

## Introduction

### *Liberals*

#### I. NATURAL LAW AND LIBERALISM

In this book, I explore, illustrate, and seek to illuminate a radical version of liberalism articulated and defended using natural law theory.

A natural law theory in the broadest sense is one that sees moral requirements as rooted in the way things are. It need not straightforwardly *identify* moral facts with natural facts; it might, alternatively, treat the moral as supervenient on the natural. But it will maintain, at minimum, that there could not be two worlds comprising identical sets of natural facts but different sets of moral facts. More narrowly, however, we can think of natural law theories of morality, law, and politics as rooted in *particular aspects* of how things are—especially, aspects of how *human persons* are.<sup>1</sup> I will be concerned here with two strands of natural law thinking.

- (i) A natural law view in the first sense is one, typically Aristotelian, that treats flourishing, fulfillment, well-being, welfare as the basic moral category. Because flourishing is basic to ethics conceived in this sense, choosing correctly means choosing appropriately in relation to flourishing. Of course, choices with respect to flourishing can go wrong in various ways, some of which may be characterized using highly general principles.<sup>2</sup> The requirements of natural law in this sense are both universal and natural because they apply in virtue of our

<sup>1</sup> See, e.g., Mark C. Murphy, *The Natural Law Tradition in Ethics*, STANFORD ENCYCLOPEDIA OF PHILOSOPHY, Sep. 27, 2011, <https://plato.stanford.edu/entries/natural-law-ethics/>; 1 TERENCE E. IRWIN, THE DEVELOPMENT OF ETHICS: A HISTORICAL AND CRITICAL STUDY—FROM SOCRATES TO THE REFORMATION 545–70 (2007); 2 TERENCE E. IRWIN, THE DEVELOPMENT OF ETHICS: A HISTORICAL AND CRITICAL STUDY—FROM SUAREZ TO ROUSSEAU 70–87 (2008). Cf. John Finnis, *Natural Law Theories*, STANFORD ENCYCLOPEDIA OF PHILOSOPHY, Nov. 4, 2015, <https://plato.stanford.edu/entries/natural-law-theories/> (focusing especially on theories of law).

<sup>2</sup> The salience of these generic norms, rather than any thought that the authoritativeness or content of natural law depends on anything like an act of legislation, explains the relevance of talk about “law” in this connection. The idea of natural law does not involve the notion of any sort of legislative enactment, human or divine.

generic characteristics (so that, on the most plausible reading, they bind any creatures relevantly similar to us who are capable of moral agency).<sup>3</sup> I focus here especially on one variety of Aristotelian natural law theory, the New Classical Natural Law theory.<sup>4</sup> For simplicity's sake, I will frequently refer to "NATURAL LAW theory" when discussing orthodox and unorthodox versions of this distinctive variety of natural law theory, and to "NATURAL LAW theorists" when alluding to its orthodox and unorthodox proponents.

- (ii) The latter variety of natural law thinking, grounded in the ideas of the Scottish Enlightenment, and so notably of Adam Smith, and continued most notably in the contemporary era by Friedrich Hayek, is concerned with "the superiority of spontaneous over man-made order."<sup>5</sup> On this sort of view, social order emerges naturally in the course of ongoing human interaction. It is "the result of human action, but not the execution of any human design."<sup>6</sup> Natural law theorists identified with the spontaneous order tradition have seen social order as emerging on a bottom-up rather than a top-down basis. The spontaneous order approach complements the Aristotelian in at least two ways. (a) It undermines support for models of social interaction to which top-down control is central, and thus helps to create space for the exercise of practical reason that is itself an element of flourishing. As a result, (b) it helps to encourage the development of social institutions that promote prosperity in ways that allow for the expression of diverse styles of life, and so of diverse ways of flourishing.

<sup>3</sup> I have drawn here on Murphy's analysis, even as I have modified it; cf. Murphy, *Tradition*, *supra* note 1, at §1.4. Murphy takes divine origin and epistemic accessibility to features of a paradigmatic natural law theory. Natural law theorists can, of course, be theists; but they will not suppose that the divine will or any divine command does or could determine the *content* of natural law (apart from determining or, alternatively, helping to determine the relevant natural facts with which morality necessarily covaries).

<sup>4</sup> See generally JOHN FINNIS, *NATURAL LAW AND NATURAL RIGHTS* (1980); JOHN FINNIS, *FUNDAMENTALS OF ETHICS* (1983); 1 GERMAIN GRISEZ, *THE WAY OF THE LORD JESUS: CHRISTIAN MORAL PRINCIPLES* (1983); GERMAIN GRISEZ & RUSSELL SHAW, *BEYOND THE NEW MORALITY: THE RESPONSIBILITIES OF FREEDOM* (3d ed. 1988); JOHN M. FINNIS ET AL., *NUCLEAR DETERRENCE, MORALITY, AND REALISM* (1987); GERMAIN GRISEZ & JOSEPH M. BOYLE, JR., *LIFE AND DEATH WITH LIBERTY AND JUSTICE: A CONTRIBUTION TO THE EUTHANASIA DEBATE* (1979); JOHN FINNIS, *MORAL ABSOLUTES: TRADITION, REVISION, AND TRUTH* (1991); 2 GERMAIN G. GRISEZ, *THE WAY OF THE LORD JESUS: LIVING A CHRISTIAN LIFE* (1994); JOHN FINNIS, *AQUINAS: MORAL, POLITICAL, AND LEGAL THEORY* (1998); ROBERT P. GEORGE, *IN DEFENSE OF NATURAL LAW* (2001); 3 GERMAIN GRISEZ, *THE WAY OF THE LORD JESUS: DIFFICULT MORAL QUESTIONS* (1997); Germain Grisez, Joseph M. Boyle, and John Finnis, *Practical Principles, Moral Truth, and Ultimate Ends*, 32 AM. J. JURIS 99 (1987); John M. Finnis, Germain G. Grisez, and Joseph M. Boyle, "Direct" and "Indirect": A Reply to Critics of Our Action Theory, 65 THOMIST 1 (2001); MARK C. MURPHY, *NATURAL LAW AND PRACTICAL RATIONALITY* (1999); MARK C. MURPHY, *NATURAL LAW IN JURISPRUDENCE AND POLITICS* (2006); ALFONSO GÓMEZ-LOBO, *MORALITY AND THE HUMAN GOODS: AN INTRODUCTION TO NATURAL LAW ETHICS* (2002); TIMOTHY CHAPPELL, *UNDERSTANDING HUMAN GOODS: A THEORY OF ETHICS* (1995). Obviously, the theorists I cite embrace a variety of views, not always agreeing with me or with each other.

<sup>5</sup> ERIK ANGNER, *HAYEK AND NATURAL LAW* 6 (2007).

<sup>6</sup> ADAM FERGUSON, *ESSAY ON THE HISTORY OF CIVIL SOCIETY* 205 (5th ed., 1782).

In Part II, I outline a NATURAL LAW account understanding of what makes for a good life before turning, in Part III, to the requirements of practical reasonableness, themselves elements of flourishing, which specify and constrain our choices with respect to flourishing.<sup>7</sup> I note in Part IV why the kind of NATURAL LAW approach I prefer doesn't become bogged down in the disputes regarding egoism and altruism that have preoccupied many modern moral theories. Since I'm attempting to advance a *liberal* theory, I explain in Part V how I understand liberalism; then, in Part IV, I indicate how the variety of NATURAL LAW thinking I defend might support liberal moral and political views. I conclude with an overview of what follows in the remainder of the book in Part VII.

## II. ASPECTS OF LIVING WELL

While in this book I draw on both the Aristotelian and spontaneous order traditions of natural law thinking, in the introduction, I seek particularly to clarify NATURAL LAW theory, not only because I will draw on it explicitly throughout but also because it is somewhat less familiar than a number of other approaches to moral, legal, and political philosophy. (As should be clear, I'm largely *describing* and *expounding* rather than *warranting* my preferred theoretical approach here. While I do note some considerations that count in its favor, I have no illusions that what I offer here amounts to a defense of all of its controversial elements.)

According to a number of distinctively contemporary approaches to moral theory, the point of ethics is to enable detached, atomistic individuals to pursue their preferences in a manner that leaves space for others to do the same.<sup>8</sup> These approaches typically treat people's preferences as relatively arbitrary givens. As long as one takes interpersonal morality seriously, then, on these views, one may reasonably pursue any sort of life one likes. One's welfare or well-being will *consist in* the satisfaction of one's preferences. By contrast, Aristotelian ethics, and so NATURAL LAW theory, can be understood as asking: *How should one live well?* Thus, NATURAL LAW theory begins with an understanding of *flourishing*.

Like others in the Aristotelian tradition, NATURAL LAW theorists note that we rarely find it difficult to answer the question whether a plant or a nonhuman animal is flourishing. We understand from careful reflection on their characteristics and environments what makes things go well for these organisms. "Whether or not a given individual . . . is or is not flourishing *qua* member . . . of whatever plant or animal species it is to which it . . . belong[s] is in itself a question of fact . . ."<sup>9</sup> And

<sup>7</sup> I happily acknowledge the NATURAL LAW theorists as the source of inspiration for these proposals, while absolving them of any responsibility for clumsiness or what may ultimately prove to be errors on my part.

<sup>8</sup> Cf. DAVID GAUTHIER, *MORALS BY AGREEMENT* (1986).

<sup>9</sup> ALASDAIR MACINTYRE, *DEPENDENT RATIONAL ANIMALS: WHY HUMAN BEINGS NEED THE VIRTUES* 64 (1999); cf. *id.* at 79. Cf. OWEN FLANAGAN, *THE PROBLEM OF THE SOUL: TWO VISIONS OF MIND AND HOW TO RECONCILE THEM* 265–86 (2002); PHILIPPA FOOT, *NATURAL GOODNESS* 25–51 (2001).

natural law theorists suggest that we can be as confident about judgments regarding the flourishing of human beings as we are about the flourishing of other creatures.

Various aspects of activity and experience can all be seen as instances of flourishing. In many, perhaps most, cases, it will be obvious to us whether something is or isn't a way in which a given life might go well. But we can also reflect *critically* on our judgments about flourishing. We can ask whether they cohere with (or require the revision of) our existing considered judgments about our own and others' well-being. We can ask where our inquiry stops when we try to make sense of paradigm cases of reasonable action — at what point explaining an action seems to refer to an objective, a perceived good, beyond which no further appeal is needed in order for the action to count as reasonable. We can ask what element of someone's being or capacities or activity has been adversely affected by what we clearly take to be an injury. We can ask whether anything like a cross-cultural or cross-historical consensus supports treating something as a dimension of well-being. We can ask whether *denying* that something is an aspect of well-being — and so affirming, in effect, that one can treat it as important or unimportant at one's whim — entangles us in self-contradiction. And perhaps we can ask whether a given aspect of an organism's being, experience, and activity represents the development of one of its *capacities* — capacities that can often be straightforwardly identified through naturalistic inquiry.<sup>10</sup>

There is likely to be some disagreement around the edges. But most people will be inclined to agree that among the aspects of any human person's well-being are aesthetic experience, friendship, imaginative immersion,<sup>11</sup> knowledge, life and bodily well-being, peace of mind, play, practical reasonableness, self-integration, sensory pleasure, and skillful performance.<sup>12</sup> We can refer to these as basic *aspects of well-being or welfare*, basic *dimensions of flourishing or fulfillment*, basic *goods*. Because what makes a choice reasonable is its relationship to well-being or welfare, because only sentient beings have welfare, and because morality is a matter of choosing reasonably, the only moral questions concern our choices with respect to the flourishing of sentient beings — others or ourselves — and so with respect to these goods.

<sup>10</sup> Cf. MACINTYRE, *supra* note 9, at 64–65; GRISEZ & SHAW, *supra* note 4, at 43–53, 89–97.

<sup>11</sup> I have in mind the kind of absorption in an imaginary world in virtue of which one allows oneself to treat it at least part of the time as if it were possibly or actually real and in which one cares about, and so responds emotionally to, the fate of the world and the fates of its residents — the kind of absorption that gives rise to and is expressed in enthusiastic fan subcultures. The person who opts to enter such a world and who welcomes emotional engagement with the lives of those who inhabit it is not willfully deceiving herself, but participating in the good of imaginative immersion, which has drawn people to attend to stories from time immemorial. Someone might argue that imaginative immersion is more simply understood not as a separate good but as an aspect of aesthetic experience. But aesthetic experience seems to me to be more concerned with the formal properties of a state of affairs and their relationships with each other rather than with our identification with the inhabitants of a fictive world. A recent exploration of imaginative immersion: THE AESTHETIC ILLUSION IN LITERATURE AND THE ARTS (Tomáš Koblížek ed., 2017).

<sup>12</sup> See, e.g., CHAPPELL, *supra* note 4, at 37–45 (1995); MURPHY, RATIONALITY, *supra* note 4, at 96–138; GÓMEZ-LOBO, *supra* note 4, at 6–25; GRISEZ & SHAW, *supra* note 4, at 77–88; GRISEZ, PRINCIPLES, *supra* note 4, at 121–25; FINNIS, LAW, *supra* note 4, at 59–99.

Basic goods are not abstractions or Platonic objects:<sup>13</sup> they are ways in which lives can go well, can flourish, ways in which welfare or fulfillment can be realized.<sup>14</sup> And they are equally *basic*. They're *basic* because reasonable actions can be explained with reference to them, and other goods people reasonably seek to realize or promote can be understood as instances of these goods (or of combinations of these goods). Any of them may reasonably be regarded as a proper terminus for the explanation or justification of an action. A chain of nested reasons for action can rightly be seen to end in one or more of these basic goods.

No basic good is best seen as an instance of or a means to any of the others. Nor are they instances of or means to some yet more fundamental value—happiness, say, or preference satisfaction. Happiness is satisfaction in the realization of objectives independently regarded as worthwhile. Satisfactions are differentiated by their objects and occasions—there is no single thing, *satisfaction*, in which the various goods participate in any interesting sense. Preference satisfaction matters primarily because *the things preferred* matter (both objectively and from the standpoint of the agent). And so forth.

Various lists of basic goods are on offer, and not much turns on the broad categories we employ. One thing that *does* matter, however, is my inclusion of *sensory pleasure* on the list. On a typical NATURAL LAW view, sensory pleasure is at best a concomitant of participation in some aspect of fulfillment; it's a pointer to the value of what one is doing or experiencing. It has no independent value. On this view, which I reject, seeking sensory pleasure for its own sake isn't reasonable. I think it's perfectly sensible to say something like this about *emotions*, which do, of course, include sensory components. We can describe some emotional reactions as reactions typically involving *pleasure*, to be sure. But these emotions wouldn't *be* emotions if they weren't—or, at any rate, didn't involve as integral—cognitively meaningful *judgments*: an emotion is ordinarily the pairing of a sensation and a cognition.

When our psyches are functioning well, our emotions point us to the value or meaning of what we are doing or experiencing or contemplating. And they can serve

<sup>13</sup> Natural law theory is not committed to Platonism here or elsewhere. And credible accounts of moral objectivity and truth not allied to any sort of robust moral ontology are available: *see, e.g.,* Annette Bryson, *Non-Inflationary Realism about Morality: Language, Metaphysics, and Truth* (2017) (unpublished Ph.D. dissertation, University of Michigan).

<sup>14</sup> The deep character of these goods is an interesting and, I think, open issue. One might understand them as expressions of our inherent potential, *cf. GRISEZ & SHAW, supra* note 4, at 43–53, 89–97, of developed natural capacities, *see, e.g.,* MARTHA C. NUSSBAUM, *CREATING CAPABILITIES: THE HUMAN DEVELOPMENT APPROACH* (2013). One might see them as constituted by a range of natural desires, *see* LARRY ARNHART, *DARWINIAN NATURAL RIGHT: THE BIOLOGICAL ETHICS OF HUMAN NATURE* (1998), or as constructed by a process of reasoning about ends, *see* MARK LEBAR, *THE VALUE OF LIVING WELL* (2013). One might understand them to matter as the products of a certain kind of extended evolutionary history; *see* WILLIAM D. CASEBEER, *NATURAL ETHICAL FACTS: EVOLUTION, CONNECTIONISM, AND MORAL COGNITION* (2005). I do not believe we need to settle on one of these accounts, or any alternative, at this point, provided we can agree that the basic goods are, indeed, instances of flourishing.

both to prompt and to solidify our projects. But an emotion isn't *itself* the value or meaning of a particular good, which might be present even if the sensory signals that might otherwise be provided by the emotion were absent. That's why it makes no sense to seek happiness, understood as satisfaction or elation, as one's ultimate goal, or to treat it as the underlying point of any good. For it will always be reasonable (in a deliberate echo of G. E. Moore) to ask whether any instance of happiness is occasioned by something *worth* being happy about.<sup>15</sup> And the same will be true, in general, of seeking any emotion as a goal.

The point of skiing is the challenge and risk associated with the activity, and the development of the skill needed to meet the challenge and risk. It's not the anxiety and exhilaration that accompany (and prefigure) one's time on the slopes. One could get the anxiety and exhilaration in a simulator or a laboratory; but one couldn't realize the actual goods involved in skiing.<sup>16</sup>

By contrast, we *do* seek straightforwardly sensory pleasures—take, as obvious examples, the pleasures of orgasm or chocolate consumption—for their own sake. (Of course, orgasm and chocolate consumption may both, in different ways, foster friendship as well.) And I believe that we do so quite reasonably.<sup>17</sup>

The various aspects of well-being are *incommensurable*.<sup>18</sup> That is, there is no way to compare friendship, say, and knowledge quantitatively. That's true of the broad categories, and it's true of all the individual instances of those categories. Those individual instances are also *non-fungible*: none can be given up without loss, so none is a perfect substitute for any other.

In addition, none is in itself qualitatively superior, none merits qualitative priority, to any of the others. That no basic aspect of well-being, and no instance of any such aspect, is quantitatively superior to any other follows from their incommensurability. But of course this leaves open the possibility that one might be *qualitatively* superior

<sup>15</sup> And note that this is true even if sensory pleasure is a basic aspect of well-being. Happiness and sensory pleasure are not identical.

<sup>16</sup> See ROBERT C. SOLOMON, *ABOUT LOVE: REINVENTING ROMANCE FOR OUR TIMES* 80 (1994). Cf. MARTHA C. NUSSBAUM, *UPHEAVALS OF THOUGHT: THE INTELLIGENCE OF EMOTIONS* 64 (2001). The Aristotelian views embraced—quite reasonably, as it seems to me—by Solomon and Nussbaum are in stark contrast to those of, for instance, Richard Rorty. While there is, as far as I can see, no inherent conflict between Rorty's pragmatism and critical reflection on the objects of desire (critical reflection, that is, extending beyond reflection on the compossibility of one's own desires and the possibility of their joint realization with those of others), Rorty seems to think critical reflection on our ends is impractical or possible or pointless. "For Mill, James, Dewey, Habermas, and the other philosophers of social democracy, the answer to the question 'Are some human desires bad?' is: No, but some desires do get in the way of our [whose?] project of maximizing the overall satisfaction of desire." RICHARD RORTY, *An Ethics for Today*, in *AN ETHICS FOR TODAY: FINDING COMMON GROUND BETWEEN PHILOSOPHY AND RELIGION* 7, 15 (2011).

<sup>17</sup> See GARY CHARTIER, *PUBLIC PRACTICE, PRIVATE LAW: AN ESSAY ON LOVE, MARRIAGE, AND THE STATE* 115–19 (2016).

<sup>18</sup> See, e.g., FINNIS, *LAW*, *supra* note 4 at 92–95; FINNIS, *ETHICS*, *supra* note 4, at 86–90; GRISEZ & SHAW, *supra* note 4, at 132; MURPHY, *RATIONALITY*, *supra* note 4, at 182–87. Cf. ISAAH BERLIN, *FOUR ESSAYS ON LIBERTY* (1969).

to another. There might be, say, some kind of lexical ordering in virtue of which one was required to pay attention to friendship before aesthetic experience. And of course, this might be thought to be clearly true in one case: one cannot *not* exhibit either incidental or deliberate regard for the basic good of practical reasonableness in the course of any appropriate choice. Even here, however, the *point* of one's action need not be to act reasonably; one is not, at least much of the time, choosing to act reasonably *under that description* even when one does act reasonably, and it is deliberate prioritization that seems to me to be in view when one envisions lexical priority here. More broadly, the various basic goods don't seem to present themselves phenomenologically as qualitatively ranked; and, absent some persuasive argument that they are, I think we are free to assume that they are not.<sup>19</sup>

John Rawls used the label “primary goods” for a range of *instrumental* goods valuable in the course of pursuing any goal someone might have—“liberty and opportunity, income and wealth, and the social bases of self-respect.”<sup>20</sup> But these goods are precisely *not* primary. They do not provide basic reasons for action. They are not constitutive of flourishing. None can reasonably serve as a final end of action. (Actions that promote or realize various basic aspects of welfare may, of course, be acts that also promote Rawlsian primary goods. Protecting the capacity for practical reasonableness, for instance, may sometimes simultaneously protect liberty.) Rather, they are thoroughly useful *means* to the realization of the basic aspects of well-being in our lives and the lives of others.

### III. CHOOSING WELL AS INTEGRAL TO LIVING WELL

Morality is concerned with acts in which one constitutes oneself. A morally *appropriate* act is one that is open to, marked by appropriate regard for, all real goods, as realized in our own lives or those of others (though none of us can or should, of course, pursue all goods simultaneously, or perhaps ever). By contrast, a morally *inappropriate* act is one in which one identifies with injuries, with attacks on basic goods, of one sort or another.<sup>21</sup>

One way of flourishing, as I noted earlier, is *reasoning and choosing well with respect to flourishing*—practical reasonableness. Practical reasoning is reasoning about what to do, and this will frequently be a quite mundane matter. But even the simplest exercise in instrumental reasoning finally makes sense as a way of living well, and of ensuring that one lives well. Practical reasonableness as an aspect of

<sup>19</sup> Thanks to David Gordon for insights related to this point.

<sup>20</sup> JOHN RAWLS, *A THEORY OF JUSTICE* 54 (2d ed., 1999).

<sup>21</sup> Cf. FINNIS, *ETHICS*, *supra* note 4, at 139 (maintaining that “[w]hat choices create is not merely some new wants, preferences, habits . . . , but also a new (not wholly new) identity or character. All free choices last in the sense that they change the person.”).

flourishing can be *specified* in a variety of ways. These ways include at least the following:<sup>22</sup>

- (i) *The Principle of Recognition*. Choose genuine, rather than illusory, goods for oneself and others.<sup>23</sup> Don't act except in order to realize or promote or facilitate participation in authentic aspects of welfare (directly or indirectly).
- (ii) *The Principle of Fairness*. Judge and choose *in a rationally consistent manner* with respect to those whom one's actions affect. Treat them in the same way unless there's a justification for treating them differently. (a) One justification for treating them differently might be the realization of a particular good. For instance, if I am to be your friend, if we are to participate in the good of friendship, I can't give my time and loyalty equally to everyone. Similarly, if I'm to pick you as a member of a team that will participate in an athletic contest, if you and your teammates are to participate in the good of play, I may reasonably pick you in light of your athletic ability. (b) Another justification might be that a given distinction is permissible in light of a rule I am willing consistently to endorse as applied to myself and my loved ones along with the others involved.<sup>24</sup> I might agree, for instance, that one good turn be met with another, and thus be willing to endorse a rule permitting the acknowledgment of merit.<sup>25</sup>
- (iii) *The Principle of Respect*. Don't *injure* any moral sentient by purposefully or instrumentally attacking any basic aspect of her well-being. The irreducible heterogeneity of the basic goods—their incommensurability, non-fungibility, and lack of inherent priority—means that the various general ways of flourishing are incommensurable and non-fungible, as are all the particular *instances* of flourishing. And this means, in turn, that any sort of consequentialist calculus is a nonstarter, since there will be no rationally necessary way of aggregating various goods and effecting quantitative comparisons of the aggregates. It also means that there will be no rational justification for choices to injure one instance of flourishing—whether for its own sake (out of revenge,

<sup>22</sup> See, e.g., GRISEZ & SHAW, *supra* note 4, at 117–53; GRISEZ, PRINCIPLES, *supra* note 4, at 205–28; FINNIS, LAW, *supra* note 4, at 100–33, 304; FINNIS, ETHICS, *supra* note 4, at 75–76; MURPHY, RATIONALITY, *supra* note 4, at 198–212; GÓMEZ-LOBO, *supra* note 4, at 42–44. I bear any blame for problems associated with the labels and formulations of these principles offered here.

<sup>23</sup> Reasonably chosen ends must be real goods; if something isn't actually valuable, what would it mean to choose it reasonably? However, among the real goods people reasonably pursue is the good I've called *imaginative immersion*.

<sup>24</sup> This is a matter of what one is willing to accept and what one can consistently accept. It is thus similar to the constraint on moral judgment embraced by R. M. HARE, FREEDOM AND REASON (1963). There will not necessarily be a fact of the matter about what just anyone could be willing or unwilling rationally to universalize in particular circumstances. What's important is what a given agent is *willing to accept* for herself and for others similarly situated.

<sup>25</sup> See FINNIS, AQUINAS, *supra* note 4, at 197. It doesn't follow, of course, that one *bad* turn deserves another, as I'm quite sure it doesn't.



- say, which in effect denies the value of the goods attacked) or in the interest of another good (since one good can neither outweigh nor trump another).
- (iv) *The Principle of Commitment*. Adhere resolutely, though not fanatically, to personal *commitments* that establish priorities and that allow one to participate deeply and richly in particular goods.<sup>26</sup>
- (v) *The Principle of Efficiency*. Seek to realize goods—and, in particular, act in fulfillment of one’s commitments—*efficiently*. Opt for the least costly ways of achieving one’s goals (within the terms set by one’s priorities and by the other requirements of practical reasonableness).

#### IV. SELF AND OTHER

This book represents a self-consciously liberal political and social project. And liberalism is sometimes criticized as naively atomistic, as beginning with the assumption that people are and should be separate from and unconcerned about each other, disconnected, coming together only to pursue their own goals before separating again. This atomistic conception is perhaps not worthy of quite as much ridicule as it often receives, in particular because it can help to foster norms, rules, and institutions that keep dominant players in political and social settings from abusing the weak and marginalizing dissenters. But it doesn’t accurately characterize liberalism as an historical tradition. And NATURAL LAW theory, the basis for the kind of liberalism I elaborate here, is certainly focused not on adjudicating the conflicting claims of detached individuals but, rather, on providing insight that can inform the flourishing of agents who are essentially social—who are *molecular* rather than atomic individuals.<sup>27</sup> It rejects the opposition between self and other, between egoism and altruism, that is at the heart of the modern ethical picture. On the NATURAL LAW view, the reasonable moral agent is unapologetically concerned with her own flourishing. But this does not put her at odds with others. Instead, the reasonable agent understands her flourishing in a way that integrally connects it with the flourishing of others.<sup>28</sup>

- (i) Some goods are essentially *common*, essentially *shared*. These include (a) goods that essentially, not just instrumentally, involve common endeavor (many instances of *play*, for instance). But they also include (b) the well-being of particular others (our friends, lovers, children, etc.) which we experience and treat as our own as well as (c) the shared *identities* of friends and lovers.

<sup>26</sup> See GARY CHARTIER, *THE LOGIC OF COMMITMENT* (2017).

<sup>27</sup> See Sheldon Richman, *Molecular Individualism*, *THE FREEMAN: IDEAS ON LIBERTY*, March 1, 1998, <http://www.thefreemanonline.org/columns/perspective/perspective-molecular-individualism/>.

<sup>28</sup> Thanks to Roderick Long and Sheldon Richman for multiple insights related to this important topic. Cf. TALBOT BREWER, *THE RETRIEVAL OF ETHICS 192–235* (2009) (contrasting, unfavorably, “modern dualism about the good”—including the dualism of self and other—with ancient views).

While a respectful parent recognizes that her child is *other*, so that the child's *good* is the parent's own good even as the child's *identity* is clearly separate from hers, to some extent two friends and to a much greater extent two lovers form a *we*.<sup>29</sup>

- (ii) The requirements of practical reasonableness are concerned with the flourishing both of the agent and of those other than the agent. Choosing well and reasoning well about choice are themselves aspects of flourishing: They are instances of the good of practical reasonableness. And staying true to what one believes is part of the good of self-integration. The reasonable agent seeks to flourish in part precisely by instantiating in her choices the excellences of practical reasonableness and of self-integration, and so, where appropriate, by choosing rightly in relation to others. And notice that neither the others nor the right choices are understood here as *instrumental* to flourishing. Rather, the agent flourishes—choosing well, participating in the good of practical reasonableness—precisely by acknowledging the value and showing regard for the well-being of the other. And the agent flourishes—maintaining her self-integration—precisely by adhering to requirements she reasonably embraces, requirements in virtue of which, again, she acknowledges the value and shows regard for the well-being of the other.
- (iii) While one flourishes precisely *by* acting reasonably, choosing well, in relation to the other in accordance with the requirements of practical reasonableness, this kind of choice to flourish *also* yields various reinforcing benefits. (a) It can exhibit an aesthetic excellence that is not only valuable on its own but is also a source of appreciation by others. (b) It can reinforce one's self-confidence and self-respect—especially, but not only, when choosing well is emotionally, physically, or logistically difficult but one does it anyway. (c) It can prompt the respect and admiration of others, valuable as a reinforcement for one's own self-concept and as an occasion for positive interpersonal relationships and as a source of support for one's reputation. (d) Participating in aptly structured institutional roles and rules yields multiple benefits for the participants and for others, often simultaneously. Appropriately fulfilling the role of a physician, for instance, means realizing a range of basic goods in one's own life—notably the various excellences associated with skillful fulfillment of one's role—while also helping others to realize the good of health and bodily well-being *and* generating the instrumental good of compensation which in turn facilitates one's own participation in other basic goods and one's ability to contribute to the well-being of others in various ways. Similarly, the norms and rules that make possible the operation of markets promote widely shared instrumental and intrinsic benefits. These benefits include not only the *instrumentally* valuable

<sup>29</sup> See, e.g., Robert Nozick, *Love's Bond*, in *THE EXAMINED LIFE: PHILOSOPHICAL MEDITATIONS* 68, 70–74 (1989); GARY CHARTIER, *THE ANALOGY OF LOVE* 142–43 (2d ed., 2017); SOLOMON, *supra* note 16, at 194–217; FINNIS, *LAW*, *supra* note 4, at 134–160.