On “Nature” and “Law” in Natural Moral Law: 
A Prolegomenon for Normative Ethics?

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Abstract
In light of the recent special issue of Ethics Education on Natural Moral Law\(^1\), what follows is an alternative reading of that tradition that in looking to renegotiate its two key terms, proposes a sense in which this tradition of thought remains an indispensable founding moment for contemporary moral philosophy.

Keywords: Natural Law, Nature, normative ethics, human nature

After an initial section that addresses the complexities of contemporary natural law scholarship, the paper falls into three main sections. In the first two of these sections, I address in turn the two major terms that name this tradition of thought – viz, “natural” and “law” – arguing that both terms are ambiguous and problematic. First, insofar as the term “natural” in this contemporary consensus is almost entirely reduced to human nature, I argue that most recent versions of the theory are unacceptably dismissive of the integral place of non-human animals, and that a broader vision of the inherent value and dignity of nature at large is essential after all. Second, I suggest that the “legislative” function of natural law must be carefully understood and circumscribed if the value of this tradition of thought as a whole is to be helpfully understood. This leads into the final main section of the paper in which I suggest that the natural law tradition should be understood less as a vehicle for providing concrete norms for action to be applied in complex moral situations, and more as a way of understanding what is most deeply at stake in moral reasoning and acts of practical wisdom. As such, it is perhaps best understood as a striving toward a prolegomenon for ethics insofar as it clears the way for, and orients (literally providing the ‘fore-word’ for) normative and applied ethics.

The Weight of History: Negotiating the Natural Law Tradition

\(^1\) Ethics Education. 16 (2), 2010.
What contemporary works in the ancient tradition of natural law largely have in common is the attempt to scrape away unhelpful side-traditions and other historical barnacles in order to achieve a coherent and convincing interpretation that is of direct relevance to current philosophical (and/or theological) ethics. Yet dissention continues about issues of fundamental importance for understanding the whole character of natural law theory. To a significant extent, one of the primary difficulties faced in comprehensively integrating natural law theory into contemporary ethics is its long and rich history in western thought, a history that includes a great many differing emphases and threads of tradition, many of them quite disparate. That these interwoven threads have been routinely gathered under the heading of “natural law ethics” has made the task all the more essential of clarifying what is (or should be) and what is not (or should not be) part of a contemporary rendering of this approach. Inevitably, of course, various attempts to do so have tended to emphasise different strands of the tradition.

Some approaches have privileged the theological teleology or context of natural law theory, thereby making it the intellectual linchpin of Catholic moral theology\(^2\), while other approaches (perhaps most visibly the “new natural law” approach) have de-emphasised formal theological foundations even while retaining a significant level of theological content\(^3\). Some approaches have insisted on the centrality of an Aristotelian-Thomist anthropological ontology as the foundation of the natural law theory, while others have rejected this framework and

\(^2\) Natural law approaches are, of course, at the heart of much recent and contemporary work by Catholic moral theologians (not to mention Papal and Magisterial documents), especially as it pertains to the ethics of sexual conduct, and beginning and end of life issues. However, also noteworthy in this context are various works emerging out of the Reformed tradition that are rediscovering a natural law theory framework as a way of rearticulating distinctively Protestant approaches to ethics, examples of which are J Daryl Charles’ *Retrieving the Natural Law: A Return to Moral First Things* (Grand Rapids, MI: William B. Eerdmans, 2008); Knud Haakonssen’s paper “Natural Law Without Metaphysics: A Protestant Tradition” in Ana Matra González (ed), *Contemporary Perspectives on Natural Law* (Aldershot: Ashgate, 2008); and of course Adam Cooper’s fine paper in Vol 16 (2) of *Ethics Education*: “Natural Law in the Lutheran Tradition: Luther and Bonhoeffer”.

\(^3\) See, for example, the way in which Finnis places the “good of religion” among the natural human goods but seemingly without giving it absolute primacy (on this, see Tonti-Filippini, “Some Tensions about Natural Law and Moral Evangelisation”, *Ethics Education*, 16 (2), 2010, 42-43). But see also various natural law approaches, often by Christian authors, which look to explicitly establish its credentials without reliance on faith: e.g., J. Budziszewski, *The Line Through the Heart: Natural Law as Fact, Theory and Sign of Contradiction*, Wilmington, DE: ISI Books, 2009.
indeed the whole attempt to ground natural law in ontology, preferring either a first principles approach or a more empirical foundation that is simply ‘read off’ common human experience. While few contemporary commentators defend versions of natural law as being based on the “law of nature”, and many have sought to explicitly reject or significantly downplay this strand of thought, the ghosts of this approach are in many ways still with us.

In what follows, I will largely leave to one side the issue of the extent to which natural law theory is or is not wedded to a theological trajectory. Without further elaboration (since this is really a topic for another paper), I would suggest simply that this question needs to be addressed in the context of the effort to clarify certain key methodological differences between moral philosophy and moral theology. My interests in what follows are rather more focused on the character and scope of the so-called “natural” and “legal” elements of this tradition of thought, and what an analysis of these dimensions indicate about the place of natural law theory within the overall landscape of contemporary ethics. After all, the vast complexity and problematic status of the tradition is in many senses rooted and preserved in the deep ambiguity around both these two key terms.

**From Nature, to the Anthropological Reduction of Nature, and Back Again**

In what sense is natural law really concerned with nature? This is clearly a fundamental question for the integrity of this whole tradition of thought, and yet it is one that seems far from settled.

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4 Again, the debate between traditional and new natural law theory advocates is pertinent here. However, another dimension of this debate is seen in Alasdair MacIntyre’s work (see: Lawrence S. Cunningham (ed), *Intractable Debates about the Natural Law: Alasdair MacIntyre and Critics*, Notre Dame, IN: University of Notre Dame Press, 2009, as well as the broad sweep of MacIntyre’s thought starting with *After Virtue*), but also Bernard Lonergan’s thought (e.g., see his paper “Natural Right and Historical Mindedness”, in Frederick E. Crowe (ed), *A Third Collection: Papers by Bernard J F. Lonergan*. London: Geoffrey Chapman, 1985). In different ways, both MacIntyre and Lonergan call for a nuanced approach to absolute history-and-culture-independent claims concerning human ontology vis-a-vis the common human good.

5 See below on Finnis’ critique of recent receptions of the “law of nature” approach to natural law. Ozolins addresses more or less this issue in the opening pages of the *Ethics Education* special issue on natural law theory (see his “The Natural Law Tradition: Introduction”, pp. 5-8).

6 On this, see Tonti-Filippini, “Some Tensions”, 35-64.
It is clearly the case that few advocates of the ancient natural law tradition have ever maintained that morality could simply be reduced to conforming one’s actions to the laws of nature. This is the case even for the ancient Stoics for whom human nature – including rationality, as its most defining feature – is to be understood as a special case of the law of nature in general. The reason for this is clear: if moral imperatives were to be simply reduced to the ways of nature, it would be difficult to deny the Thrasymachian view according to which the natural law (the logos) is one with the law of self-interest and self-preservation; where morality, like nature, is “red in tooth and claw”.

Nonetheless, there is a striking strand of natural law thinking, evident in early modern thought, and with traces of advocacy to the present day, that sees in the law-governed processes of nature (especially biological processes) some kind of normative requirement to conform one’s actions to them. According to this approach, which John Finnis has referred to as “the perverted faculty argument”, natural functions should never be frustrated or diverted (i.e., ‘perverted’) from their natural ends. Finnis has described such approaches as “ridiculous”, and it is difficult to disagree, given the absurdities that emerge as soon as one considers a great many biological processes which hardly have non-trivial moral import in and of themselves.

Yet the case against this approach needs to be carefully made. On one hand, one might insist on the intrinsic value of the natural world, value that is denied by an instrumentalist attitude to the cosmos as mere standing resource for human exploitation. Further, and following on from this, one might insist that how human beings deal with natural processes and living organisms are matters of great moral significance. Indeed, in what follows, I will suggest that these insistences are fundamental to any moral thinking, and certainly to any natural law approach. But on the other hand, it is another thing entirely to claim that this inherent value of the natural world, which resists reduction to

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8 Two brief examples will need to suffice. The substantial “end”, so to speak, of the growth of facial hair is debatable, but in any case the moral import of regular shaving is surely trivial. More interesting is the case of a bodily organ like an appendix or a gall bladder, the function of which is known, but the surgical removal of which under certain circumstances should hardly be viewed in morally judgemental terms.
mere instumental value, morally militates against human intervention per se. Such a claim does not at all follow from the two prior insistences. Such a position is indeed ridiculous, for to be a natural being is to interact with and shape the world, of which we too are a part, engaging with its complex teleological webs and injecting human ends into existing processes. The domain of morality in our interactions with natural processes (both within and beyond ourselves, and whether involving human or non-human life), concerns not whether or not existing means to ends have been preserved, but rather the moral character of these interactions.

But of course, it is not the case that the mainline natural law tradition looks to reduce morality to conformity with particular contingent natural processes in any such way. The emphasis is far more on having human behaviour conform to the overall natural order of things, particularly human nature itself, an order that human beings are in a privileged position to discern through the application of rationality. As Cicero famously put it: “true law is right reason in agreement with nature”, and conventional law is only as just and moral as its conformity with the eternal and immutable natural law. What this approach takes for granted, then, is some kind of objective moral order built into the fabric of the cosmos. While such a claim is readily consistent with a theological vision of the goodness of creation (as in Aquinas’ carefully drawn reconciliation of natural law with Divine eternal law), it is much more difficult for non-monotheistically-orientated approaches to account for and defend the notion of an implicit moral code somehow inscribed in the laws of nature, especially given the “red in tooth and claw” problem alluded to above. However, what all natural law approaches (theologically-orientated or not) emphasise is not so much the ultimate origins of this eternal law, but rather its ready accessibility through the application of human reason. And this is an emphasis that unifies most of the major advocates of the whole tradition, from Plato and Aristotle, through the Stoics to Aquinas, Grotius, and right through to present day advocates.

In the major currents of natural law theory, then, the core focus of the “natural” is human nature, and in particular the central and defining feature of human nature – rationality – through which we are reflexively

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enabled to understand our own nature. But note the subtle but crucial shift that has taken place here. Morality has now become a matter of acting in conformity with the natural ends of human nature, and in this way to facilitate human flourishing. It is for this reason that the natural law approach is essentially grounded in human needs and human interests (as distinct, of course, from human wants). Morality is thus ultimately all about deep human welfare.

It is at this point that questions might be asked about this significant narrowing of the scope of the term “natural” in natural law. Is there not a telling anthropological reduction of nature here? The point is not the reliance of the tradition on the human faculty of reason – which must of course be central to any intellectually sophisticated ethical framework – but rather the narrowing of the scope of concerns to the human per se. On this basis it seems extremely apt to ask about how natural law can account for other areas of nature/creation and their flourishing. What remaining priority is accorded to other living creatures, and indeed the natural environment as a whole, which surely also has an integral call on our moral reasoning quite apart from considerations of human needs and fulfilment alone. This leads to a compelling question. If there are clear tendencies in the natural law tradition towards a certain anthropological reduction, what would a seriously zoological conception of natural law look like? Note that this need not be seen as a critique of natural law as overly “anthropocentric”, for there may well be compelling reasons (concerned with theories of the extent of the “moral community” et al) why having anthropoi at the “centre” of our concerns might be seen as fully appropriate. The question rather concerns what appears to be the systematic exclusion from serious consideration of the flourishing of non-human life within many or most forms of contemporary natural law theory. This is an exclusion that effectively preserves (or at least fails to reassess) prejudices concerning the natural world which lack credibility given advances in human understanding.

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10 I leave to one side here the whole question of “intellectualism” (pejoratively understood) in natural law theory. Suffice to say that I see no reason why human reason should not – indeed, I think it must – take full account of the vast scope of human life in all its social, emotional and symbolic richness. As such, “rationality” in this sense is simply a powerful and privileged means of working out the good of the human soul in a holistic sense.

11 This is not to say that the natural law tradition is utterly synonymous with the complete evacuation of any natural priorities beyond human flourishing; just that the tendency toward such a reduction is tellingly pervasive in the tradition.
over the last couple of centuries concerning the lives and capacities of non-human animals 12.

If natural law thinking is to do justice to its rootedness in the observation of nature, it must pay full attention to the intrinsic value, and hence the inherent moral worth, of the whole of nature, particularly living beings. Of course, the working out of this for human action will focus on human decision making and action, but natural law must make its focus the flourishing of all beings of nature, human and non-human. What this does, of course, is to vastly raise the stakes in terms of the proper scope of normative ethics and the complexities of applied ethical reflection 13.

From Law to Norms to Ethos: Natural Moral Law as a Prolegomenon for Ethics

While the previous section addressed the question of the “natural” in natural law theory, this section will address the “law” component. To what extent can natural law traditions of thought ever provide – through their own resources alone – specific legislative content or practical norms to guide human action even in morally complex and ambiguous situations? In what follows I will argue that the tradition cannot, on its own, bear the weight of such responsibility. Its purpose is rather to prepare the ground for more purpose-devised norm-based moral reasoning frameworks, as well as to keep these approaches orientated as they do this detailed work.

12 I am aware that I have opened a vast topic here that cannot be done justice in an essay of this scope. Suffice to say that I am taking somewhat for granted here an understanding of two significant developments. First, there are the massive cultural and intellectual changes in western attitudes towards the inherent dignity of non-human animals as seen in the pervasive mainstream movements toward ending systematic abuse of animals, a movement that, to be sure, has its more progressive and its more moderate flanks, but which even in its more modest forms represents an enormous shift from pervasive attitudes as late as the first half of the 20th century. Second, there is the vast explosion of research into non-human animal biology and especially neurology, and the consequential growth of our understanding and appreciation of the place of homo sapiens within the fabric of the natural world; in other words, of our own (albeit extraordinary) animality.

13 I suspect that the anthropological reduction of nature has largely gone unremarked (and seemed so unremarkable) given the strongly theological context of much recent natural law thought, according to which humanity alone is understood to have been made in the image and likeness of God. Now while this may have continuing applicability within various sections of the moral theological landscape, it hardly explains why natural law theory in general should have such a blind spot in this regard. Further, it is clearly an area that needs to be addressed if the natural law tradition is to be brought back within the mainstream of contemporary moral philosophy.
If the term “natural” in natural law requires significant clarification (involving the rejection of some senses of the term and the affirmation of others), the term “law” presents an even weightier challenge. Clearly the term is not to be taken in the sense of “laws of nature” (laws according to which the natural world, and with it human nature, operates). Nor is it to be taken to refer to a positive legal or moral code in which certain actions are mandated and others proscribed by order of an issuing body (be it a morally authoritative figure, a parliament or even God). Natural law is rather to be taken to refer to a set of broad requirements one needs to follow in order that the telos of human nature reaches its fulfilment. In this way, many or most ancient and modern expositions of the natural law tradition have understood “law” less in terms of deontological (or indeed legalistic) connotations, and more in terms of providing a distinctive normative framework for ethics. Of course, while remaining to some extent within the orbit of the contemporary semantic field of the term “law”, this is certainly not its usual sense in contemporary English.

In what follows, however, I will suggest that a clear differentiation nonetheless needs to be made between the ongoing importance of the natural law tradition, and the role of normative models in contemporary ethical thought. Natural law theory should not be understood as a comprehensive normative ethical model as such (or indeed, as a competitor to rival inferior normative models). Rather, its role is to provide a reliable framework within which normative ethics should operate, and in relation to which ethical norms should be orientated.

I suggest that a helpful way of speaking of the intentional thrust of what we call the natural law tradition is the effort to move toward something like a universal ethos for ethics: ethos in the Greek sense as referring to a community’s fundamental and characteristic guiding beliefs and ideals that shape it qua community. In order to delve into this conception of natural law, I will take a slightly perilous detour via an over-used metaphor which I nonetheless find helpful in thinking about this point (though it will need careful nuancing in a moment). I refer to the time-honoured analogy of the tree. I would suggest that to expect natural law considerations to provide determinate answers to complex moral problems, is like confusing the roots of a vast flowering tree with its branches and fruit. The roots of the tree need to be distinguished from its fruit (which is analogous to applied ethics), and both need to be
distinguished from the major branches (which can be likened to particular normative ethical models). Of course, without roots the tree is unanchored and will soon wither, but this does not mean that one should look for the fruit underground as though the sustaining and orientating source is interchangeable with its end results. Without the roots there can be no tree, for the roots nourish and sustain the trunk and branches, which are then able to offer up the fruit.

What this slightly hackneyed analogy is driving at is the necessarily general and abstract nature of natural law thinking. This is not a failing of the tradition; it is rather essential to it. It is a creative abstractness that grounds ethical reflection and allows it to flourish. But at the cutting edge of ethical reflection, generality is not enough: one needs to move on to normative frameworks and applied moral wisdom to achieve incisive clarity of moral vision.

However, lest I be taken to be advocating a simplistic Cartesian foundationalist model of ethics, it is essential to take the famous Heideggerian move of pointing out the vast significance of the soil for the logic of this analogy. This, of course, changes everything, for no tree – and no moral reflection – are ever located in a vacuum. Tree roots themselves are powerless to nourish the trunk, branches and fruit apart from the nutrients it takes from the ground. And here we come to the central nub of the problem that has been especially well addressed in various senses by Alasdair MacIntyre over the years: i.e., that there is no one fixed ethos that inflexibly defines all ethical thought and moral practice. Such frameworks and practices are always already set within contexts that are largely invisible to those who live and move within them. In this sense, I would suggest that the tradition of natural law is precisely the disciplined attempt to bring into the foreground that which is largely taken for granted: i.e., the implicit understandings of the ethos within which all ethical reasoning and moral practice moves, and to hazard the effort to overcome, as much as one can, the inevitable

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14 Clearly much more needs to be said here on the relationship between the orienting role of natural law and its development into normative ethics and beyond; of how exactly the former shapes and gives rise to the latter. The brief discussion of the tree analogy is only the barest start on this task. I return to this theme briefly in the next section. However, a comprehensive account would require a great deal of further development that is beyond the scope of this paper.

15 On MacIntyre’s work in this area, see Lawrence S. Cunningham (ed), Intractable Debates about the Natural Law: Alasdair MacIntyre and Critics, Notre Dame, IN: University of Notre Dame Press, 2009.
partiality of one’s own native contexts and in this way to uncover traces of universality\(^{16}\).

I am aware that such a definition tends to move natural law as a whole in the direction of a search for a “global ethics”. While in some ways this may be so, I would add two important caveats\(^{17}\). First, the global ethics project, at least in many of its construals, can be understood to have a basically inductive methodology through which areas of overlap among various culturally-informed ethical approaches are identified, on the basis of which a case is built for substantial commonality. The natural law tradition, on the other hand, works in reverse, for it looks to derive basic principles through the application of reason, and this leaves open the possibility that natural law principles may be in conflict with those of particular cultures and societies. In other words, whether or not overlaps exist in actuality is a second order (or at least second stage) question, even if the whole premise of the natural law tradition is the expectation that commonality should be in evidence, since all humans share rationality as a defining characteristic\(^{18}\). (This latter assumption of course looks far more contentious in our contemporary multi-cultural context than it could ever have looked for Aristotle or Aquinas!\(^{19}\)).

Second, the natural law tradition also needs to be clearly distinguished from the effort (that works on an entirely different plane) to come up with a commonly held set of moral injunctions that apply across different ethical traditions. This is to distinguish it from particular normative (e.g., deontological or rights-based) frameworks. This is a key point. As I have defined it here, natural law thinking works at the level of

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\(^{16}\) This phrase, “traces of universality” is, I hope, apt. What I have in mind is that the work of the natural law tradition can be understood as the attempt to understand in determinate ways moral principles of which a great many (I hesitate to say all) cultures have some kind of sense, some more explicitly than others.

\(^{17}\) On this attempt, especially in its theological mode, see John Ozolins’ “The International Theological Commission and its New Look at Natural Law”, *Ethics Education*, 16(2), 2010, 13-34.

\(^{18}\) Ozolins (in “The Natural Law Tradition: Introduction”, *Ethics Education*, 16(2), 2010, 9), identifies something of a circularity in the ITC’s 2010 document on natural law that touches on this very problem.

\(^{19}\) While the implications of this issue are profound in the context of an assessment of the contemporary credibility of natural law theory, this is not an issue that will be pursued here. Suffice to say that it is not necessary to uncritically adopt a metaphysically essentialist conception of a fixed human nature in order to suggest that human beings and communities tend to thrive under a reasonably uniform series of conditions, and are invariably injured or retarded by others.
patient attentiveness to the traces of intrinsic value that are sewn into the fabric of the ethos. As such, it operates necessarily at an indeterminate (or better, a pre-determinate or perhaps a hyper-determinate) level. In this attentiveness to the dwelling of all creatures within the milieu of nature, its outcomes will not and cannot be simply a set of determinate “objective” ethical principles for action, let alone prescriptive moral laws. If such outcomes are possible at all – and this is the task of normative ethics to decide, and for applied ethics to suggest methods of concrete implementation – it is not the task of natural law thus understood.

Given the point made above about the necessarily abstract nature of natural law principles, I would also suggest a second analogy, this time one drawn from a quite different branch of philosophy. What I have in mind here is an analogue with the traditional definition of what constitutes knowledge. Various problematics aside, one may argue that “justified true belief” provides a relatively comprehensive formal definition of the nature of knowledge, though one that epistemologists seek to further refine in a more comprehensive direction. Similarly, various issues aside (such as those discussed earlier), one might be reasonably satisfied that the good consists in acting so that general human needs are fulfilled rather than frustrated. Such formal frameworks play an important role in orienting and structuring all further thinking about both knowledge and moral goodness respectively; they each provide a paradigm for inquiry within the horizon of which thinking moves and parameters of thought are set. However, in each case I would argue, the usefulness of such formal structures can easily be over-reached when an effort is made to press them into the business of providing detailed norms. The traditional tripartite definition of knowledge, for example, can tell us little of great practicality about how we should go about acquiring knowledge in the many specific contexts in which the human quest to understand proceeds. Similarly, natural law principles can tell us little about how to concretely act to do the good in the many complex situations in which moral judgement needs to be exercised. As Stephen Buckle once put it, natural law “provides no shortcuts for moral reasoning”.

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Finally, the preceding conversation might be summed up by suggesting that natural law tradition is ultimately a disciplined striving toward a comprehensive *prolegomenon for normative and applied ethics*. As such, it looks to think through, orient and explicitly name the roots from which normative ethical theories (and thus eventually applied ethics) grow, or alternatively, the intellectual space or *ethos* within which they move. Natural law theories are thus not rival approaches to normative ethics alongside others, but are rather attempts to provide a formal structure for ethics by defining what constitutes moral goodness as such.

**Revisioning and Resituating the Natural Moral Law Tradition**

In this final section I conclude with some suggestions about how the natural law tradition might be best understood in a contemporary context, and how it thus complements, rather than competes with, various different normative ethical frameworks.

What exactly is the nature of the on-going work of natural law thinking as I have sketched it here? One of the central difficulties in addressing this question remains the significant gap between neo-scholastic and new natural lawyers about whether basic human goods are deduced or derived from first principles. The problem here – a problem that is accentuated if, as the latter group would have it, these basic human goods can be known only by non-inferential acts of knowing from first principles – is that this makes the task very difficult of elaborating in detail what are (and what are not) these basic human goods. Indeed, the whole effort is perhaps futile if some kind of authoritative final set of such goods is the goal, for – as various attempts to do so have shown – such lists will always prove controversial. Germain Grisez’s list of reflexive and substantial goods, for example, looks to be a useful draft which describes the *ethos* of most western (and many non-western) approaches to ethics, but few would suggest that he has thereby had the last word on this most central of concerns of the whole natural law

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22 See Robert George’s critique of this approach (of which he takes Grisez to be a prime representative) in “Natural Law and Human Nature”, 34ff.

tradition. Here again opens the significant point that local cultural and intellectual traditions, preferences and temperaments will always shape and colour the way basic goods are understood and articulated by natural law theorists. Nonetheless, inevitably diverse collections of principles that give voice to the *ethos* of human affairs may still be used as *touchstones* for assessing (and even broadly promoting) certain kinds of human behaviour. For example, did an action show due regard for the demands of justice, the value of friendship, respect for life, etc?

But should natural law principles be pushed further? Beyond their status as touchstones for morality, should lists of basic human goods be understood as the norms for human action? As indicated earlier, I think the answer to this question has to be no. It is true that certain actions are clearly more consistent with the demands of justice, respect for life, the value of friendship etc than others. However, it is not at all clear what further guidance natural law theory can provide as to how one should discern the morality of various possible responses, and how one should look to act in the context of complex moral situations such as moral dilemmas, in which key values can effectively pull the moral agent in different directions. If I am faced, for example, with a moral dilemma that asks me to act with courage and discernment, calibrating my actions wisely, taking into account my knowledge of the complexities of the context and of the individuals on whose lives my actions will have a decisive impact, it is no use looking to natural law to provide me with a path for action. Rather, what I need is a specific normative ethical model that is consistent with my basic ethical frame of reference; an approach that will help frame my thinking and clarify the relative importance of the various factors that lay before me. While lists of basic human goods crucially orientates subsequent ethical thinking by setting the tone for what is ultimately important, their abstract nature means that they provide little detail on normative parameters for action in the midst of complex moral problems.

Natural law theory is based on an ontology of nature, and of human beings within it. But the step from *is* to *ought* needs to be made with care. As I explored earlier, it is crucial to recognise the intrinsic value of all nature and of all creatures, including humans, within it. For this reason, easy dismissals of natural law reasoning based on purported committal of the naturalistic fallacy misses the point. But on the other hand, it is possible to go much too far in the other direction by drawing an extensive series of detailed ‘oughts’ on the basis of quite general
observations about the requirements of human thriving. Indeed, the very attempt to do so may even be dangerous since it risks mandating a lack of attention to the complexities of the immediate context.

Knowledge, for example (see Grisez’s second substantive good), would seem to be relatively uncontroversial as a basic human good. But it is a long bow from here to claim that one ought always seek knowledge in order to fulfil one’s basic human good. For – depending on the context, and, yes, likely consequences – acts of coming to knowledge about something may or may not be morally justifiable. Knowledge of details of others’ affairs may or may not be any of my business. And even if by “knowledge” we mean something more intellectual (e.g., the achievement of knowledge of an aspect of God’s creation), it is not at all obvious that one should always strive to achieve such knowledge when the claims of other human goods clearly take precedence. So too with the basic good of “activities of skilful work and play” (Grisez’s third substantial good). While all such activities are potentially enriching, the time is not always right to engage in them; indeed, engaging in them in the wrong way or at the wrong time can even be morally abhorrent.

Now, of course, it is not the case that highly developed contemporary versions of natural law are simply naïve about these matters, for such approaches invariably provide sophisticated principles for discernment to cope with such contingencies. The point, however, is that what implicitly happens when such principles are developed, is that a normative ethical framework is introduced to carry the load. And this is just as it needs to be, since natural law thinking both needs normative ethics and prepares the ground for it. But when a natural law approach is put forward as a normative ethic, it over-reaches its brief and can so easily become degraded as a mere means of asserting a deontological agenda that is disconnected from contextual concerns which have an equal place at the heart of ethical deliberation.

What is needed to move from basic orientation to concrete engagement, is practical wisdom schooled by normative frameworks for action. Given this, I suggest it is not at all accidental that in the literature normative ethical models are often mapped onto natural law theorising. Indeed, when natural law is understood as providing such a formal structure within which normative ethical modelling should then operate, one would expect as much. Staying with Grisez’s Christian Moral Principles, for example, it is notable that after detailed and due
consideration of basic human goods, he turns almost seamlessly to outline his eight “modes of responsibility” and to his closely connected account of the virtues. Similarly, there is a long tradition, going back at least to Grotius, of rights theory being developed on the basis of a natural law discourse.

What, then, is the relationship between the basic human goods of natural law and normative ethical principles? Natural law thinking provides a relatively steady measuring stick according to which human actions may be judged, though it is through the agency of normative models that this is most properly carried out. A key question then emerges: Are certain normative models ruled out by certain natural law interpretations of the ethos?

Clearly, virtue ethics and rights theories can work very well on the basis of a natural law foundation. Depending on the account of the source of the moral duties, natural law approaches often blend very quickly into frankly deontological normative frameworks, sometimes with the distinction between them unfortunately blurring to the point of disappearing altogether (e.g., where natural law collapses into a kind of Divine Command discourse). The case of consequentialism is an interesting one. It is difficult to imagine an uncompromising act utilitarian account providing the kind of nuance needed to adequately respond to the orientation provided by natural law accounts, particularly in the context of the treatment of those who find themselves in the minority, as well as the striking narrowness of its conception of the good. But having said that, Bentham’s insistence on the importance of including non-human creatures within the scope of our moral considerations may well be interpreted as a welcome acknowledgement of the integrity of the natural world, even if it fails to transcend a merely utilitarian framework in doing so. Meanwhile, rule consequentialist approaches offer the promise of integrating into their rules or codes concrete means for implementing actions that look to defend basic human goods, at least insofar as these goods are acknowledged as being

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25 Grotius’ famous work *On the Law of War and Peace* is a paradigm case here, but as Ozolins points out (in "New Look at Natural Law", 14), the discourse of human rights is an obvious tool to use to help flesh out some of the generalities of the natural law tradition.
broader than happiness alone. Perhaps ultimately it is more a case of the way in which a normative model is used that is of the greatest significance here.

**Concluding Comments**

At the outset I suggested that one of the major difficulties facing efforts to seriously integrate natural law theory into contemporary ethics is the weight of its long and complex history in which many threads of tradition interweave. Tellingly, these ambiguities are preserved in the very name we use for this tradition, a term that suggests an archaic way of understanding the cosmos, rooted in ultra-realist metaphysical assumptions, and set against a pre-Copernican worldview. My suggestion, then, is that if the heart of the natural law tradition is to be reintegrated into the moral philosophical mainstream – beyond its current predominance among scholars working within the Catholic intellectual tradition alone – there is a strong need to reassess and rearticulate the import of the “natural” and “legal” terminology of natural law theory. Only in this way can the central insights of the tradition be affirmed, and the historical barnacles – that, for many, mark the tradition as a historical oddity – be scraped away.

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26 On non-utilitarian forms of rule-consequentialism, see Brad Hooker, “Rule Consequentialism”, in Hugh LaFollette (ed). *Blackwell Guide to Ethical Theory*. Malden MA: Blackwell, 2000, 183-204, especially fn 1; and for a more developed account, see his “Rule Consequentialism and Obligations Toward the Needy”, *Pacific Philosophical Quarterly*, 79, 1998, 19-33.

27 With thanks to a number of colleagues at ACU and two anonymous referees who provided helpful feedback on earlier versions of this paper.