

Response by Craig A. Ford Jr., Boston College

Black Natural Law by Vincent Lloyd. Oxford: Oxford University Press, 2016

Conversation at the Boisi Center, September 14, 2016

It's an honor to be asked to give a response to a book that brings together two things that I care about deeply: race, and by way of race, an interest in many intersections including sexuality, gender, and class; and the natural law tradition, which, as a framework for engaging the human ethical project, seems to me to be the most fruitful avenue for continuing to ask questions about the good and the right. This honor redoubles to the extent that one examines who else is on this panel. Next to a dean of a law school and an associate professor, I owe quite a debt of gratitude to the organizing gods who deigned to catch me from among the fish of graduate students eagerly awaiting, as Ariel in the *Little Mermaid* was, to be "part of that world."

Because I'd like to keep a good amount of our time together available for discussion, I'd like to put forward thoughts under two categories: the first comprises my appreciations for the work that Dr. Lloyd has done; and the second comprises what I'd like to call curiosities—those terms, ideas, and frames in the book that I was following around as a reader, but had a difficult time pinning down.

The first major appreciation is for the framework of Black Natural Law as Lloyd puts it forward. To my mind, his account comprises what I think is the best of the natural law tradition: a certain epistemic openness, a capacious anthropology, and, most of all, the teeth to be politically engaged in our current world. Specifically, Lloyd writes that, human nature—whatever it is—defies our ability to provide a comprehensive definition of it (158-159), and yet, we as embodied beings using reason, emotion, and imagination are able to glimpse enough of it to venture the project of creating norms that bind all of us. But moreover, not all norms are created equal: what comports morally with this human nature can be especially glimpsed by those who are marginalized in a given society, and so it is they who are epistemically privileged in articulating what those norms consist in. And this articulation is one that is not to be made at an intellectual level. Far from that, they demand political engagement. With the cadre of intellectuals that Lloyd investigates—Douglass, Cooper, Du Bois, Martin Luther King, Jr.—we are not bereft of examples.

If I had to say what I liked most about this framework, I'd have to say I like its thirst for justice as well as its resistance to intellectual ossification. In other words, when taken on its own terms, black natural law enacts a certain vigilance—it is suspicious of the "wisdom of the world" as Lloyd puts it—in addition to having a commitment that

depends on intellectual bravery to step out of old frameworks and into new ones as warranted by the intellectual tools we have at our disposal.

Appended to this, I'd also like to appreciate what I think is a great observation that Lloyd makes about our political culture: we value multiculturalism and secularism without necessarily knowing what the true costs of these values are. On the one hand, we celebrate multiculturalism because we believe that we should all live in a world where all of our cultural, ethnic, and racial identities are of equal worth. And so they should be. But in the process, we fall into a colorblindness that disables us from being able to notice how race continues to shape our contemporary environment, and most perilously, disables us from making the observation that there are no neutral cultural vantage point offered as a potential point of integration that does not lift up a particular cultural way of life. Lloyd tells a similar story about secularism, except this time, what our political culture values in this case is a public sphere completely devoid of so called religious ideology, without thinking that this itself is an ideological position that can, in certain forms, preclude engagement from religious actors who seek to advance religiously informed arguments for the common good (152-153).

I'll now name briefly my curiosities, all of presented in a sort of question form. I apologize if my expansion of the question is a bit brief, but I'd be more than willing to clarify what I'm thinking in our common discussion.

First, **is there not a pragmatism that undergirds this articulation of the black natural law when viewed in a theological perspective?** I know that this is a provocative question, insofar as Lloyd himself views pragmatism itself as a problem within a black natural law tradition, but let me proceed in this way. By my reading, Lloyd wants to avoid two theological extremes vis-à-vis the accessibility of the natural law: on the one hand, Lloyd wants to avoid a complete instrumentalization of theological language such that God is invoked only to justify political movements for which their connection to God's reign is left more or less unarticulated (this is what Lloyd chides Adam Clayton Powell for, for example), but, on the other hand, Lloyd wants to avoid a theological account of the black natural law tradition that is sectarian (as Lloyd writes, "The black natural law tradition certainly uses religious language, but it is legible—and persuasive— without commitment to any specific theological belief or participation in any religious practices" (xiv)). The answer would then seem to lie in the middle, but what exactly does this middle look like? For me, it's not exactly clear from Lloyd's treatment of the various protagonists of the black natural law tradition.

For example, if we take theology to mean something as simple as a framework by which the world, God's action within the world, and our responses to those actions are articulated systematically, what would unite these four thinkers together? To give one more permutation, what sort of theological orientation could unite a Baptist preacher and

theologian like Dr. King to someone like Du Bois about whom Lloyd writes the following, “Du Bois writes ‘Goal’ not ‘God,’ but it is ideas that matter, not the words, and these ideas could just as well be expressed in Christian idiom” (78). Does this not sound like a pragmatist theological orientation?

That’s the theological front. Here’s the historical one that asks a similar question: **Is there not a pragmatism that undergirds this articulation of the black natural law when viewed in an historical perspective?** Lloyd’s frames the black natural law tradition within a declension narrative claim emerges in US history in the mid-nineteenth century and continued through the 1960’s before it began to degrade into certain forms: an emotivist form (where emotion is privileged over reason), a rationalist form (where reason is privileged over emotion), and a pragmatist form (where reasons and emotions don’t matter as much as the results that come from them). But is there not another historical account that can make more sense of the language of at least the three protagonists before King—Douglass, Cooper and Du Bois: that account would be to view these three people as transcendentalists. After all, what tied many of them together was their moral optimism as well as their belief that all people are able to discern moral principles by way of their conscience. They also had a suspicion of organized religion, as you point out with all three of these figures. But, if is true, then King emerges as an outlier, and he needs to be reintegrated in a different way. However, if all that matters is their rhetoric, I have a hard time distinguishing this account from someone like Jeff Stout’s, whom Lloyd criticizes as a pragmatist.

My third curiosity asks the following: **What does Lloyd mean by “content” when one conceptualizes human nature?** Lloyd makes it quite clear, for example, that overspecification is a problem—for example, to say that some people are, by nature, slaves—but how exactly does one classify what Lloyd upholds as the hallmarks of human nature: rationality, emotion, and imagination? Is this not “content” when compared to viewing human nature as a “paradox”? Or is there some distinction to be made, perhaps between “content” and “description”? Like I said, I’m just curious!

The next question is this: **If it is true that the black natural law tradition embraces the trajectory of intersectional analysis as exemplified by the work of Anna Julia Cooper, then how is it, as you write, that “the black natural law tradition largely remains silent on such issues as abortion and gay rights” (xi)?** This might be a quibble about wording more than anything else. While it may be the case that some exemplars of the black natural law tradition embraced heterosexist frameworks—Lloyd gives one involving King, for example—why is it not the case that the natural law tradition in this intersectional key provides us with the intellectual wherewithal to say that King was wrong here? Or, perhaps, if this is not a quibble about words, perhaps it’s about what we say about our ethical frameworks. If epistemological privilege in the natural law

tradition lies on the side of the disenfranchised and marginalized, and if we agree that queer persons are marginalized, how can we put forward the conclusion that the black natural law tradition is silent? Is it not truer to say that, in fact, that some exponents have failed to live up to the tradition—something that we can see more clearly with the benefit of time? It's hard also for me to pass by without making the observation that all the people Lloyd critiques for emotivism—Baldwin, Lorde, and hooks—all are black queer persons—and foundational writers within queer theory more broadly. Would a consideration of these thinkers with that aspect of their identity in mind have made a difference?

My final curiosity poses the following question: **How do we contextualize Black Natural Law in the context of Christian moral theories in our contemporary moment?** Lloyd identifies the building blocks of a natural theory as a belief that there is such a thing as human nature, and that, moreover, this nature generates norms that are discernible. The hinge that holds these two beliefs together Lloyd locates in the Christian notion of the *imago dei*. It's possible, however, to subject human nature to a moral analysis via the *imago dei* and generate a perhaps distressing account of natural law. Karl Barth in the third volume of his *Church Dogmatics* does exactly this, for example, by arguing that—whatever is signaled through “natural law”—it all points to the conclusion that the human creature floats incapacitated in moral disaster without divine intervention—and this is a move that is reproduced by other non-Catholic theological ethicists, even as they might do so for different reasons.

It is, however, possible to think about how the natural law tradition has been deployed in the Catholic tradition, arguably the natural law's greatest exponent. In the book, Lloyd criticizes the approaches of conservative Catholic natural lawyers (something that this author would gladly echo), but there is room to contextualize black natural law within the revisionist (liberal) natural law tradition, which recovers from a reading of Thomas Aquinas an anthropology that does not consider the human as solely rational. For example, in Diana Fritz Cates's *Aquinas on the Emotions*, she constructs an anthropology that shows how integral the passions (what we'd call emotions) are constitutive of human nature.

Thank you for your book, and thank you for listening.