its inward, spiritual nature as the latter does to its outer physical manifestation. Ultimately, all objects and phenomena were viewed as being in greater or lesser degree *names* of God. For it was believed that the world was the thought of God realized through His word.[35] Law and other phenomena were thus regarded as representations or images of the Divine word, just as the human word was believed to be the representation of what is actualized in the knowing mind as the intelligible form.

The process of discovering the essence of law could thus not be dissociated from man's spiritual destiny as considered from the standpoint of Christian teleology. Indeed, St. Thomas's essential definition of law was actually linked to the question of law's power to bind in conscience. As he made patently clear, his primary concern was not with whether a law is binding because of the threat of earthly sanction, but whether one is morally bound to obey the law. His conclusion, which is significant, was that a law is binding in conscience only if it is law in the truest or most essential sense, because the essence or nature of law is intimately bound up with justice. Hence his controversial statement that an unjust law is not a law at all.[36]

CONCLUSION

In summary , it would seem fair to conclude that while Aristotle and St. Thomas faithfully adhered to the methodology of essentialism, despite the overtures to logic, the focus of this methodology had little or nothing to do with the development of a scientific method for defining law. Indeed, the application of the methodology of essentialism, as we have shown, was not only diverted from objectivity by the overriding concern for justifying the existing dominant political ideology, but was actually incapable of yielding an objective or scientific definition of law because of the influence of idealist epistemology, philosophy of nature and metaphysics.

The overall picture that emerges from the application of the methodology of essentialism is thus, at best, that of an intuitive grasp. It would seem that, for want of precision, St. Thomas, for example, was ready to accord the propriety of term designation to even things that lack all the common features of law. It is therefore unfortunate that this approach to definition which permits the subjective choice of labelling the use of a word as *weak* or *loose*, rather than simply as erroneous, with the *proviso* that it is a qualified or weaker use of the word still reins supreme as the accepted methodology for the definition of law in Western jurisprudence.

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34. *On the Power of God*, Q 8, Art. 1.

35. *Summa Theologica*, I, Q 33.

36. The issue as to whether an unjust law is really a law or not has been the bone of serious contention and the basis of division between natural lawyers and positivists. For a discussion of the controversy, see Kent, R. Greenwalt, Natural Law and Natural Rights by John Finnis, [Feb. 1982], *Political Theory*, 134.