A tale of two theories: An expository look at the development of the Thomist and the New Natural Law theories and the debates between the two groups from the end of the Second Vatican Council through the release of Veritatis Splendor

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A Tale of Two Theories

An expository look at the development of the Thomist and the New Natural Law theories and the debates between the two groups from the end of the Second Vatican Council through the release of *Veritatis Splendor*

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INTRODUCTION

Even as early as the pre-Socratics, that is, those forebears of thought and philosophy, questions regarding nature and natural law filled the conversations of these people. Questions of justice, rights, and law occupied philosophical and dramatic works. *Antigone*, for example, culminates in the conflict between a man-made edict and the “unwritten and immovable laws of the gods.”¹ As Plato arrived and drew from the inspiration and writing of the Stoics, among others, he formulated a full and rich system of natural law. “Plato’s claim to be the first philosopher to set up an objective standard of right and wrong independently of the individual conscience is a serious one.”² From this ancient beginning, formulations and opinions with respect to natural law have surfaced, risen to prominence, and given way to new understandings and appropriations. Contemporary discussions of natural law are, in a way, no different than the millennia-long debates regarding morality and nature. Within a Christian context, however, the Catholic theologian has the benefit, if not the authentic hermeneutic, to view these question through the lens of faith. It does not require a kind of fideism, that is, a necessity of Christian faith; rather, the Christian reality and the truth of faith informs reason so that, even amid confusion, the light of the truth might shine forth and through.

In this context, all natural law theories and ideas are not created equal. This project aims, therefore, to trace the development and the promulgation of the arguments for natural law as represented by two distinct theories: traditional Thomism and the New Natural Law. Each theory represents an effort to transmit the truth as well as to honor the grace-filled wisdom that the Church’s Magisterium offers. The timeframe of the investigation will be bracketed by two magisterial documents. The document *Optatam Totius* (Decree on Priestly Training), proclaimed by Pope Paul VI during the Second Vatican Council, provides the starting point with its exhortation

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¹ Sophocles, *Antigone*, 454.
that “special care must be given to the perfecting of moral theology.”3 The narrative of two theories continues through the magisterial treatise on moral theology written by Pope John Paul II in 1993, *Veritatis Splendor* (The Splendor of the Truth).

Moral theology underwent great transformation during the post-Conciliar period as the casuistry of the previous centuries faded into history. Various personalities and schools of thought arose in a prolonged and dedicated attempt to renew and to perfect moral theology. Among these varied efforts, Thomism and New Natural Law appear as two mainstream interpretations of natural law and consequently Catholic moral theology. Of particular interest is the way in which the adherents to two theories actively engage each other through their books and articles. Such a dialectic draws out the specification of each theory, while also illuminating the struggle among faithful Catholics to articulate and to defend the moral truths of the Church with respect to natural law.

The focus of the thesis will be expository rather than evaluative. In this way, it serves to lay out the development and maturation of each theory with respect to the other and with respect to the standing of natural law in Catholic moral theology. The particular nuances of individual proponents will emerge not so much to situate each individual theologian or philosopher; rather, they will contribute to a richer picture of the theories more generally. The primary contributors to the Thomist position will be Henry B. Veatch, Ralph McInerny, Russell Hittinger, and Steven A. Long. Those of particular interest in examining the development of the New Natural Law are: Germain Grisez, Joseph M. Boyle, John Finnis, William E. May, and Robert P. George. The thesis will follow, generally, an alternating pattern of exploring the arguments of each theory, as expounded by a particular proponent, in each theory’s historical progression. Every nuance of the particular theories cannot be covered; rather, those aspects that both elucidate and distinguish the theory will be

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3 Second Vatican Council, *Decree on Priestly Training* (Optatam totius), no. 16.
highlighted. At times there may be direct engagement between the two, but, more commonly, responses will serve to refine further and to clarify.

Great questions have always surrounded moral theology and natural law specifically. The contemporary period represents one more attempt to grapple with these concerns and approaches. As part of a thorough study of natural law, Professor Michael Bertram Crowe traces the ideas and concepts of natural law as they developed from the earliest pre-Socratic period and finds in St. Thomas Aquinas an apt description of the maturation of natural law. In examining the twentieth century approach to natural law, he identifies a number of prominent issues and contentious ideas that all theories need to address and which figure within the debate that we are about to enter. By way of brief introduction, then, it might be helpful to identify, though not exhaustively, some of these main ideas.

Foremost among the features under investigation is the meaning or ambiguity of nature. Beyond mention of the numerous definitions and perspectives on “nature,” Crowe notes how among many philosophers and academics the concept of nature has fallen out of favor and support. “The concept has lost whatever validity it ever had and has no place in the twentieth century.”4 The way in which nature is approached and understood suffers many roadblocks. Methods focusing too exclusively on biology, metaphysics, science, and phenomenology all face severe critics. Along with a methodology of discovery, the very condition of nature, as either dynamic or static, as either fixed or evolutionary, these qualities all jockey for identification. For example, the question of end, with respect to a metaphysical understanding of perfection or goal, seemingly has no identification with a kind of evolutionary science that views nature, not through an ontological lens, but rather through a burgeoning or controllable one—“the ethical question of course, is: in what direction, to what end, shall the evolutionary process be directed? And the answer cannot be a natural law answer; for

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4 Ibid., 256.
human nature itself is being re-shaped.” While this project will not address all these questions, the static versus dynamic question of natural law will underlie much of the discussion, though often implicitly in the theories.

Similarly, the question of law, and its grounding and normative power very much drives conversations regarding natural law. Certainly the view of law as prescriptive versus descriptive comes into play, especially in reference to nature and its use in the makeup of natural law. The relation of *law* (both analogically and univocally) to civil and other human laws draws legal minds to new considerations of natural law, particularly with respect to natural rights. It is no wonder then that the New Natural Law theory counts many legal scholars and philosophers among its principle proponents.

Crowe identifies further areas of discussion in the specification of nature as related to ethics and evolution. The role that history and bio-evolution play in terms of human development and understanding bring the specificity and concretization of natural law up against a more universalized view of natural law as “univocally common to the entire human species.” Matters of inclination and the *Is-Ought* controversy shape argumentation. In regards to the first, a common sense approach might ask in terms of the reasonableness, and thus normativity, of inclination: “Are they reasonable because natural, or natural because reasonable?” With respect to the latter, significant discussion will surround the concern that the connection of such a dichotomy introduces a philosophical fallacy that serves to undermine the reasonableness of natural law. Ultimately, and an issue to which both theories assume great concern, the focus upon moral absolutes drives the proponents of both theories. While not the only impetus, the Church’s proposition of moral absolutes seeks out worthy interpreters and defenders. Each strives to be such a guard.

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5 Ibid., 266.
6 Ibid., 281.
7 Ibid., 284.
The proponents of natural law, especially one inspired or influenced by St. Thomas, walk a road not as easily traversed as previous generations. Leo Strauss presciently noted that an effort to force a teleological science of man into relation with a nonteleological modern science elicits serious challenges. In his work on natural rights Strauss attacks a historicism that champions the supremacy of nonteleological science. The force and details of his arguments need not be brought forth now. Instead, what can be learned from his efforts is the importance not only to ground one’s theory of natural law, but to understand the ground upon which that theory encamps. This investigation, without proposing too bold an endeavor, aims to shed light both on the theories and the foundations. The debates open up vistas into details of each side’s natural law interpretation, but also serve to dig up the roots and thus expose the presuppositions upon which each rests. The New Natural Law theorists, for example, might view the Thomists as building upon a philosophically unsound and fallacious base; while the Thomist might see a Kantian deontology in the practical reasonableness of the New Natural Law theory.

We shall begin, then, in the first chapter from those years following the Second Vatican Council during which time Germain Grisez, in particular, begins to formulate his New Natural Law theory. The Thomists, who had always been around, respond as well to the efforts of the Council Fathers to address the world with the truth and faith of the Church. The second chapter will concern itself with the time period following the publication by Pope Paul VI of the encyclical *Humanae Vitae*. Though this paper is not a discussion of birth control or sexual ethics, this moment triggered a necessary and strong response on the part of both Grisez and his followers as well as Thomists to address and to defend the claims of this Magisterial teaching. A renewed effort emerged as the work of natural law theorists took on a very real and prominent relevance. Chapter Three begins with the publication of the groundbreaking work by John Finnis, *Natural Law and Natural Rights*. 

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This publication provided a thorough explication of the New Natural Law position and set off a rapid and active debate between himself and his associates and the Thomists. Vast differences in interpretation both of natural law and of St. Thomas emerged. The fourth chapter concerns the debates between the two groups following the book length critique offered by Russell Hittinger. These now more directed and sharp discussions take us to the publication of the Magisterial intervention into the science of moral theology, the encyclical *Veritatis Splendor*. This letter from Pope John Paul II did not champion a particular interpretation of natural law over another; it did, however, identify necessary approaches and perspectives essential to Catholic and authentic natural law discourse. Consequently some approaches, e.g., proportionalist, were rejected as not reflecting Catholic wisdom. This papal teaching marks the end of our investigation, not because it ended debate (if anything it only continued and increased), but because it provided a framework in which all future discussion must work.

This paper looks primarily at those debates and their substance between the New Natural Law theorists and the Thomists. Such an effort serves to understand further the development and maturation of each theory. A secondary feature of this work, to which more and future analysis will need to be in order, looks at the way in which Catholic moral philosophers and theologians, working within the embrace of the Church’s Tradition, seek to formulate and to understand the moral teachings of the Church. As each may conclude similarly, their travels take them on divergent routes. This effort provides further data concerning how Catholic theologians justly critique each other and yet work in union, and thus complement each other in service to the truth.
Chapter 1

A NEW BEGINNING

RENEWEL IN MORAL THEOLOGY

As His Holiness Pope Paul VI proclaimed the Decree on Priestly Training (Optatam totius) on 10 October 1965—which included the call for the renewal of moral theology with these words: “Special care must be given to the perfecting of moral theology. Its scientific exposition, nourished more on the teaching of the Bible, should shed light on the loftiness of the calling of the faithful in Christ and the obligation that is theirs of bearing fruit in charity for the life of the world”—a resurgence of interest and scholarship within the field of moral theology was well underway. An “openness to the modern world…produced a strong reaction leading them [Christians and theologians] from one extreme to the other.”\(^9\) That is not to judge that any particular theologian fully espoused extreme positions; rather, the ambitious engagement with the modern world led to myriad interpretations and developments. Time, and prudential wisdom, sifts through these efforts to champion those generous contributions that advance Catholic knowledge and to discard those that distract and deter authentic Catholic life and teaching. Great care, therefore, should and must be taken in approaching particular ideas and theories. In respect of these efforts and with an eye toward the truth, we approach the interpretations of natural law proposed by both the New Natural Law (NNL) theorists and the Thomists.

As this chapter progresses, we shall begin with an overview of natural law as proposed by the Thomist Yves Simon. In so doing we shall discover a study of some of the issues at stake in

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\(^9\) Second Vatican Council, *Decree on Priestly Training* (Optatam totius), no. 16.

natural law and within this thesis. From that macro perspective, we shall proceed to a Thomist effort at natural law interpretation. At the same time historically, though subsequent in this paper, we shall turn to the proposal of a new natural law championed by Germain Grisez.\textsuperscript{11}

NATURAL LAW OUTLINED

Various lectures given by the philosopher Yves Simon while at the University of Chicago in the late 1950s were compiled and published in a comprehensive work entitled \textit{The Tradition of Natural Law}. In these lectures he did not aim to propose a specific interpretation of natural law; instead, he offered both questions and reflections upon natural law concerning the difficult problems and complexities of its understanding. In the introduction to the revised edition, Russell Hittinger remarks: “yet what clamors for explanation is not the diversity of moral custom throughout the world but the universal fact that men everywhere under very different circumstances impose some restraints on conduct and defend some customs as more appropriate than others.”\textsuperscript{12} Hittinger goes on to observe that Simon offered a clarion call against the “problem of ideology in contemporary efforts to reassert or reclaim the tradition of natural law.”\textsuperscript{13} Simon proceeds, then, with an effort at clear thinking in terms of natural law, and it is fitting that we begin with his observations so as to set a stage upon which the natural law debate might orderly proceed.

Since any discussion of natural law must begin somewhere, Simon reflects generally upon law itself, but begins first with an understanding of universals. Of course, he admits that just such a question, i.e. concerning universals, descends as far back into history as debates between Platonists who proposed an external archetype and students of Aristotle whose universals resided in the mind

\begin{itemize}
  \item \textsuperscript{11} Within this chapter and continuing throughout the remainder of this thesis, each chapter section will be titled as well as identified with respect to the particular natural law theory being proposed, i.e., Thomist or NNL (New Natural Law).
  \item \textsuperscript{13} Ibid., xxii.
\end{itemize}
but derived from external singulars.\textsuperscript{14} Without diverting too far down the road of universals, it is enough to recognize the primacy of such a concern with respect to laws and natural law in particular. He does assert with certainty, however, that “more or less explicitly, every practical doctrine presupposes some theoretical position.”\textsuperscript{15} His brief exposition of the debates and complexities surrounding universals serves not to leave the reader in a greater state of befuddlement; rather, it highlights the dynamism of dialectic. “In the introduction to a philosophic subject, dialectic and history should never be separated. A dialectic is a dialogue: it is the active statement of multiple views on a subject.”\textsuperscript{16} The dialectic is not comprised of both wise and foolish arguments, but it is constitutive of historically grounded expositions of reasoned thought and practice. Whereas the theoretical position maintains a primal seat, the practical can and often does control the debate inasmuch as it builds off of a theoretical framework or reality and brings to the fore applied and practical aspects [it tends to be more interesting]. With regard to natural law specifically, Simon acknowledges the tension between the practical and theoretical: “the root and nerve of natural law—the source that makes theories about it possible—is reached not by a philosophical mode of cognition, but by a connatural grasp of the good via inclination.”\textsuperscript{17} At the heart of this balance, according to a review of Simon’s work by Stephen Long, “is his refusal to dichotomize the physical and moral order” and instead points to the “community between the natural law of the moral world and the natural law of the physical world.”\textsuperscript{18}

Discussions of natural law must keep its competency in check. Herein ideology tempts with overreaching tendencies. Prudence can quickly be smothered and the resulting assertions often lead

\textsuperscript{15} Ibid., 5.
\textsuperscript{16} Ibid., 11.
\textsuperscript{17} Hittinger, “Introduction,” xxi.
to disappointment and skepticism. “People are quick to realize what is weak, or dishonest, in pretending to decide by the axioms of natural law...questions that really cannot be solved except by the obscure methods of prudence, and they gladly extend to all theory of natural law the contempt that they rightly feel toward such sophistry.”\(^\text{19}\) The truth regarding real states of affairs continually conflicts with those aspirations, especially good ones, of a society at a particular time (i.e., ideology).

It is important to return again to his earlier assertion—“more or less explicitly, every practical doctrine presupposes some theoretical position”—not to pit theoretical knowledge over and against practical, but instead to progress from the specific and historical to that persevering truth. Such a move serves to safeguard truth. The truth of natural law maintains a certain mystery about it.

Ideologues and propagandists propose an easy and simply understanding.\(^\text{20}\) Rigorous investigation and theological purity keep error at bay and present a reasonable intelligibility that while perhaps not rapidly understood both “feels” and resonates as true.

Crucial, then, to a development of this intelligibility is a firm grasp of both “nature” and “law.” To both of these Simon offers keen insights that might guide our further discussion. Nature can be viewed as both static or dynamic, and either related to morality or sharply distinct from it. Drawing from Aristotle and his explanation of essence, Simon remarks, “nature is a way of being which does not possess its state of accomplishment instantly but is designed to reach it through a progression.”\(^\text{21}\) In such a system, teleology, or ends, holds pride of place. This dynamism relates the beginning to the end. Additionally, the natural (and by natural in this instance I mean physiological) realities and conditions of a creature specify and direct (or more contemporarily “orient”) the progression from a defined beginning to a related end. An acorn when planted will, in proper conditions, develop into an oak tree. If a second grader planted an acorn in her backyard she would

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\(^{20}\) Ibid., 40.

\(^{21}\) Ibid., 43.
not expect a fire hydrant to blossom forth. Contrasted with this dynamic view, René Descartes ushered in a modern understanding in which the plurality, teleology, and relation of beginning and end reduced to consciousness and extension—neither of which constitutes a nature as previously understood. “The truth is that there are no natures in the universe of Descartes.”22 The origins and understanding of such a claim can make sense when thinking about mathematics. As one observes a geometric theorem in action there is no “better state of affairs” effected. “The properties of a mathematical essence are not effected by this essence, they are identical with it and all the development takes place in our mind.”23 Idealism thus assumes the prominent role over teleological natural law. Value does not rest within an object intrinsically; rather, a subjective value system imposes worth.

Law, on the other hand, engages a tension between the primacy of will and intellect (reason). This tension drives much of people’s understanding of law, and by extension natural law. The contrast is one of a law deriving its power from its inherent reasonableness or one whose act flows from the will of the sovereign.24 The understanding of natures, then, closely parallels this debate among various opinions. Simon, for example, in undergirding the power of obligation in natural law remarks: “natural law, in the very meaning of that expression, exists ontologically before it exists rationally in our minds; it is embodied in things before it is thought out, thought through, understood, intellectually grasped.”25 Again, without diverting into too lengthy a discussion on law more generally, it is noteworthy that Simon presents a particular perspective, or compilation of principles, that together form a fullness of nature, law, and obligation. A reasonable approach might

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22 Ibid., 45.
23 Ibid., 48.
24 “The question is whether by the law of the land, we primarily mean a work of public reason or an act of will elicited by the sovereign (whether king or people makes little difference)”(Ibid., 61).
25 Ibid., 137.
just as well see obligation resting in that same sovereign volition that imposes upon an object rather than draws from an illusory nature.

Lastly, and intimately connected to both nature and law, is a reflection upon God, and the role that God plays in guiding nature and thus law. God as such need not be conceived of as the Christian God, however true such belief is. The necessity of God—see Ivan Karamazov’s contention that if there is no God, all is permitted\(^{26}\)—leads some to preemptively dismiss natural law as deistically myopic.\(^{27}\) Simon notes that, up through the deism of the eighteenth century, some metaphysics remained, albeit not as refined as in pre-modern eras; “the laws of nature are guaranteed by the divine stability…thus law, which in the \textit{order of discovery}, …thirdly and ultimately exists in the divine mind, where it takes on the name of divine law.”\(^{28}\) The perseverance of thought in a relation to God does not derive from a philosophical piety; instead it authentically grounds the foundation of natures in creation. The removal of God with an accompanying acceptance of an empty or formal “nature of things” may avoid a leap into an infinite inexistence, but does not satisfy in a way that God can and does.\(^{29}\) The realities of design, of final cause, and of obligation point to a wisdom that suffers the most intelligent and honest of minds to explain away. Perhaps then, in light of its profound reasonableness, St. Thomas Aquinas’ definition of natural law persevered for centuries and people in both academic and practical settings thrived and progressed—“accordingly it is clear that natural law is nothing other than the sharing in the Eternal Law by intelligent creatures.”\(^{30}\)

\(^{26}\) Though not quoted verbatim by Ivan Karamazov, in Fyodor Dostoevsky’s \textit{Brothers Karamazov}, Ivan’s perspective is most visible in the famous chapter “The Grand Inquisitor.”
\(^{27}\) Simon, \textit{The Tradition of Natural Law}, 63.
\(^{28}\) \textit{Ibid.}, 138-139.
\(^{29}\) \textit{Ibid.}, 141. In a note on this same page, Simon offers a simple reflection of how even such a “settling” leaves a rational absurdity: “The problem remains unsolved. Imagine a painting being painted. There is a pack of hair, a ring of copper, a handle, and we call that a brush; behind the brush there is the painter. Now suppose the handle of the brush is a little longer. Do we still need a painter? Suppose the handle of the brush is infinitely long. Well, we have driven the painter into inexistence, and we realize that nothing is being painted.”
\(^{30}\) Thomas Aquinas, \textit{Summa Theologiae}, 1a2ae, 91, 2, resp. “\textit{Unde patet quod lex naturalis nihil aliud est quam participation legis aeternae in rationali creatura}.”
Professor and philosopher Ralph McInerny published a book, *Thomism in the Age of Renewal*, in 1966 as the Second Vatican Council had recently come to a conclusion. In the same spirit of renewal to which the Council Fathers called all theologians and Catholics, McInerny aimed to revive Catholic philosophy by means of and in continuity with the efforts of St. Thomas Aquinas. Painting a less than enthusiastic picture of the contemporary state of philosophy as taught in Catholic institutions, he lamented, “with exceptions notable almost because of their rarity as because of their substantive contributions, Catholics have not been doing well philosophically and have been out of contact with their contemporaries.”

His work does not set out to propose a particular reading or interpretation of St. Thomas; rather, it seeks to understand why the Church directs us toward the Angelic Doctor and to renew a deep Thomism that can and does revitalize Catholic thought. “This will not be a Thomism for which everything has been settled in advance; but neither will it be one for which nothing has been or can be settled philosophically. This will be a Thomism which is, by definition, open to every and all instances of philosophizing, but it will not be a dilettantish eclecticism either.”

Philosophy, man thinking about the big (and small) questions, does not occur in a vacuum. The philosopher is situated in a particular time and place and must address questions arising from that context. Not that one is limited by temporality, but one certainly draws from the convictions, thoughts, and even myths of the time. Thus it is within this backdrop that an ordering of goods emerges. The good of knowledge, which fits within the category of truth, does not lay claim to an exclusive and overriding precedence. For example, a person’s health should not suffer from the relentless, immoderate, pursuit of knowledge. Morality, the ordering of and pursuit of the good,

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32 Ibid., 33.
33 Ibid., 110.
cannot so easily be detached from the intellectual life. The physical and moral order relate more closely than some would care to admit. The truth is never trampled upon, but other goods, perhaps judged to be lesser, contribute to and stand independent of superior goods. “This is what we meant by saying that philosophizing is a human act and that it involves judgments which are essentially moral.”34 One need not be a morally upright person to be a good philosopher, artist, or technician. However, the attributes of virtue bring a docility to thought and action that leads, at times, more easily to the truth.

This brief excursus on morality and philosophy relates to natural law as it highlights not so much the complexity but the encompassing quality of the human act. It is the complete person who acts, not merely a part of that person. For McInerny, the comprehensiveness points to a teleology that is inescapable. Actions are not simply aggregations of experiences, nor knowledge mere bits of data. “The reasoning behind this is the teleology of man’s defining capacity which is reason; its actualization, its perfection or good, is precisely knowledge of the truth.”35 The previous paragraph gave the simple example of health being sacrificed for the sake of immoderate pursuits of truth. That most would recognize this, intuitively, as wrong gives rise to a wisdom, or natural law, that directs a reasonableness to life. The tempering of a good (or perhaps better put, the moderation of a good) does not arise from some human or practical construct, but opens up to an ordering of goods and thus an ordering of life. The intuitive or gut feeling that informs a person that only immoderation is wrong does not stem from a sense of that action being impractical; rather, it flows from an inherent unreasonableness.

Perhaps a look at how theology plays a role might elucidate further the reality of order and wisdom directing one’s actions. Theology is faith seeking understanding wherein faith is a gift and not the consequence of a well-reasoned argument. In this sense, philosophy is without faith. But

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34 Ibid., 118.
35 Ibid., 125.
faith can and does serve as a source of truths that can and must be examined; not that they will be disproved, but that their inherent reasonableness be revealed. The Church is in the business of preserving, and safeguarding, the deposit of faith. This safeguard is not for the sake of the truth, which is beyond reproach, but for the sake of people, that we might not become lost in a cloud of doubt or confusion. Thus the Christian philosopher knows, “with certitude of faith, that no one could conclusively show that it is impossible that God exists.”36 Such certitude does not immediately conclude philosophical certainty, but, “it prods him to find one…rather than being an invitation to obscurantism, faith should be a felt obligation to intellectual inquiry.”37 Truth directs the person to its attainment. It orders people to their natural end. The proliferation of ideas and contrasting “truths” serves not to undermine this assertion; instead, it further points to the obfuscation of the human condition as the result of original sin and recognizes the need for grace, i.e. supernatural help, “to do correctly what he is inclined to do.”38

In turning finally to St. Thomas, we can see, by analogy to the deference owed revelation in terms of the pursuit of natural truth, the reasonableness of the Church’s interest in and promotion of St. Thomas Aquinas as a guide. McInerny makes the helpful distinction of the call for antecedent deference as opposed to consequent deference.39 The teachings and writings of St. Thomas are not infallible statements; they do, however, provide a rich source of wisdom against which a reasonable aspirant might begin a discussion. The absence of an official philosophical orthodoxy does not portend a Church adrift in a sea of ideas. Rather, the elevation of St. Thomas offers a profound catholicity as “the fitting guide of an introduction to philosophy which introduces to philosophy without qualification, to philosophy in all its scope, in all its appearances and efforts.”40

36 Ibid., 149.
37 Ibid., 149.
38 Ibid., 146.
39 Ibid., 197.
40 Ibid., 206.
reading of St. Thomas demands only an informed reason and not any contrived acquiescence. Thus St. Thomas does not act as a kind of gate or litmus test through which all Catholic thinkers must pass; rather, he serves as a beacon, or lighthouse, as an aid to navigation and not as the wheel or tiller. To set a course far from St. Thomas is not to venture into impossible waters but it is to travel, perhaps more dangerously, in less charted waters.

In taking his own advice, then, McInerny offers, in the same year as his book, an article examining the meaning of “naturalis” as used by St. Thomas Aquinas in his theory of natural law. In so doing he sets out to answer two distinct questions. First, how is natural to be understood in terms of natural law and natural law ethics; and second, what is the relation between moral precepts and natural law precepts—are they equivocal?

From the outset he proposes that natural implies both a metaphysics and a teleology. After distinguishing from laws of nature, e.g., biological necessities like sleeping or eating, he notes, “natural law…is precisely the rational creature’s cognitive awareness of the good proportionate to his nature as something to which he must direct his actions.” Immediately the connection between nature and teleology emerges. That is, nature (or the essence of the rational creature) is in a dynamic relation to its end, which is the fulfillment of its proportionate good. McInerny observes too that precepts consequently follow. With respect to a nature, the dynamism or tension between potency and act, between potential and fulfillment compels action toward that which embraces the proportionate good. Thus, a deviation could be said to go against one’s nature; that is, to be irrational (and in Catholic speak, a sin) is to misconstrue or to deny a constitutive nature. Leaving

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42 Ibid., 560.
aside a discussion concerning the ability to accurately define or identify a human “nature,” these precepts which flow from a reasoned awareness of this nature constitute a natural law and consequently maintain an immutability and universality.

As he considers these precepts, however, McInerny is quick to observe that they do not constitute the complete set of moral precepts. As he explains, “one can distinguish moral precepts of natural law from moral precepts which are not, and that there are two kinds of natural law precepts.” Pointing to St. Thomas, he recognizes that indeed there can be uncertainty and unsure views within moral discourse, on both the specific and the most general level. He cites St. Thomas’ treatise on natural law, specifically Summa Theologiae 1a2ae, 94, 4, in distinguishing between the necessity of proper precepts and the contingency of common ones. St Thomas relates that, with respect to questions of theory (in speculativis), the truth is the same for all in both principles and conclusions. “But in questions of action, however, practical truth and goodwill [practical rightness] are not the same for everyone with respect to particular decisions, but only with respect to common principles.” Instinctively people know this. The common example given is the returning of borrowed goods. This precept (deposita sunt reddenda) seems so connected to justice that it must certainly be one of natural law. However, there could be any number of conditions or qualification that would make the return of this particular good at this particular moment injurious to any number of parties. “Be just” points to the end or good that is justice, and does not demand an unreasoned reaction. McInerny thus notes that St. Thomas finds such a precept (deposita sunt reddenda)

43 Here one find sympathy to the earlier assertion of Yves Simon, namely, “more or less explicitly, every practical doctrine presupposes some theoretical position,” inasmuch as McInerny remarks, “So too in the practical order, the ratio boni (quod omnia appetunt) grounds the first precept. ‘Hoc est ergo primum principium legis, quod bonum est faciendum et prosequendum, et malum vitandum’(Aquinas, Summa, 1a2ae, 94, 2, resp.) [And so this is the first command of law, that good is to be sought and done, evil to be avoided]...What practical reason naturally apprehends to be good—that is, what is apprehends with ease and without discourse or inquisition”(McInerny, “Aquinas Theory,” 561).
44 Ibid., 560.
45 Aquinas, Summa, 1a2ae, 94, 4, resp.
“defective.” Defective is not to say that such a precept is unhelpful—in fact, its specificity inclines it to be among “the ones most instructive for human action because they are more concrete”—rather, it points to the important distinction between the two types of precepts. Those precepts of natural law are analytically connected to the end to which they are concerned and are therefore always and everywhere true; while those not of natural law still provide concrete assistance and while not equivocal to natural law precepts might still warrant inclusion in a natural law ethic.

In an appendix entitled “Natural Law” to his translation of the volume of the *Summa Theologiae* concerning St. Thomas’ treatise on natural law, Thomas Gilby, O.P., addresses the same two earlier points as Simon—“nature” and “law”—and offers complementary insights. With regard to nature, Gilby maintains the distinction and presence of two understandings of nature. The first, Hellenic and dynamic, means “all unforced activity, including all intelligent and loving activity, especially when it proceeds from habit, or second nature, of virtue, whether this be acquired or is a free gift of grace.” Gilby, a theologian and not a philosopher like Simon (or McInerny), more easily infuses his discourse with God and grace. Hence, he relates the dynamism to the historical condition of people and the disposition of divine Providence with respect to friendship with God. The end or goal of knowing and loving is God…it is not some arbitrary or subjective created thing. The second, distinct from but complementary to the teleological meaning of the first, is the Roman typology of status or rank: “the second and static meaning and limited to what follows from the essential constitution of the rational animal.” The tension and complementarity of the two allows for theology to broaden and to deepen its reflection. The static quality of human nature unites all people

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47 Ibid., 564.
48 “The justification of this terminology is found in the role the common precepts play in validating proper precept; even when the end invoked is not always and everywhere dependent on the means expressed, without at least the claim that, *ut in pluribus* such-and-such an end, the precept would lack all validity” (Ibid., 564).
50 Ibid., 166.
with a solidarity that individually and communally might receive the grace of relation to the mystery of God. Thus St. Thomas can assert that “grace possesses nature without destroying it.”\footnote{Ibid., 168.} And, at the same time, it is human nature that strives toward goodness and upon which grace aids and propels; else in the context of the mystery of God’s providence a mere human effort remain “tragic in its destiny, and impotent even within its own limits.”\footnote{Ibid., 168.}

In terms of law, Gilby adds to Simon inasmuch as he reflects upon the freedom associated with law, “for to be lawful in the proper sense of the term is to act with responsibility in accepting the law and making it your own.”\footnote{Ibid., 170.} Of course, by law in association with natural law, it involves reason directing toward right action—unjust laws would not subsist in such a specification. Gilby allows for such an exclusion because as a theologian he maintains law’s relation to its origin and end in God: “This law is received by man as the image of God, and the sociable nature to which it is conformed is directed not merely to the common life of good citizenship and urbanitas but to fellowship in the society of God.”\footnote{Ibid., 169.} Thus law, in its primary sense (the natural law precepts of McInerny) and secondary sense (those moral precepts not of natural law), orders and directs toward particular goods “within the analogical comprehension of the universal good.”\footnote{Ibid., 171.} That which is fixed is the end, God. Natural law, then, shapes one’s actions into conformity to that end. Rather than comprise a “kind of geometric system or body of laws…natural law may give us a sort of yardstick for the answers, but not the precise and final test.”\footnote{Ibid., 171.}
NNL—A NEW NATURAL LAW

In 1964, in the *Natural Law Forum* of the University of Notre Dame Law School, Germain Grisez published an article in which he articulated the new natural law interpretation that he and others would offer to the Catholic world.\(^{57}\) In so doing, he aimed to read into St. Thomas an elevation of practical reason as sufficient over and against theoretical truths with respect to human nature. The implications for such a foundational premise take this new natural law on a path that, while oftentimes arriving at the same end as the Thomists previously mentioned, offers a significantly alternate route. It may be best, then, to quickly outline the major points of this innovative work. Grisez himself offers five goals to be achieved: first, he aims to recover a proper understanding of St. Thomas’ first principle of practical reason (*bonum est faciendum et prosequendum, at malum vitandum*); second, good and evil as presented in this principle must be understood as well with respect to final causality; third, the principle serves as a source of action rather than as an opposition to positive action; fourth, the principle must be extracted from its limited confinement to an imperative; and fifth, the many self-evident principles of natural law emerge with a proper interpretation, as opposed to regarding all specific precepts as conclusions from the first principle.\(^{58}\)

Grisez locates the organizing factor in natural law precepts, i.e. that which brings the multitude into an orderly whole, in practical reason’s “legislation, only insofar as it is subject to practical reason’s way of determining action.”\(^{59}\) These precepts, then, are not conclusions but are self-evident—natural law is constituted by the precepts of practical reason. He thus rejects the interpretation, specifically formulated by Jacques Maritain in his work *Man and the State* (Chicago, 1951), that “man’s knowledge of natural law is not conceptual and rational, but instead is by

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\(^{58}\) Ibid., 168-169.

\(^{59}\) Ibid., 171.
Inclination, connaturality, or congeniality. In short space, but thoroughly worked out, Grisez dismisses theoretical knowledge (and with it a view toward metaphysics) as a basis for coming to natural law precepts and places the source in practical reason. He finds support for this claim in his reading of St. Thomas. Specifically, he looks to how St. Thomas explains “self-evident.” Self-evidence most fully expresses itself in those things that come to mind (or fall within the grasp of everyone). Intelligibility, or the subjective knowing, characterizes self-evidence. Per se self-evidence, i.e., a kind of internal intelligibility without respect to any subjective appreciation, which suggests a kind of interpretation associated with Maritain and leans upon a strong metaphysical realism, is a misinterpretation. Grisez points out, however, that his interpretation does not veer toward a modern separation of truths of reason and fact; meanings are grounded in the firmness and truth of reality. It is the intelligence that utters the word that presents intelligibility.

“Practical reason does not have its truth by conforming to what it knows, for what practical reason knows does not have the being and the definiteness it would need to be a standard for intelligence. Only after practical reason thinks does the object of its thought begin to be a reality. Practical reason has its truth by anticipating the point at which something that is possible through human action will come into conformity with reason, and by directing effort toward that point.”

“Directing effort toward that point,” emphasizes the tendency of practical reason to comprise the material (i.e., the good) concerning which reason lays hold and to which it directs and carries out action. In summation, “the precepts of reason which clothe the objects of inclinations in the intelligibility of ends-to-be-pursued-by-work—these precepts are the natural law.”

Grisez strongly emphasizes the translation of bonum est faciendum et prosequendum, at malum vitandum with respect to prosequendum. The pursuit is often excluded in the more common

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60 Ibid., note 11 at 171.
61 Ibid., 172.
62 “An object of consideration ordinarily belongs to the world of experience and all the aspects of our knowledge of that object are grounded in that experience” (Ibid., 173).
63 Ibid., 176.
64 Ibid., 181.
interpretation—Do good and avoid evil. The absence of pursuit, it turns out, similarly excludes a strong teleology. What remains is merely a “quality of moral action,” i.e., no view toward and relation to an end. Having just elevated practical reason, Grisez notes that “practical reason prescribes precisely in view of ends.” Thus, rather than make a consequent judgment of moral value, the emphasis on pursuit acknowledges reason’s role in directing toward a specified end—an intelligible good. Reason can grasp these goods and the inclinations toward them as worthy of pursuit. Action comes to be seen not as a mere means to an end, but “an object of choice.” Thus the end comes to give value to the action. The end, grasped by reason, shapes actions.

Similarly, Grisez aims to correct an overly static and prohibitive interpretation of law. Pointing to St. Thomas, Grisez understands law “as a principle of order which embraces the whole range of objects to which man has a natural inclination.” In fact, it is law that makes life possible; “rational direction insures that action will be fruitful and that life will be as productive and satisfying as possible.” As a source of action, law does not stand in a kind of deontological position of offering an ought in opposition to what one wants or wills to do. Consequent to the positive aspect of law, a greater if not often undervalued sense of responsibility emerges. Grisez proposes a profoundly active and deliberate person, whose agency draws from the practical reason. Natural law becomes a directedness toward possibility—“is to be.” Grisez notes that it “prescriptive” and not imperative. That is, by prescriptive, he means that the will, as informed by the practical reason, accepts the possibility of the principle of action toward the basic goods, and by imperative, he means a judgment like a theoretical judgment in relation to the order in a thing. In

65 Ibid., 181.
66 Ibid., 181.
67 Ibid., 185.
68 Ibid., 186.
69 Ibid., 190.
70 It is noteworthy and informative to the theory that Grisez employs the present tense “is” as opposed to the future “will.” In the present tense it acts as a directive which here and now, nunc, is grasped by and drives practical reason.
71 Ibid., 190.
explaining this, as not consequent, Grisez further observes, “to know the first principle of practical reason is not to reflect upon the way goodness affects action, but to know a good in such a way that in virtue of that very knowledge the known good is ordained toward realization.” Natural law, then, can be seen as a kind of guidepost, albeit a very persuasive and true one. It does not act as the support for an imperious will enforcing a theoretical precept. He continues to refine and to explain the proper use and relation of practical reason to natural law. He further avoids Hume’s is-ought denial by persistently correcting and noting that the principles are not facts but are underivable. Practical reason directs toward the good and the end; that is what it does. Thus it does not need nor rely upon facts, but rather follows from a naturally formed set of underived principles that then shape or guide action. In what amounts to a direct contraposition to the traditional Thomist interpretation, Grisez asserts that his position and interpretation avoids the Humean pitfall of is-ought. At the same time, a difficult challenge awaits a proponent of any supposition that examines human nature and an action’s conformity to it.

Lastly, within Grisez’s foundation work, he aims to correct the mistaken interpretation that the first principle acts as a kind of major premise from which all precepts derive. Though it does not form the other precepts—it like them has the “status of self-evident principles of reason”—the first principle relates to the other underived principles inasmuch as it gives accord to their intelligibility. It “is like a basic tool which is inseparable from the job in which the tool is used; it is the implement for making all the other tools to be used on the job, but none of them is equivalent to it, and so the basic tool permeates all the work done on the job.” The distinction and relation leads to an emphasis on intentional action. Each underived good claims a necessary openness from the actor towards its pursuit. No one holds a necessary claim.

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72 Ibid., 191.
73 Ibid., 196.
74 Ibid., 196.
75 Ibid., 198.
Thus armed with a foundation for a new natural law interpretation, Grisez continues to implement his understanding. He publishes a book, entitled *Contraception and the Natural Law*, in 1964 and later publishes an article in a 1966 issue of the *Thomist*, in which he expounds upon this new theory in the context of the discussions surrounding contraception.\(^{76}\) While acknowledging that in fact certain natural, or biological, facts are at play, the *ought* or morality of an act, and in this case the sexual act, is “in our power to such an extent that what will in fact occur is contingent on our freedom.”\(^{77}\) Since such actions involve choice, they are not physically determined nor intuitively derived. Rather, an *a priori* knowledge, a reasoned determination that moves toward an end, or good, directs actions. Rejected, then, are any systems that find determination in a built-in (or fated) nature or in a voluntarist fiat. The good to which reason directs would be one of a number of underivable human goods that sum to the total possible good that man can attain.\(^{78}\) Grisez identifies one of these goods as “the procreative good.”\(^{79}\) The particular arguments regarding this good and those against contraception are less important for the current discussion. Instead, the methodology reveals a number of features of this new natural law. Any proportional or utilitarian analysis of this good in relation to others becomes like comparing apples to oranges—thus the goods are incommensurate.\(^{80}\) Further, there is no external sense of morality that shapes a choice; “moral life is a progress open toward infinite self-transcendence.”\(^{81}\) Grisez offers a moral standard that builds not upon metaphysical or natural facts but upon an ideal—an ideal that manifests itself in a total openness to this same self-transcendence.\(^{82}\) This openness demands an avoidance of violating any fundamental

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\(^{77}\) Ibid., 344.

\(^{78}\) Ibid., 347.

\(^{79}\) Ibid., 348.

\(^{80}\) See ibid., 350-352.

\(^{81}\) Ibid., 352.

\(^{82}\) In declaring the standard of morals to be an ideal Grisez means: “Moral acts are man’s own contrivance; moral agency is the adventure of human existence,” and “Moral acts are the creatures of freedom; to judge
human good. Every particular good cannot be engaged and pursued at the same time (such an effort would be impossible); however, “what is required for the goodness of the human act is not that it have the best consequences, but that it proceed from a truly good will, a heart bent upon all the human goods as the images of Goodness Itself.”\textsuperscript{83} A particular good can and must be a starting point for action; while at the same time other goods cannot be trampled upon. An action, for it to be fully human, must be fully understood. Reason must grasp the fullness of the act; i.e., the natural or biological facts can come into play here. In the example of contraception, “sexual activity cannot be understood without understanding its reference to procreation.”\textsuperscript{84} Since the procreative good is inseparable from the sexual act, any action without reference to it violates such a good. In making the case against contraception, Grisez uses the basis or foundation of the underived human goods to determine morality of actions.

\textbf{ST THOMAS FOR ALL}

At the beginning stages of their disputes, each theory lays the groundwork in different, and at times opposing, ways. The Thomists, as championed by Ralph McInerny, seek first to point to St. Thomas as both a safe and worthy guide in any natural law endeavor. Simon suggested St. Thomas be used as an inspiration, both in terms of dialectic and guidepost. For McInerny, however, St. Thomas serves as more than a guide; he is the master and points out clearly the path to be trod. Discussions of nature and law relate and flow from his inspiration. For Germain Grisez, on the other hand, he too seeks to follow St. Thomas. But he does not find himself as restrained by more classical Thomistic interpretation. At these initial phases, he sees in his theory a richer and more

\begin{footnotesize}\	extsuperscript{83} Ibid., 353. \\	extsuperscript{84} Ibid., 357.\end{footnotesize}
authentic interpretation of St. Thomas. Such allegiance will not always be the case, but for now, difference in interpretation is credited with mistakes and not innovation.
The decade following the promulgation of *Humanae Vitae* by Pope Paul VI brought great conversation, argument, and dissent within the Catholic moral world. Inasmuch as arguments centered around *Humanae Vitae* specifically, the Church’s role with regards to teaching and natural law assumed a more prominent place. Theology and Church teaching found themselves, at times, in opposing positions. Lucid and rational arguments for or against contraception flowed prolifically—though more often in a manner opposed to *Humanae Vitae*. As these arguments touched upon natural law, and its use within and by the Church, it would be advantageous to look at, briefly, a perspective on the teaching authority of the Church and its relation to natural law. The Jesuit Joseph Costanzo offers such a perspective.\(^{85}\) Such an excursus will, I submit, help to distinguish both the duty that the Magisterium plays in interpreting natural law and declaring a specific teaching, and the obligation or role that a theologian offers in the understanding of the truth. Though certainly contentious, Constanzo’s perspective will help to contextualize the responsibilities undertaken by both the New Natural Law proponents and the Thomists in their efforts to properly interpret natural law.

As the twentieth century began and progressed, natural law and natural law arguments began to appear more frequently in the context of magisterial documents. As the popes in particular began to exercise their authority and jurisdiction toward the whole world\(^ {86}\) such an endeavor lent itself to

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\(^{86}\) See Vatican I, especially *Pastor aeternus*, ch. 3:9.
the use of arguments and reasoning accessible to all. Though the Church employed various natural law arguments to support its teaching, it is important to recognize (and this is often a point of contention or simply overlooked) that such teachings do not depend upon the arguments of natural law to prove their veracity. “Whenever the Church teaches natural law doctrine or a specific application of it to a concrete moral issue, it does so by virtue of the Petrine commission, and not as eminent philosophers or world-renown metaphysicians.”\textsuperscript{87} In stark terms, the Church need not offer any philosophical rationale for a teaching beyond its divine assurance; however, such an approach would be neither helpful nor effective for spreading the Gospel. In fact, as will be explicated more fully decades later by Pope John Paul II in his encyclical \textit{Fides et Ratio}, the Church need not fear reason—truth is unitary since God is one\textsuperscript{88}. Thus a purification of reason, i.e., reasoning well, can and does serve to further the understanding and deepening of faith—a faith preserved by the Church. The Church, as authentic interpreter of faith, is “competent in her magisterium to interpret the natural moral law. It is in fact indisputable, as Our predecessors have many times declared, (1) that Jesus Christ, when He communicated His divine power to Peter and the other Apostles and sent them to teach all nations His commandments, (2) constituted them as the authentic guardians and interpreters of the whole moral law, not only, that is, of the law of the Gospel but also of the natural law. For the natural law, too, declares the will of God, and its faithful observance is necessary for men’s eternal salvation.”\textsuperscript{89}

In touching upon both natural and supernatural truths, the Church teaches in a manner that ensures God’s saving truths are transmitted with certitude and without error. Her arguments offered on behalf of revealed truths thus employ natural law so as to demonstrate the reasonableness of the truth, not to prove it.

\textsuperscript{87} Costanzo, “Papal Magisterium,” 263.
\textsuperscript{88} “The natural law is part of the whole moral order. The God of salvation is the God of creation and it is one and the same divine will which legislates the \textit{lex naturae} and the \textit{lex Christi}” (Ibid., 274).
\textsuperscript{89} Paul VI, Pope, \textit{Humanae Vitae}, Vatican Translation, (Boston: Pauline Books and Media, 1968), no. 4.
Costanzo briefly traces the manner in which Church teaching is promulgated. Reaching back as far as the apostolic period, he notes that the pedagogy of Scripture and the Church more generally is proclamation and teaching, rather than discursive. “The four Gospels and the Epistles are declarative, authoritarian, affirmatory, and prohibitory in their pedagogy.”

Even Vatican II, with its profoundly pastoral approach, is tempered with respect to discursiveness: “its discursiveness is addressed to those who already hold to certain beliefs and convictions.”

Again, all this is not to dogmatize teaching or to insist upon a kind of ecclesial positivism; rather, it stresses strongly the underlying certainty and truth supporting Church teaching. Nor does the work of theologians, those entrusted with the responsibility to venture into the depths of revelation, become mere bookkeeping or proofing. Natural law, and natural truths, discover their profound dignity in the “revelation of the supernatural dignity of man and above all and much more so by the Incarnation.”

The one and same salvific morality relates natural law to evangelical morality. In many ways, the promotion and the explication of this relation falls to moral theologians. The truth about human nature, i.e., how God made and knows the world to be, does not progress in a Hegelian pattern of progress; rather, development functions as a means by which God speaks and continues to speak to every generation the one and same saving Truth.

The theologian, and in this case the Thomist or New Natural Law theologian, serves the truth by bringing reason to bear upon revelation and preserving the communion of faith. The Church is charged by God with the protection of the sacra doctrina. In so doing, She is endowed with divine help, i.e., divine assurance. Particularly as we move into a post-Humanae Vitae period, it is essential to recall continually this simple but necessary reality. The Church need not explain Herself; though She does. The present investigation keeps this always in mind. As arguments arise—and

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91 Ibid., 268.
92 Ibid., 272.
varied will they be—to support the Church’s teaching, they must continually ponder how they reflect this divine wisdom of the Church. The Church proposes no official school or way of proceeding philosophically.\(^93\) The truth is not created by people. The theologian must always avoid opening the faith to ridicule. In so doing, he or she serves both truth and the Church.

It is against this kind of backdrop, i.e., service to the Church and to the Truth, that the Thomists and the NNL theorists begin to develop their own interpretations of natural law and to critique the other’s natural law system. It is to this mission of thinking *cum ecclesia* that each group faithfully dedicates itself. This chapter will therefore focus upon the period following the release of *Humanae Vitae* through 1980. The exposition will alternate from Thomist to NNL, back to Thomist and conclude with two sections on the NNL. Little direct debate occurs between the two groups as more efforts seem to be oriented toward the defense of Church teaching, and Truth. The divergent viewpoints begin to develop more clearly, however, in this period.

**Thomist—AN ONTOLOGY OF MORALS**

In the first years of the 1970s, philosopher Henry Veatch authored a book, *For an Ontology of Morals: A Critique of Contemporary Ethical Theory*, in which he proposes to seek a restoration of ontology, i.e., metaphysics, to ethical conversation. He offers a simple proposition; namely, moral and ethical distinctions are grounded in the very nature and being of things, and not elsewhere.\(^94\) In a short and breezy paragraph, and by way of introduction, Veatch rapidly concludes that a reasoned characteristic of judgment implies some kind of basis in fact and nature and therefore “there would appear to be no escaping the conclusion that not just a natural-law ethics but any ethics must carry

\(^93\) “The Church has no philosophy of her own nor does she canonize any one particular philosophy in preference to others. The underlying reason for this reluctance is that, even when it engages theology, philosophy must remain faithful to its own principles and methods. Otherwise there would be no guarantee that it would remain oriented to truth and that it was moving towards truth by way of a process governed by reason”[John Paul II, *Fides et Ratio*, Vatican Translation, (Boston: Pauline Books and Media, 1998), no. 49].

with it either implicitly or explicitly a commitment to no less than an ontology of morals.”\textsuperscript{95} He attempts to show in his work that any system of ethics not based on an ontology of morals, that is, based on something else, e.g., linguistic or some other subjective determinant, loses any grounding whatsoever and leads ultimately to a kind of nihilism.\textsuperscript{96} The specific critiques of various modern schools of ethics is indeed probing; however, they lie beyond the scope of this project. One remark may be worth noting. As a kind of proof by counter-example, Veatch attempts to redeem some modern conceptions by proposing a “transcendental turn” by which various linguistic and subjectively oriented ethics may rely upon their own characteristics to avoid a march toward nihilism. Such a turn “is supposed to mean that ethical principles, though neither evident in themselves nor susceptible of any direct rational justification, may nevertheless be justified”\textsuperscript{97} according to an algorithm based upon that particular ethic’s necessity—e.g., principles “which we find to be inextricably woven into the warp and woof of those basic language forms in terms of which we discourse about things and about the world.”\textsuperscript{98} Despite his strong efforts, Veatch identifies a number of obstacles and challenges that make such a transcendental turn difficult, if not impossible. The only viable option, he proposes, is a return to an ontology of morals.

As Veatch outlines his restoration of an ontology of morals, he does so with a return to Aristotelian concepts. The understanding of goodness, for example, does not derive from a subjective interpretation; rather, goodness is that which is actual or perfect as compared to potential or imperfect with respect to the fulfillment or completion of a thing.\textsuperscript{99} It becomes immediately apparent, therefore, that such an understanding of goodness requires, nay depends upon, existent natures. His emphasis on goodness does not stop with a static quality. Relation, and appetite as St.

\textsuperscript{95} Ibid., 13.
\textsuperscript{96} Ibid., 85.
\textsuperscript{97} Ibid., 86-87.
\textsuperscript{98} Ibid., 87.
\textsuperscript{99} Ibid., 110.
Thomas calls it, toward the end or fulfillment makes out the good. The good, it must be noted, is not good because it is desired; it is desired because it is good, whether it is known or not. All judgments and facts, everything having to do with choice, are action-guiding. Try as one might, man cannot escape the reality of his natural ordering, and ordering toward virtue. “Suppose that it is incumbent upon a man to make something of himself…—such things represent obligations and standards of conduct which simply as a matter of fact do pertain to human beings and are binding upon us…to which we are oriented in virtue of our very capacities and potentialities as men.” The task for the moral theologian, then, or even for the person more generally, is to seek out the truth with respect to human nature and direct one’s life in light of those guiding truths and principles.

In concluding his work, Veatch offers responses to the challenges facing his system, beginning with a Humean subjectivity. With respect to the blindness of Hume, in that Hume sees no relation between virtue and vice and matters of fact, Veatch credits this blindness to a failure to recognize that objective facts can “be viewed in abstraction for the values and disvalues that pertain to them” without constraining them to exist only as such. That is, because a person in his or her intellect can and does abstract from reality this does not in reality irrevocably sever such a fact or quality from its relation to the object and to prior potentialities. In investigation, even scientifically, with these potentialities and actualities, one finds oneself facing a question of nature, quiddity. “What then is the standard in the case of man? It is simply that of being a rational animal. This, indeed, is the very heart and core of natural-law ethic.”

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100 Ibid., 113; additionally Veatch makes note of the intra-Thomist discussion regarding the kind of relation potency has toward act, being real or conceptual, in a very lengthy footnote (Ibid., 116n20).
101 Ibid., 119.
102 This kind of subjectivity is quickly explained as how a kind of ethical judgment arises: “he would have to explain his judgments as being prompted not by the facts of the case, but simply by such attitudes of approval or disapproval as the facts might happen to evoke in him” (Ibid., 131n6).
103 Ibid., 135.
104 Ibid., 138.
Following a critique of utilitarianism, Veatch includes a brief but thorough criticism of Kantian deontology. Kant, it seems, will not consider any inclinations or feelings, be they directed toward the good or otherwise, as even remotely grounding his ethics. So too nature, as constitutive of rational creatures, is off limits. In its place he proposes a practical reason which Veatch remarks brings forth “the floodgates [that] are opened to those murky Kantian waters, filled with strange doctrines of the intelligible world as over against the phenomenal world, and how and why it is that only practical reason and not theoretical reason is competent to provide any kind of knowledge of the former.”

But Veatch offers grave concern with respect to the reality that Kant’s system depends upon formal characteristics that cannot be fully known. Thus, in practice, a negative approach must be taken in which any attempt toward proposed moral laws can be judged false, but not true. Further investigation and explication of Kant can and certainly should be done; it is sufficient to conclude, however, that, for Veatch, Kant, like the utilitarians, necessarily turns away from an ontology of morals, when in fact such a grounding provides the only real option for morals.

NNL—WHAT ARE HUMAN GOODS?

Contemporaneous but in contrast to the approach taken by Veatch, Germain Grisez and the New Natural Law proponents make great efforts to identify the basic human goods that underline, or motivate, human morality. Such an investigation stems from a desire to discover the reason for which distinct and deliberate choices are made. They are not consequential reasons but can be seen as incommensurate ends. For example, he identifies “aesthetic experience” as a basic human good. Thus an actor seeks after an action with respect to aesthetic experience because of the value of that experience (before even its actualization) for its own sake. The goods are ends to which Grisez et

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105 Ibid., 149.
106 Ibid., 151.
al. hold up their teleological framework of morals. Ultimately, he arrives at eight such goods\textsuperscript{108} that serve as the totality in terms of categories of the fundamental reasons for human action.\textsuperscript{109} These goods, in their irreducibility, also direct us toward a full understanding of the human person because their achievement or actualization embodies human fulfillment. Each in its own particular way contributes to the fullness that is the human person. Consequently, each is incommensurate since no part of human nature can be considered less than any other. The dignity of each good demands a fuller knowledge and deliberate choice in every action; that is, a particular good cannot be sought in a manner or for its own sake so as to denigrate or violate another essential, or basic, human good.

Looking more closely at the goods and their identification, we discover deep teleological underpinnings to these good—Grisez sees them as purposes. They do not stem from the kind of intuition that the Thomists like McInerny employ to understand human nature. Instead, they are “goods” which people pursue for their own sake. Such a pursuit avoids becoming bogged down in subjectivity, i.e., a compilation of billions of perspectives, by insisting upon each good being irreducible. Grisez illustrates this with the example of patriotism. Certainly countless societies have championed some kind of patriotism specific to their time and place. It would be tempting, therefore, to see this common, though not quite universal, good and declare, “Voilà, a basic good!” Very quickly, however, because of the varied practices and by further reflection, it is realized that patriotism “is no more than a limited aspect of the broader category we have called ‘friendship’.”\textsuperscript{110}

The near-universal application of patriotism helps us to understand how morality begins to take shape in such a system. Friendship as a category, and patriotism as widely but not quite universally applied, directs human action. Though “directs” is not quite the right word—perhaps better: the end

\textsuperscript{108} Life, play, aesthetic experience, speculative knowledge, integrity, practical reasonableness, friendship, and religion.
\textsuperscript{109} Ibid., 70.
\textsuperscript{110} Ibid., 70.
on account of which action proceeds. One can find a kind of consensus, then, that friendship is rightly considered a basic human good.

When judging morality with respect to basic human goods, the emphasis on why becomes important. “In order to be possible, human actions must be for purposes.” Grisez highlights the two pillars of human morality as freedom and purpose. An agent’s moral calculus and the information that one uses to make a judgment come solely from internal rather than external sources.

“Fundamental human purposes are not outside us but within us. They are aspects of man, intrinsic human possibilities whose realization is up to us. When a person acts to realize one of these purposes, he is not going to achieve something outside himself. Rather he is striving to bring into being some part of himself by participating (taking part) in the good toward which he acts.”

Every action thus becomes a choice for openness to self-realization. Not that such “realization” is in itself a good; the full range of human self-actualization comprises the flourishing of each basic good. At the same time any human choice and action necessarily limits that person, i.e., it closes off certain possibilities. There is a distinction, however, between choosing one option as subsequent to rejecting other goods and choosing a good while respecting the worth of the others. More than in theory, this can be seen in the use of certain means that either respect or disregard the other basic human goods. Immorality is seen as engaging in irrationality. This occurs when it involves an exclusive closing off; it fails to acknowledge the truth of man’s condition and flourishing though participation in human goods.

Essential to the flourishing of human life with respect to the basic human goods is a freedom on the part of the person to choose the particular good. Against a common stream of

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111 Ibid., 85.
112 Ibid., 86.
113 Specifically Grisez identifies immorality as “a kind of self-mutilation, that it represents irrationality in action, that it is a violation of community, and that it is a rejection of God” (Ibid., 99).
philosophic thought that would deny such a freedom to human agents, Joseph Boyle, Germain Grisez and Olaf Tollefsen offer a concise argument asserting that someone can make a free choice.\textsuperscript{114} A “norm which prescribes unconditionally between open alternatives has, as a necessary condition for its being in force, the ability to make a free choice on the part of the person directed by such a norm.”\textsuperscript{115} The authors demonstrate this by showing that the opposite proposition, i.e., no one can make a free choice, is self-defeating. Among the ways in which they prove this is by recognizing that any rational affirmation of the negation of free choice must necessarily appeal to a norm guaranteed by free choice’s reality. “Thus the truth of N\textsuperscript{fc} [no one can make a free choice] entails the impossibility of rationally affirming N\textsuperscript{fc}.”\textsuperscript{116} Thus the many self-refuting arguments set against free choice’s negation coupled with the data of experiences of choice lead toward an assertion that in fact people have the capacity to make free choices—and they do make such choices.\textsuperscript{117}

Thomist—A THOMISTIC TURN

While the New Natural Law proponents are formulating defenses and explanations for their approach, the philosopher Ralph McInerny continues in the same vein as Henry Veatch in looking toward and defending both naturalism and a Thomistic ethic.\textsuperscript{118} In so doing he seeks to determine the meaning of goodness, that is, whether it resides in the thing itself or in some way in the mind. A prominent ethical position, which he identifies as Prescriptivist, roots freedom and goodness, in its role of commendation.\textsuperscript{119} Crucial to this position is a necessary chasm between factual properties of a thing and its being commended. While such a position can be reduced to grammatical hairsplitting,

\begin{footnotesize}
\begin{enumerate}
\item[115] Ibid., 164.
\item[116] Ibid., 167.
\item[117] Ibid., 171-3.
\item[119] Ibid., 224.
\end{enumerate}
\end{footnotesize}
there is no need to bring too strong a criticism to prescriptivists except to see in them a foil to a profoundly teleological and realist ethical system.

In a way similar to the searching for a why or purpose as proposed by Germain Grisez, McInerny turns to St. Thomas to introduce into the analysis the person, or addressee of the action. “I commend something to someone for some reason or other, where by ‘reason’ I do not mean motive but the qualities or features the commended thing has.” Here we make two observations. First, in contrast to the “free” commendation of the prescriptivists, the commendation of the good thing is done for a reason with respect to the quality or feature of the thing. Second, and herein a real difference emerges between the Thomist and NNL approach, the quality or feature of the thing is what in fact dictates or “controls” the action in contrast to a strictly internal algorithm that looks to realizations of possible human fulfillment.

In looking to the nature, that is the quality and features of a thing, McInerny highlights the important distinction made by Peter Geach in an earlier essay between attributive and predicative adjectives. Intuitively, and really by means of common sense, people can tell the difference between, say, a yellow bird and a good golfer. Yellow is a predicative adjective that describes a physical quality of the bird. Whereas good attributively describes the golfer, “that is, in such phrases as ‘good golfer,’ ‘good typist,’ and so on, it can only be explicated with reference to the role or description under which the agent is envisaged.” The attribution has very much to do with the quality of the thing, especially with respect to its built-in quality of doing or being what we expect from such a thing. A sieve, for example, would not rightly be called, or attributed, good as a bowl for water. In fact, it would be foolish to attribute goodness to it since its built-in purpose (or teleology) is precisely not to hold water. Whereas its quality as a bowl has no attributive connection to whether is it white or blue or aluminum or plastic.

120 Ibid., 226.
121 Ibid., 228.
Drawing from this distinction, McInerny follows St. Thomas in reflecting then upon person *qua* person. In so doing, he reflects upon those very qualities and actions that make a person human. Human acts and moral acts maintain a close relation.\textsuperscript{122} The human good, in a moral sense, becomes “the excellent performance of activities which involve a rational principle.”\textsuperscript{123} And yet it is important to recognize that such a reflection does not limit a person to a series of actions; a reflection of person *qua* person necessarily opens up a hierarchy of acts that progressively reflect a more human action. “Performing those well could be said to constitute the human good by a kind of synecdoche.”\textsuperscript{124} Any rational action does not necessarily entail a morally good human action; action must be characterized by being done well and virtuously, and thus be ordered to the person’s perfection.\textsuperscript{125} Depraved acts fail to constitute actions that perfect the kind of agent a person is. Perfective acts, on the other hand, can be classified in terms of necessity and nobility and they form a hierarchical arrangement (a sharp distinction from the incommensurability of the NNL theory).

Morality thus derives from pursuing those actions that fulfill or perfect the human agent. McInerny stoutly defends the Thomistic position that an *ought* can be and is derived from an *is*. Such an argument proceeds from recognizing that an agent pursues various goods, or ends, and that, in a particular instance, one pursues an action that is judged to have a “goodness” deemed perfective of one’s nature. This *is*, or constitutive quality, of an action is the reason for pursuing the action. Should that action be discovered to lack that particular quality of goodness, and instead it is discovered to be in an alternate action, then one *ought* not to pursue the first action and one *ought* to pursue the alternate action.\textsuperscript{126} In formulating rational activity, it is finally noted that essential, rational activity forms a kind of genus under which “the excellences or virtues of rational activity...are the

\textsuperscript{122} Ibid., 230.  
\textsuperscript{123} Ibid., 231.  
\textsuperscript{124} Ibid., 233.  
\textsuperscript{125} Ibid., 235.  
\textsuperscript{126} Ibid., 239.
constituents of the human good.” A person is a rational animal, and it is precisely the excellence of rational activity that perfects a person and makes him or her fully human.

Though not in direct continuity with McInerny, Henry Veatch continues to refine and to defend the Thomistic understanding of natural law, especially in regards to its distinction from ethical deontologism. Veatch responds to a continual effort to extract morality from relation to the object and the self. By self, I mean an Aristotelian or Socratic appeal to the good life. For example, he points to an interpretation by Kurt Baier in which morality arises and is dependent upon relations. An isolated man, e.g. Robinson Crusoe, would have no need for morality as his self-interest would be all that matters. Morality retains nothing of a perfective or fulfilling sense; rather, it serves as a kind of relational check. The influence of Immanuel Kant, it seems, holds sway over much of the alternative positions that Veatch faces.

As the title of Veatch’s article implies, the question of non-moral goods lies at the heart of the sharp distinction that is drawn between morality and action. Proponents seek to “achieve an impossible best of both worlds, of deontology and of teleology.” In being faithful to Kant they maintain a strong duty ethic. And yet they try, perhaps unsuccessfully as Veatch judges, to hybridize a kind of teleological “non-moral” good into the equation. Without getting too drawn into the account of such theories, it is enough to recognize the way in which Veatch reclaims a heuristic approach to natural law ethics. The struggle that authors who try to blend the various theories into a Kantian framework gives a kind of credence to the perspective of Veatch. He uses the Christian

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127 Ibid., 241.
129 Ibid., 475.
130 Ibid., 487.
131 In a twist on the interconnectedness of morals goods and actions, a misapplied universalizability leads to confusing the fruit of good deeds with a new ethical duty: “the good life, in other words, will have to be acknowledged to be not merely something that I happen to like or to tend toward just naturally; in addition, it will have to be judged to be something that is intrinsically good or worthwhile, such things as human happiness and wellbeing must be acknowledged to be legitimate ends or objectives for others no less than for me; hence the moral obligation that is incumbent upon me to seek the good and to promote it so far as I am
command to love God and neighbor to illustrate how right behavior shapes a person. That personal happiness and fulfillment follow upon right conduct, Veatch notes, “to have succeeded in bringing off what one intended, and to have accomplished one’s purposes, is tantamount to having achieved no less than a certain happiness and satisfaction.” Against a charge of egoism, Veatch proposes an interpretation that reflects a connaturality with action inasmuch as a good action in fact makes one good. For it is not the good of happiness or something like that that one seeks; rather, the attaining of a desired and worthy end which in itself has worth and is inexorably connected to satisfaction preserves the right disposition and approach.

NNL—TRUTH PERDURES

Ten years following the promulgation of Pope Paul VI’s encyclical Humanae Vitae, John C. Ford, S.J. and Germain Grisez published an article in Theological Studies in which they did not propose a specific interpretation of the arguments for a prohibition of artificial contraception but, instead, looked to the infallibility of the teaching and thus the truth of the claim. Their exhaustive analysis of historical and scholarly writings on the topic presents a compelling case indeed. However, the relevance of the article with respect to our discussion on natural law speaks to their conviction that the truth is not contingent upon particular arguments. “The Church cannot change the answer since this answer is true. Whatever may be the possibility of a more perfect formulation of the teaching or perhaps of its genuine development, there is no possibility that the teaching itself is other than substantially true.” In fact, it is in her proclamation of the truth that the Church perseveres in her

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132 Ibid., 495.
duty to safeguard and to teach “all that is necessary for salvation.” An intimate connection is established between divine and natural law, especially inasmuch as divine revelation perfects and guides interpretation of natural law. Again, this is not to mandate a single, ecclesiially-imposed interpretation; the truth cannot be cast aside or dismissed or, dare it be said, changed.

A further implication of this reality concerns Grisez and the NNL elevation of basic human goods. As was observed earlier, these goods being both incommensurate and underived become the principles of possibility for all human acts. A conviction of their incommensurability, coupled with the just noted insistence upon natural law truths, leads to a necessary system of deliberate choices. Germain Grisez spells out very clearly the importance of basic human goods in a brief section on the topic within a larger book written in opposition to euthanasia. Basic human goods represent those incommensurate possibilities for genuine human flourishing. Each, in a way, belongs to that truth concerning salvation that the Church safeguards. Perhaps one might take issue with equating the importance of life and of play. To overly simplify the discussion, however, risks implicitly adopting a “restrictive standard of human goodness.” Similarly, and by way of response, the opposite tact recognizes that “no single good, nothing promised by any one possible course of action, exhausts human possibilities and realizes the whole potentiality for humankind’s flourishing.” It follows quite readily then, that the system of morality requires an action to respect all possible basic goods. Thus any action which through its execution denies any other good its intrinsic contribution to human flourishing would involve a moral evil. The truth, indeed, cannot be set aside, ignored, or changed.

134 Ibid., 291.
136 Ibid., 366.
137 Ibid., 365-6.
NNL—NEW NATURAL LAW DEFENDED

In 1980 English philosopher John Finnis published a book, *Natural Law and Natural Rights*, in which he systematically defended, albeit with some of his own minor corrections, the NNL position as first proposed by Germain Grisez. His reflections upon law and upon rights provided a further philosophical grounding for the prominent features of the new system, e.g., basic human goods, incommensurability, non-inferential understanding. Further, this book provided much of the impetus for the more direct engagement and dialogue between Thomism and NNL. Thus we will provide some space for a fuller explication of this prominent work.

Practical philosophy and reasonableness ground Finnis’ efforts, and such endeavors are to be understood as “with a view to decision and action.”\(^{138}\) Thus all efforts directed to right action follow from both the thinking and reflecting of the theorist. These efforts look toward a conversion to truly reasonable judgments about the good.\(^{139}\) Natural law in particular assists practical reason in its concerns about how to act. Human positive law, within which one can and should see a reflection of natural law, adds a further nuance in that it is not a mere copy but reflects a profound creativity on the part of the author.\(^{140}\) For general theories are more easily reached than specific and concrete applications. Finnis looks to St. Thomas as a guide for his approach to the interpretation of law. He derives three precepts with respect to man’s knowledge of natural law: first, the most general precepts are as ends and thus provide the basic form of the human good; second, these principle can be, and often easily are, obscured by various people for a host of reasons; and third, many moral questions can only be answered by someone wise who has thought through the issue.\(^{141}\) A firm grounding in natural law can thus help to direct toward the end to which practical reason aspires.

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\(^{139}\) Ibid., 17.

\(^{140}\) Ibid., 28.

\(^{141}\) Ibid., 30.
At the outset, Finnis makes clear that norms do not derive from facts. In his interpretation of both St. Thomas and natural law, he notes: “the first principles of natural law, which specify the basic forms of good and evil, and which can be adequately grasped by anyone of the age of reason (and not just by metaphysicians), are *per se nota* (self-evident) and indemonstrable. They are not inferred from speculative principles … facts … metaphysical propositions about human nature.”¹⁴²

Man’s nature, which the Thomists judged as essential for formulating judgments, serves only as that to which goods are applied. Such principles of right and wrong are derived from the first, pre-moral principles of practical reason. They are neither inferred nor derived, but neither are they innate. How such principles come to be understood is through what Finnis calls “non-inferential understanding” by which he means “one grasps that the object of the inclination which one experiences is an instance of a general form of the good, for oneself (and others like one).”¹⁴³ The common fault, as Finnis views it, is to apply an overly speculative framework upon a criteria of conformity that looks mostly to reasonableness. A sharp distinction between the practical and theoretical reason must be maintained. For it is the human good, not human nature, that drives the underived principles of practical reason.

Finnis stoutly supports the application of basic values and basic practical principles as reasons for good action. He uses the example of the good of knowledge to clarify his position. Curiosity piques an interest and “it becomes clear that knowledge is a good thing to have (and not merely for its utility), without restriction to the subject-matters that up to now have aroused one’s curiosity.”¹⁴⁴ The truth of knowledge being a good is self-evident. “It cannot be demonstrated, but it equally needs no demonstration.”¹⁴⁵ There may be many and varied scientific and “natural” cases or influences with respect to one’s recognizing the truth of this claim. These do not in fact “prove” the

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¹⁴² Ibid., 33.
¹⁴³ Ibid., 34.
¹⁴⁴ Ibid., 61.
¹⁴⁵ Ibid., 65.
indemonstrable truth; rather, they can play a role in seeing the reasonableness. To be well-informed is certainly better off than being confused or muddled. The self-evidence of the truth of the good of knowledge can be best understood as “a rational judgment about a general form of human well-being, about the fulfillment of human potentiality.”

In a way, based off this simple example, Finnis outlines the list of incommensurable basic goods that comprise the possibilities of human potential. Each rationally recognized and self-evident good comprises a basic human value inasmuch as there is a distinction between a good as an urge and one following that urge and a good as a basic good which one intelligently pursues for a particular realization of a form of the good. The virtuous action is thus the way in which one pursues particular values that are fitting to a man. Human psychology, for example, inclines one toward a particular good over another. This is neither problematic nor bad. Instead, as the fundamental value of each good is maintained, the moral evil comes into play only in cases like “patterns of exclusivity,” whereby one good is judged higher and pursued to the direct detriment of another. An individual can and does choose certain goods as more important, and in so doing does not make a value judgment but follows a particular life path—a key feature of Finnis’ system. The embracing of a life path exemplifies the right use of freedom. The collected good represent a “horizon of attractive possibilities,” and freedom is precisely in choosing in and among those goods. The happiness that lies in life, that bespeaks its fullness, flows from participation in the good.

To navigate through the plentitude of possible goods, and to choose among them, Finnis proposes ten basic requirements of practical reasonableness. They represent the “sorts of reasons

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146 Ibid., 72.
147 Life, Knowledge, Play, Aesthetic, Sociability, Practical Reasonableness, and Religion.
148 Ibid., 84.
149 Ibid., 91.
150 Ibid., 100.
why (and thus the way in which) there are things that morally ought (not) to be done. First, everyone must establish a rational plan of life. It is general in that it accounts for contingencies, but is focused and formative. Second, there can be no arbitrary preference among the value, i.e., one cannot deny the goodness of the other values. Third, nor can there be an arbitrariness among people; because a particular preference of well-being can only follow from what reasonableness suggests and requires. Fourth and Fifth, with respect to all possible life plans, a certain detachment is necessary and along the same lines a commitment to one’s particular life plan is essential. Sixth, though always bearing in mind the follies of consequentialism, there is to be a limited relevance of consequence to the extent that an efficiency of action is within reason. Seventh, there must be a respect for every basic value in every act. To violate such a precept would introduce a consequentialist arbitrariness. Of course, there are challenges to the degrees of direct and indirect intention and how certain effects concern the intention of the act. He most precisely identifies this precept as: “do not choose directly against a basic value.” Eighth, one must favor and foster the common good of one’s community. Ninth, particularly suited to those who are well-formed, this precept commands one to follow one’s conscience. “[P]ractical reasonableness is not simply a mechanism for producing correct judgments, but an aspect of personal full-being, to be respected in every act as well as ‘over-all’—whatever the consequences.” The tenth aspect is not so much a precept as a product of all these, namely, morality. The various combinations of each factor

151 Ibid., 103.
152 Ibid., 103-4.
153 Ibid., 104.
154 Ibid., 107-8.
155 Ibid., 109-10.
156 Ibid., 111-18
157 Ibid., 123.
158 Ibid., 125.
159 Ibid., 126.
contribute to the rich understanding of obligation and right in specific and particular cases.\textsuperscript{160} The various factors point ultimately to what is most central to any system: reasonableness.

The diversity of life plans relates very much to the shared objective of the common good. To that end, Finnis makes a great effort to deepen the understanding of friendship and community so as to ensure that a complete community emerges—“an all-around association in which would be co-ordinated the initiatives and activities of individuals, of families, and of the vast network of intermediate associations.”\textsuperscript{161} Such a system would be crucial to provide for the flourishing of all possible life plans. Furthermore, it fosters the common good that underlines practical reason’s motivation for a particular point of view of collaboration.\textsuperscript{162} Always kept in mind are the differences or distinctions between values that are participated in but not exhausted—therefore the need for community and the common good—and those particular projects that are undertaken and may be said to be attained. The former relies upon a collaborative and flourishing community so as to be always open to such goods.

Finnis proceeds with a lengthy treatise on justice, law and authority. A further examination of these sections would, perhaps, distract too much from the current endeavor. An example of his insights, however, helps to clarify and maintain his consistency with respect to reason. Amid a profound discussion of rights and their claims on us, he recognizes the lack of universal realization of his requirements of practical reasonableness among various societies and he declares nonetheless that, in keeping with the seventh requirement, “there are absolute human rights.”\textsuperscript{163} These kind of rights are seen as “claim-rights” and as such they are “strictly correlative to duties entailed by the requirements of practical reasonableness.”\textsuperscript{164} As with his other topic, Finnis returns always to the

\begin{flushright}
\textsuperscript{160} Ibid., 126-27.  \\
\textsuperscript{161} Ibid., 147.  \\
\textsuperscript{162} Ibid., 154.  \\
\textsuperscript{163} Ibid., 225.  \\
\textsuperscript{164} Ibid., 225.  
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reasonable judgments and shows how such an approach fits within and supports a just and good society in which all goods are valued and respected. His goods which, as we recall, followed from underived, non-inferential understanding have a cachet and reasonableness to them. For example, we as people expect those who teach and preach to us to tell the truth. To deprive a person of justice finds little support on its face. And the deliberate killing of innocent life seems to strike all people as wrong.

Obligation, as such, cannot rest simply in the fact of obeying the will of the legislator, or of God. In concluding in this way following a long chapter on obligation, Finnis does not come to a simple or finished conclusion on the obligation derived from the common good. Though he does not come to a specific conclusion, he ends his book with a reflection upon nature, reason, and God. He can propose that the obligation, that the requirements of practical reasonableness have as their point, beyond themselves, a kind of play with God—“that point is the game of co-operating with God.” Play, as Plato defines it, is precisely that “Free, but patterned expression of life and activity.” The variety of life plan, the infinite possibilities afforded by the basic goods, these serve man in his friendship with God.

VARIED PATHS

The kind of allegiance to St. Thomas that marked the theories in the first chapter is falling away as the NNL position in particular and through the scholarship of John Finnis assumes a more innovative posture. The “expanding” moral universe within the Church, with respect to moral norms, compels each system to tighten its foundation. The Thomists, as illustrated, lean strongly to metaphysical realism, ontology, and perfective natures. Meanwhile, the NNL position looks to choice and the will as under the direction of practical reason to foster the flourishing of human

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165 Ibid., 342.
166 Ibid., 409.
167 Ibid., 409.
fulfillment. As mentioned earlier, a real difference emerges between the Thomist and NNL approach; the quality or feature of the thing and its consequent shaping of an action contrasts with an internal algorithm that looks to realizations of possible human fulfillment.
While pockets of conversation existed between proponents of the New Natural Law and the Thomists prior to the publication of John Finnis’ opus *Natural Law and Natural Rights*, the period of time following its release opened a floodgate of sorts in terms of spirited and contentious debate. Thomists like Ralph McInerny, Henry Veatch, and Russell Hittinger challenged specific points, or even the theory more universally, of the NNL, and in so doing, concretized the distinct and profound differences between the two theories of natural law. The interchange between the two groups, which took on great prominence in the 1980s, reveals not only the way in which each theory supports its claims, but also demonstrates how faithful Catholics struggle to exercise their ecclesial vocations as moral theologians and philosophers. That is, beneath the debate is not merely an academic exercise, but a real struggle to authentically and rightly direct moral thought in a way both helpful and true to people. This chapter follows, closely and sequentially, some important exchanges, and highlights significant difference between the two theories. We turn now to the Thomists to begin.

**Thomist—BASIC PRINCIPLES**

Very soon after Finnis’ publication, Ralph McInerny presented a paper to the Natural Law Institute meeting in which he looked critically at both Grisez’s foundational interpretation of St. Thomas’ treatise on law and at Finnis’ appropriation of and deviation from St. Thomas. In so doing he aimed to guide the listener and reader toward a reading of Finnis and Grisez that respected the fullness of St. Thomas’ teaching. In both complimenting and critiquing their work, McInerny

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168 See Ch. 1.
concluded: “Perhaps I will not be thought too docile a disciple of Aquinas if I say that I find Grisez and Finnis at their best when they are developing Thomas’ thought along its own lines and weakest when they are consciously or unconsciously deviating from it.”

To his critique, then, we now turn.

By way of introduction, and perhaps as an opening volley against the NNL position, McInerny notes that St. Thomas, a promoter of natural law, takes a position that “there are a number of true directives of human action every person can easily formulate for himself.”

This case comes from the particular and real participation that each rational creature has in the eternal law, or wisdom of God, by which Creation is governed. This participation recognizes, in an underived and self-evident way, the good that the mind grasps. At first, the underived nature of the good may harken to the NNL insistence on the same characteristic with respect to basic goods. As McInerny explains, however, this is not the case. Just as in the theoretical use of the mind one immediately apprehends being and, consequently, the judgment of the first indemonstrable principle—non-contradiction—is self-evident, so too does the practical function grasp first the good. “The ‘good’ does not simply designate an object of pursuit, it suggests the formality under which the object is pursued: as completive, as perfective.” This formality suggests a deep and formative teleology built into human nature. McInerny thus highlights in Thomas’ first precept of practical reason the adverb naturaliter so that he might recognize the immediacy of practical reason’s apprehending. What he means is perhaps more directly stated by Thomas Gilby in a footnote to his translation of that portion of the Summa wherein he writes: “[it is] recognized by the practical reason of itself: naturaliter apprehendit, apprehends of its nature, not just because it is told.

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170 Emphasis mine. Ibid., 2.
171 Ibid., 3.
172 Et super hoc fundantur omnia alia praeccepta legis naturae, ut scilicet omnia illa facienda vel vitanda pertineant ad praecptea legis naturae, quae ratio practica naturaliter apprehendit esse bona humana. (all other commands of natural law are based on this. Accordingly, then, natural-law commands extend to all doing or avoiding of things recognized by the practical reason of itself as being human goods) Aquinas, Summa, 1a2ae, 94, 2, resp.
The argument is putting forward natural law as part of the spring of moral activity, not as an inventory of acts to be done or avoided."^{174} The in-built teleology of the human nature directs this precept, or power.

The ends or goods that are the object of a person’s inclinations, and to which practical reason pursues, have built into them a natural ordering or hierarchy. In differentiating the three orders of good—life, procreation and education of offspring, and truth—McInerny distinguishes the levels of participation that persons have to each, i.e., “there are some goods which men share with all creatures, others they share with only some other creatures, and some which are peculiar to men.”^{175} As rational animal, the human person acts as a human inasmuch as any movement toward a good is engaged “consciously and purposefully and responsibly.”^{176} Reason guides actions. In so doing, it also orders the goods; they are not incommensurate. Thus natural law and its precepts, as interpreted by McInerny, are the conjoining of “general injunctions to pursue the ultimate end or human good” and “the truth that man’s end is given.”^{177} Two features stand out in contraposition to the NNL theorists. First, the ultimate end, or the human good, necessarily implies a hierarchy; the lesser goods must serve the greater. Second, the truth of the end already being given, and thus able to be known, informs human nature to itself.

Having made some fundamental stances with respect to his own interpretation of St. Thomas and of natural law, McInerny proceeds to draw out the differences espoused by Grisez, Finnis, et al. He criticizes three claims: first, an unnecessarily strict distinction between fact and value; second, an emphasis on pre-moral, not-yet-ethical matters; and third, a denial of any kind of ordering or hierarchy of goods and value^{178}

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^{174} Aquinas, Summa, 1a2ae. 94, 2, resp, gn.
^{176} Ibid., 4.
^{177} Ibid., 5.
^{178} Ibid., 7.
In the first critique, McInerny asserts that Finnis and Grisez build a system on the belief that no duty or obligation can be inferred from propositions about a person’s nature. And further, the general form of the good is inferred from a simple act of non-inferential understanding.\(^{179}\) He thus accuses the NNL position of being overly fastidious. By way of making his point, he observes several common sense approaches and movements from fact to value, from is to ought. For example, “Knowledge is good for man entail[s] men ought to pursue knowledge.”\(^{180}\) In their diligence to avoid any kind of fallacy, Grisez and Finnis cannot identify the basic value of “knowledge is good for man” as a fact and built-in to the constitutive nature of man. McInerny makes the case that, for any reasonable, thinking person, such a fact can readily and easily be understood as an example of a good that all people seek. Therefore, the movement from is to ought is neither disruptive nor incongruous with moral reasoning.

Moving to his second critique, the underived first principles are pre-moral. Such a suggestion leads to the conclusion that “the comprehensive good that is to be pursued is not a moral value. That comes down to saying that man’s ultimate end is not a moral value.”\(^{181}\) Morality arrives by way of prescribing, i.e., judging that some action would be a way of attaining the basic value or good sought. Moral value follows the judgment, and not the conceptualization.\(^{182}\) McInerny finds fault with this terminology and approach. He points to the distinction between the first and second level of natural law precepts. The first St. Thomas calls communissima. These are most common and thus most general.\(^{183}\) Finnis and Grisez have the right kind of intuition in recognizing their generality. They are wrong, according to McInerny, in thereby identifying them as pre-moral. St. Thomas, he

\(^{179}\) Ibid., 8. Perhaps this idea might be understood: “In Grisez, far more than in Finnis, this insistence leads to a somewhat unusual sense of practical reason. Grisez says that in theoretical thinking the world calls the turn, in practical thinking the mind calls the turn” (Ibid., 9).

\(^{180}\) Ibid., 12.

\(^{181}\) Ibid., 9.

\(^{182}\) Ibid., 10.

\(^{183}\) Ibid., 13.
contends, rightly observes that they do still direct or point to the end, and as such, are absolute and changeless. They are not waiting to be judged; rather, they birth a deep teleology. The second level of precepts, which are deduced from the first, point to specific means and may be more properly called by many “precepts.” In the broader view, however, the first level is no less a precept than the second.

The third and final critique concerns a basic value egalitarianism. In recognizing the basic goods or values to be underived, indemonstrable, and self-evident, Finnis rightly equates all the goods and finds fault in St. Thomas’ ordering: “Thomas here sets a questionable example and [he, Finnis,] repeats that ‘in ethical reflection the threefold order should be set aside as an irrelevant schematization.’” In response, McInerny questions whether such a radical egalitarianism is actually necessary; namely, protecting against an instrumentalization of a good, an objective hierarchy does not evidently demean any particular good. In fact, in as much as St. Thomas and Aristotle judge contemplation to be the highest good, the less objective goods do not diminish but enhance this good. “In this perspective, the moral virtues are taken to be dispositive toward, conditions of, the contemplative use of the mind.”

NNL—BASIC PRINCIPLES

John Finnis and Germain Grisez offer a reply to the critiques in the following volume of the same journal in which Ralph McInerny’s paper was published. They respond to each of his three areas of concern. By way of introducing their reply, they seek first to resolve what they see as misunderstandings expressed by McInerny (and held by many others), and second, they remind the reader of the limited scope of the two works criticized, i.e., Grisez’s 1965 commentary on a

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184 Ibid., 14.
185 Ibid., 10. By egalitarianism, he means that each basic human good is equal, or that no one rises above any other in terms of importance or goodness.
186 Ibid., 11.
187 Ibid., 15.
particular question of the *Summa* and Finnis’ 1980 book on natural law and rights. In so doing, they both correct the improper interpretation and further clarify their own position.

They respond strongly and directly to the criticism of the first objection. They maintain their stance concerning non-inferential understanding while recognizing that, indeed, insight comes both from observation, memory, and experience—on the one hand—and from felt inclinations and knowledge of possibilities—on the other. In other words, facts and real conditions provide the strata in which judgment takes place, but “judgment itself is derived from no other judgment whatsoever.” They ground all their practical thinking in light of the first practical principle: good is to be done and pursued. It is the practical reason itself that guides either precept or imperative. They contend that any theoretical knowledge with respect to truths of human nature (re: “metaphysical anthropology”) have no normative implications. Therefore any factual or real condition of human life or nature can influence but not command moral decision-making. Such an influence belongs only to the principles of practical reasoning: “there can be no valid deduction of a normative conclusion without a normative principle, and thus that first practical principles cannot be derived from metaphysical speculations.” Theoretical reasoning is neither logically nor intuitively prior to practical reason.

In defending their pre-moral analysis of first principles, they immediately note that McInerny seems to conflate the *bonum* (good) of St. Thomas’ first principle with the final or ultimate good. In such a construction, every good is ordered to and derivative of that ultimate end. They remark, “it is by no means clear or even likely that Thomas considers all the goods to which man is naturally

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189 Ibid., 22.
189 Ibid., 23.
191 Ibid., 23.
192 Ibid., 24.
inclined to be constitutive of man’s ultimate end.” Instead, they note that it is practical reason in its principles that must do and pursue a good. They take issue with McInerny’s presentation of their conception of the pre-moral; they reinforce their position that these principles underlie reasoning about good and evil actions. They are not pre-moral in a proportionalist sense. No, they are “aspects of the full-being of human persons, aspects essentially immeasurable and incommensurable.” That is, they represent possibilities or potentialities whereby fuller expression of human being may be pursued.

In criticizing McInerny on this point, the authors claim that he does not fully treat or appreciate Grisez’s treatment of the first principles of morality. To educate the reader, they point to previously written works. One such work, Grisez and Shaw’s *Beyond the New Morality: The Responsibilities of Freedom*, we considered in the previous chapter. We return, for a moment, to this book so as to draw out anew the NNL treatment of first principles.

As the relationship between *good* and *ought* is being developed, the authors recognize, in a way similar to the Thomist interpretation, that things exist in various states of act and potency. Without using the same phraseology, e.g., potency, they speak of possibility, that is, things that are not quite “all they can be.” They do not, however, connect the possibility with an inherent teleology in the nature that demands an “obligatory” fulfillment. In fact, “we are not, however, leading up to the conclusion that moral goodness means fulfilling one’s possibilities, while moral badness is failure to fulfill possibilities.” Such a contrast begins with the use of possibility, rather than potentiality. One might, for example, act and turn out evil, and in so doing, he or she would be very much, and really, fulfilling a possibility within him or herself. Thus, it is with respect to possibility that morality emerges. By way of a tentative definition of morality, the authors propose an action that fosters

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193 Ibid., 26.
194 Ibid., 28.
195 Grisez, *Beyond the New Morality*, 78.
more and more human being. Human freedom and morality concern themselves with human choice. That is, “the moral ‘ought’ thus points toward full and fuller freedom of self-determination, and ultimately, to the fullest possible self-determination.”196 Practical reason takes control of morality, then, as these basic values do not represent desirable states of affairs (they do not oblige inasmuch as they perfect the person). Instead, they manifest aspects or “perspectives” on the full-being of the human person. An exclusivist choice, i.e., one in which other basic values or goods are thus devalued, stands as the immoral act. Whereas an inclusivist choice, i.e., “a person who chooses in this way an effect acknowledges his own limitations—no one can be or do everything—but he does not shift the blame, as it were, onto the options-not-chosen by denying their value”197 represents a moral act. Goods and actions can thus be seen as pre-moral inasmuch as they, in themselves, do not oblige particularly. It is the mind, to use the Grisezian term, which calls the turn.198

With respect to the denial of objective hierarchy among the basic goods, Finnis and Grisez contend that St. Thomas’ three-fold ordering199 does not of itself even imply a hierarchy. They identify in McInerny what they see as “a degree and a kind of Aristotelianism”200 not reflective of their interpretation of St. Thomas. They do not see all the goods as shaped by reason, but as “naturally understandable by reason.”201 Furthermore, beyond failing to see for themselves an objective hierarchy in St. Thomas, they assert that if one were to find one, they would reject such a hierarchy. They contend that incommensurability and the transcendence of the good of the first principle of practical reason not only characterizes their system, but also serves to make it philosophically and

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196 Ibid., 86.
197 Ibid., 90.
198 For the full quotation of Grisez, in context: “In practical knowledge, on the other hand, the knower arrives at the destination first; and what is known will be altered as a result of having been thought about, since the known must conform to the mind of the knower. The mind uses the power of the knower to see that the known will conform to it; the mind calls the turn” (Grisez, “The First Principle of Practical Reason,” 176).
199 Life, procreation and education of children, and truth and life in society.
201 Ibid., 30.
theologically true. While St. Thomas should be encouraged and used as inspiration and support, autonomous and independent work must be done, according to Grisez and Finnis.

Thomist—BASIC PRINCIPLES

Less than two years after his brief exchange with Finnis and Grisez, Ralph McInerny published an introduction to moral theology/philosophy in light of St. Thomas, *Ethica Thomistica*, in which he takes up again both his interpretation of natural law and his critique of the NNL theorists. Much of the book’s content reinforces, or goes beyond and in depth with respect to, the interpretation of natural law briefly expounded upon above. There is no need, then, to repeat his common themes. Several points bear mentioning.

By way of laying the groundwork for his teleological framework of natural law, McInerny seeks after an understanding of the specific good of human nature, one’s ultimate end. Turning first to Aristotle, he finds in the philosopher a recognition that the distinctly human action exhibits a rational principle. “He [Aristotle] insists on the ambiguity of the phrase ‘rational activity.’ Activity can be called rational or human either because it is the activity of reason itself or because it is an activity of some faculty other than reason which comes under the sway of reason.” It follows that Aristotle, and the Christian tradition, looks to human action intimately relating itself to reason as the specificity of man as a “rational” animal. Thus, as he probes further into this ultimate end, he concludes that it is indeed one. Though, such an end is not one in a unitary sense, as if there is only one particular action that comprises happiness. Rather, as St. Thomas expands upon Aristotle, he

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202 With respect to theological truth, they cite Grisez’s treatment of this transcendence: “Only by virtue of this transcendence is it possible that the end proposed by Christian faith, heavenly beatitude, which is supernatural to man, should become an objective of genuine human action—that is, of action under the guidance of practical reason. If the first principle of practical reason restricted human good to the goods proportionate to nature, then a supernatural end for human action would be excluded. The relation of man to such an end could be established only by a leap into the transrational where human action would be impossible and where faith would replace natural law rather than supplement it” (Ibid., 30).
identifies the *bonum*, or goodness, as that end, particularly inasmuch as the good perfects the agent.\(^{204}\) Formally considered, all people thus pursue the same end…goodness. Every action and choice to embrace a good that perfects, or which is falsely thought to perfect, proves this intuition. The Christian, seeing more clearly with the graced eyes of faith, sees “God who is goodness itself [as] the only object that can exhaust the formality under which we desire and act.”\(^{205}\) The variety of life, and especially of a life well lived, manifests, in a real way, the infinite beatitude of God. The saints, those who most perfectly embraced their humanity, prove the immensity and diversity of realizations and defy the fear of a kind of Christian homogeneity.\(^{206}\)

As McInerny views the three levels of inclination and their consequent goods, he observes that they are goods for humans inasmuch as they are humanized—“insofar as they are pursued, not just instinctively, but as the aim or goal of conscious human action.”\(^{207}\) Natural law precepts direct or order action toward the good that perfects the person. In a defense of sorts against an accusation of physicalism, McInerny emphasizes this point to show that every action draws from the object itself and moves toward an end both intended and prescribed by the act/object itself. Each act moves toward its particular end that cannot be fully extracted from the ultimate end; such an assertion grounds natural law in the real and elevates it about the particular: “It is because recognition of the ultimate end is implicit in every human action that Thomas can hold that natural law is valid for all men and at all times.”\(^{208}\)

McInerny returns to a direct critique of Grisez and Finnis in the conclusion of his chapter on natural law. Though he admits in the bibliographic notes that “this book was already in proof before I became aware of their response [analyzed above] and thus I am unable to give it the

\(^{204}\) Ibid., 26.
\(^{205}\) Ibid., 30.
\(^{206}\) Ibid., 33.
\(^{207}\) Ibid., 46.
\(^{208}\) Ibid., 47.
attention it deserves here. The two authors now seem reluctant to be assessed in terms of fidelity to
St. Thomas. That, of course, was the angle from which I read them.”209 There are, however, different
emphases in his critique that explain further his theory and distinguish it from that of the NNL
theorists.

To better understand the dynamics of practical knowledge, McInerny turns to St. Thomas’
question on God’s knowledge in his *Summa*.210 Therein, a three-fold account of speculative
knowledge, and by extension practical knowledge, is presented. In summation, the three criteria211 in
reference to practical knowledge are: first, “with respect to the object,” practical has to do with
those things that are producible (operabilia) by the knower; second, “with respect to the mode of
knowing,” practical has to do with those producible things known as produced and not as reflected
upon in general—it may be called prescriptive or recipe mode; and third, “the intent of the knower,”
practical concerns the actual making or doing of the producible object.212 In outlining the three
criteria, McInerny distinguishes degrees or kinds of practical knowledge. Thus the most or
“perfectly” practical kind of reasoning is the kind that encompasses all three criteria. The other two
possible variants, i.e., those that may not satisfy the practical criteria with respect to the second or
the second and the third, necessarily include a theoretical element. The interplay among the
variations in action develop, granted such a schema has a kind of artificiality to it, from practical in
the first alone (“virtually” practical) to practical in the first two (“formally” practical). These two
degrees represent any “account of the good,” and “moral judgments.”213 The “completely” practical
knowledge “the knowledge incarnate in action, is presupposed by moral philosophy and is what it

209 Ibid., 128.
211 McInerny identifies them as criteria as they are those characteristics of reasoning that distinguish practical
from speculative or theoretical.
213 Ibid., 40.
 remotely aims to guide.”\textsuperscript{214} The admission of degrees does not imply a physical separation; rather it elaborates upon the fullness of practical reason. McInerny cannot, therefore, condone a system (like that proposed by the NNL) that divorces the two connected types of knowledge as if either extreme embodied moral philosophy in total.

He repeats in the book the relation of theoretical to practical knowledge by means of the same example of knowledge being good for man mentioned above. He emphasizes in this account both that Grisez and Finnis recognize the first statement as being a metaphysical one—that does not have anything to do with practical knowledge—and that human actions contain within them, in their natures, the very \textit{ought} or command to do them.\textsuperscript{215} How these two moral imperatives apply concerns a reflection upon the criteria just mentioned. “We have seen that the \textit{ratio boni} is something recognized by reflecting on ourselves as already acting.”\textsuperscript{216} The statement relates to the perfection of the person and reveals itself, “as already acting,” i.e., the theoretical presupposes the purely practical and, in a sense, guides or directs it.

NNL—THE WAY OF THE LORD JESUS CHRIST

Germain Grisez also published a book very soon thereafter.\textsuperscript{217} While he does not address Ralph McIntyre in the same direct manner, his writings further separate his NNL approach from that of the Thomists. The format of the nearly 2800 page work presents questions and answers. In looking at a few questions from the first volume, \textit{Christian Moral Principles}, we might discover quite clearly the prominent NNL positions.

\textsuperscript{214} Ibid., 40.
\textsuperscript{215} Ibid., 56.
\textsuperscript{216} Ibid., 56.
Grisez asks in what sense free choice might be understood as a principle of morality. He clarifies that it is not a normative principle but a moral one in “a wide sense.”\textsuperscript{218} In this wide sense, free choice “is an existential principle, a source of both moral good and moral evil.”\textsuperscript{219} For it is the free choice that provides moral norms a venue or power in which to operate. It is the activity of the free choice that makes an action morally good or evil, because it is the deliberate and considered-all-possibilities choice that reflects and consents upon the action.\textsuperscript{220} Choice implies that we might have chosen otherwise; consequently, the one who freely chooses is responsible. “Human persons are historical beings who day by day build themselves up by their free choices. One shapes one’s own life, one determines one’s self, by one’s free choices.”\textsuperscript{221}

The fourth chapter of his book addresses inadequate moral theories and herein he places a critique of his interpretation of the classical scholastic (e.g., Thomist) natural law theory. Grisez identifies the foundation of the scholastic position as the objectivity of moral norms as founded upon intellectually known (re: theoretical knowledge) human nature. He perceives human nature as being a given reality and morality as being a relation to it: “knowing whether or not an action conforms with human nature is a matter of making a comparison…when the action is compatible with human nature, the judgment registers conformity.”\textsuperscript{222} In consequently rejecting this approach to moral reasoning by means of appealing to the Humean is-ought fallacy, Grisez restricts nature to a static reality. He desires to specify or distinguish human nature as different from any other kind of nature. He appeals to a dynamism: “it is not human nature as a given, but possible human fulfillment which must provide the intelligible norms for free choice.”\textsuperscript{223} Amid so static a nature, he charges the

\textsuperscript{219} Ibid., 41.
\textsuperscript{220} Ibid., 63.
\textsuperscript{221} Ibid., 42.
\textsuperscript{222} Ibid., 104.
\textsuperscript{223} Ibid., 105.
scholastic model with being able to provide negative precepts, but unable to offer much in terms of positive incentives for flourishing.\textsuperscript{224} Grisez, it must be noted, does not attack the classical scholastic method for the sake of substituting an original system. In his question concerning the classical method, he found fault, ultimately and historically, in the method’s inability to address adequately the condemnation of contraception; “it provided only question-begging arguments for specific norms of Christian morality.”\textsuperscript{225} Such insufficiency fails to honor the responsibility and role of moral theology; namely, “it reflects upon the truths of faith…to make clear how faith should shape Christian life, both the lives of individual Christians and the life of the Church.”\textsuperscript{226}

To return again and to touch for a moment upon the pre-moral goods, Grisez states clearly that “the principles of practical reasoning considered so far do not tell us what is morally good. Rather, they generate the field of possibilities in which choices are necessary.”\textsuperscript{227} Our looking anew at this topic is not mere repetition. No, further insight emerges as Grisez upholds his position and defends the coming to knowledge of the basic human goods. Grisez and the NNL theorists customarily distinguish practical from theoretical knowledge. Not that there is no exchange between the two; instead, the former does not derive from and depend upon the latter in terms of morals. The emphasis on the pre-moral and the primacy of practical knowledge hinges precisely upon the point that these basic goods are possibilities and not actualities. “Just as theoretical thought by its very nature is thinking \textit{that-it-is}, so practical thinking by its very nature is thinking \textit{that-is-would-be-well-to-be}.”\textsuperscript{228} Goodness is commonly only understood “insofar as something is realized or is threatened

\textsuperscript{224} Grisez admits directly his static charge: “Scholastic natural-law theory’s use of nature as it is given as a source of moral norms helps to explain the static character of classical moral theology. However, although essential human nature does not change, in the course of human history new possibilities do open up and humankind acquires powers to act in new, more complex ways. An adequate moral theory must look toward possible human fulfillment, and its vision of this must be as dynamic as humankind itself” (Ibid., 106).
\textsuperscript{225} Ibid., 105.
\textsuperscript{226} Ibid., 6.
\textsuperscript{227} Ibid., 183.
\textsuperscript{228} Ibid., 195.
and needs to be protected.” Grisez is being honest and obedient to his reading of St. Thomas’ first principle of practical reason that states “good is to be done and pursued” and not “do the good.” Insofar as the basic values or goods are recognized, they truly represent the fullness of possibilities for human flourishing. They are good in their right actualization. By means of a simple example, taking the enjoyment of golf, Grisez remarks: “in the simplest kind of action, the only relevant good actually affected is that actualized in the state of affairs brought about in carrying out the choice.” With respect to the other possibilities, and not detracting from them, one determines oneself in choosing this action. One chooses and embraces a good. In so doing, one leaves open, to the extent possible, all future possibilities and goods.

Thomist— “IS” “ought”

Very soon after the exchange among McInerny, Grisez, and Finnis began, a similar debate emerged between the NNL theorists and Georgetown Professor Emeritus Henry Veatch. A 1981 issue of the Catholic Lawyer published this discussion. As Veatch’s article is read first we will begin with his.

Following his complimenting Oxford Don John Finnis for nearly single-handedly restoring a philosophical pride of place for natural law by means of his book Natural Law and Natural Rights, Veatch begins a critique with a simple and traditional interrogative: “how can the enterprise of a

229 Ibid., 195.
230 Ibid., 235.
231 Preceding this exchange, Veatch wrote a lengthy review of Finnis’ book in which he offered both praise and criticism. In terms of praise he pointed to a brilliant analysis and defense of a prominence of ethics, or moral philosophy, in the field of law. In so doing he clarifies errors and rehabilitates the field of natural law ethics. In terms of criticism, however, in the form of a review, Veatch laments greatly Finnis’ inability to ground his ethics in nature itself. Employing similar arguments which will be expounded below, Veatch turns to St. Thomas as a guide and identifies first, that Finnis co-opts St. Thomas by means of a flawed and incomplete interpretation—he notes the seeming ignorance of the sections of De Veritate wherein St. Thomas “specifically addresses himself to the matter of bonum as being inseparable from, and intelligible only in terms of, ens”—and second, that Finnis’ insistence of keeping value apart from nature itself leads him suspiciously close to the consequentialists against whom he strives so ardently (Henry Veatch, review of Natural Law and Natural Rights, by John Finnis, The American Journal of Jurisprudence 26 (1981): 247-251.
natural-law ethic be anything other than a search for some basis for morals and ethics in nature itself, and thus in the facts of nature? in so doing he poses his criticism of the Grisez and Finnis model of moral reasoning, NNL, in terms of a curious dilemma. Either Finnis must yield to the Humean is-ought “fallacy,” thereby endearing himself and his position to his Oxford peers while, at the same time, necessarily proposing an ethics that cannot rightly be called natural-law. Or he must overcome the fallacy and see in it its own falsehood and thus recognize the naturalness of natural law. At issue, beneath all of this, is a proper grounding of natural law ethics.

Veatch looks first to understand the relationship between ethics and metaphysics in terms of deducibility or inferability. In so doing, he draws an analogy to the relation between physics and metaphysics. Each science certainly maintains its own autonomy and intelligibility, and one is not merely reduced into the other. And yet metaphysics, the study of being or ens, is necessary if one is to move on to and to think about physics, ens mobile. Physics, it can be said, presupposes the metaphysical realism of the thing examined or thought about. Metaphysics does not exhaust or even imply much of the knowledge of physics, but it can be said to be the basis upon which Aristotle’s physics is based. Applied to ethics, then, Veatch asserts that metaphysics, or an account of ens as a good, cannot be ignored; at the same time, the autonomy of ethics and its own first principles can and must be appreciated. In this way he admits that there is a way in which one might state that ethics are not inferable from metaphysical considerations, but he cannot condone a conclusion that radically separates the two.

A look at human nature follows. Veatch demands that the difference between static and dynamic human nature be acknowledged, and in so doing, exposes the kind of straw man against which the NNL position rejects the use of human nature. The common conception of nature,

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233 Ibid., 254.
234 Ibid., 255.
235 Ibid., 256.
proceeding from the modern era and looking to physical sciences for inspiration, depicts a static case of being, as if a person’s nature were equivalent to a fixed mathematical equation. The *is-ought* fallacy rightly sees such a nature as unable to conjure any kind of precept. But such a nature fails utterly to depict human nature as it really is, namely, a seat of potentialities and dynamic change, “and therefore one who is not all that he might be or could be, and whose present or actual condition needs always to be compared with that which he might be or could be.”\(^{236}\) That which a person might or could be compels an *ought*. Thus any reference to a person cannot be made with a static view. That is, it must always look to the end, which is the fulfillment or embracing of the good to which the nature is ordered. “The very ‘is’ of human nature has been shown to have an ‘ought’ built into it.”\(^{237}\) The in-built teleology of nature points to the implicit *ought* within it. It follows that natural law precepts would reflect this truth in directing action toward that which perfects a nature, and against actions that would thwart or oppose the fulfillment of nature. Against Finnis and Grisez, Veatch proposes that any hold-up or uneasiness with regard to an *is-ought* fallacy finds no foothold amid a proper understanding of nature.\(^{238}\)

Veatch takes further issue with Grisez’s sharp distinction between practical and theoretical science, due to Grisez’s radical separation between the two. In so doing, Veatch invokes “the *Euthyphro* test,” by which he means the question posed by Socrates regarding the foundation of a thing being good: beloved because it is good, or good because it is beloved. He accuses Grisez of stopping short of grounding that which is good; i.e., Grisez stops at the level of inclination, and thus leaves open an ambiguous interpretation.\(^{239}\) Certainly Veatch would credit Grisez with grounding his

\(^{236}\) Ibid., 258.
\(^{237}\) Ibid., 258.
\(^{238}\) He does concede that many natural law moralists still employ a static model, and as such fall victim to the fallacy’s accusation. A correct vision, however, still must face the overwhelming incorporation of a static view “for this is the way in which nearly all modern philosophers from Descartes and Hobbes have tended to understand such a notion as the ‘natures’ of things. Modern natural scientists have merely followed suit”(Ibid., 259).
\(^{239}\) Ibid., 261-2.
ethics in something beyond mere subjective inclination. “They must be construed to mean that they are objects of inclination in the sense of being things that we ought to be inclined towards, or should be inclined towards, whether we actually are or not.” Veatch contends that in order to fully understand and to ground the goodness in the thing itself, a metaphysical approach must be taken.

Such an approach invokes potency and act and looks toward the transcendentals, e.g., goodness and truth. The metaphysical foundation is the only way to avoid the ambiguity of the Euthyphro test and keep ethics from being grounded in simple inclination. Such a view toward the metaphysical grounding identifies the goods that truly perfect the human person. Absent such an approach, or keeping the theoretical and practical separated by a sharp wall, any goods fail to find a firm foundation. He sees in Grisez an implicit denial of theoretical reasoning occurring; practical reason itself cannot formulate the truth, especially in a self-evident way. Perhaps sophisticated argumentation can achieve such an end, but Veatch admits himself a “rustic” in terms of any such argument.

NNL—“IS”-“OUGHT”

In his defense against the “sharp questions” posed by Henry Veatch, John Finnis begins by rejecting the questions and objections offered by Veatch. He appeals to a deeper and more reasoned approach. In fact, he advises that his book indeed responds to the kind of interpreters of St. Thomas and Aristotle that are represented by people like Veatch. He firmly and adamantly contends that neither deduction nor inference can arrive at value—“understanding of value was then shown to function as a principle of practical reasoning.” The value determined is realized to be a possible way to participate in the intelligible and general form of good. Finnis does not claim to simply

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240 Ibid., 262.
241 Ibid., 261.
243 Ibid., 267.
submit to an “Oxfordian” insistence upon avoiding any commission of the *is-ought* fallacy; he acknowledges the “logically significant distinction” posed by an *is-ought* relation, and at the same time affirms the indemonstrability and *per se nota* quality of basic principles of practical reason.244

Finnis contends that his system does in fact ground ethical reasoning and does not suffer from a kind of subjective inference or induction. He acknowledges that initial inclinations and movements can spur on actions, but that inclination does not ground moral value in any way. The value follows from a rational judgment “about a general form of human well-being, about the fulfillment of a human potentiality.” The human potentiality draws upon a teleological framework, whereas the application derives from rational judgment. This rational judgment is not merely arbitrary but concerns both well-being and participation in all aspects of well-being; it does not violate any basic goods. Emphasis lies on possibility; the more one chooses actions that embrace basic goods, the more one becomes what he or she can be.245 Such directing toward realization of being preserves the system from falling into subjective desire.

Furthermore, Finnis takes issue with Veatch’s claim that practical reason necessarily relies upon theoretical thinking. He refers to his challenge in his book in which he asserts: “there is much to be said for the view that the order of dependence was precisely the opposite—that the teleological conception of nature was made plausible, indeed conceivable, by analogy with the introspectively luminous, self-evident structure of human well-being, practical reasoning, and human purposeful action.”246 That is not to say that it is some subjective experience that determines value; such a push toward inclination was already rejected. Instead, what Finnis calls a “simple act of non-inferential understanding” is what takes hold of an object of inclination and judges it to be an instantiation of the general form of the good. He recognizes this action to be one of practical reason.

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244 Ibid., 267.
245 Ibid., 270.
246 Ibid., 271.
and hence it does not depend upon theoretical reason. As such no metaphysical explanation is necessary.

He follows with a strong argument that Veatch, unbeknownst to himself, makes the case for the same practical priority. He begins by acknowledging that both practical and theoretical reasoning are different operations within the same intellectual faculty. Practical reason differs precisely in understanding “human good and what is worthwhile for humans to have, do, and be is attained when one considers that it is good to be, have, and do and thus what it is worthwhile to have, do, and be.” Within such a definition, Veatch, Finnis claims, argues a purely practical argument. The hypothetical situation in which “theoretical reasoning” occurs is actually practical, inasmuch as it proposes a choice between alternative lives, i.e., what it is worthwhile for humans to be. As further support of Finnis’ insistence upon the primacy of practical reasoning, he points to St. Thomas whom he interprets as rejecting the claim (as maintained by interpreters like Veatch) that practical reason and prudence “are concerned only with particulars (not universal truth) and means (not identification of ends).” Finnis continually asserts that his system both recognizes the practical truth expounded by St. Thomas—against an undue emphasis on theoretical reasoning—and presents itself as intelligible without recourse to metaphysical principles.

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247 Ibid., 272.
248 Ibid., 272.
249 Ibid., 274.
250 Ibid., 276.
1987

As the discussions between the Thomists and the NNL theorists continued throughout the 1980s, 1987 stands as a transformative year with respect to the debates. Significant works from both sides emerged. Grisez, Finnis, and Boyle published lengthy articles expanding and clarifying their theory. Professor Russell Hittinger, in an achievement dubbed by Henry Veatch as “a veritable Godsend,” published a book-length criticism entitled *A Critique of the New Natural Law Theory*. In the first systematic and direct manner, Hittinger judges the NNL position to be, among many things, a Kantian theorization. To flush out these developments, then, we shall begin with the clarifications offered by the NNL theorists and proceed then to Hittinger’s work.

A second kind of criticism emerges as well, one that involves accusations of minimalism. That is, the Thomists charge the NNL with limiting the full meaning of practical reason, and therefore restricting the fulfillment of the human person. Hittinger again leads the way as fresh groups of supporters within each camp offer strong defenses of their respective theories. For the NNL, professors William May and Robert George play a more prominent role; among the Thomists, Steven Long and Henry Veatch.

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251 Professor Ernest Fortin offers one of many reviews of this book by Hittinger. In his review he credits Hittinger with taking on a theory that does not lend itself easily to criticism—”[they] do not take kindly to criticism and rarely respond to it, save perhaps by way of another tacit reformulation of their positions”(839). Fortin points out four principle criticisms launched by Hittinger and thus provides in his review a brief summation. Such a perspective may be of help as our later analysis may succumb to Hittinger’s ambitious endeavor and seem as though we are taken “through a maze of intricate detail from which we eventually emerge with the odd feeling of having lost our way on more than one occasion”(Ernest L. Fortin, review of *A Critique of the New Natural Law Theory*, by Russell Hittinger, *The Review of Metaphysics* 42 (June 1989): 838-41.

252 Inasmuch as it suggests a subjective idealism and depends upon a duty bound “good will.”
The first article of Grisez that we will look at offers some clarifications. Though not definitive in its explanation, it is helpful to note a few of Grisez’s comments. First, with respect to practical reason, Grisez emphasizes the practical nature of moral thinking as it relates to that which is producible or operable by people and to ends given, not by theoretical reasoning, but, “as they are given by nature through practical reason’s naturally grasping them as to-be-done.” It is made quite clear that the end cannot be determined as if in a vacuum, or outside the context of a practical reason judging what will be done. Second, and by extension to the previous point, the will is directed by practical reason in its first movements toward the good-to-be-done-and-pursued. That is, the will plays a central role in formulating action, for it is the will that acts; but it is not one superior to practical reason—practical reason judges the “appetible-ness” of the good. And third, he further elucidates the way in which the basic goods are incommensurable. Against charges that Aristotle and St. Thomas argue for one ultimate good for humans, Grisez both refutes the accusation’s interpretation of Aristotle and, especially of St. Thomas, and points to the unitary first principle: “integral human fulfillment”.

Germain Grisez, Joseph Boyle, and John Finnis set out to reformulate further and to defend their new natural law theory in a lengthy article published in the American Journal of Jurisprudence, wherein they concern themselves with three main topics: practical principles, moral truth, and ultimate ends. In so doing, they aimed to respond to criticism and further promote their theory.

254 In a selected and annotated bibliography attached to their lengthier article, the NNL theorists note about this particular article: “both defending the theory against misunderstandings and criticizing misinterpretations of Aquinas. Here, too, the constructive presentation of the theory is superseded by that in the present article” [Germain Grisez, Joseph Boyle, and John Finnis, “Practical Principles, Moral Truth & Ultimate Ends,” The American Journal of Jurisprudence 32 (1987): 151].  
255 Grisez, “Natural Law and Natural Inclinations,” 310.  
256 Ibid., 312.  
257 Ibid., 317.
In expounding upon practical principles the authors begin by emphasizing the supreme importance of free choice with respect to human action. The foundation of ethics, about which one does not have a choice, concerns the practical principles. Their system therefore cannot be adequately labeled teleological nor deontological; herein they explicitly deny a Kantian influence.\textsuperscript{258} While certainly related (in ways) to each kind of system, in not falling into either category, the system proposes absolute moral norms and holds up morally good free choices as key and, “intrinsic to the supreme good of the human person.”\textsuperscript{259} Consequently, in upholding morally good free choices, their system will point also to an incommensurability of basic goods; one single natural end would make illusory the important and good free choice. Free choice emphasizes too that it is a desired result or goal that drives a reasoned action, rather than a goal serving to shape or be the reason for acting. So it is free choice that instantiates at least one good and respects all the basic goods.

They employ dialectics to defend the first practical principles. Such tactics illustrate the self-evidence of the principles; their defense is of the order of proof, “hence the knowledge of these practical principles as practical in no way depends upon these theoretical arguments.”\textsuperscript{260} In laying out a series of defenses, the authors try to bring some cooperation of the aspects (theoretical and practical) within the unity of reason. These defenses arrive as a kind of litany of reasonableness, e.g., large studies of persons with respect to inclinations, when taken as a whole, support an acceptance of a list of basic goods, whereas rejecting the list of basic goods is, “at odds with the data.”\textsuperscript{261} Various approaches and data sources further show the reasonableness of the principles of practical reason.

Such efforts are undertaken so as not to belabor the point and distinction from theoretical reason, but to emphasize and to clarify the first principles of practical reason as underived and \emph{per se nota}. “Is to be” drives practical reason, not “is.” This is not just a linguistic exercise: “it follows that

\textsuperscript{258} Grisez, Boyle, \& Finnis, “Practical Principles,” 101.
\textsuperscript{259} Ibid., 101.
\textsuperscript{260} Ibid., 111.
\textsuperscript{261} Ibid., 113.
practical knowledge cannot have it truth by conformity to what is known. Rather, a practical proposition is true by anticipating the realization of that which is possible through acting in conformity with that proposition, and by directing one’s action toward that realization.” Human nature plays a role inasmuch as it includes the capacity of practical knowledge. Practical knowledge, acting through free choice with respect to the basic goods, instantiates human fulfillment through these aspects [basic goods]. From these basic goods, then, the emergence of the moral ought appears.

Moral ought, or moral truth, demands a fully rational determination of action whereby the basic goods, i.e., the is-to-be, does not yet exist in reality, but only as a rational is-to-be. The instantiation of what might come to be serves as a normative ought to be with respect to the full directedness of the principles of practical reason. The basic goods do not take on moral weight in themselves; they are moral, “when the whole set of practical principles works together and constitutes the integral directiveness of practical knowledge.” To that end, the authors propose a full and adequate definition of the first principle of morality: “In voluntarily acting for human goods and avoiding what is opposed to them, one ought to choose and otherwise will those and only those possibilities whose willing is compatible with a will toward integral human fulfillment.”

The third and final section of the explanatory article focuses on ultimate ends. In simple terms this ultimate end, which does not undermine the incommensurability of the basic goods, is integral human fulfillment, by which the authors mean the “realization, so far as possible, of all the basic goods in all persons, living together in complete harmony.” This particular ultimate end serves not as a reason, but more of an ideal, and thus it does not in itself constitute a basic good. Inasmuch as goods are reasons for acting, the authors insist upon God not being considered the ultimate end. They strive to maintain the gift and participation that divine grace entails; they preserve

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262 Ibid., 116.
263 Ibid., 126.
264 Ibid., 128.
265 Ibid., 131.
the distinction between divine goodness and human action. There exists, then, a real and natural human fulfillment that the basic goods instantiate. God, however, is not to be ignored or excluded; rather, as the source of all goodness, he can be seen, in this way, to be the ultimate end as these basic goods participate, and are not overwhelmingly dissipated, in God’s goodness.

In individual lives, a certain priority (though not hierarchy) emerges as unfettered practical reason establishes a natural preference. Just as harmony of living is championed, people formulate a plan of life, and such an effort constitutes “a significant part of the happiness for which they are prepared to settle.” Though not ordered among themselves, various prior decisions and conditions of life establish a natural priority among the goods to which the life plan brings order and moral value.

Thomist—A CRITIQUE

Russell Hittinger, in this same year, presents his case against the formulation of natural law as espoused and presented by the NNL proponents. He offers a sustained critique of essential features of the system. As a means of summarizing the Grisez-Finnis system of new natural law, Russell Hittinger identifies four criteria, established by Grisez, against which he might evaluate the theory: “an adequate moral theory must account for the practicality of practical reason…; must account for our relationship to, and interest in, concrete goods…; must show both the distinctions, and interrelations, between values and specifically moral norms…; [and] a Catholic moral theology must meet all the above requirements, as well as show what specific difference revelation makes for morality.”

The Grisez-Finnis criticism of conventional natural law theory derives from a rejection of the essential and unchanging view of a human nature that acts as a standard concerning which

266 Ibid., 140.
speculative judgments alone play a role, relegating practical reason to a mere derivative role. Against this emphasis, the new theory looks toward possible human fulfillment as the key to, and solution of, the problem. Thus the theory, and with it the first principle of practical reason, as noted above, is directive to action, and not a description of good and evil. “In other words, practical reason is not theoretical reason caught up in what might be termed a practical moment. It’s capacity of being directed to a work indicates that what is under consideration is not so much the given, but the mind charting what is to be.”

Thus, the theory pits natures against possibilities. And the basic goods are not innate but self-evident to practical reason as they instantiate potentials. They are not givens but values and possibilities. The universality of the moral norms flows from the action of practical reason and not speculative reasoning. “The evidence is given in the exercise of practical reason, and to look elsewhere is to miss the point.”

Hittinger immediately takes note of the idealism of the Grisez-Finnis system. Such a system aims, as he and the authors note, to keep at bay the contention of the consequentialists. In the constant effort to remain “open” to goods, Hittinger sees a “Kantian-like emphasis on respect” that distinguishes the system very much from St. Thomas and a Thomist natural law. He uses the example of love to express the emphasis upon which a good-fulfilling-the-person (bonum mihi) that a NNL approach centers in contrast to the more inclusive focus upon St. Thomas’ grasp of lover and beloved; i.e., reason judges the good for me as situated in a hierarchical world in which that kind of love, naturally, is appropriate. Consequently, virtues, as traditionally expounded, do not

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268 Ibid., 31.
269 Ibid., 43.
270 As noted in the first chapter of this paper, this idealism was identified early on by Grisez as “simply an orientation toward all the possible goals of human effort, insofar as they represent man’s total possible participation in Goodness Itself. Nothing is omitted, nothing is excluded, except partiality and exclusion itself” (Grisez, “Natural Law Arguments Against Contraception,” 353).
271 Ibid., 53. In a fuller context, Hittinger observes: “Grisez’s ethical theory aspires to give convergent importance to a Kantian-like emphasis upon respect as well as to a eudaimonistic and teleological emphasis upon the amplitude of goods and human fulfillment” (Ibid., 53). In other words, Grisez seems to be taking both sides—Kantian categorical respect and Aristotelian teleology, bonum mihi.
have a considerable role in choosing and action, nor as being constitutive of the thing. The reliance upon attractive possibility to establish norms leaves, as Hittinger claims, the NNL position open to criticism against which it does not have the theoretical apparatus to contend.

In terms of goods, the single end or *ergon* (that is, an ordering and directing of all goods toward the one good) approach expounded by Aristotle is summarily rejected by the NNL theory, the incommensurability of basic goods having been established many times earlier. And Hittinger suggests that the theory “implies the good of the self is ontologically coterminous with the range of goods.”

Such would seem to be the case, considering especially the emphasis on openness to possibilities. The danger, however, lies in valuing people in terms of their fullness of possibilities, i.e., to the extent that some goods are not realized—and this would necessarily be the case as people are finite creatures—then the real and ontological value of the person would be diminished. This discussion of goods brings to light the key distinction that Hittinger judges between the NNL position and St. Thomas. Though in partial agreement with Aquinas’ fourfold relation of order and reason, Grisez excludes the introductory remarks with respect to order in things: “first, the order of ‘parts of a totality,’ and second, the order of ‘things to and end,’ which is of ‘greater importance than the first.’”

Though not extraordinarily complex, the two principles speak to the reality and goodness being “in” the object—a point about which the NNL theorist and Thomists disagree.

As Hittinger’s discussion moves to religion, his identification of a strong Kantian deontology within the NNL position emerges, along with a reliance upon a pronounced fideism. The Grisez-Finnis model produces an altered (and fideist?) norm of the first principle of morality: “one ought to will those and only those possibilities which contribute to the integral human fulfillment being realized in the fulfillment

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272 Ibid., 59.
273 Ibid., 69.
274 Ibid., 71.
275 By fideism, he judges the NNL system to depend upon a Christian, even Catholic, credence to reason well morally. “Fideism can be defined as the intuition of revealed or supernatural data which are purported to be foundational” (Ibid., 159).
of all things in Jesus.” Within such a new paradigm, they then struggle to distinguish between ordinary morality and theological morality. It becomes difficult to see if there is any difference; and the resolution to this tension offered by the NNL theory offers a kind of “motivational appeal” wherein the potential for the fullness of possibility is acknowledged, and openness to such goods gives power over inclinations to evil. “The goods, as categorical, are no longer in a holding patterns, but are viewed as concrete in the kingdom of God.” Implied therefore is that it is difficult, if not impossible, to have genuine and full morality without faith. The basic goods, it might be perceived, are like Platonic forms abiding in the bosom of Abraham or within the Kingdom of God. With respect to the sphere of religion—as one of the basic goods—Hittinger takes issue with the flat and static way in which the NNL theory does not weigh commitment to God as something different and greater; rather, it is part of a life plan. The theory seemingly cannot decide whether it cedes a kind of hierarchy in choosing a divine good over a human good, or whether it risks turning a human good into an instrumental one. In the desire to avoid consequentialist thinking, and in line with such kinds of thinking as the Kantian antinomies, Hittinger contends an error in “Grisez’s method of absorbing ethics into revealed religion in order to reposit ethics in its ‘natural’ state…For Grisez, however, faith makes up for a certain deficiency in the motivation that ought to be at work without faith.” Hittinger later and more clearly accuses the NNL theory of fideism with respect to its account being founded upon it. While such an accusation need not be disqualifying; it cuts to the heart of a system of new natural law and reason.

To avoid the charge of fideism, Hittinger posits only two alternatives, i.e., two ways out. The first embraces a Thomistic interpretation, with all its theoretical and metaphysical supports. This

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276 Ibid., 126.
277 Ibid., 129.
278 Ibid., 141.
279 Ibid., 143.
280 Ibid., 158.
approach treats the *praebamula fidei*, and in so doing, incorporates religion, even the Christian religion, in a way that acknowledges the interplay of faith and reason. That is, such a system can lean upon Christian truths and even Christian revelation, inasmuch as this revelation coincides with the *praebamula fidei*, without accusations of fideism. The second way involves a Kantian paradigm of an implicational approach.²⁸¹ This way respects religious principles but refuses to align them (in terms of foundation weight) to the principles and meanings of human subjectivity.²⁸²

As a final critique with respect to the foundations of the Grisez-Finnis system, Hittinger points out the perceived illogic of the good of religion being important and incommensurable, etc. In so doing, he observes that such an approach is a stark departure from St. Thomas’ use of natural religion and supernatural faith. St. Thomas relies upon both faith and an understanding of the positive knowledge with respect to the *praebamula fidei* to point to religion as being greater than other goods; it orders one more closely to the final end.²⁸³ He adamantly defends the contention that natural law thinking has traditionally defended, if not relied upon, the *sumnum bonum*. The efforts of Grisez-Finnis, Hittinger concludes, aim to recover natural law, but do so by way of short-cut, rather than genuine recovery.²⁸⁴

**NNL—A CRITIQUE**

By way of a direct response to Hittinger’s critique, Germain Grisez wrote a twenty-seven page defense of the NNL theory. A full exegesis would not be necessary, as Grisez brings back many previous arguments, however a few samples may be instructive enough.

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²⁸¹ By this Hittinger means a kind of acknowledgment that elements of faith might shape and form a moral judgment; but by “implication” it suggests that the results or implication is all that can be grasped. To infer that such religious sensibilities or revelation ground in some way moral reasoning would overextend the capabilities of faith and thus rightly be labeled fideism.

²⁸² Ibid., 159.

²⁸³ Ibid., 171.

²⁸⁴ Ibid., 198.
For example, by way of defending the incommensurability of goods along with the absence of a sense of hierarchy among the basic goods, Grisez argues not that there is no objective hierarchy among the basic human goods, but rather that there are senses in which there is no hierarchy.\textsuperscript{285} The objectivity, in terms of hierarchy, flows from a Christian foundation. Therefore, absent that Christian foundation, there is no objective standard against which goods might be judged. Such is the case because the goods are viewed in terms of their immanence in the particular intelligible possibility. Any movement toward a consequentialist ethic must be avoided.

Grisez approaches Hittinger’s accusation of fideism and mis-use of “religion” in a systematic and exegetical way. He proceeds through the complaints offered by Hittinger and offers, albeit brief, responses. He defends himself against claims of denying the \textit{praeambula fidei},\textsuperscript{286} as well as preserving a distinction between the natural goodness of man and that of God. He maintains a divine priority. The proportion of the divine goodness relates to the potentiality of fulfillment of human goods and not a direct proportionality between human nature and divine goodness in itself.\textsuperscript{287} He denies the implication of Hittinger that his system offers merely confusion or befuddlement. In fact, He charges Hittinger with an incomplete and prejudiced reading. He points to a strict hermeneutic of theoretical underpinnings that shape and direct Hittinger’s reading and cause him to ignore the fullness of the NNL theory. “As a result, he systematically misunderstands what we say.”\textsuperscript{288}

\textsuperscript{286} Ibid., 461.
\textsuperscript{287} Ibid., 459.
\textsuperscript{288} Ibid., 464.
Two years after his fierce criticism of the NNL, Russell Hittinger introduces a new critique of the theory as a minimalist theory. By minimalist, Hittinger means that practical reason is reduced to a restricted sense that does not authentically represent the fulfillment of the human person. In fact he declares, “Grisez adopts a kind of scorched earth policy, ruling out final ends and objective hierarchies in order to protect the basic goods against proportionalism.”

He contrasts the minimalist approach with a rich Thomistic sense that views practical reason as ordering finite good to the ultimate end and perfection of the human activity (person). This richness plays itself out with a depth of moral activity or action which does not begin at choice and cannot separate, as Grisez does, a pre-moral principle from a principle of morality. The latter’s system sees the first principle as commanding activity to have a point, whereas the former commands one to act in accord with what is good. The NNL theory thus allows for a bare bones look at goods without their necessary attachments, teleologies, and ontologies. “This very much suits the modern, or at least post-Kantian, commitment to emancipate moral choice from the teleological matrix of nature.”

As the 1990s began, the decade brought with it a new vibrancy to the debates between the Thomists and the NNL theorists. As proponents of each group began to increase, new champions emerged. Though not new in terms of the 1990s, certain figures added prominently to the discussions. In supporting the NNL theory, both a new and an old supporter contributed much during this time. Professors Robert George and William May offered books and articles.

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290 Ibid., 159-160.
291 Ibid., 161.
supplementing their conviction to the veracity of the NNL position. Thus it is to these two that we now turn.

Professor William May had long been a proponent of the NNL theory as the 1990s arrived. An early editor of Germain Grisez’s work, he had been impressed with the scholarship and had contributed to Grisez’ summa, *The Way of the Lord Jesus*. Professor May published an introductory textbook for moral theology in 1991, “which is heavily indebted to the work of Grisez.” At the outset he appeals to the NNL understanding of practical reason as directed to basic goods. It is these goods that can be said to be naturally apprehended, i.e., non-discursively, by the practical reason. For even employing St. Thomas’ three-fold ordering of goods, May presents them as starting points for moral thought, or principles of practical reason. He subsequently, perhaps in a conciliatory way, proceeds to defend the NNL theory as being more in line with St. Thomas than some Thomists, and perhaps Grisez and Finnis, would concede. To St. Thomas’ three-fold goods, he points to the NNL theory’s expanding and identification of all the basic goods; goods that are goods “of persons, and not for persons.” For though they may come from non-inferential understanding, they, “like Aquinas,” can speak of basic and natural inclinations as illuminating these goods.

The distinction between the first principle of practical reason and the first principle of morality (the use of which leads to pre-moral goods) May credits directly to a correct interpretation of St. Thomas. He cites the use of the Golden Rule as a first principle of morality that directs the way one is to fulfill the first principle of practical reason. For it is integral human fulfillment and the heart’s “openness” to it that defines a morally upright person. In staying close to St. Thomas, however, May observes a key distinction between the two which he identifies as a close relation:

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293 Ibid., 41.
294 Ibid., 60.
For St. Thomas the moral virtues inwardly dispose persons rightly toward the ‘ends’ of human existence, i.e., toward the basic human goods perfective of them as individuals as members of a community. For our authors [Grisez, Boyle, and Finnis], the ideal of integral human fulfillment proposed by the first moral principle as they have expressed it, is the ‘object’ of unfettered human reason, of right reason.\textsuperscript{295}

The principle of morality, then, is compared to virtue inasmuch as it directs the way to achieve the goods. In fact, it is this principle of morality that helps to give actions their morality. The goods of persons do not, of themselves, have moral value, “insofar as one can participate in them immorally by compromising moral principles.”\textsuperscript{296} The shaping of one’s life, ultimately led by an overarching commitment to religious truth,\textsuperscript{297} directs one in openness to rich and integral fulfillment.

A very brief look at May in interpreting St. Thomas on moral absolutes speaks to the NNL idealism. He concerns himself especially with rejecting and correcting the approach of the consequentialists (proportionalists). He does locate the seat of morality in the intention however. At the same time, he holds on to the object, end, and circumstance criteria of St. Thomas, while recognizing that “human acts, precisely as ‘human’ or ‘moral,’ receive their ‘forms’ not from nature but from human intelligence.”\textsuperscript{298} In speaking to the object, he offers an appeal to the Thomist perspective, but he maintains an idealism in that the intention (or perhaps in St. Thomas’ language the end) is central. Whereas the Thomist would argue that the object itself needs to be \textit{per se} ordered to the end and thus “directs” the moral act, May does not proceed as far down this ontological road; instead, the end or intention makes moral (in either a good or evil way) the object or material of the act. His system, like that of the Thomists, can and does therefore uphold moral absolutes—exceptions cannot be found.

\textsuperscript{295} Ibid., 67.
\textsuperscript{296} Ibid., 73.
\textsuperscript{297} Ibid., 76.
\textsuperscript{298} Ibid., 133.
The way in which May interprets St. Thomas as he relates the NNL theory to it can be found in a brief article he wrote for the publication *Anthropotes*. He breaks down the precepts of natural law into sets and subsets. The first set, to which belong two subsets, are both the basic practical principle (good is to be done and pursued and evil avoided) and moral principles like love the Lord God and love your neighbor as yourself. The first, interestingly, “do not enable us to distinguish between morally good and morally bad alternatives of choice.” Whereas the second subset, which, as he offers it, flows from Christian morals, gives the capacity to judge between good and bad alternatives. The combination of the two underlines the formulation of the fundamental principle that demands a heart’s openness to “all the goods of human existence and to the persons in whom these goods are meant to flourish.” The Christian Gospel and faith does not override or make foreign natural moral reasoning; rather, “it deepens and inwardly fulfills the natural mode of moral law by perfecting the basic moral requirements of the natural law and its modes of responsibility.” Note, then, how Christian faith shapes that second subset, and consequent sets of precepts, as corrective and perfective. The Christian is thus commanded to live out his or her vocation to love, and to love as Christ loves.

Another worthy advocate and proponent of the NNL theory is the McCormick Professor of Jurisprudence at Princeton University, Robert George. Like May, George is a long-time supporter of the work of Grisez, Finnis, *et al.* Thus, we will look at two of his defenses of the NNL theory. One comes in the form of a review of Hittinger’s book while the other is included in a series of essays (which he edited) that concern natural law theory. Within a much larger review of critics of the NNL theory published in the University of Chicago Law Review, Robert George both elucidates some key

300 Ibid., 162.
301 Ibid., 163.
302 Ibid., 166.
points with respect to the NNL theory and defends against misinterpretations of the system, particularly Russell Hittinger’s. In so doing, he first and easily dismisses the Kantian charge leveled against the system—George convincingly argues that, in fact, morality is grounded, and grounded in basic human goods—and proceeds to explain the way in which the NNL theory interprets practical reason as being distinct from, though not inexorably separated from, theoretical reason. He aims to illumine how practical reason rests upon its own underived and self-evident principles. By way of the rapid destruction of Veatch’s “wall of separation,” George points to the speculative reasoning as being most, if not wonderfully, helpful in removing doubts and bolstering practical truths, without certainly establishing self-evidence. Practical reason does not operate without data, drawn from nature, etc., and at the same times maintains its distinctiveness.

George brings out this point more clearly in his essay (published four years after the review) in which he makes note of the often-neglected (by neo-scholastics) distinction between an epistemological and ontological approach. He points to Finnis as making a strong epistemological argument that reflects “(1) knowledge of the intrinsic value certain ends or purposes is acquired in non-inferential acts of understanding wherein we grasp self-evident truths, and (2) these ends or purposes are intrinsically valuable (and thus can be grasped as self-evidently worth while) because they are intrinsically perfective of human beings.” George, thus, emphasizes that principles of practical reason are underived and self-evident. It does not follow, therefore, that moral principles have no grounding in human nature. In fact, it is precisely from the agent’s humanity that the morality flows. Thomist ontology seems to beg the question with respect to human nature. It is the human potentialities that point to human nature; intelligibility of the first practical principles in the

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NNL theory do not proceed from an attractiveness, and thus a subjectivity.\textsuperscript{305} Thus it becomes crucial, as George defends, to distinguish between practical precepts and those norms of morality (or of practical reasonableness). The pre-moral character of the former points to their basic reasons for acting, hence their practical quality; they cannot be deduced from anything else. “The objects of human acts are the intelligible ends of such act, i.e., the basic human goods to which first practical principles refer.”\textsuperscript{306}

One cannot overemphasize understanding with respect to the first practical principles. It is not some kind of conjuring or deducing that arrives at these self-evident principles. The self-evidence does not necessarily entail their being “easy” to understand. Inasmuch as St. Thomas distinguished self-evident proposition that are available to all from those that are available to some, so too are the self-evident practical principles not to be thought of as all immediately understood. Herein theoretical reasoning and data of nature provide material and dialectic that support, but not prove, these truths.\textsuperscript{307} Additionally, George notes the importance with respect to potentialities that integral human fulfillment cannot be fully realized; human will can be chosen to be compatible to it. “The standard of practical reasonableness is not how close we come to bringing about integral fulfillment in our choices...; rather, it is whether our choices are compatible with a will to integral human fulfillment.”\textsuperscript{308} Integral human fulfillment is neither a state achieved nor a goal sought. We choose compatibility or incompatibility of our will to fulfillment.

Similarly, by way of clarification, George draws out the distinction between goods and actions that bring about a participation in the goods. He recalls the criticism of Hittinger by way of an example of an Aztec religious ritual involving human sacrifice as being a “good of religion.” George notes that the action is understood as good to the extent that being a good gives an

\textsuperscript{305} George, “Recent Criticism,” 1415.
\textsuperscript{306} Ibid., 1416.
\textsuperscript{307} Ibid., 1211-2.
\textsuperscript{308} Ibid., 1420.
intelligibility or reason for action. It does not, however, make the action objectively and morally
good. The kind of goodness at issue, whether a good with respect to reason-for-doing or with
respect to morality, makes all the difference. Morality follows moral norms which derive from
modes of responsibility.\textsuperscript{309} It is crucial that the distinction between kinds of goods be maintained so
that action might then be judged against the moral norms. Otherwise “immoral” actions are in
themselves unintelligible and beyond moral judgment. George and the NNL theorists contend that
this way, this method of moral judgment, provides the most authentic interpretation of the human
act.

\textbf{Thomists—MINIMALISM}

Two very interesting and short critiques of the NNL theory emerge from two Thomists, one
old, one new: Henry Veatch and Steven Long. Less defenses of Thomism—they lean on St. Thomas
as one might lean on a steady and entrenched pillar—and more directed views on the NNL, they
help to clarify the NNL position, as well as to solidify its distinction from the Thomist one.

Henry Veatch, along with Joseph Rautenberg, authored a brief article highlighting the
philosophy of the NNL theory as resting on a mistake.\textsuperscript{310} That is, they point out a flawed view of
morality (re: non Aristotelian-Thomist) that ironically yokes the NNL theory (which they term
Grifennboyle) into the same camp as its explicit opposite, e.g., utilitarians and proportionalists. The
mistake stems from a philosophy that can most accurately be described as altruistic or impartial. It
would seem that the NNL position follows, basically, the same system of moral reasoning as most
modern ethical “theories.” They outline five common features of the “theory” that nearly all modern
ethical “theories” share. These include: (1) ethical knowledge is divorced from scientific knowledge;
(2) logical grammar distinguishes between “ought” and “right,” thus reflecting a universal standard

\textsuperscript{309} Ibid., 1423.
\textsuperscript{310} Henry Veatch and Joseph Rautenberg, “Does the Grise-Finns-Boyle Moral Philosophy Rest on a Mistake?”
and desire reflecting a subjective appropriation; (3) morality entails a universalizability criterion; (4) subjectively weighting words like good and value thus have no real place in ethical theories; and (5) once goods have been de-natured, no partiality may be shown for the good(s) of one person over another’s. In outlining the common features of modern ethical “theories,” the authors quickly point out how sympathetic the NNL theory is in relation to these modern, i.e., utilitarian and deontological, positions. These features, by their de-naturing of goods, move ethics from a person-centered approach to a person-neutral one. In so doing, they divorce the good from the perfection of the human person. Choice becomes the fulcrum of morality.

The mistake, therefore, rests on the fear that maintaining the nature of goods with respect to Aristotelian endaimonia leads to a proportionist subjectivity. This fear, however, wrongly equates a happiness (virtue) and person-centered approach with a kind of hedonistic and subjective proportionalism. The only response left to NNL theorists is to list pre-moral goods, that is, goods divorced from their inherent relation to an agent. Thus, the first principle of practical reason, which identifies these goods, remains distinct from the first principle of morality, which directs choice. The universalizability of the actions that any modern “theory” supposes cannot grasp a condition in which, subjectively, an individual judges a good to be a good for him or herself, and, at the same time, see such a good to be a benefit, in similar circumstances, for everyone. An ontological view to nature, rather than just an epistemological exercise, sees and embraces a good that perfects.

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311 Ibid., 810-816.
312 “For instance, by way of rough example, suppose that I am a person for whom the basic goods of religion and theoretical knowledge do not mean much. At least, these two goods do not appeal to me nearly as much as do the goods of health and physical well-being, of play and recreation, and perhaps also of friendship and the society of my fellows. Accordingly, given such tastes and preferences of mine, when it comes to my working out of my own life-plan (with a view to the integral human fulfillment), why would it not make sense for me to play down, and perhaps neglect altogether, the goods of religion and of theoretical knowledge and to concentrate entirely on those basic goods which I find so much more rewarding and satisfying?” (Ibid., 824).
313 Ibid., 830.
Steven Long, as part of his doctoral dissertation, critiques minimalist systems of natural law and situates the NNL theory as belonging also to a minimalist worldview, though he identifies its minimalism with respect to formal and not material qualities. In outlining again the basic structure and system of the NNL theory, Long sees a transcendence of the strict minimalism of H.L.A. Hart, but focuses upon the insistence of an account of human good not dependent on prior theoretical reasoning. Thus, Long investigates more fully the epistemic foundations and implications of the NNL (as represented by Finnis) position of formal minimalism; he does so particularly with respect to goods and law.

Long takes aim at an end’s relation as being basic to human nature. Regardless of its epistemic complexity, “its logical or epistemic derivability or nonderivability flows from its relation to other objects of knowledge.” Finnis, Long argues, does not sufficiently explain the relation between the value of the good itself and its relation to other objects. St. Thomas, in contrast, understands that, for self-evident propositions, the predicate inheres in the essence of the subject. Such relation to essence has no room in Finnis’ system. Any derivation of good, which St. Thomas and the Thomist position supply in spades, undermines the underivability of the basic goods. Speculative knowledge, in following St. Thomas’ argument, necessarily comes before practical, since “both the speculative and practical employment of the intelligence require the prior apprehension of the object.” The truth of the good of the object must be known beforehand.

Long, too, finds a Kantian deontological underpinning in the insistence that basic goods are natural apart from nature. The Finnis system proposes a human nature as discovered or “invented” in action. This contrasts with the Thomist contention that “actions are not good merely because

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315 Ibid., 240.
316 Ibid., 241.
317 Ibid., 245.
they are performed, but because of their ordaincy to their ends.\footnote{Ibid., 256.} The NNL position is not moored in the order of nature. Absent such a normativity, then, the NNL position inevitably finds itself compelled to seek a self-imposed law, “a deontological tour de force.”\footnote{Ibid., 257.} There fails to be any positive support for the NNL position to call itself natural law.

A deeply teleological natural law cannot label all goods as incommensurate. Unlike the NNL, Long argues, St. Thomas never claims that all goods are incommensurate; in fact, he proposes just the opposite.\footnote{Ibid., 264.} Every ethical and moral act must be viewed in light of the final end or perfection of the person, and society. Such goods and actions are, \textit{per se}, more noble inasmuch as they are closer to the “consummate actuation” of a person’s ultimate end. An egalitarianism such as that proposed by the NNL does not accurately reflect the powers of the soul; “what is impossible is that the human will, as such, be simultaneously and formally ordered toward diverse final ends.”\footnote{Ibid., 265.} Finnis contention that any commensurability among goods would be arbitrary fails to convince on even a common sense level, e.g., the saving of a life is valued more than the good of play. Perhaps it is important to recognize that a hierarchy does not make certain goods “less good” (with a negative connotation); rather, it manifests the natural order of creation and wisdom by which certain goods more proximately move the actor to the ultimate end. Every good, however, moves one toward that goal. The role of the principle of morality by which a practiced preference might be actualized does not satisfy the ontological grounding of morality.\footnote{Ibid., 266-270.}

Lastly, the insistence upon the formal distinction and separation of practical reason from the theoretical divorces the grounding of natural law from an understanding of God as creator. The God of Christian revelation, real though He is, is not the specified God at question. Rather, the God
Who can be known by natural reasoning, this God grounds and makes normative moral precepts. For it is in God that nature finds its true finality. “That is to say, that in creatures, the being that perfects them and their being as standing-in-of-moral-perfection are distinct: only in God are being and good absolutely one.” Without an understanding of God—Who can be known by natural reason—in what way would the intelligibility of nature, as a sign that points to perfection, be at play? An absence of God would strip nature of an intelligibility to perfection. Natural law would seem a weak law, or even no law at all.

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323 Ibid., 275-6.
Chapter 5

ROMA LOCUTA EST. CAUSA FINITA EST.

Veritatis Splendor

In the second half of 1993, Pope John Paul II promulgated a long anticipated encyclical concerning moral theology, *Veritatis Splendor*. Following on the heels of the earlier publication of a new and revised edition of the *Catechism of the Catholic Church*, the Church, it would seem, was wading in deeply with regard to moral questions and reasoning. The former document relates specifically to moral theology and the proper approach to be taken with respect to moral theology, while the latter situated the moral order within a larger and complete context of the Christian life. The pope’s stated impetus for offering his letter was the “*lack of harmony between the traditional response of the Church and certain theological positions, encountered even in seminaries and in faculties of theology, with regard to questions of the greatest importance* for the Church and for the life of faith of Christians, as well as for the life of society itself.”

Though polemical in tone, the pope emphasizes the connection among the Christian truth, the moral life, and society at large. Thus the questions at play, i.e., natural law, affect all people and not simply Christians. The Church, as the guardian of *sacra doctrina*, has great wisdom and truth to offer the world. The encyclical’s second purpose, as explained by Servais Pinckaers, O.P., namely, to link the Church’s moral teaching to the Gospel, illustrates this role of “universal” teacher.

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As a kind of reproach to proportionalism and other teleologisms, the encyclical emphasizes a “response of love” from us rather than strict legal obedience. This reintroduces into moral theology, right from the start of Christian life, that dynamism of love which carries us toward perfection.\textsuperscript{327} The emphasis on a response of love, coupled with a movement toward perfection, situates the human agent within a dynamic arena of action and responsibility. The transcendental-fundamental-option-type approach, wherein an action need not immediately and fully shape or transform the agent, does not fit within a Catholic understanding of morality and grace. In speaking of sin and of failing in the particular to love God, the pope remarks: “with every freely committed mortal sin, he offends God as the giver of the law; even if he perseveres in faith, he loses ‘sanctifying grace,’ ‘charity’ and ‘eternal happiness.’”\textsuperscript{328} Thus, in this intervention on the part of the pope, several models of moral theology are culled from authentic expositions of the faith.

In speaking to the moral order to which persons belong and within which they act, the pope teaches: “others speak, and rightly so, of \textit{theonomy}, or \textit{participated theonomy}, since man’s free obedience to God’s law effectively implies that human reason and human will participate in God’s wisdom and providence.”\textsuperscript{329} This illustrates that no false autonomy can enter within the discussion of morality and natural law. Even moral theology and natural law, he goes on to stress, do not escape the providence of Divine Law. Russell Hittinger, in commenting on the encyclical, remarks that all laws, both natural and positive, direct movement. They cannot be viewed as if in a vacuum, without any effect on the person as a whole. Not even conscience acts outside God’s wisdom. The temptation, offered to our first parents, to be as gods cannot be embraced. Such a temptation, which “means

\begin{footnotesize}
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\item For an alternative reading of the encyclical, especially in regards to how various alternative methods of moral theology are addressed within it, see \textit{The Splendor of Accuracy: An Examination of the Assertions Made By Veritatis Splendor}, ed. Joseph A. Selling and Jan Jans, (Grand Rapids, MI: William B. Eerdmans Publishing Company, 1994), particularly the article by Louis Janson, “Teleology and Proportionality: Thoughts about the Encyclical \textit{Veritatis Splendor},” pp. 99-113.
\item John Paul II, \textit{Veritatis}, no. 68.
\item Ibid., no. 41.
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that the human mind is a measuring measure, having plenary authority to impart measures of moral
good and evil,” cannot determine action. Objectivity in terms of morals must be maintained.

In analyzing Veritatis Splendor, Hittinger and other Thomists find solace and justification for
their efforts in the writing of the pope. Several sections of the encyclical point to a support of a
Thomistic approach to moral theology. Alasdair MacIntyre, for example, points out the way in
which authentic morality excludes a fully Kantian deontology, in that “we are also to obey that law
for the sake of the further good of ourselves and of others.” The emphasis on good, and the good
of and for the person, drives moral action and theology. The connection between the good and the
person cannot be severed, as it might in a proportionist or utilitarian approach. Servais Pinckaers,
O.P., draws a connection to the virtues in moral judgments that precludes thinking too much in the
form of an algorithm. A reduction to technique threatens to separate, again, the person from the
action. The Christian, or eschatological connection to actions, cannot be excluded either (it fits
within viewing action in relation to the whole person). This emphasizes the finality of God as
Good—“the encyclical shows how the desire for the good, which is natural to man, is directed to
God and finds a complete fulfillment only in the teaching and person of Christ.”

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331 It is important to note that both the Thomists and the NNL theorists view this encyclical in highest esteem. That is, it is not another mere voice among the arguing moral theologians. Rather, they see the authoritatively declared teachings of the Church as coming from the Magisterium and the service of the moral theologian as one to deepen knowledge and understanding of the revealed truth. Professor William May remarks: “The pope regards this service of ‘utmost importance, not only for the Church’s life and mission, but also for human society and culture’ (no. 111). But he emphasized that ‘dissent, in the form of carefully orchestrated protests and polemics carried on in the media, is opposed to ecclesial communion and to a correct understanding of the hierarchical constitution of the People of God’ (no. 113). If theologians do dissent in this way, he continues, ‘the Church’s Pastors have the duty to act in conformity with their apostolic mission, insisting that the right of the faithful to receive Catholic doctrine in it purity and integrity must be respected’ (no. 113)” [William May, An introduction to Moral Theology, revised edition, (Harrington, IN: Our Sunday Visitor Publishing Division, 1994), 278].


proclaims happiness as the goal and motivation. In so doing, Pinckaers finds in this encyclical a call to the restoration of the good and to the happy life. Not merely negative, the moral life leads and directs to joy.

Much like the Thomists, the NNL theorists find in the encyclical a sympathetic and verifying voice. In a critique of proportionalist complaints against the encyclical, William May writes in defense of the right understanding of basic goods. Though he does not explicitly connect their influence on the thinking of John Paul II, he notes how they would not be incompatible with the explanation of choice, and of the role of the will in such choices.\(^{334}\) Furthermore, there is little, if any, within the encyclical that would exclude elements of NNL theory as expounded upon by its proponents. May points out that the pope views conscience to be a “practical judgment” and not the decision itself on how to act. It is the proximate norm of morality that reveals to the person the truth with respect to moral good and evil. Thus the NNL theorists, too, see the object as being key to understanding morality. Germain Grisez is quick to point to the pope who states such a reality: “the doctrine of the object as a source of morality represents an authentic explication of the Biblical morality of the Covenant and of the commandments, of charity and of the virtues.”\(^{335}\)

_Veritatis Splendor_ determines neither a particular philosophical approach nor a theological way of reasoning; in fact, John Paul II, early on, states the role and even competence of the Magisterium in matters of philosophical and theological inquiry:

> “Certainly the Church's Magisterium does not intend to impose upon the faithful any particular theological system, still less a philosophical one. Nevertheless, in order to 'reverently preserve and faithfully expound’ the word of God. The Magisterium has the duty to state that some trends of theological thinking and certain philosophical affirmations are incompatible with revealed truth.”\(^{336}\)

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\(^{335}\) John Paul II, _Veritatis_, no. 82.

\(^{336}\) Ibid., no. 29.
In the first article in a six part series on the reception of the encyclical published by *The Tablet*,
Germain Grisez very succinctly draws upon a reality embraced by both the Thomists and the NNL theorists; namely, God reveals Himself to His creation and He does so effectively and perfectly through His Son, and thereby entrusts its proper interpretation and transmission to His Son’s Bride the Church.\(^{337}\) Thus, each group recognizes the order and role of the theologian and moral theologian both within the life of the Church and with respect to the service of the truth for the people of God. Not an independent and alternative voice, collaboration rather than dissent marks a servant of the Truth.

**CONCLUSION**

I make note of such a role because it brings to a focus the efforts we have undertaken in this project. The Thomists and the NNL theorists disagree on many foundational and important philosophical principles. Each, however, seeks to be a faithful servant in the Church—they strive to be a servant as their Savior is a servant. Therefore, upon the publication of *Veritatis Splendor*, they came to see again their work with the context of the Church, seeking always *sentire cum ecclesia*.

By way of conclusion it might be helpful to recall some of the key questions or concerns raised at the beginning by Michael Crowe. He highlighted the need to understand nature, law, and moral absolutes. With regards to a Catholic understanding of natural law, there remains, always in the background, the way in which this study reveals God’s wisdom and our participation in the plan of God. As such the Catholic theologian and philosopher must answer to a “higher” judge. It is not to this lofty perch that I aim right now; instead, I offer some brief remarks with respect to each area of concern.

In regards to nature, the Thomist position seems to penetrate more deeply into the fullness and dynamism of nature. For example, the dynamism inherent in McInerny’s presentation of nature can easily be noted. Were there a static element to nature, then the compulsion to embrace the good would not oblige. The good is not merely a goal to be achieved in a manner akin to a gold star or a blue ribbon, i.e. something added on. It is not starkly distinct from the composition of human nature, and thus of each person. More than fulfilling nature, the good informs the nature, to use an Aristotelian expression, as a final cause. To act virtuously, that is to act in a manner by which the person exercises his or her powers \(^338\) well, thus guides all human acts, inasmuch as they are human acts. It can sound harsh, but there is something to the saying that to act against one’s nature, to act unvirtuously, to sin, is to act inhumanly.

As the discussion moves toward law, the contrast between the two groups becomes very apparent. The Thomists ground their theory in the teleology and in-built nature of things themselves. In so doing moral reasoning can be somewhat “easier” or more “intuitive.” There would seem to be less room for a kind of complexity; human appropriation can only stretch reasonableness so far with respect to the nature of a thing. The NNL position, on the other hand, aims to a quite lofty goal—integral human fulfillment. This ideal, and perhaps unattainable ideal, compels action and creates *oughts*. Such a theory involves significantly more complexity and argumentation. While many conclusions are sound, the wonder becomes, what of a better argument or more intelligent interlocutor? Perhaps what seemed wrong once might, now, be “turned” to be right.

Lastly, in terms or moral absolutes, this concern follows very closely from the previous view toward law. There is a kind of concreteness in the Thomistic system of moral absolutes. The nature, even in its dynamism, does not substantially change—it only gets more or less perfect. The NNL theory can seem to declare more encompassing absolutes inasmuch as integral fulfillment, or at least

\(^{338}\) E.g. the faculties and powers of the soul—to reason and to love well.
compatibility, must be maintained. The lack of a natural and objective hierarchy, however, risks losing the force of more important absolutes in exchange for lesser protections. For example, one can build upon the earlier criticism regarding the conflict of golf (leisure) and Church (religion). Noting that neither can be dismissed or harmed, the equivocation of the two becomes difficult to defend from a commonsense perspective (though scores of atheists would, I imagine, have no trouble relegating religion to a lesser pedestal); but even more so, in light of the witness of saints and martyrs, the equality begins to wane.

It is following these brief remarks, then, that we conclude this expository study. Something new must happen as each theory proceeds. We have witnessed the struggle with which each sought to understand and to explain the truth—fides quaerens intellectum. In their pursuit and debate, we saw a specification of their belief and yet we saw it within the context and confines of the Church and the Truth. We saw two theories proposed; we saw no theory declared conclusively the victor; we saw theology alive.
BIBLIOGRAPHY


