



# NATURAL LAW LIBERTARIANISM

**Ostend, 30 July 2011**

# PHILOSOPHY

- **Natural law libertarianism**

- **“Rational animal”**: reason & free will
  - Human commons of reason (logic, science, ethics)
  - Common denominators (opinions, beliefs, desires)
- **Equality of natural rights** for all humans
  - “All children of God”
  - Inequalities of rights are artificial human constructs

- ❖ **Natural law of freedom and equality of rights**

- Natural rights constrained by reason
- Personal responsibility & liability

- ❖ **Justice based on reason and argumentation**

- courts of justice insulated from outside interests
- Western philosophical ideal of justice

- **No natural law tradition, no liberal / libertarian tradition**

A diagram illustrating an eclipse. On the left, the word "ECLIPSE?" is written in a serif font. To its right, there are two overlapping circles: a solid light purple circle on the left and a white circle with a light purple outline on the right. Further to the right, there are three more circles: a solid light purple circle, a white circle with a light purple outline, and another solid light purple circle.

ECLIPSE?

- **Natural law no longer considered “cool”**

- Scientism (empiricism, materialism, evolutionism)
  - Free will, reason, God, natural law, natural rights etc. are all delusions
- “Modern” libertarianism without metaphysical foundations
- Utilitarianism, pragmatism
  - Free-market libertarianism

# UTILITARIAN LIBERTARIANISM

## ● Debunking reason

Reason is and ought to be the slave of the passions

### ❖ All human action is emotion / desire-driven

- fully subject to manipulation, incentives, disincentives, propaganda

### ➤ No satisfactory concept of the human person

- **No human commons of reason:** Everything is particular, subjective
- **No concept of justice:** Everything is negotiable

### ➤ Inadequate as libertarian theory

- Why should desire for freedom trump other desires?
  - E.g. for security, guidance, eminence, wealth, entertainment
- How free is Western man?
  - compulsory schooling, political & commercial propaganda, HR-management, monitors, etc.

# FREE-MARKET LIBERTARIANISM

- **Libertarian analysis is economic analysis**

- Market reveal preferences, wants (The sovereign consumer)

- ❖ **Freedom / rights are instrumental (negotiable) values**

- **End:** “Maximal satisfaction of subjective desires”
- **Means:** Liberalism or socialism?

- **Property & contract libertarianism**

- Property rights restricted only by contract

- **Inadequate as libertarian theory**

- Why should demand for justice outweigh demand for injustice?
- Use of property to deprive others of their freedom
- Territorial monopolisation of enforcement by corporations

# BASIC CONCEPTS: LAW

- 'Law' means **order** / principle of order

- 'Order' means **intelligibility**

- possibility of applying true-false distinction etc.

- Laws or **orders of things**

- physical, organic, animate things

- logical, mathematical, geometrical things

- persons and personal things (rights, obligations, property, etc.)

- 'Law' connotes **obligation** for persons

- We **ought** to respect the laws of physics, logic, etc.

↑  
No computer understands this!

# BASIC CONCEPT: LAW OF PERSONS

- **Natural persons & non-natural persons**
  - Human persons (e.g. you and I)
  - Artificial, conventional, fictional persons, etc.
    - Personified organisations (associations, corporations)
    - Personified positions in such organisations

Orders Persons	Natural universal	Artificial selective / local / temporary
Natural	<b>Conviviality</b> Free and equal No government □ <b>Natural law</b>	<b>Community</b> Hierarchy of deference Informal leadership □ <b>Community law</b> (tradition)
Artificial	n.a.	<b>Society</b> <i>Formal hierarchy of positions</i> <i>Formal government</i> □ <b>Societal law</b> (statutes)

# BASIC PROBLEM: DISORDER, CONFLICT

## ● Disorder among persons

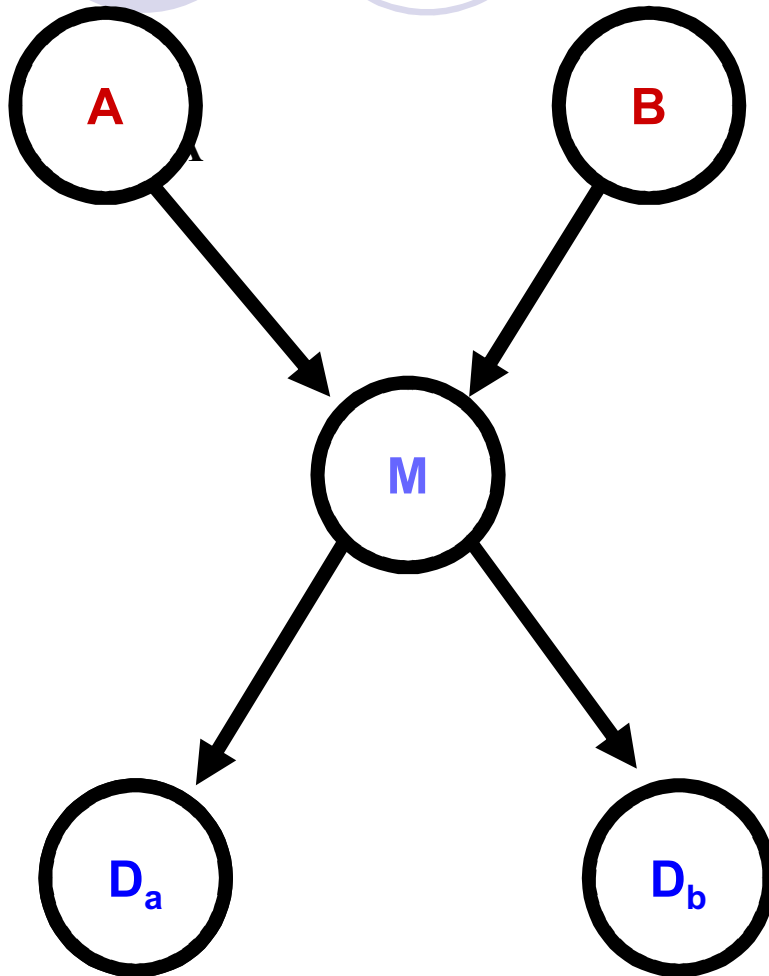
- due to actions of persons (Interpersonal conflict);
- otherwise no questions of freedom or justice

## ➤ Task for natural-law theory

- Discover and explicate **conditions of natural order** among natural persons;
- Invent **natural-law compliant methods**
  - for maintaining, restoring order in the face of conflict,
  - with due respect for the integrity of lawful communities and societies



# CONFLICT: NECESSARY CONDITIONS



← **Plurality**  
of persons

← **Free access**  
to scarce means

← **Scarcity**  
of means

← **Diversity**  
of purposes

# CONFLICT: SOLUTIONS

<i><b>Cause</b></i>		<i><b>Solution</b></i>		<i><b>Phenomena</b></i>
<b>Plurality</b>	□	Unity		Society
<b>Diversity</b>	□	Consensus		Community
<b>Scarcity</b>	□	(Abundance)		(Utopia)
<b>Free Access</b>	□	Property		Conviviality

❖ **Each solution obtained by eliminating one cause**

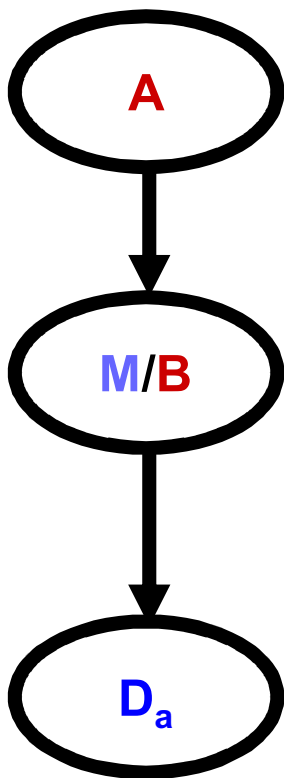
- Logically, each solution adequate
- However, very different implications for human relations

➤ **Problem: compatibility of society / community with natural law?**

- **Libertarianism:** conviviality > community > society      averse to imposed rules
- **Conservatism:** community > society > conviviality      averse to abstract principle
- **Socialism:** society > conviviality > community      averse to tradition

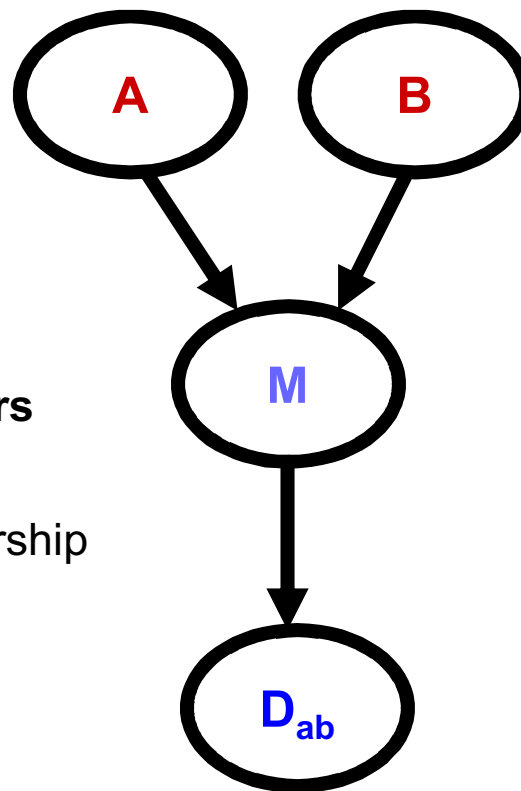
# “POLITICAL” SOLUTIONS

**Unity**



**Society**

**Consensus**



**Community**

Artificial orders

Selective membership

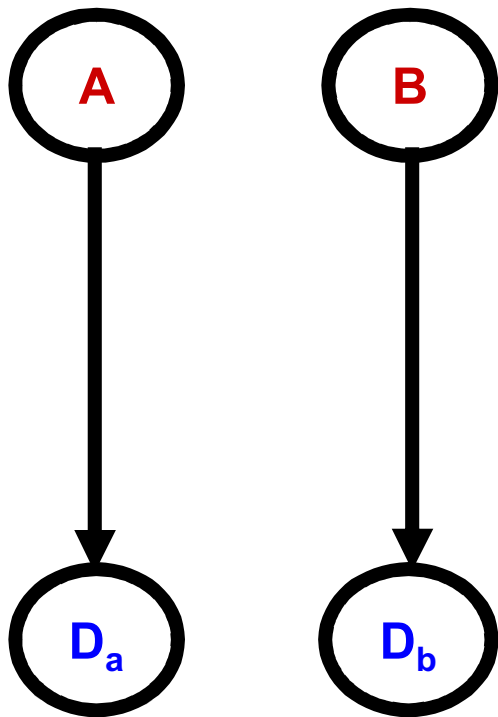
Local

Temporary

# “ECONOMIC” SOLUTIONS

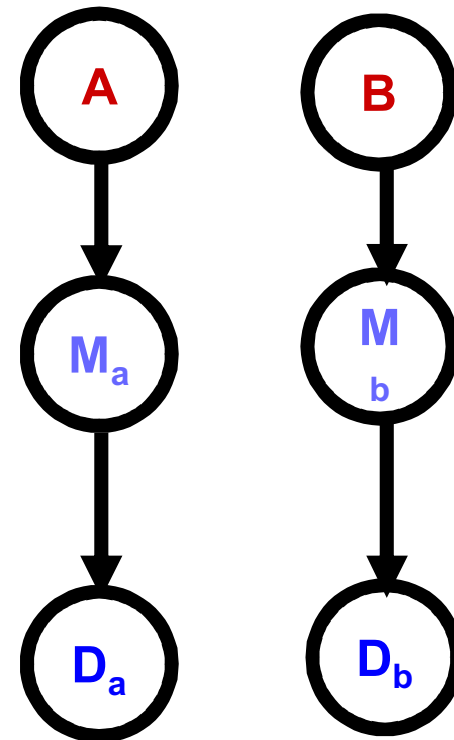
**Abundance**

**Property**



“Utopia”

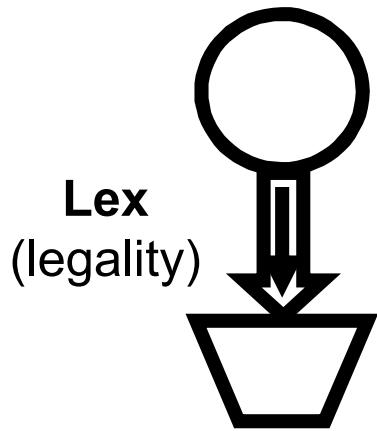
Natural orders  
Non-selective  
Universal



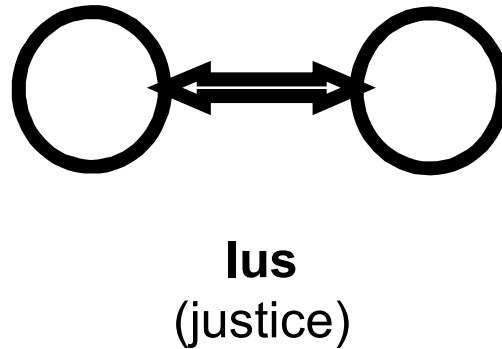
Convivial order

# ELEMENTS OF ORDER

*regere / legere*



*iurare*



**Regere:** steer/govern by force

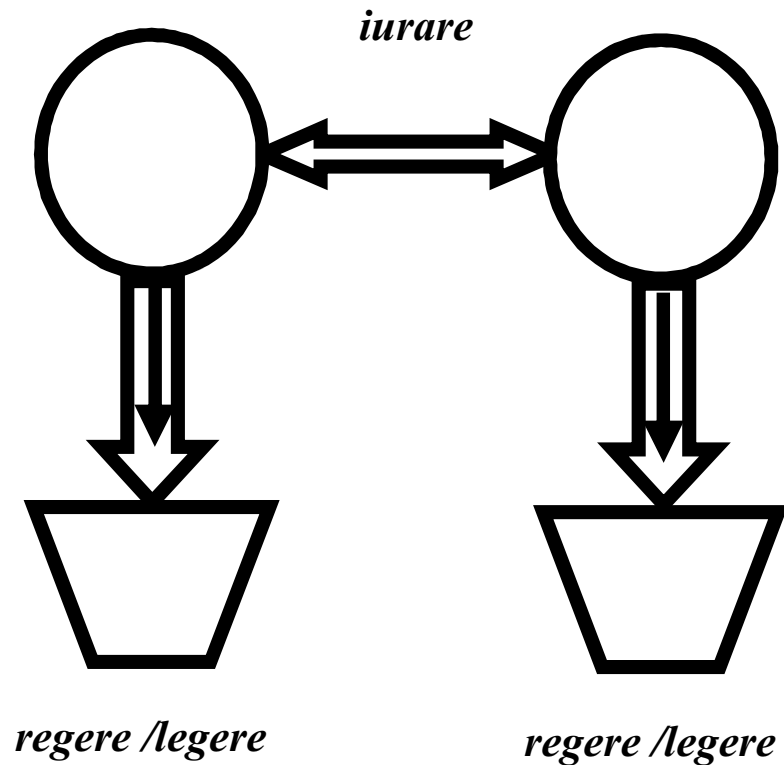
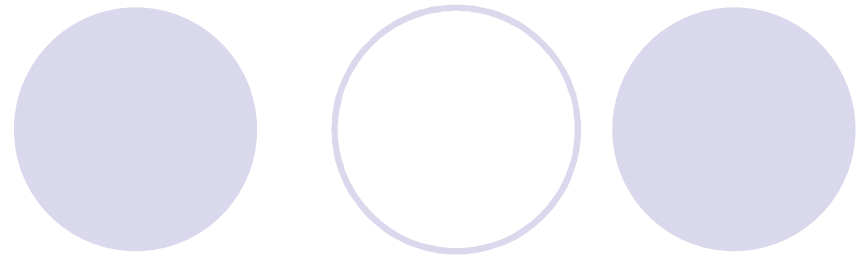
**Legere:** steer/govern by command

**Iurare:** speak solemnly  
(with personal commitment:  
argue / negotiate)

- **Society: command**  
[argumentation, negotiation constrained by legal rules]
- **Community: argumentation, negotiation**  
constrained by consensus values and opinions
- **Conviviality: argumentation, negotiation**  
constrained by mutual respect

# NATURAL LAW

- Natural persons
- and their property
- in convivial *ius* relation
  - “Free and equal”
  - Order determined and maintained by
    - argumentation (reason)
    - negotiation (agreement)
  - Argumentation ethics



# CONCLUSION



## ● The natural-law libertarian's program

- ❖ To maintain ius-relation (“free and equal”)

- To abjure the use of force or coercion except where permitted as a matter of principle (self-defence, to protect the innocent against aggression, etc.)

- **Crime** = refusal of justice

- ❖ **refusal** in word or deed to solve a conflict through **argumentation** (court of justice) or **negotiation** (arbitration, mediation)