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Natural Law Theory in Aesara of Lucania (4th or 3rd century BC)

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Aesara of Lucania's *On Human Nature* provides a glimpse of her natural law theory. Aesara claims that we may discover the nature of just laws through an examination of human nature: "Human nature seems to me to provide a standard of law and justice both for the home and for the city" (Waithe, 20). First, an examination of human nature allows us to discover the moral principles and practices that ought to govern the personal, internal ordering of the human being considered medically, psychologically and morally. It likewise pertains to private relationships such as between family members including spouses, parents and children, servants, slaves and guests.

Second, analyzing human nature ought to provide a standard for rules governing and practices permitted in social institutions such as the government and the market place. This would also include public, formally-organized institutions and their events such as the management of temples and celebrations of rites.

Both types of law are to be judged against the divinely-ordained meta-principle, *appropriate proportionality*. Whether reason, high-spiritedness or desire ought to dominate any given law or social practice depends upon what it is that needs to be done, e.g., laws governing the criminal prosecution of juveniles ought to take into account not only whether a child broke the law (an operation of reason), but also whether the child could exercise sufficient judgment and self-control to know right from wrong and control her actions. Out of a caring concern for the child's development would likely minimize the punishment (an operation of desire in control of a high-spirited impulse of retribution). We recognize that our goal ought to be the development of the child into a productive citizen.

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Keywords:

justice, human nature, Pythagoreanism, harmony, proportionality, moral philosophy, moral psychology, desire, women in Pythagoreanism