

# **Slavery in Ancient Rome and the United States of America: Natural Rights and their Role in the Brutality of Slavery in America and its Abolition**

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## **Inception**

This paper was written for Dr. Jason Brown's Roman Law and Legacy course in the winter term of the 2017-18 academic year. Students were asked to choose a topic that related to Roman law and its relation to legal history.

## ***Abstract***

This essay looks at the legal framework of slavery in ancient Rome and America, leading up to the Civil War and emancipation. By taking account of legal documents from these two time periods and placing them in relation to each other, the philosophic underpinnings of the law emerge more clearly. Where American perceptions of justice revolve around natural law and natural justice, Roman ones take a more practical approach to justice. This leads to three positions: American pro-slavery, American abolitionist, and Roman pro-slavery. The American pro-slavery arguments posit slavery as a positive good, some texts going so far as to say that anti-slavery arguments are against God. The abolitionist position roots in the same natural justice and natural law philosophic position as their pro-slavery opponents, only the abolitionist position views all humans regardless of race as equal under the law. The Roman position, on the other hand, views slavery as a necessary evil, and as such, has more protections, and a more humane legal position than the American legal system allows for slaves. These three legal positions and their philosophic underpinnings are discussed.



Since the fall of the Roman Republic no state has proclaimed louder the cry for equality and liberty for all than the United States of America. It has a rich history and quasi-mythology about the rights, liberty, and equality that they stand for. Starting with the Declaration of Independence and the famous words: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." These words credited to Thomas Jefferson shine out like a light for the entire American tradition of governance to follow. We see it echoed in the preamble to the United States Constitution written eleven years later: "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America." Again this sentiment is confirmed in the original Pledge of Allegiance of 1892: "I pledge allegiance to my Flag and the Republic for which it stands, one nation, indivisible, with liberty and justice for all." However, this freedom-loving nation has a dark stain on its history in the form of slavery: the very antithesis of liberty for all.

When we examine slavery as an institution, not for its moral value, we must look to those who argued both for and against the institution to grasp the truth of the issue. When we do this in the case of American slavery we see something interesting happen: both pro-slavery and abolitionist proponents, in order to justify their argument, utilize natural rights and natural laws. This is a feature of the Enlightenment; the notion that what *is*<sup>1</sup> by nature equates with what is just. American slave owners, in order to justify their ownership and brutality towards slaves, utilized this Enlightenment principle in their

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<sup>1</sup> As to say what exists, what is actual or what occurs.

arguments; while, simultaneously, it formed the foundation of arguments in favour of emancipation. To provide a contrast, ancient Romans seem to have had far less issue with contradictions between natural laws and their state laws. This allowed them to see slavery as unnatural but still allow it to exist as an institution within society. It also made simpler the task of justifying legal regulation of the relations between slave owners and slaves. The reason for slavery was the good of Rome and so regulation could be argued for using the same premises. There is evidence to suggest that slaves in Rome were legally treated with more dignity and humanity than in eighteenth-century America.

I respectfully submit that the Enlightenment principle of natural rights, which in the end had a pivotal role in the arguments in favour of the emancipation of slaves in 1862, also factored into the brutality of American slave owners and American slavery laws. Where Rome showed a degree of moderation in regards to slavery, America showed only absolutism: either absolute slavery or absolutely no slavery. America's absolutism, in both pro- and anti-slavery camps, is a consequence of this Enlightenment principle of using natural laws and rights to ground state laws to a concept of Justice, and thus supports the proposition that they are, in fact, just. In order to demonstrate this we will first examine how Rome and America each perceived natural law and its impact on their state laws. This will lead into showing how some people within America used natural law arguments to posit slavery not as a necessary evil, but instead as a positive good. We will then turn to show how the arguments regarding natural law led to the two extreme positions, namely absolute legal authority to own a person and have total authority over them and in contrast the absolute abolition of slavery. To complete this task we will examine two court decisions from the United States—one from the state of Massachusetts and another from the state of North Carolina. Both in turn will be contrasted with Roman legal sources to show that the Roman position regarding the details of the case was more moderate, taking a kind of middle

ground between the decisions from Massachusetts and North Carolina. While there are no doubt moral implications of this analysis my focus is on analysing what the historical facts are. That slavery is and always will be morally repugnant is not at issue in this essay.

### ***Natural Laws and Justice***

The notion that there are independent laws that govern how humans ought to interact is difficult to trace to its origins because there is evidence that some pre-Socratic philosophers may have proposed this in texts long lost to history. However Aristotle does provide us with a hint of natural laws in the *Politics* when he writes that one prerequisite of good governance is having good laws.<sup>2</sup> Aristotle's statement implies that there is an independent standard to judge laws, something that must be independent of the government, something natural. He does not go so far as to say what that standard is however. Stoic philosophers, such as Zeno, adapt Aristotle's argument when they posit that humans have a natural inkling towards delineating good from bad, and that this capacity would lead to the development of laws of morality. These laws would apply to all people in all places at all times, a single set of laws to differentiate the morally good from the morally bad.<sup>3</sup> These concepts would carry over to Rome and influence their laws heavily. Susan Wiltshire writes:

The power of Roman law was greatly enhanced by its marriage with Stoic philosophy and especially with the doctrine of natural law. At first Rome had only the local laws of her own citizens, the Quirites. Slowly the law of nations, *ius gentium*, began to carry the weight of law among Rome's allies and enemies alike. [...] The evolution of the *ius gentium* was advanced by Cicero and predicated on Stoicism.

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<sup>2</sup> Aristotle, *Politics*, trans. C.D.C. Reeve (Indianapolis: Hackett Publishing Company, 1998).

<sup>3</sup> Susan Ford Wiltshire, *Greece, Rome, and the Bill of Rights* (Norman: University of Oklahoma Press, 1992), 14.

Stoicism furnished the philosophic basis that, over a long period of time, transformed the *ius gentium* from an exception into a rational system flexible enough to embody a system of equity for all of Western society.<sup>4</sup>

The division of law into three parts, *ius civile*, *ius gentium*, and *ius naturale*, is the very first passage of Justinian's Digest, where quoting Ulpian it is written:

Private law is tripartite, being derived from principles of *ius naturale*, *ius gentium*, or *ius civile*. *Ius naturale* is that which nature has taught to all animals; for it is not a law specific to mankind but is common to all animals—land animals, sea animals, and the birds as well. Out of this comes the union of man and woman which we call marriage, and the procreation of children, and their rearing. So we can see that the other animals, wild beasts included, are rightly understood to be acquainted with this law. *Ius gentium*, the law of nations, is that which all human peoples observe. That it is not coextensive with natural law can be grasped easily, since this latter is common to all animals whereas *ius gentium* is common only to human beings among themselves.<sup>5</sup>

But, this conception of natural law is quite different from the natural law that eighteenth-century America will adopt. For Romans natural law exists but it is not a standard with which to judge the justice of the *ius gentium* or *ius civile*. For example, when Ulpian writes:

Manumissions also belong to the *ius gentium*. Manumission means sending out of one's hand, that is, granting of freedom. For whereas one who is in slavery is subjected to the hand (*manus*) and power of another, on being sent out of hand he is freed of that power. All of which originated from the *ius gentium*, since, of course, everyone would be born

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<sup>4</sup> Ibid., 20.

<sup>5</sup> Dig 1. 1. 1, *The Digest of Justinian*, Volume 1, ed. Alan Watson (Philadelphia: University of Pennsylvania Press, 2009).

free by the natural law, and manumission would not be known when slavery was unknown.<sup>6</sup>

Or again when Ulpian writes, “The *ius civile* is that which neither wholly diverges from the *ius naturale* and *ius gentium* nor follows the same in every particular.”<sup>7</sup>

In the eighteenth century, however, natural law had a different form—it was an independent source of judging the just-ness of state law. Natural law was seen as the basis or source for natural rights.<sup>8</sup> This language was affirmed in the historical documents already noted: the Declaration of Independence and the Constitution of the United States of America, as well as the arguments by members of the US Congress both in favour of and against the first ten amendments to the Constitution known as the Bill of Rights. Elbridge Gerry who argued in favour of the Bill of Rights stated that the naturally occurring rights of citizens was the primary concern of the government and that people also had a natural right to contest and check their government, since it is a created by the people.<sup>9</sup> On the other hand Alexander Hamilton wrote in Federalist Paper 84 the following:

I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that

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<sup>6</sup> Ibid., 2.

<sup>7</sup> Ibid., 2.

<sup>8</sup> Wiltshire, *Bill of Rights*, 95.

<sup>9</sup> Ibid., 96.

such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They might urge with a semblance of reason, that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given, and that the provision against restraining the liberty of the press afforded a clear implication, that a power to prescribe proper regulations concerning it was intended to be vested in the national government.<sup>10</sup>

Here we see Hamilton arguing that the Bill of Rights would actually give rise to abuses of natural rights. He is arguing that unless the Constitution unambiguously gives a power to the federal government then it does not have that power, as if natural law reigns supreme unless otherwise stated. Therefore by stating what the state cannot do in the Bill of Rights we inverse this assumption and allow the state to do what it pleases, excepting only what is excluded from the Bill of Rights. Hamilton's objection to a constitutional amendment protecting the freedom of the press takes the position that press is free until it is repressed. The Bill of Rights assumes the opposite; press is repressed until it is made free. Hamilton's position hence is that the government only has the powers that the constitution grants, not unlimited power until restrained.

Hamilton's assumption could only be true if people are free until freedom is taken and not the opposite, that no humans are free until they are given freedom by something external, like a government. If humans are the source of freedom and not government then it follows that humans hold a natural place of determining government, not the other way around. The starting point for Hamilton then should be recognized as humans' natural right to freedom, his starting point

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<sup>10</sup> Alexander Hamilton, *The Federalist Papers*, No. 84, Yale Law School Lillian Goodman Library Online, accessed March 2, 2019, [http://avalon.law.yale.edu/18th\\_century/fed84.asp](http://avalon.law.yale.edu/18th_century/fed84.asp).

is natural law. Thus the citizens have a natural legal position of regulation over the state, and from Hamilton's perspective the Bill of Rights takes that natural regulatory position away from the citizens. Both of these perspectives, whether from Gerry and Hamilton, are undoubtedly different from those perspectives expressed in Roman antiquity. These differences will lead to different implications for the application of the laws regarding slavery.

### ***Slavery as a Consequent of Concepts of Justice***

These two different understandings of natural law between Roman and American legal systems manifest themselves in a peculiar way regarding slavery. In Rome, since it is considered legitimate for natural and civil laws to contradict, slavery was seen as a product of civil law in contradiction of natural laws. In America the conversation needed to be different since civil laws were seen as just when they corresponded to what was natural. As a result, those who argued in favour of slavery found it necessary to reconcile slavery with natural law.

This naturalized slavery presents itself in the text, "A Declaration of the Causes which Impel the State of Texas to Secede from the Federal Union", which marked Texas succession from the United States of America during the first days of the Civil War. The Declaration states that the Northern non-slave owning States are demanding the abolition of slavery "based upon an *unnatural* feeling of hostility to these Southern States and their *beneficent and patriarchal* system of African slavery, proclaiming the debasing doctrine of equality of all men, irrespective of race or color- a doctrine *at war with nature*, in opposition to the experience of mankind, and in violation of the plainest revelations of Divine Law (emphasis added)."<sup>11</sup> Note the word 'unnatural' to describe the

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<sup>11</sup> The State of Texas, "A Declaration of the Causes which Impel the State of Texas to Secede from the Federal Union" from The



Northern States' hostility towards the 'beneficent and patriarchal system'. The implicit argument is that these systems enacted by the Southern States are by nature just and therefore the North's objections are unnatural. The Declaration even goes so far as to state that the abolition of slavery goes against Divine Law, the law of god. Carl Richard writes that the Southern States utilized the Romans and Athenians as shining examples of how slavery was natural:

A hierarchy of argumentation can be discerned in proslavery appeals to classical history. At the simplest level, some references merely alluded to the universality of slavery, implying that anything universal must be natural and, therefore, good. Others slightly higher up the scale emphasized slavery's venerable antiquity, implying that anything old and lasting must be natural and, therefore, good. Others still more advanced involved the claim that since the Greeks and Romans, whom most Americans considered to have been admirable peoples, owned slaves, slavery must be good. In its highest development, the argument put forward the dazzling cultural achievements of Greece and Rome and the liberty and political equality singularly associated with the classical republics as evidence of the positive good of slavery.<sup>12</sup>

This argument regarding the naturalness of slavery manifests itself into law in a striking way. We will find in the case of "The State v. John Mann From Chowan" in the North Carolina Supreme Court that the legal system provided absolute legal authority of master over slave. The facts of the case are that John Mann was previously

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*Declaration of Causes of Seceding States, American Battlefield Trust, accessed February 10, 2018,*  
<https://www.civilwar.org/learn/primary-sources/declaration-causes-seceding-states>

<sup>12</sup> Carl J. Richard, *The Golden Age of the Classics in America: Greece, Rome, and the Antebellum United States*. Cambridge (Massachusetts: Harvard University Press, 2009), 182-183.

found guilty of using excessive force in punishing a slave whom he had rented: he shot her when she attempted to escape his custody. The decision was appealed and in the Supreme Court of North Carolina, Justice Ruffin reversed the decision on the basis that slavery can only exist in a situation where the master has absolute control over the slave. He states that when a person rents the services of a slave they become the *de facto* owner of the slave for the rented period. Thus the question is not whether a person can commit assault against a slave but whether a master can commit assault against their private property. To this effect he writes the following:

The [slave's] end is the profit of the master, his security and the public safety; the subject, one doomed in his own person, and his posterity, to live without knowledge, and without the capacity to make any thing his own, and to toil that another may reap the fruits. What moral considerations shall be addressed to such a being, to convince him what, it is impossible but that the most stupid must feel and know can never be true--that he is thus to labour upon a principle of natural duty, or for the sake of his own personal happiness, such services can only be expected from one who has no will of his own; who surrenders his will in implicit obedience to that of another. Such obedience is the consequence only of uncontrolled authority over the body. There is nothing else which can operate to produce the effect. The power of the master must be absolute, to render the submission of the slave perfect.<sup>13</sup>

We can see that Justice Ruffin, while not agreeing with the principle on moral grounds, recognizes that North Carolina law sees slavery as natural and for this to be true the slave can have no will of their own. For should the slave have a will of their own that will would be by nature, as it is in all peoples, a free will. But by definition, as Justice Ruffin points out, slaves act for the benefit of their master.

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<sup>13</sup> State v. Mann, 13 N.C. 263 (1829).

Therefore the slave's will must be the master's will. Slaves cannot have a free will; so the question becomes how does a person control the will of another, which ought to be free by nature? Justice Ruffin's answer is that only through complete and total authority of the master over the slave can the slave be deprived of their free will. This same structure of argument could be used to argue for the authority of a rancher over their livestock. The only way a living thing can have its will totally taken from them is if their master has absolute authority over them, and as such the power of the master over the slave must be absolute. Justice Ruffin is recognizing the natural fact that slaves had free wills, therefore if slavery is to be a legal practice then the domination of master over slave must be without limitation in order to deprive the slave of their free will. In the end the verdict from the lower court was reversed and Mann was found not guilty.

Justice Ruffin's decision stands directly in the face of Roman law where Emperor Justinian writes:

Slaves are in the power of their masters (which power, indeed, comes from the law of nations: for we can observe that among all nations alike masters have the power of life and death over their slaves) and anything acquired through a slave is acquired by his master. But nowadays, no one who is subject to our sway is allowed to treat his slaves with severity and other than for a cause recognised by the laws. For, by a constitution of the divine Antoninus Pius, anyone who kills his own slave without cause is to be punished in the same way as one who kills the slave of another. And even excessive harshness of masters is controlled by a constitution of the same Emperor [...] for it is in the interest of the state that no one should abuse his property.<sup>14</sup>

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<sup>14</sup> J. Inst. 1. 8, *The Institutes of Justinian*, trans. Thomas Collett Sandars (London: Longmans, Green and Co., 1917). Retrieved from: the Latin Library. <http://thelatinlibrary.com/law/institutes.html> (February 16, 2018).

And from the Roman point of view, this is perfectly sensible/reasonable and just since the right to own a slave comes from the law of nations. The law of nations is written for the benefit of a civilization and has no obligation to an external measuring stick for its correspondence to justice. Thus in the best interest of the state slaves cannot be excessively harmed, and this is an entirely rational position. Slavery is not natural; therefore it can take any form with which the creators wills it to take. In this case they saw it as beneficial to Rome that the abuse of slaves be outlawed and therefore did outlaw it. But while Justice Ruffin acknowledges that there is something morally wrong with the laws of North Carolina he was bound by the laws he was tasked to enforce and saw that no contradiction between nature and law could be created and it was his judgement that the suppression of the slave's will must be a condition of slavery. The slave was in absolute subjugation to the master.

This difference is also observed when looking at the property laws relating to slavery in pre-Civil War America and Rome. If we look to Rome we see that the law created a thing called a *peculium*. A *peculium* was essentially a slave's own personal property. A slave could own and use goods, property, and money, if they had consent from their master to do so.<sup>15</sup> Not only did Rome's law recognize *peculium* for slaves but also for underslaves, slaves owned by slaves. These *peculium* for an underslave, called a *peculiar*, had similar rules as a *peculium* held by a principle slave.<sup>16</sup> This tiered system of slavery suggests that slaves, if they had a *peculium* granted to them by their master, could themselves become slave owners. A *peculium* allowed for slaves to have a degree of freedom, they could act independently, operate businesses, and even swear or take oaths.<sup>17</sup> Oaths made by slaves and oaths tendered to a slave

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<sup>15</sup> Dig. 14. 1. 4-6, *The Digest of Justinian*, Volume 1.

<sup>16</sup> Dig 14. 1. 17, *The Digest of Justinian*, Volume 1.

<sup>17</sup> Dig. 12. 2. 20, *The Digest of Justinian*, Volume 1.

where to be respected just the same as oaths sworn or tendered by any other person in Rome. This system suggests that Roman law did in fact recognize some level of freedom and autonomy for slaves. Granted it was rooted in the owners consenting to such a degree of freedom, but the law being developed in this way suggests that this was a practice that slave owners would engage in.

The Roman approach is in a glaring contrast to the understanding of slavery posited by Justice Ruffin. But it is not only out of line with the case law from colonial America but also from the statute law. If we turn our attention to the South Carolina Slave Code of 1740 for example we will see that slaves could not buy or sell goods.<sup>18</sup> Slaves also could not work for a wage unless they had a physical ticket written and signed by their master denoting a specific amount of time that they would be away from the direct supervision of the master.<sup>19</sup> This codified statute law recognizes the same domination of master over slave that Justice Ruffin espouses. In this legal framework the slave has no independent will regarding property, they cannot buy or sell goods, if they cannot buy goods it seems unlikely they would be capable of owning property. They could not work outside their duties for their master should they have wanted to without their masters written permission. There is no independence for the slave; no freedom of will. Contrasted with the Romans who not only allowed slaves to act independently in some cases but also allowed the slave to both take and give oaths that were treated as equal to the oaths given or taken by a Roman citizen. These are unambiguous differences.

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<sup>18</sup> "1740 | Slave Code of South Carolina," Duheim, accessed February 10, 2018, <http://www.duhaime.org/LawMuseum/LawArticle-1500/1740-Slave-Code-of-South-Carolina-Articles-29-33.aspx>, s. 30-31

<sup>19</sup> *Ibid.*, s. 3, 33.

## ***Abolishment of Slavery as a Consequent of a Concept of Justice***

The recognition of the unity for natural law and human law also was the foundation for the abolitionist arguments. James Otis, when writing an argument for the secession of the Thirteen Colonies from Great Britain, wrote: "There can be no prescription old enough to supersede the law of nature, and the grant of God almighty; who has given to all men a natural right to be free, and they have it ordinarily in their power to make themselves so, if they please."<sup>20</sup> The Mum Bett case of 1781 in Massachusetts captures these arguments well. Bett sued for her own freedom. Massachusetts had adopted three texts, the Sheffield Declaration of 1773, the Declaration of Independence of 1776, and the Massachusetts Constitution of 1780, and Bett argues that of these documents challenged the legality of slavery in the state of Massachusetts on the grounds that all three documents declared that all men are created equal.<sup>21</sup> The court ruled in favour of Bett, and it led to the decision in the Quock Walker vs. Nathaniel Jennison case of 1783, in which Chief Justice Cushing's decision became a milestone of abolition. Justice Cushing wrote:

As to the doctrine of slavery and the right of Christians to hold Africans in Perpetual servitude, and sell and treat them as we do our horses and cattle, that (it is true) has been heretofore countenanced by the Province Laws formerly, but nowhere is it expressly enacted or established. It has been a usage—a usage which took its origin from the practice of some of the European nations, and the regulations of British

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<sup>20</sup> James Otis, "The Rights of the British Colonies Asserted and Proved," Teaching American History, accessed February 14, 2018, <http://teachingamericanhistory.org/library/document/the-rights-of-the-british-colonies-asserted-and-proved/>.

<sup>21</sup> Massachusetts State Government, "Massachusetts Constitution and the Abolition of Slavery," Massachusetts Government Website, accessed March 2, 2019, <https://www.mass.gov/guides/massachusetts-constitution-and-the-abolition-of-slavery>.

government respecting the then Colonies, for the benefit of trade and wealth. But whatever sentiments have formerly prevailed in this particular or slid in upon us by the example of others, a different idea has taken place with the people of America, more favorable to the natural rights of mankind, and to that natural, innate desire of Liberty, which with Heaven (without regard to color, complexion, or shape of noses-features) has inspired all the human race. And upon this ground our Constitution of Government, by which the People of this Commonwealth have solemnly bound themselves, sets out with declaring that all men are born free and equal—and that every subject is entitled to liberty, and to have it guarded by the laws, as well as life and property—and in short is totally repugnant to the idea of being born slaves. This being the case, I think the idea of slavery is inconsistent with our own conduct and Constitution; and there can be no such thing as perpetual servitude of a rational creature, unless his liberty is forfeited by some criminal conduct or given up by personal consent or contract.<sup>22</sup>

And with that ruling, slavery was effectively abolished on the grounds of natural law from the State of Massachusetts.

This is significantly different from how slavery was treated in Rome as witnessed by Ulpian's texts quoted in Justinian's Digest where he states that "As far as concerns the civil law slaves are regarded as not existing, not, however, in the natural law, because as far as concerns the natural law all men are equal."<sup>23</sup> Romans were willing to accept the contradiction and they accepted it seemingly without

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<sup>22</sup> "Opinion in the case of Quock Walker vs. Nathaniel Jennison," WikiSource, accessed February 16, 2018, [https://en.wikisource.org/wiki/Opinion\\_in\\_the\\_case\\_of\\_Quock\\_Walker\\_vs.\\_Nathaniel\\_Jennison](https://en.wikisource.org/wiki/Opinion_in_the_case_of_Quock_Walker_vs._Nathaniel_Jennison).

<sup>23</sup> Dig. 50. 17. 32, *The Digest of Justinian*, Volume 4, ed. Alan Watson. Philadelphia: University of Pennsylvania Press, 2009.

question. In a sense we can see how Rome took a moderate path: they allowed for slavery, but also moderated the treatment of slaves. Natural rights as a foundation of justice, as posited by Enlightenment philosophy, lead in this case to fiery arguments about what is in fact natural, and therefore to what is in fact just. This led on one side of the argument for greater brutality towards slave populations and on the other side the total abolition of slavery.

## ***Conclusion***

Despite the final victory of liberty over slavery, with liberty taking its rightful place among the most sacred of the natural rights of all peoples, we should see how the idea of natural law could be wielded in dangerous ways. While the abolitionist position and the pro-slavery position both wield natural laws and rights as the justification of their position they wield them to defend radically different conclusions. It is their mode of reasoning and their initial position that they share despite having opposite conclusions. The way that both of these American groups utilized natural law is quite different from how natural law was used in Rome and unsurprisingly this difference led to a third conclusion. What is perhaps surprising is that the Roman position, despite predating the others by centuries, is in fact a moderate position between the two American positions. While only absolute abolition of slavery can be morally justified, this should remind us all that past ideas and practices are not always worse. If we compare the position of Justice Ruffin's of North Carolina to that of Emperor Justinian we should see that while Emperor Justinian's position is certainly not morally good, it is less brutal and less oppressive than the position Justice Ruffin takes. While the eighteenth-century American position held the potential for a morally right conclusion, Justice Ruffin's decision demonstrates how potential is not a guarantee of actualization. This perhaps is the greater lesson to be learned: ideas in themselves hold only potential, how we wield those ideas and that potential to affect the world will determine their actual value.



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