

## NATURAL LAW AND POSITIVISM: A SCANDINAVIAN VIEW

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The writers known as the Scandinavian Realists, the Swedes Axel Hägerström, Anders Vilhelm Lundstedt, Karl Olivecrona, and the Dane, Alf Ross, share a common tenet, that is, the rejection of natural law.

According to the Swedes, natural law is metaphysics. There is only one world, the world of experience in Space-Time, and this world is devoid of values. This world has no moral character, as the proponents of natural law claim. But the natural law claim can be seen to involve a contradiction, Hägerström claims. If the universe — or the world in Space-Time — were conceived to consist of two realms, the realm of values and the realm of facts, then an explanation would be required as to why these two realms exist. For, according to Hägerström, everything in the world can be explained as the effect of some cause, and to suppose anything else is immediately to abandon the hope of rational understanding, for rational understanding simply consists of the knowledge of causes. But, if more than one realm is admitted, to provide an explanation of their nature must be to represent the realm of fact and the realm of value as the effects of causes other than themselves. But this leads inevitably to contradictions, and thus is impossible. According to Hägerström, political, social, and legal problems must be studied scientifically and dispassionately, and there is no place in legal science for moral and religious exhortation, what natural law amounts to. If we wish to know how a stable society is to be maintained, then we must understand human beings as natural organisms, and we must not base our policies on ideal conceptions of human nature, or on moral preferences which can only express our subjective tastes and emotions. Power, then, not natural law, is the fundamental concept in the study of man and his place in nature and society.

Hägerström, in effect, argues that the distinction between doing something for a reason on the one hand and being caused to do some-

thing on the other hand is at best a superficial distinction. The truth is that everything really happens as a result of the operation of causes. This position implies an altered attitude to much that forms part of our accepted ways of thought: for example, procedures of justification and excuse, crime and responsibility. As Karl Olivecrona says, if Hägerström's analysis is correct, "it is bound profoundly to affect our view on law and society". This paper is concerned with the question whether Hägerström's analysis is correct. It is submitted that it is not, because there is a real, and not only superficial, distinction between acting and being acted upon, between reasons for action and causes of actions.