I. THE HISTORICAL VIEW

In the hands of Roman lawyers, the Greek theories of what was right by nature and what was right by convention or enactment gave rise to a distinction between law by nature and law by custom or enactment. For the growing point of Roman law, when it came in contact with Greek philosophy, was in the opinions and writings of the jurisconsults, who had no formal lawmaking authority. Their opinions had to maintain themselves on the basis of their intrinsic reasonableness. As the Greeks would have put it, they were law, if at all, by nature rather than by custom or enactment. The right or the just by nature became law by nature or natural law, and thus begins the identification of the legal with the moral that has been characteristic of natural-law thinking ever since.\(^\text{14}\)

\[^{14}\text{Note how Cicero seeks to expound the concrete content of natural law. E.g., De officiis, i, 7, 20-23; i, 10, 32; i, 13; i, 41, 148; iii, 13-17; iii, 25. Note also the way in which the ethical conception of a moral duty was taken over into the law as a duty of good faith in view of the nature of one's undertaking and thus became a legal duty. E.g., compare Cicero, De officiis, iii, 17, 70, and Cicero, De natura deorum, iii, 30, 74, with Gaius, iv, § 62 and Inst. iv. 6, § 30.}\]

Referring Principles:

I.1.1 - Good faith and fair dealing in international trade