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## Antigone and the Natural Law

My approach to the natural law is inspired by an article by Henry Veatch, “Natural Law: Dead or Alive?” originally published in 1978.<sup>1</sup> After a brief but encyclopedic review of the natural law since Saint Thomas Aquinas, whom he interprets in good Aristotelian fashion, Veatch concludes that even today those who talk about rights remain dependent on a natural law they do not acknowledge. Consider Alan Gewirth’s *Reason and Morality* (1978), which argues that human agents must recognize that their actions are both purposive, as well as voluntary and free. Furthermore, to recognize this is to recognize that this state of affairs is good. But, to acknowledge that this is true for me is also to acknowledge that it must be good for any and every other human being.

Veatch (2005) asks why is this the only rational response? Why could someone not respond roughly as follows? Sure, I’m glad that I am in a position to act freely and purposefully as a human being. But, I don’t claim freedom and purpose as a right, since it is nothing more than a simple fact about my individual situation, albeit a very happy fact. Thus, there is no way in which I am logically bound to recognize a corresponding right to freedom and purpose on the part of other

<sup>1</sup> Henry Veatch, “Natural Law: Dead or Alive?” The essay is now most readily found at The Online Library of Liberty, Liberty Fund, <<http://oll.libertyfund.org/Texts/LiteratureOfLiberty0352/BibliographicEssays/VeatchNaturalLaw.html>>. Cited as Veatch 2005.

human beings. In other words, Kantian universalism does not avoid the appeal to natural law, no matter what clothes it wears, and that includes the celebrated attire of John Rawls (1999).

We are, it seems, at the end of the road. Universalistic approaches from Kant to Rawls and beyond cannot fulfill their own claims to self-justification. But the natural law seems to depend on an obsolete metaphysics, in which everything in nature is headed toward its proper goal. Kai Nielsen (1988) puts it this way.

The natural moral law theory only makes sense in terms of an acceptance of medieval physics and cosmology. If we give up the view that the universe is purposive and that all motions are just so many attempts to reach the changeless, we must give up natural moral law theories. One might say, as a criticism of the Thomistic doctrine of natural moral law, that since medieval physics is false then it follows that natural moral law theory must be false. (1988, 212)

Let us not despair, responds Veatch. Recent developments in the philosophy of science, developments inspired by Karl Popper (2002), and elaborated by Thomas Kuhn (1996) and Paul Feyerabend (1993), have revealed that science is not the one true picture of the world, but one of many pictures.

For if science is not concerned with nature as it really is in itself, then modern science cannot be said to have undermined that conception of nature in terms of which all operations in nature, and particularly those operations characteristic of human beings, might be said to have there fore-conceived natural ends. In other words, there could be no basic incompatibility between what the scientists have to say about nature and the concept of nature that is required by a natural law or natural rights philosophy. (Veatch 2005)

Though Veatch is my inspiration, his is not my argument. What counts for humans is not nature but narratives. Veatch liberates us from the false dilemma that either our narratives must be scientific (which today often takes the form of evolutionary biology as natural law, discussed in Chapter 4), or they are “just narratives.” Well, it’s all just narrative. Some narratives are just better than others: deeper, more awesome, more manifold, more fulfilling, more in touch with human nature. Of course, mine is just an assertion. To back it up, I would have to tell a particular story, setting it against other stories, in order to show why the story I tell is better. That is what I intend to do in this book.

Once one begins to tell a story, however, a troubling insight quickly occurs. Since Aristotle's day, more than one plausible narrative of the good human life has emerged:

The life of the aesthete, who makes of his existence a work of art. Oscar Wilde is exemplary.

Nietzsche's modern day version of the Greek warrior, the *Übermensch*.

The absurd hero, represented Dr. Rieux in *The Plague*, by Albert Camus (1972). In the midst of horror and loss, the admirable doctor fights "against creation as he found it" (120). Trouble is, Meursault of Camus's *The Stranger*, while possibly pathetic, is arguably as admirable as Rieux, living and dying without compromise, resisting society as he found it.

This list is just a beginning. My approach is to argue for a particular vision of the good life for men and women, one that takes seriously a comment by Leo Strauss (1999, 180), but in a sense never intended by him when he characterizes Machiavelli's and Hobbes's visions of natural law as ones in which "the complete basis of natural law must be sought, not in the end of man, but in his beginnings."

The beginnings Strauss refers to include fear, greed, hate, lust, and the like. I turn to the psychoanalyst Melanie Klein in order to characterize this beginning, arguing that besides fear, greed, hate, and lust, are primitive but hardly simple desires to love, care for, and make reparation to those we have hated and harmed in phantasy or reality. The task of natural law is to work with these desires in order to make them moral.

It turns out that the content of a roughly Kleinian vision of natural law, the natural law of reparation, comes close to the content of natural law as it is conceived by Thomas Aquinas, and particularly Jacques Maritain. A thoroughly secular woman, Klein was nonetheless an essentially religious thinker, by which I mean that her basic categories of thought were the categories of original sin, trespass, guilt, and salvation through reparation.

It is within this framework that I will be arguing, and ultimately it is at this level that arguments about the natural law must be carried out today if they are to be worthwhile. When I say "at this level," I do not mean, of course, that arguments about natural law today must invoke Klein or psychoanalysis. I mean that arguments about the natural law

should tell a particular story about the good life for men and women. Continuing to argue whether natural law is possible is an enterprise of diminishing returns. While it remains necessary to introduce and contextualize the discussion of natural law in terms of difficult issues of epistemology and methodology, the more pressing task today is to go out and do the natural law in order to see how convincing we can be, both to ourselves and to others.

At one level, my argument about the natural law will sound familiar. What Melanie Klein calls reparation, the desire to make amends for the harm we have done, or wished to do, to others, can be interpreted in terms of *caritas*. Unlike Eros, *caritas* cares more for the other than one's own satisfaction. Indeed, I will argue that the *caritas* of reparation stems from a love for the goodness of the world that is akin to the goodness that both Saint Augustine and Aquinas see as the foundation of the natural law. In one respect, but in one respect only, the origin of the natural law in what Klein calls reparation is straightforward.

Two barriers stand in the way of realizing the natural law of reparation. Indeed, if I could not explain to you why the power of the natural law remains largely latent, then you must think me a fool. For everywhere one looks one sees not goodness and *caritas*, but hate, suspicion, and destruction, at least at the level of society, and unfortunately in many families as well.

The first barrier is that one cannot get to reparation without passing through the dominion of death. In this chapter, Antigone will represent the kingdom of death, particularly its confusion with life. This confusion I will call dark Eros, the confusion of Eros with the *Todestrieb*, as Freud called the death drive, the love of annihilation. The need to make reparation is so strong because we have longed to destroy the innocent, the pure, and the good. Not just in order to possess these attributes for ourselves, but because there is a deep and perverse pleasure in the destruction of goodness itself. Reparation, indeed *caritas*, stem from the horror that humans feel when they come to know (even if this knowledge remains no more than intuition) the power of these destructive forces in themselves.

To know natural law we must know natural evil, which I shall define as the insistent presence of the death drive within and behind so much of what humans do. The traditional natural law has never addressed the problem of evil with the seriousness it deserves, even as Augustine

came close for a moment. But perhaps putting it this way is too unhistorical, even for a work on the natural law. Perhaps it has taken the twentieth century, the bloodiest in world history, to confront us with the *Todestrieb* in all its bloody glory. In any case, I will argue that even as it has failed to give evil its due, only the traditional natural law – the natural law of Augustine, Thomas Aquinas, and Jacques Maritain – comes close to that of the natural law of reparation. Close, but not close enough.

Here, I believe, is what makes my account of natural law distinctive. Not just that I draw upon a psychoanalyst to make my point, while taking seriously the claims of the traditional natural law throughout, above all that it join nature and moral obligation. The natural law is not just another term for universalism, whatever the species: Kantian, anthropological, or evolutionary. My commitment to the traditional natural law is important, but it is not the key to my account, except in the following sense. Klein must meet the standards of the traditional natural law in order to be considered a natural law theorist. She receives no special dispensation.

Singular is my argument that natural law must take into account the pleasure in destruction – not just dark Eros, but the human desire to destroy the good because it is good, and not me or mine. Milton's Satan (*Paradise Lost* IV, 40–55, 105–110) comes closest to representing this vision of evil, for that is what it is, and I believe that the natural law of reparation is the only vision of natural law that comes to terms with this reality, which is unfortunately not confined to Satan, but is shared to some degree by us all.

Those familiar with the psychoanalytic theory of Melanie Klein will, I believe, readily understand how one could interpret the natural law in terms of her category of reparation, which she already understands in quasi-religious terms as an act of contrition through which we work for absolution from our thoughts and deeds of greed, hatred, and destruction. What I add is that reparation as an account of the natural law only makes sense once one accepts that we are first of all creatures who have wanted to destroy all that is good and life-giving. We have hated before we have loved. In the end, our love may be stronger than our hate, but hate comes first. Some may think they recognize the story of the Fall and Salvation. I would prefer to say that Biblical themes do not a religion make. Postmoderns or not, believers or not, in the West

we all still live in the penumbra of the Judeo-Christian tradition, and that is all that is necessary to accept my account.

And yet Kleinian reparation is entirely inadequate as an account of the natural law. This is the second barrier to a strictly Kleinian account. Reparation is morally untrustworthy, as likely to be satisfied by painting a picture about the terrible deeds one has done as by making amends to the actual victims. Reparation tends, in other words, to get stuck within the cave of one's mind. How to draw reparation out of one's imagination into the world? How to direct reparation toward those one has harmed, and their real-world stand-ins, the needy, the desperate, and the despised? In order to answer this question I first elaborate on the Kleinian account using the work of Wilfred Bion and D. W. Winnicott, both independent-minded students of hers.

Next, I turn to the natural law, particularly as it is interpreted by Jacques Maritain. Natural law not only provides the moral guidance that reparation requires, but the natural law of Maritain has affinities to the work of Klein. In order to make this argument, I must introduce a third party, and a third term. The third party is Winnicott, who is a remarkably subtle theorist of community, a communitarian for whom the individual remains paramount. The third term is "personalism," a doctrine explicitly held by Maritain, and implicitly (unacknowledged and likely unrecognized) by Winnicott. In order to give all these abstractions some substance, I argue that the "dignitarian" tradition (Glendon 2001, 42, 227) of human rights reflected in the preamble to the United Nations Declaration of Human Rights reflects the perspective of personalism.

Personalism is not only a theological-political doctrine. Personalism reflects the social and political conditions under which reparative thinking is possible, conditions that I will call, following Winnicott, containment. Containment begins with family, and comes to include all of a decent society, from the stories it tells about itself, to its police and welfare programs, to its retirement security. Containment is a combination of loving personal relationships and a decent social compact. Cultural containment is provision of the support necessary for reparation and thought to talk with each other, and with the world. Absent containment, thinking is too terrifying, and reparation too self-indulgent. It is the combination of reparation and thought that together constitutes the natural law. In other words, the realization of the natural law depends upon some fairly straightforward, but

nonetheless exceptional, social conditions. Much of Chapter 4 is concerned with this topic.

I am summarizing my argument, not my book, which follows a slightly different order. The remainder of this chapter is concerned with how close death comes to life in Antigone's appeal to the natural law. I say this not to deny Antigone's historical claim to embody the natural law, but to demonstrate the dark powers anyone who takes the natural law seriously must confront. Greek tragedy is significant for another reason as well. Greek tragedy does not just illustrate containment; it embodies it. The very act of watching a tragedy at Athens was an instance of containment, framing and forming otherwise unbearable emotions. Indeed, this is the best way to interpret Aristotle's definition of tragedy (he was referring to the experience of attending the performance) as the *katharsis* of pity and fear (*Poetics*, c. 6).

Chapter 2 devotes little attention to Klein, more attention to the traditional natural law, and a great deal of attention to a group of young people; informants I call them. Originally I had planned to read several articles from the UN Declaration to them, asking informants if they agreed, why, and what they would say to someone who disagreed. As it turns out, I asked several additional questions, but reading of a couple of articles from the UN Declaration, accompanied by a question along the lines of "What would you say to someone who said that Article 1 [or 3] is the stupidest thing I ever heard?" remained the leitmotiv of my research for Chapter 2.

Informants, I argue, are hardly personalists. But neither are they the liberals, relativists, cynics (in the contemporary sense), or subjective individualists that Alasdair MacInyre, Alan Bloom, and other culture critics claim to find among the young. On the contrary, most informants hold to a minimal version of the natural law. How much of a teaching opportunity this minimal commitment to the natural law provides cultural workers should not be underestimated. Beyond question, this commitment provides a remarkable learning opportunity for all cultural workers, especially university professors and other so-called experts in the intellectual *Zeitgeist*.

#### ANTIGONE

What kind of life would lead people not just to be ignorant of the natural law, but to find the very concept incomprehensible? Alasdair

MacIntyre's (2000) answer is the culture of advanced modernity – that is, the culture in which almost all of us live everyday. In this culture the individual is the alpha and the omega, the beginning and the end of every question, and every answer. Contrast this culture with that of Thomas Aquinas, in which people understood themselves as members of a larger human community, one in which the human good is naturally shared. Only in such a community does the natural law naturally make sense.

George Steiner asks a similar question about Sophocles' *Antigone*, a traditional heroine of the natural law. If the "gods' unwritten and unfailing laws" are of manifest universality and eternity, why are they not clear to Creon, or to the chorus of Theban elders?<sup>2</sup> Indeed, one might argue that they are apparent to no one but Antigone. Though Haimon, Antigone's fiancé (and Creon's son), objects to the punishment his father would inflict, burying Antigone alive, Haimon's motives appear to have little to do with the natural law. Love for Antigone, resentment at his father, a concern for public opinion: these are what seem to motivate Haimon. Or perhaps these motives do concern the natural law, but the connection is tortuous. We shall see.

If natural law is so natural, why is Antigone the only one who seems to get it? Because she is outside the categories of both polis and history, human constructions that remove us from a direct encounter with the natural law, which resides somewhere less temporal and historical than community. About this encounter, I would add, it is one that humans cannot long abide in solitude and continue to live. Steiner puts it this way.

The answer is that for Antigone the polis and the category of the historical – of rationally organized and mastered timeliness – have obtruded, irrelevantly and then destructively, upon an order of being, call it 'familial,' 'telluric,' 'cyclical,' in which man was, literally, at home in timelessness. Such at-homeness before or outside history makes of *philia*, of 'loving immediacy,' of 'unquestioning care,' the rule of human relations. It is in this very definite sense that the unwritten laws of loving care which Antigone cites, and which she places under

<sup>2</sup> *Antigone*, line 456. The translation I use is that of Elizabeth Wyckoff, in the Chicago University Press series, edited by David Grene and Richmond Lattimore (1954). Occasionally, when the Greek seems especially important, I turn to the Loeb Classical Library edition of *Antigone*, published by Harvard University Press, which has the Greek on one page, an English translation by F. Storr on the opposite page.



the twofold aegis of Olympian Zeus and chthonian dike, are 'natural law.' They embody an imperative of humaneness which men and women share before they enter into the mutations, the transitory illusion, the divisive experiments of a historical and political system. Creon does not and cannot answer. For time does not answer, or indeed, bandy words with eternity. (Steiner 1986, 250–251)

How different Steiner's answer is from MacIntyre's. For MacIntyre, as for most of the traditional natural law theorists, such as Aquinas, we know the natural law by living in community with others.<sup>3</sup> For Steiner, we know the natural law most clearly when we live as outcast, unable to participate fully in all those aspects of community life that bind us in a fleshy human web of dialogue with others, the mundane chat of everyday life that distracts from first principles. Antigone is in communion with eternity, to which she already belongs, partly by choice, primarily by chance of incestuous birth, which excludes her from normal community.

How can we count thee Antigone? Why have you cast such a spell on the Western imagination, so that between circa 1790 and 1905, many European poets, philosophers, and scholars held that Sophocles' *Antigone* was not only the finest Greek tragedy, but a work of art nearer to perfection than any other ever produced (Steiner 1986, 1)? Indeed, Antigone has been seen under numerous horizons: As a prefiguration of Christ, including virginity, nocturnal burial, sacrificial love, action as compassion, and finally heroism as freely shared agony.

As a Jungian archetype, whose details we need not go into, except to say that this archetype is almost as readily rendered in terms of the structural anthropology of Levi-Strauss, in which our fundamental myths correspond to certain primordial social confrontations, such as between man and woman, young and old, and above all between life and death, being and nonbeing. Indeed, Steiner speculates that the "mytho-logic" at issue in *Antigone* may lie so deep as to reflect "the axial, the symmetrical, structure of the brain and of the body," which

<sup>3</sup> It's not simple. For Aquinas, we first learn the natural law through an individual encounter with the goodness of God's creation (ST I-I 79, 12). Communal dialogue frames this experience; it does not create it.

come to represent being and non-being itself, life and death (Steiner 1986, 128).

Because I will be drawing upon the work of the psychoanalyst Melanie Klein, one might be inclined to read Klein's almost legendary distinction between the good breast and the bad breast along these lines, as a type of natural law built into the symmetrical structure of mothers' bodies. This is not my argument. Not breasts or bodies, but narratives are the primordial structures I am most interested in.

Not just a primordial narrative, *Antigone* is also a conversation in at least two senses. First, *Antigone*, like all Greek tragedy, was originally presented as part of a conversation within the Athenian polis. Antigone may have been *apolis* (απολις), one without a city or country, but the play in which she is the protagonist was presented in the theater of Dionysus as part of a civic festival, the Great (or City) Dionysia. Antigone is the antagonist, one who is born to stand against and alone, but her story is presented as part of a civic ceremony of collective self-assertion.<sup>4</sup>

The tension between tragedy, which is generally (and certainly in the case of *Antigone*) an assertion of the primacy of family, and a love that has little to do with the polis, and the framework within which this assertion took place, the polis celebrating itself, has struck many observers. In other words, the polis provided a framework within which forces that are irrelevant if not hostile to politics, such as erotic and even familial love, could be addressed in all their anarchic complexity.

In fact, it's not so simple, as Judith Butler (2000) argues in *Antigone's Claim: Kinship between Life and Death*. Though Hegel, as well as Steiner, would set the family against the polis, the family has always had the job of preparing its members for life in the polis: as soldiers, producers in the household economy, and so forth. While "the personal is the

<sup>4</sup> Performed once or twice a year, it seems wrong to call the tragedies plays. If, that is, the term "play" suggests a night out at the theater. In classical Athens, the price of a theater ticket was distributed by the local *deme* or district to citizens in good standing. Citizens sat in the open-air theater below the Acropolis in wedge-shaped sections designated for each of the ten demes, just as they did for a meeting of the assembly. The audience was overwhelmingly, perhaps exclusively male, and was likely composed of the same few thousand citizens who attended the forty annual meetings of the assembly. In other words, the theater was an extension of the democratic assembly, an impression strengthened by the fact that the chorus was composed (in all likelihood) of *ephebes*, young men in the first two years of their military service (Winkler and Zeitlin 1990).