subtopic

# Abraham Lincoln

**ABRAHAM LINCOLN *and the* NATURAL LAW TRADITION**

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When Abraham Lincoln said in 1858 that the real issue in the slavery controversy was the eternal struggle between right and wrong throughout the world, he spoke the language of natural law. The natural law tradition posits the existence of an objective and universal moral order external to subjective human intellect and will that gives direction to human beings and provides for their flourishing. From a Christian perspective, natural law, in virtue of its participation in the order of divine providence, is written in the human heart to guide the free acts of human beings in making morally right choices. In a modern secular sense natural law theory is an account of the condition of human beings in a hypothetical state of nature, prior to the formation of civil authority resulting from the formation of a social contract based on the consent of individuals. It is important to note that premodern natural-law thinking consisted in moral standards that are intrinsically right by nature, from which duty and obligation reasonably and, as it were, automatically follow with respect to human conduct in politics and society. In contrast, modern doctrines of natural law have generally assumed the form of social contract theories that emphasize rights and liberties, derived from the natural law, which individual persons possess and are free to exercise in virtue of their human nature.

European settlers brought natural-law thinking to North America where, in significant measure, its premises informed the founding of political and social institutions. The American war for national independence from Great Britain culminated in the founding of the United States of America as a natural rights republic. In its natural-rights inflection, natural-law thinking influenced the framing and ratification of the U.S. Constitution. In the nineteenth century, under the constitutional principle of federalism, northern and southern states adapted natural-rights norms in substantially different ways according to their economic and cultural proclivities. Moral controversy over the existence of slavery in republican society lay at the center of the sectional conflict that led to the Civil War.

From a natural-law perspective, Abraham Lincoln's signal achievement was to preserve the natural rights republic through acts of statesmanship grounded in natural-law reason of state and guided by the natural-right virtues of prudence and practical reason. Lincoln's statesmanship was based on the "principles of true republicanism" to which he appealed in presenting himself as a candidate for the Illinois state legislature in 1832. In the sectional conflict over slavery, Lincoln affirmed, clarified, and vindicated the unique amalgam of classical natural law and modern natural rights that defined American republicanism.

In the Anglo-American legal tradition slavery was not justified by the natural law, but depended on the belligerent right of conquest for legal recognition. Against this historical background, Lincoln grew up on the American frontier recognizing and knowing the injustice of slavery as a system of labor and social institution. Throughout his career Lincoln expressed in writings and actions the conviction that slavery was a violation of natural law that gave rise to a duty to recognize and, to the extent possible, to secure the natural rights of liberty and equality to America's slave population.

Discussing the basic principles of republican society, Lincoln wrote in 1847: "In the early days of the world, the Almighty said to the first of our race 'In the sweat of thy face shalt thou eat bread,'" and since then "no good thing has been, or can be enjoyed by us, without having first cost labour." It followed that "[all] such things of right belong to those whose labor has produced them." Lincoln observed, however, that throughout history "*some* have laboured, and *others* have, without labour,

enjoyed a large proportion of the fruits. This is wrong, and should not continue."[1]

Slavery violated man's natural right to labor and to the goods produced by labor. As slavery was a case of categorical moral injustice, so Lincoln's antislavery convictions were directed toward the larger political and moral project of perfecting the natural-right principles of American national union. In 1854 the adoption of the Kansas-Nebraska Act, which repealed the thirty-four-year-old Missouri Compromise line excluding slavery from national territory, gave Lincoln the opportunity practically to apply natural-law reasoning in the sectional conflict over slavery.

At Peoria, Illinois, October 16, 1854, Lincoln delivered a morally clarifying speech that crystallized the nascent Republican party's demand for restoration and renewal of natural rights republicanism against openness to the spread of slavery signified in the policy of popular sovereignty in Sen. Stephen A. Douglas's Kansas-Nebraska Act. The South claimed a right of equality with the North in opening national territory to the expansion of slavery. Rejecting the claim, Lincoln denounced slavery as a "monstrous injustice" and a direct contradiction of "the very principles of civil liberty" in the Declaration of Independence. Lincoln said that the right of republican self-government "lies at the foundation of the sense of justice," both in political communities and in individuals. It meant that "each man should do precisely as he pleases with all that is exclusively his own." Declared Lincoln: "The doctrine of self-government is right—absolutely and eternally right—but it has no just application" as attempted in the Nebraska Act. Spelling out the natural-law premises of his argument, Lincoln continued: "Or perhaps I should rather say that whether it has just application depends upon whether a negro is *not* or *is* a man. If he is not a man, why in that case, he who *is* a man may, as a matter of self-government, do just as he pleases with him. But if the negro *is* a man, is it not to that extent, a total destruction of self-government, to say that he too shall not govern *himself*?" Recurring to the nation's founding principles, Lincoln summarized: "If the negro is a *man*, why then my ancient faith teaches me that 'all men are created equal'; and that there can be no more moral right in connection with one man's making a slave of another."[2]

The element of natural law in Lincoln's political thought to some extent overlapped or converged with the providential aspect of evangelical Protestantism that informed his moral personality. In an address to the Wisconsin State Agricultural Society in 1859, Lincoln criticized the "mud-sill" theory of society which regarded hired labor, like slave labor, as "a fixed condition for life." Under this doctrine, Lincoln said, "a blind horse upon a tread-mill, is a perfect illustration of what a laborer should be—all the better for being blind, that he could not tread out of place, or kick understandingly." The mud-sill theory deemed it "a misfortune that laborers should have heads at all. Those same heads are regarded as explosive materials, only to be safely kept in damp places, as far as possible from that peculiar sort of fire which ignites them." With biting sarcasm Lincoln said, "A Yankee who could invent a strong *handed* man without a head would receive the everlasting gratitude of the 'mud-sill' advocates." But nature and divine grace were on the side of the advocates of republican free labor. Asserting the free labor argument, Lincoln said that "as the Author of man makes every individual with one head and one pair of hands, it was probably intended that heads and hands should cooperate as friends; and that that particular head, should direct and control that particular pair of hands."[3]

The natural-law disposition of Lincoln's thought received its strongest expression in the Lincoln-Douglas debates in 1858 to decide a Senate seat from Illinois. Lincoln's strategy was to isolate Douglas's doctrine of popular sovereignty from the national mainstream as a form of moral dereliction for its indifference to the corrupting effect of slavery in republican society. Douglas insisted that in his official capacity as a United States senator he did not care whether the people in a territory voted slavery up or down. Lincoln admonished: "Any man can say that who does not see anything wrong in slavery, but no man can logically say it who does see a wrong in it; because no man can logically say he don't care whether a wrong is voted up or voted down." Douglas argued that the people of a political community, like any individual, had a right to have slaves if they wanted them. Lincoln reasoned: "So they have if it is not a wrong. But if it is a wrong, he cannot say people have a right to do wrong."[4]

Douglas held that on the principle of equality, slave owners should be allowed to take their property into

new territory, like other property. “This is strictly logical if there is no difference between it and other property,” Lincoln said. “But if you insist that one is wrong and the other right, there is no use to institute a comparison between right and wrong.” The universal moral order of natural right commanded recognition. “[T]he real issue,” Lincoln declared, was “the eternal struggle between these two principles—right and wrong—throughout the world.” “They are the two principles that have stood face to face from the beginning of time. . . . The one is the common right of humanity and the other the divine right of kings”—“the same spirit which says ‘you work and toil and earn bread, and I’ll eat it.’” “No matter in what shape it comes, whether from the mouth of a king who seeks to bestride the people of his own nation and live by the fruit of their labor, or from one race of men as an apology for enslaving another race, it is the same tyrannical principle.”[5]

The natural law tradition not only guided Lincoln’s deliberation in the slavery controversy, but it also provided the framework for his exercise of presidential powers during the Civil War. In claiming to be an objective moral order, the natural law purports to be self-enforcing, in the sense that obedience to human laws is presumed on account of the goodness and rightness of the natural law from which the human laws derive. The discovery or development of human will in modern consent-based social contract theory casts doubt on the existence of the natural law and complicates the problem of legitimacy and obligation. According to his own understanding of the natural law tradition (which in Lincoln’s time was not yet eclipsed by idealism and pragmatism), Lincoln’s exercise of the executive power can be viewed as a demonstration that political right, determined in a manner consistent with the law of the Constitution in the natural rights republic of the Founding, satisfied the moral standard of the natural law tradition.

Such reasoning can be outlined as follows. The natural law is teleological in nature. Political or legislative prudence is the virtue that guides the making and imposing of laws that direct the people of a community toward a political end. Now, the U.S. Constitution delegates substantive legislative powers to Congress, and vests “the executive Power” in the President who is named commander-in-chief of the army and navy of the United States and of the state militia when called into the service of the United States. In time of war or other emergency the executive power comprises an American version of the Lockean prerogative, whereby the President is authorized to make and impose rules of action for the public safety and the common good of the nation as a whole. Although not expressly described in the text of the Constitution, executive emergency power evinces and is consistent with the practical reason of the Constitution in dealing with the acts of persons and contingent events lying beyond the general legislative power of Congress.

In terms of natural-law thinking, Lincoln, in performing the duties of chief executive, acted with prudential judgment and practical reason to make and enforce policy in three areas fundamental to the preservation and progress of natural rights republicanism: namely, constitutional defense of the Union consistent with the maintenance of civil liberties; slave emancipation as a means of winning the war; and reconstruction of the Union based on prohibition of slavery and conferral of citizenship and equal civil rights on the freed slaves. Together these acts of executive statesmanship confirmed the presence and importance of the natural law tradition in American constitutionalism.

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[1] Abraham Lincoln, *The Collected Works of Abraham Lincoln*, eds. Roy P. Basler *et al.*, vol. I (New Brunswick, N.J.: Rutgers University Press, 1953–55), 411–12.

[2] Lincoln, *Collected Works*, eds. Basler et al., vol. II, 265–66.

[3] Ibid., vol. III, 479–80.

[4] Ibid., 315.

[5] Ibid.

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