

2A.1 Handout on Natural Law

When a child says “it’s not fair”, when you or I watch the film *Hotel Rwanda* or *Schindlers’ List* and think “this genocide is absolute evil” we are providing evidence that there may be such a thing as a “natural law”: a view of the world which all of us share by our very natures which informs our view of right and wrong.

C.S. Lewis explained it this way:

“According to the religious view, what is behind the universe is more like a mind than anything else we know...it is conscious, and has purposes, and prefers one thing to another. And on this view it made the universe, partly for purposes we do not know, but partly in order to produce creatures like itself...having minds... There is a something which is directing the universe, and which appears to me as a law urging me to do right”. (Mere Christianity, pg. 16, 19, 33)

There are a number of features of natural law theory:

- **Deontological** because it produces *rules* and *duties* Strictly speaking, it’s a *deontological* theory which comes out of a *teleological* worldview, the Greek view that everything has a purpose (*telos*) and the purpose of human beings is distinctive and rational.
- **Absolutist** because the natural law is absolute and unchanging, “a sharing in the eternal law by intelligent creatures” (Aquinas). However, it is **only** the primary precepts of the natural law that are unchanging as will be explained (not secondary precepts).
- **Normative** because natural law creates *norms* or values which are inherent in the natural order, accessed by our reason.

Natural Law assumes that human beings, made in the image of God, by their very nature desire to do good and avoid evil and so all human beings (believer or unbeliever) when fulfilling their rational purpose, pursue good ends.

Aquinas' four concepts of law: defining right and wrong

In Aquinas' natural law theory goodness is intrinsic to the act, as defined by purpose and by the eternal law of God. In an ideal world all four ideas of law would harmonise: God's purpose, and our human laws, for example, would agree. For a clear discussion of the four concepts of law by Professor Richard Jacobs, click [here](#).

Aquinas is arguing that the end or purpose of an action defines whether it is right or wrong, and that this end or purpose is revealed by the divine law and confirmed by the natural law.

"Reason and revelation communicate God's commands, and so human beings should conform their wills to the divine commands of both" (Richard Regan, Introduction to Law, Morality, Politics xxi).

So every will acting contrary to reason (even if the reason is in error) is evil, and some acts of will which stem from reason may be evil if the will is in error, so an act can be wrong if:

- The **object** is evil (e.g. killing an innocent human being)
- The **intrinsic purpose of the act** is frustrated (e.g. lying frustrates the purpose of communication, promiscuity frustrates the purpose of reproduction)
- **A voluntary choice** is made which breaks the natural law (Aquinas distinguishes between "voluntary" and "involuntary" acts. There is a difference between deliberately choosing to sleep with someone else's wife, and sleeping with them believing she's really your wife!)
- We can be **led astray** by emotions, customs, or bad opinions.

Wrong actions therefore *break the law*, and law to Aquinas has four meanings:

- **Eternal Law** is God's plan for creation.
- **Divine Law** is revealed in the Bible, and alters between the Old and New Testaments.
- **Natural Law** is discoverable by the use of right reason, observing natural ends and purposes. It includes primary and secondary precepts.

- **Human Law** is passed by governments (Aquinas uses the word “promulgated”) and corresponds to the natural law, so that “a human law diverging in any way from the natural law will be a perversion of law and no longer a law”

Right actions should conform to all four meanings of law, but ultimately it is our reason which confirms again whether law is “just” and “right”.

The logic of Natural Law

1. We live in a purposive world, a world where rational creatures have ends. This Greek world view is teleological (*telos* = end or purpose).
2. God designed us this way, to exercise reason in the pursuit of ends. The eternal law exists in God, who exercises his reason in designing our world.
3. Each person shares in the eternal law by the natural law inscribed in our hearts by *synderesis* (point 4).
4. By nature we want “to do good and avoid evil”. This is the *synderesis principle*, a key assumption.
5. Humans have freedom. So the natural law is our freedom conforming itself to reason. The natural inclination of humans to achieve their proper end through reason and free will is the natural law.
6. Our final end is to be with God. Part of this end is to flourish (the goal is happiness, flourishing or Eudaimonia) by perfecting ourselves: this leads to human fulfilment.
7. When a person discovers by reason what the purpose (or final cause) of living is, he or she discover what his or her natural end is.
8. We can work out the primary goods by observing natural human tendencies, and then by following our reason and will.
9. There are five primary goods: acronym POWER. Preservation of life, ordered society, worship of God, reproduction and education.
10. Using the virtue of phronesis or practical wisdom we can apply these primary goods in different situations. This gives us rules, or secondary precepts. But these may change as we reflect on how to fulfil our true purpose.

11. We want to do good but sometimes get it wrong. When we get it wrong we are following an apparent good, because it's impossible that we deliberately do evil. We may reasonably choose "some aspect of good" e.g. we eat cake because it's tasty (what's wrong with that?), forgetting that it's really fattening (so an evil).
12. The perfection of our nature requires the virtues, justice, temperance, fortitude and prudence, and the theological virtues of faith, hope and love.

Historical context: Aristotle and final cause

The Greek view of the world was teleological in that everything has a purpose or telos. Aristotle begins his Nichomachean Ethics by arguing:

"Every art and every investigation, every action and pursuit, is thought to aim at some good: and for this reason the good has rightly been declared as that to which all things aim".

At first reading this seems a curious thing to argue. If I am aiming to make a lot of money, or have sexual relations with many different people, these things are clearly reasonable aims for many people today, but are they *good*? Doesn't Aristotle beg the very question he is trying to answer (namely, what exactly *should* we be aiming at)? Let's unpack his ideas more closely:

- Every plant or animal has a distinct *purpose* and we are all interconnected (in the words of the Lion King) "in the great circle of life". Bees pollinate flowers; fish are food for other fish; animals depend on one another for survival, and humans?
- Human beings have a special potential: to use their *reason* (**phronesis** or practical wisdom) to *flourish*. By a process of observation of the natural world humans can *understand* the composition and workings of this world, but also, to understand what we mean by "the good".
- There is an *ultimate purpose*, which is flourishing or happiness, translated from the Greek word **Eudaimonia**. This word implies an organic process of growth of character which continues throughout our lives. It is a very different idea from the secular concept of happiness today. *Character* is crucial to discovering this end or telos. In the formation of character we need to concentrate on the *virtues*

and particularly the *mean* between the vice of deficiency (those things that stop us realising our potential) and the vice of excess. This prudential mean is the key to the moral life (so courage is a mean virtue between cowardice and rashness).

So Aristotle lists some activities, we can identify an *intermediate good*, and a *final good*. This reflects Aristotle's view that there is an efficient and final cause: an artist works on his work (*efficient cause*), in order to produce a painting (*final cause*).

Take sex, for example. With sex the efficient cause is a statement of fact or a description. If we ask why people have sex, we might talk about physical attraction, psychological needs or bodily pleasure. The final cause or end is a matter of intent – what was God's purpose behind sex? The final cause assumes a rational mind behind creation, and as such moves from descriptive ethics (saying what is there) to normative ethics (statements about what should or should not be the case). These final causes (or goods or purposes) Aquinas calls objects of the will (think of objectives).

Take the example of a soldier who shoots someone. Was he a "good shot"? The efficient cause deals with the set of events around the shooting – did he aim well, was the shot accurate, did the target die? These are descriptive points, and clearly don't tell us about the morality of the shooting. When we look into this area – was it right to kill? – we are evaluating his intent, and are asking about the final cause, the end or object of the action. We can then look at whether that cause is consistent with God's design for human beings. We may decide that killing innocent people goes against God's design for us, so it is always wrong to kill innocent people, or that in time of war or for reasons of self-defence, killing is justified. It's for this reason that Ralph McInery comments in his introduction to Aquinas:

"It is because the ultimate end is implicit in every human action that Thomas can hold that natural law is valid for all men at all times" Ralph McInery

But here we encounter a problem: we might all differ not just in the list of activities which lead to the ultimate good but also what the *intermediate* good might be. For sex, as an activity is its final good (what it aims at) procreation, or is it bonding, or is it both?

And there's a second problem: just because every road stops somewhere (every activity has an end), it doesn't follow that every road ends up in the same place (not every activity ends up in causing us to flourish as human beings). Put another way, there's good sex and bad sex (even if the end is babies; sex can be exploitative, or violent or selfish).

Aquinas and Natural Law

- God in his **providence** has designed us (and everything) in a certain way. There is rational order with values and purposes built into the very nature of things. *“Our ultimate end is unrelated good, namely God, who alone can fill our will to the brim because of infinite goodness”* (Aquinas).
- *“Granted that the world is ruled by divine providence...that the whole community of the universe is governed by divine reason ... the very idea of the government of things in God the Ruler of the Universe has the nature of law. And since the divine reason's idea of things is not subject to time but is eternal...therefore this kind of law must be called eternal ... because it is ordained by God to the government of things foreknown by him”*. Thomas Aquinas

The starting point: the synderesis principle

Aquinas takes as his starting point a self-evident truth, that human beings by nature want to do good and avoid evil. The name given for this is the synderesis principle (a better word for it than 'rule'). The word *synderesis* is thought to be a corruption of the Greek word *syneidesis* meaning 'knowledge within' or 'knowledge together'. In Aquinas' thought it is one of two words he uses for conscience, with the meaning "innate conscience".

Notice this is something Aquinas doesn't prove as much as assume. Protestant authors like Niebuhr criticise Aquinas at this first step, because they argue that humans are by nature sinful, not good, and need to be redeemed by Christ. The argument demeans Christ, argues Niebuhr. In the United States the Manhattan Declaration by Evangelical Christians states: "the natural law forgets sin and thus depreciates the necessity of Christ and the supremacy of Scripture":

Aquinas calls synderesis a “natural habit”.

Good, argues Aquinas, is the first thing practical reason grasps “since every agent acts for an end under some aspect of good”. Rational agents pursue the good naturally, because that is how God has designed us. This allows Aquinas to conclude that “whatever practical reason understands as man’s good (or evil) belongs to the precepts of the natural law as something to be done or avoided”.

Synderesis can also be seen as another word for conscience – the innate part that we’re born with. Synderesis is the general, God-given, innate (inborn) tendency to pursue good ends. Of course, Aquinas acknowledges people sometimes fail to pursue good ends, but the underlying tendency is necessary if we are to admit that goodness is something natural to human beings as rational moral agents.

Primary precepts derived from natural inclinations

Aquinas’ derivation of the primary precepts can be expressed diagrammatically.

SYNDERESIS —————> INCLINATIONS—————> PRIMARY PRECEPTS

Man is a rational agent who seeks goods he believes perfect his nature. So the starting point is the synderesis principle: do good and avoid evil. The ends of man are of three sorts, argues Aquinas, which together we can form into the acronym POWER (preservation of life, ordered society, worship of God, education and reproduction).

1. Those we share with all creation (the desire to preserve our life).
2. Those we share with animals (reproduction and the teaching of our offspring).
3. Those that are uniquely human (living in society and worshipping God).

But the inclinations are only good in so far as they are subject to reason; they need to be humanised, made moral, pursued with deliberation, judgement, responsibility.

So the primary precepts give us general ends which we need to apply to our real world circumstances using the virtue of practical wisdom, in order that we (and society) should flourish and grow. Through reason we bring together the general desire to do good (synderesis) with the natural inclinations we as humans possess and experience. And then we match them up against the eternal law of God, the measure of objective goodness which is also revealed in the natural world.

The Natural Law is not quite as unchanging as you think

Although Natural Law may appear to be absolute, it is not necessarily unchanging. This is because our rationality is continually exploring the world and nature, and our findings may lead to a development of the natural law. God, after all, did not reveal all his thoughts (for example on the design of the universe) at once. To say that the natural world is “good” is not to imply we know everything about this world... yet. Humans can make:

- **An error in reasoning or observation**
- **The human condition may change**, for example, Aquinas himself felt that under some circumstances *polygamy* (many wives) may be permitted.

There are modern Natural Law theorists whose list of primary goods is a bit different from Aquinas'. Grisez (1973) adds self-integration, authenticity, playfulness and appreciation of beauty, and Finnis (1980 or 1996) changes “procreation” to “marital good” which can include having fun with one’s sexual partner.

Real and apparent goods

Like Aristotle, Aquinas did not believe that a human being could deliberately do evil. Aquinas believed that people chose either real or apparent goods. A real good is something that is good according to natural law (correctly reasoned goods that help the moral agent achieve their telos). An apparent good is a mistake, and it diminishes a person’s human nature (wrongly reasoned goods that don’t help the moral agent achieve their God given purpose). You wanted to do good but you ended up not doing so.

Some are led astray by passions, others by false reasoning, but all believe they are pursuing the good. The “formality of goodness” is the logical result of everyone believing they are pursuing the best (even though some are mistaken). In this way although people may not deliberately do evil, they can pursue apparent goods and so be guilty of sin or of an “evil will”, because in the end there is an objective morality given by natural law.

- Sin is acting against reason. Aquinas says by using your will and reason, humans are able to make deliberate moral choices. He calls these human acts. Human reason must be used correctly, and he called this the right use of reason. Although there are genuine differences of opinion of what is right, if we use our reason correctly to determine what is right, and then wills to do this, we have achieved free choice.
- Aquinas distinguished between internal acts (the intention of the moral agent when carrying out an action), and exterior acts (the actions of a moral agent). You may do a good act like giving to charity but for the wrong reasons, such as to get praise. The motive is important.
- The will aims to an ultimate end, and for Christians, that end is God (for Aristotle it is *Eudaimonia* or flourishing). Final happiness is only achieved in the bliss of heaven. The purpose of life is not just related to what happens to a Christian after death, as people have a purpose in this life to use their talents and abilities.

The Roman Catholic Church and the Natural Law

Catholic theologians continue to argue that Natural Law is a morality of reason based on the Bible and our understanding of the natural world, which can be grasped by all reasonable people irrespective of whether they believe in God.

This Natural Law is interpreted by the Magisterium, the Pope and Cardinals meeting together for reasonable debate which ends up with the declaration of their mind in Papal Encyclicals, like *Humanae Vitae* (1968) or *Veritatis Splendor* (1995). In this practice they claim to be following in the footsteps of Peter and the first apostles, who were appointed as guardians and interpreters of both divine law (i.e. the Bible) and the natural moral law.

Following Aquinas and St Paul, the Catholic view is that our reason and our passions are in conflict (see Romans 7). We need to exercise responsible moral choices in order to follow the objective moral order established by God. On sexual relations the Catholic view is well represented by this quote from *Humanae Vitae*.

“Every marital act must of necessity retain its intrinsic relationship to the procreation of human life....this is a result of laws written into the actual nature of man and woman...our contemporaries are particularly capable of seeing this teaching is in harmony with human reason....it is never lawful, even for the gravest reasons, to do evil that good may come of it”.

On the use of contraception *Humanae Vitae* argues that we must consider “how easily this course of action could open the way for marital infidelity and a general lowering of moral standards. Man may forget the reverence due to a woman...and reduce her to a mere instrument for the satisfaction of his own desires”.

Notice how *Humanae Vitae* slips into consequentialism. But in listing the consequences of promiscuity, selfishness, and lowering moral standards, the document leaves out the consequences of overpopulation, sexually transmitted diseases, sexual frustration or the inability of women to take control of their destiny (and indeed their bodies).

All these could be seen as bad consequences of the supposedly rational Natural Law position of the Catholic church.

Evaluation

What are we to make of this theory which has been so influential in shaping the modern mind on ethical issues?

- Niebuhr (1940) has argued that Natural law theory is uncritical of its **cultural captivity**. Aquinas’ view of justice, for example, “is filled with specific details drawn from the realities of a feudal order...they are “rationalizations” of a feudal aristocracy’s dominant social position”.

- McGrath (2001) makes a related point, that if we base a theory on **observation** we cannot avoid the issue that we see what we are conditioned (or want) to see. “Far from being a “given”, the idea that ‘nature’ is shaped by the prior assumptions of the observer. One does not ‘observe’ nature; one constructs it”.
- The Natural Law view seems to drive a wedge between reason and **emotion**. Modern psychiatry warns us against doing this: we need to integrate reason and feelings and to be open about what we really feel (even if it may appear to be wrong or be causing us guilt).
- Aquinas seems to imply there is a **fixed human nature**. This doesn’t change between people or over time. If so then homosexuality becomes a ‘disorder’ and something to be treated. But suppose human nature itself develops and changes (for example, through the scientific world-view making us less fearful of a mysterious present or terrible future), or suppose homosexuality is **genetic** and hence quite natural?
- If the Natural Law view is so **reasonable** why don’t more of us accept it? Even Catholics practice birth control and have abortions. Isn’t it quite reasonable (as *Humanae Vitae* itself does, to look at *consequences* and ask if they are good or bad? In asking the question are we not implying **goodness** and **badness** is not something intrinsic to the thing itself, but lies in its context, in something **extrinsic** (such as pleasure produced, relationship formed and strengthened etc.).
- Is Natural Law theory dependent ultimately on accepting whether there is a God? Aquinas seemed to think so, because he spent a lot of time through his **five ways** trying to establish that it was reasonable to believe in God.
- The way the Catholic Church interprets Natural Law doesn’t seem to place a high value on **human reason** because it concentrates power in the hands of a few elderly and celibate men. Shouldn’t the debate be wider (that is if we accept the starting point that reason is the key).

But what if we decide the opposite, for Natural Law reasons, namely, that the way the world is set up (with earthquakes, tsunamis, viruses etc.) suggests randomness rather than a design?

Does this cause Natural Law to fall at its first assumption?