

## Introduction

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Natural law ethics is a normative theory, which, as its name implies, centres on two key notions: nature and law. It is animated by the idea that nature, and human nature in particular, is the source and ground of the moral laws (or, more widely, moral norms) which govern our nature. Historically, the 'nature' component was first theorised in Ancient Greece and Rome, where philosophers argued that human beings are intrinsically directed to and fulfilled by certain ends – the claim of natural teleology. The 'law' component found its most pronounced embodiment far earlier, in the scriptures of Ancient Israel, which proclaim a binding set of moral commandments that issue from a transcendent deity. The history of natural law ethics is, put broadly, a mediation between these two cultural inheritances – and is therefore the site of several recurrent controversies. How, exactly, are moral norms embedded in nature? If God is the ultimate source of morality, is the role of nature normatively redundant? Can nature generate its own moral norms independently of God? Is the entire notion of a natural moral law incoherent or misconceived? These perennial questions have, as we shall see, elicited markedly different and conflicting responses from both philosophers and theologians. What binds the tradition of natural law ethics together is the questions themselves.

With the Greek and Roman Stoics (Part I, Chapter 1), we encounter the first explicit references to and theorisation of natural moral law. As Philipp Brüllmann maintains, these ancient philosophers affirm a rational, providential law governing the whole of the natural world or 'cosmos'. Theirs is not, however, the law of a transcendent God; it is a law embodied wholly in nature, a nature that is, contra the God of Israel, itself divine. The moral universe of the Stoics is thus firmly legal in form – Cicero refers extensively to a *lex naturalis*, or 'law of nature'. For them, the central points of contention are: does the natural moral law consist in exceptionless rules? or rules of thumb? or merely the particular judgements of the Stoic 'sage'? As Brüllmann details, the Stoics tackle these questions by distinguishing moral 'precepts' from

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‘principles’, and the so-called progressor from the full-blown moral ‘sage’.

Our second historical port of call, Thomas Aquinas (Chapter 2), is widely acknowledged as giving definitive shape to natural law ethics. In the *Summa Theologiae*, he draws on the Stoics, but also on the biblical notion of a transcendent, commanding God. For Aquinas, then, the need to reconcile a moral law immanent within nature and one originating in a transcendent deity is acutely felt. According to Steven Jensen, he achieves this by invoking what he calls natural (yet essentially non-conscious) ‘inclinations’, which are directed at various objective goods, themselves either protected or promoted by divine law. In short, it is in our nature to obey this law, because it is the guarantor of our and others’ well-being. As Jensen argues, furthermore, it is the pivotal notion of natural inclination that saves Aquinas’ ethics from the pitfalls of modern ethical theories: subjectivism, error theory, consequentialism and Kantian non-naturalism.

While Aquinas makes a valiant and arguably successful attempt at marrying nature with law, by the time of Grotius and Pufendorf (Chapter 3), the marriage is under severe strain. For in an increasingly secular Europe, the idea that God is necessary to underwrite the moral law is thought by many to be both false and unnecessarily divisive. As Johan Olsthoorn shows, the tendency is hence to affirm that the moral law is binding ‘even if’, as Grotius puts it, ‘we grant [*etiamsi daremus*] ... that there is no God’. In this context, the rearguard action is fought by Pufendorf. Whereas Grotius holds that the natural law is self-standing in both content and force, Pufendorf maintains that ‘all law supposes a Superior Power’. Indeed, ‘all acts of themselves were indifferent’, Pufendorf asserts, ‘before the announcement of a law’. Olsthoorn summarises this intricate and wide-ranging argument as follows: ‘Grotius was a naturalist about both morality and obligation; Pufendorf a [divine] voluntarist in respect of both’.

Part II documents the revival of natural law ethics in the twentieth century, and opens with Patrick Lee on the ‘new natural law theory’ (Chapter 4). What is immediately apparent is how far we have travelled from Aquinas, and even from Grotius and Pufendorf. For first, God or God’s law is no longer foundational, either as specifying the content of natural law, or as guaranteeing the force of its norms. And secondly, New Natural Law is determined to avoid any (purportedly) fallacious inference from natural teleology to moral norms. Instead, new natural lawyers like John Finnis posit a range of ‘basic goods’ they claim are

practically self-evident. For traditional Thomists, this direct appeal to the practical order, in abstraction from the natural order, constitutes a betrayal of Aquinas' integration between nature and moral law. But as Lee contends, New Natural Law has mustered a battery of arguments against natural teleology, i.e. the notion that nature, as such, has various goods dynamically 'inscribed within it'.

If New Natural Law represents a move away from any transcendent, theistic grounding for natural law, Neo-Aristotelian ethical naturalism completes it (Chapter 5). As Jennifer A. Frey holds, this form of naturalism rejects 'ethical supernaturalism' in favour of a thoroughly this-worldly grounding for normativity. This consists in what Michael Thompson calls the 'Aristotelian categorical', which registers what flourishing for any particular species – human or non-human – amounts to. When we claim, for instance, that 'yellow finches breed in spring', or 'humans have the practice of promise-keeping', we are making judgments about how particular life forms flourish or avoid defect. This Neo-Aristotelian ethical naturalism faces two clear challenges, however: first, that it contravenes post-Darwinian natural science, and second, that its atheism evacuates the idea of natural *law* of coherent content. Frey tackles these challenges head-on, reaching conclusions that are both nuanced and tightly argued.

Part III returns us to authors for whom and sources for which the 'God question' is a live, indeed, a pressing one. This is because the God in question is the God first encountered in Ancient Israel, whose authority wholly transcends nature. Why, then, should such a God be concerned with nature at all? When it comes to Judaism (Chapter 6), this question is, as Tamar Rudavsky maintains, peculiarly difficult to escape. For with one exception, no mediaeval Jewish philosopher makes use of the term 'natural law'. The presumption is that divine command is the foundation of ethics, with no need for appeal to anything beyond it. It is only in the seventeenth century, indeed, that natural law theorising first makes a significant impact within Jewish tradition. But it finds widespread resistance among Jewish philosophers even now, notably by Aharon Lichtenstein and Marvin Fox, the latter contending that 'there is no natural moral law, only the law of God'.

While Catholic Christianity (Chapter 7) clearly has inextricable roots in and manifold debts to Judaism, its openness to natural law ethics has been generally greater. We have seen this, already, in the seminal case of Aquinas. But as Tracey Rowland demonstrates, natural law debate within the Catholic tradition is not confined to Thomism.

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A more capacious approach, receptive to both scriptural and patristic sources, finds its full flowering in the period of the Second Vatican Council (1962–5). At that time, moral theologians like Servais Pinckaers OP argued that we need both grace and revelation to grasp the natural law in its fullness. And this is taken up, later, by Pope Benedict XVI, who maintains that nature should be understood ‘not in terms of biology or rational metaphysics, but rather in terms of the concrete history that has taken and is taking place between God and man’. To its detractors, however, this ‘theonomous’ approach misconceives natural law ethics, confusing its content with the content of divine revelation.

When it comes to Protestant Christianity (Chapter 8), there is a common perception that it embodies a return to Judaism’s relative suspicion of natural law ethics. But as Jennifer Herdt argues, this is, in the main, a misperception. Luther construes natural law as Jeremiah’s (and later St Paul’s) ‘law written on the heart’, and his close relation, Melancthon, gives Greek ethics pedagogical pride of place. Richard Hooker, for his part, criticises the Puritan view of the Bible as ‘a divinely authorised guide to all aspects of life’, reasserting the traditional, Catholic view that human reason retains significant autonomous authority. Where Protestant thinkers depart, nevertheless, from their Catholic counterparts, is in emphasising human nature as ‘fallen’, and in their antipathy to natural law as a purely rationalistic or biologicistic artefact.

The final religious tradition considered in Part III is Islam (Chapter 9). Anver Emon argues that any disjunction between religion and law is deeply inimical to an understanding of Islamic ethical thought. In Islam, as in Judaism, the two are inextricable. This leaves undecided, of course, the role, if any, of *natural* law in Islam. Yet according to Emon, one finds its functional equivalent at work in *fiqh* (legal doctrine) and *khilaf* (legal disputes), which contain at least implicit natural law reasoning. Another site of natural law-type debate in Islam is the legal dialectic between *huquq Allah* (literally ‘the claims of God’, i.e. the claims of public welfare) and *huquq al-‘ibad* (the claims of individuals). Here, as elsewhere in Islamic tradition, Emon claims, we find little consensus over universal, natural moral norms and more a general agonism, wherein ‘the challenge is to create maximal space for claims about what the universal might be’.

Part IV shifts ground to various applications of natural law ethics. Jacqueline Laing opens with the crucial area of natural law bioethics

(Chapter 10). For Laing, natural law bioethics adheres firmly to Cicero's view that the human good is objective, eternal and unchanging, resting, as it does, on a teleological philosophical anthropology. The human good cannot be defended, Laing maintains, without respecting the principle of double effect, which safeguards all innocent life by precluding any intentional attack on it. This principle classes as impermissible the deliberate targeting of innocent civilians in war and by terrorist organisations. It rules out, furthermore, the deliberate killing of the unborn, as innocent human persons, along with the euthanising of the elderly and terminally ill. By extension, this mode of reasoning stands against all punitive excess, such as death for apostasy or blasphemy, and the harvesting of organs from bodies without prior consent.

Perhaps least hospitable to natural law reasoning is the relatively young social 'science' of economics (Chapter 11). As Samuel Gregg holds, this is because it aspires, unlike bioethics, to be a 'value-free' discipline. What natural law ethics can usefully effect, nonetheless, is a demarcation of issues that are properly part of the value-free 'economic technique', from those that have a direct and significant impact on social justice. Germain Grisez, for example, distinguishes between the commensuration and weighing of non-moral goods and that of moral goods, the latter threatening to bring the whole moral domain within the destructive remit of cost-benefit analysis. If this occurs, Gregg argues, economics descends into economism, and what was a genuine discipline, meant to protect and promote moral goods, becomes instead a self-serving, profoundly anti-social pseudo-discipline.

The final applied topic is political theory (Chapter 12). After summarising Aquinas' natural law ethics, Christopher Wolfe outlines the main contours of a natural law politics. The central theme here is the political or common good as superior to the individual good, and as irreducible to a mere aggregate of individual goods. Yet because human persons are subsistent beings, in whom the political good is realised, that good cannot be achieved without treating such beings with 'equal concern and respect'. As to positive law, it is governed by natural law, though the determinations of the latter are, in general, less certain than those of speculative reason. Safe to say, natural law does not command all virtue, or suppress all vice – on pain of counterproductive results. According to natural law political theory, the common good is mediated by different, sub-state groups, and owing to the principle of subsidiarity, the family is afforded strong rights of its own.

Part IV examines the challenges and prospects for natural law ethics, and begins with Sophie Grace Chappell on the former (Chapter 13). At the heart of Chappell's critique is the claim that an organism's flourishing can, and often does, come apart from its natural *telos* or end. An example is the miserable life of the average wild rabbit. Granted, one can infer natural *telē*, instead, from what it is for organisms to flourish, but this both isolates them from their wider, ecological role and affirms behaviours that seem bad (e.g. lions' tendency to kill lion cubs). It follows that we should submit 'traditional teleological beliefs' to severe scrutiny, including the 'tests of science'. Chappell is convinced, indeed, that a more fruitful source of normative reflection lies – at least in the human case – in the deliverances of phenomenology and conscience, and finishes by making the case for a 'not-just-naturalism' along exactly these lines.

Diametrically opposed to Chappell is Edward Feser, who provides a magisterial overview of the revival of Aristotelian metaphysics (Chapter 14). The revival of Aristotelian essentialism and teleology is owing to recent work by Anglophone analytic philosophers. A key application of their work is to ethics, where goodness can now be understood – as it always was by natural lawyers like Aquinas – as the goodness of a substance, realising its own, intrinsic finality or end. True, the 'mechanical world picture' ushered in by the scientific revolution claims to eviscerate final causation and substantial forms, replacing them with mathematically expressed laws governing aggregates of particles. But, as Feser holds, this was never a scientific finding itself, so much as a tendentious interpretation of such findings. After elaborating an Aristotelian ontology in the chemical and physical domains, Feser criticises evolutionary theory, which (contra Aristotle) reduces natural functions to ones favoured by evolutionary history.

In the final chapter, I assess the prospects for natural law ethics in the twenty-first century (Chapter 15). I begin by outlining three propitious philosophical developments as we approach the first quarter of the new millennium. First, the concerted critique of the fact–value dichotomy; second, the revival of Aristotelian metaphysics; and third, the development of Neo-Aristotelian ethical naturalism. I go on to consider four forms of the latter, namely the naturalisms of John McDowell, Rosalind Hursthouse, Michael Thompson and John Finnis. As I argue, their grounding of norms in nature demonstrates an unacknowledged and troubling dissociation between nature and normativity. Not that the dissociation here, in the four forms I outline, is irreparable – it will just

take work to overcome. And given the propitious developments with which I began, there is every chance of this being achieved.

With Neo-Aristotelian ethical naturalism, we have a species of normative theory in which law is fundamentally side-lined, while nature is to the fore. In this way, the dialectic between nature and law now firmly favours the former, with the latter on the defensive. At the very least, law is no longer thematised – as it is by most monotheists, including the majority of Jewish philosophers, Aquinas and even the Stoics – as promulgated or as requiring a lawgiver. And this raises the question of whether a natural *law* ethics is fully present in mainstream, contemporary Anglophone philosophy. This highlights nicely an issue that has confronted us from the start: is nature mere ‘material’ into which moral norms must be introduced, as it were, from the outside, or does it constitute an arena of norms from the start? I hope that this volume settles this question, if not definitively, at least further than it was before.