

Natural Law in Catholic
Social Teachings

STEPHEN J. POPE

INTRODUCTION

This chapter examines the meaning and uses of natural law within Catholic social teachings. It intends to provide a brief overview of natural law in Catholic social teachings and to inform readers of the issues with which natural law theologians typically grapple. It is organized into three major sections: the historical development of natural law reflection, its evolution in Catholic social teachings, and major challenges it faces in the twenty-first century.

HISTORICAL CONTEXT

We begin with a sketch of the historical origins and development of natural law ethics in order to understand the major influences and sources at work in this feature of Catholic social teachings.

Ancient and Medieval Origins

The remote origins of natural law ethics lie in Greek and Roman philosophy and law. Aristotle spoke of doing the right or the just act. He contrasted what is “just by nature” from what is “just by convention.”¹ In the early second century before the common era, the Romans began to make a critically important distinction

between the civil law (*ius civile*) that pertained to citizens of Rome and the law common to all nations (*ius gentium*) used to govern the peoples of Italy and the Roman provinces. Up until this time, the laws of the Roman state, like that of other ancient laws, applied only to its own citizens. This legal development resonated with a current Hellenistic philosophical and rhetorical distinction between the positive laws governing particular political communities and the natural law that exists everywhere prior to its official enactment by any particular state. The Stoics maintained that moral law is rooted in nature (*physis*) rather than only constructed by convention (*nomos*), and that moral virtues can be identified by reason reflecting on nature. Cicero (106–43 B.C.) understood true law as “right reason in agreement with nature” (*recta ratio naturae congruens*)² and to be universally binding for all places and times.

The Roman jurist Gaius (fl. A.D. 130–180) identified the natural law with the “law of nations” (*ius gentium*).³ The influential legal theorist Ulpian (c. 170–228), however, defined natural law quite differently—as “that which nature teaches all animals” (*id quod natura omnia animalia docet*).⁴ Thus he regarded the natural law not as something only common to all human beings but rather an ordering shared by humans and all other animals, for example,

out of natural law comes marriage and the procreation and rearing of children.⁵ Ambiguity and disagreement among the major legal authorities regarding the relation between the “natural law” and the “law of nations” would be passed on to medieval natural law and from there into Catholic social teachings.

The first Christians saw creation as the reflection of the Creator’s wise governance. Scripture teaches that wisdom “reaches mightily from one end of the earth to the other and she orders all things well” (Wisdom 8:1, NRSV). Early Christian thinkers like the apologists Athenagoras (177) and Justin Martyr (165) found congenial the Stoic notion of a natural moral order grasped by reason and binding on all human beings.⁶ Justin argued in his famous *Dialogue with Trypho* that God instructs every race about the content of justice and that this is why everyone grasps the evil of homicide, adultery, and other sins.⁷

The Church turned to natural law for two principal reasons. First, the central normative document of the faith, the sacred scripture, speaks in many different voices about moral and social issues. It provides neither a moral philosophy nor an extensive body of law with which to govern political communities. The distinguished historian Henry Chadwick actually considered it of “providential importance” that the writers of the New Testament did not attempt to “philosophize.”⁸ The fact that the gospel was not tied to any first-century speculative system, Chadwick pointed out, leaves it free alternatively to criticize and to draw from classical philosophies as needed. Some early Christians hated “the world,” but others sought intellectual resources or “mediating languages” to help them think in a systematic way about the implications of faith for social, economic, and political matters. Natural law provided such a resource, particularly as Christians came to assimilate Roman culture and civil law.⁹

Second, Christians in the Roman Empire, not entirely unlike Christians today, faced the problem of communicating their convictions to citizens who did not necessarily share their religious convictions. Indeed, some were outwardly hostile to them. Natural law provided a

conceptual vehicle for preserving, explaining, and reflecting on the moral requirements embedded in human nature and for expressing these claims to wider audiences. Early Christians drew from St. Paul’s recognition that the Gentiles are able to know divine attributes from what God has made in the creation (Rom. 1:19–21). In what became the scriptural *locus classicus* for the natural law tradition, and a key text for the social encyclicals (e.g., PT 5), Paul observed that when Gentiles observe by nature the prescriptions of the law, they show that “the demands of the law are written in their hearts” (Rom. 2:14–15). Arguing against those who assume that possession of the covenantal law is sufficient, Paul argued that the conscience of the good pagan bears witness to the natural roots of the moral law. On this Pauline basis the great Alexandrian theologian Origen (185–254) could explain how reasonable pagans grasp the binding force of natural equity and the Golden Rule. Even a person who does not believe in Christ, he wrote, “may yet do good works, may keep justice and love mercy, preserve chastity and continence, keep modesty and gentleness, and do every good work.”¹⁰

St. Augustine (354–430), engaged in a protracted anti-Manichean polemic, contrasted the changeable and flawed “temporal law” with the immutable “eternal law” through which God governs all of creation. God orders the material world through the eternal law, which in turn provides the ultimate basis for temporal law. From this root grew the principle used in twentieth-century civil disobedience movements that an unjust law is not binding. Augustine’s tract *Contra Faustum* argued that the eternal law commands human beings to respect the natural order.¹¹ Just as God commanded the fleeing Hebrews to despoil the Egyptians, Augustine argued, so Christians ought to use the riches of pagan philosophy more effectively to preach the gospel.¹²

In the sixth century the first Byzantine emperor Justinian I (483–565) ordered the drafting of the massive *Corpus iuris civilis* to provide legal structures for the empire on the basis of ancient Roman law.¹³ This work became the

most influ
the nine
Codex, a
imperial
textbook
important
tinian sp
famous d
teaches al
identified
law.¹⁴ Jus
other figu
natural la

In the
scholar G
by c. 114
importan
the prom
in 1917. C
ligibility a
to comm
defined n
“Law and
rated Isic
right as t
taught th
contradict

Natura
to accom
have corr
Medieval
(ius) as a
sessed by
has a “rig
guishing
tian thoug
law, but
Hugaccio
expanded
“subjective
defense, n
right of tl
was a prec
subjective
subordinat
in importa

St. The
the most
ethics. He

most influential treatment of Western law until the nineteenth century. The *Corpus* included the *Codex*, a collection and codification of earlier imperial statutes; the *Institutes*, an introductory textbook of law; and the *Digest*, a compilation of important legal opinions of Roman jurists. Justinian sponsored the assimilation of Ulpian's famous definition of natural law as what nature teaches all animals but, in contradiction to him, identified the law of nations with the natural law.¹⁴ Justinian was more responsible than any other figure of the time for the handing down of natural law doctrine into the medieval period.

In the twelfth century the eminent legal scholar Gratian wrote the *Decretum* (completed by c. 1140), which became one of the most important texts on ecclesiastical law up until the promulgation of the Code of Canon Law in 1917. Gratian wanted to bring greater intelligibility and harmony to ecclesiastical law and to communicate it effectively to others. He defined natural law as what is contained in the "Law and the Gospels." The *Decretum* incorporated Isidore of Seville's doctrine of natural right as the law common to all peoples,¹⁵ and taught that any provisions of human law that contradict natural law are "null and void."¹⁶

Natural law doctrine was gradually expanded to accommodate a new recognition of what have come to be called "subjective rights." Medieval canon lawyers began to speak of right (*ius*) as a "liberty," "power," or "faculty" possessed by an individual. A person, for example, has a "right" to marry under the law. Distinguishing natural law from customary law, Gratian thought of "right" primarily as objective law, but his later-twelfth-century followers Huguccio (c. 1180) and Rufinus (c. 1160) expanded the term to include a new notion of "subjective rights," for example, regarding self-defense, marriage, and property (including the right of the poor to sustenance).¹⁷ This usage was a precursor to the development of modern subjective "natural rights," but at the time it was subordinate to duties and considered secondary in importance to the natural law.¹⁸

St. Thomas Aquinas (1225–74) produced the most famous exposition of natural law ethics. He gave law its classical definition as "an

ordinance of reason for the common good, promulgated by him who has care of the community."¹⁹ Thomas regarded law—the "rule and measure of acts"²⁰—as essentially the product of reason rather than the will. He underscored the inherent reasonableness of law rather than its enforcement by means of coercion.

Thomas developed a more systematic treatment of the distinction between different types of law than had any of his predecessors. He used the notion of law analogously to encompass physical, human, and divine affairs. He distinguished (1) the "eternal law" governing everything in the universe, (2) the "divine law" revealed first in the Old Law of the Hebrew Bible and then in the New Law, (3) the "natural law" that sets the fundamental moral standards for human conduct, and (4) the "human law" created by civil authorities who have care for the social order. Because the simple promptings of nature do not suffice to meet the typically very complex needs of human beings, reason is required to penetrate and extend the normative implications of natural law. Natural law requires acts to which nature does not spontaneously incline but which reason identifies as good.²¹

Thomas's synthetic theory of natural law was made possible by his adoption of the newly reintroduced Aristotelian philosophy of nature. Aristotle's *Physics* defined nature as "an intrinsic principle of motion and rest,"²² that is, as *acting for an end* rather than randomly. A being's intrinsic "end" or "nature" is simply "what each thing is when fully developed"²³ and its extrinsic end concerns its proper place within the natural world. Human beings ought to live "according to nature" (*kata physin*),²⁴ that is, in such a way as to fulfill the intrinsic functions or purposes built into the structure of human nature. The intrinsic finality of human nature *inclines*, of course, but by no means *determines*, the will of a free human being to his or her proper end, namely, the human good.

Thomas associated the habit of *synderesis* with the Pauline law "written on the heart" (Rom. 2:15). Practical reason naturally orients each person to the good and away from evil, and so the first principle of practical reason is that we ought to seek good and avoid evil. The

principal injunction “do good and avoid evil” receives concrete specification from natural human inclinations.²⁵ We share with other natural objects the inclination to preserve our existence; we share with other animals biological inclinations to food, water, sex, and the like; and we share within one another rational inclinations to know the truth about God and to live in political community.²⁶ In this way, Thomas coordinated Cicero’s “right reason in agreement with nature” (*recta ratio naturae congruens*)²⁷ with Ulpian’s “what nature teaches to all animals.”²⁸ These levels move from the more elemental to the more distinctively human, with the former taken up and ordered by the latter. This framework later supports John XXIII’s affirmation that “the common good touches the whole man, the need both of his body and his soul” (PT 57). In this way, natural law avoids the two opposite extremes of reductive materialism and otherworldly idealism.

This broad context enables one to make sense of Thomas’s most famous description of the natural law as the “*rational* creature’s participation in the eternal law.”²⁹ The natural law is what governs beings who are rational, free, and spiritual and at the same time material and organic. Thomas understood the philosophical framework for ethics in primarily Aristotelian terms, but its theological framework in primarily Augustinian terms. Thomas concurred with Augustine’s view of the cosmos as a perfectly ordered whole within which the lower parts are subordinated to the higher.³⁰ Augustine regarded the eternal ideas in the mind of God as constituting an immutable order or “eternal law” to which all that exists is subject. Human beings are subject to this order in a rational way, by means of our intelligence and freedom. Indeed, human beings take part in providence by providing for themselves and others and in this way partake in the eternal law in ways unavailable to other animals.

The cardinal virtues empower the person to act naturally and thereby to attain some degree of happiness in this life, but the theological virtues, animated by grace, order the person to the ultimate human end, the beatific vision. The ancient admonishment to “follow nature,”

then, did not prescribe imitating animal behavior but rather required acting in accord with the inner demands of one’s own deepest desire for the good. Because human nature is rational, Thomas pointed out, it is *natural* for each person to take pleasure in the contemplation of truth and in the exercise of virtue.³¹

Later Catholic social teachings also built upon another fundamental element in Thomas’s anthropology: its acknowledgment of the person as naturally social and political.³² We exist by nature as parts of larger social wholes on which we depend for our existence and functioning, and these provide instrumental reasons for participating in political community.³³ Yet political community is also intrinsically valuable as the only context in which we can satisfy our natural inclination to mutual love and friendship. The person cannot be completely subordinated to the group, like the worker bee to the hive, since the person is not ordered to any particular temporal community as the highest end.³⁴ This is not because the person is an isolated monad, but because he or she is a member of a much larger and more important body, the universal community of all creation.³⁵ As ontologically prior, the person is ultimately served by the state rather than vice versa. Natural law thus sets the framework for the rejection of two extremes later opposed by Catholic social teachings: individualism, which values the part at the expense of the whole, and collectivism, which values the whole at the expense of the part.

Thomas interpreted justice in terms of natural ends. Right (*ius*) obtains when purposes are respected and fulfilled, for example, when parents care for their children. He thus understood “right” in human relations, objectively, as “the object of justice” and “the just thing itself,” and not as a claim made by one individual over and against others (right as a moral faculty, the notion of “subjective right”).³⁶ Thus the wrongfulness of the vice of usury, the unjust taking of interest, lies in its violation of the purpose of money,³⁷ and lying because “false signification” violates the natural purpose of human speech.³⁸ More positively, Thomas affirmed the inherent goodness of sexual intercourse when it fulfilled

its natural purposes. Against the dualists of his day, he held that nothing genuinely natural can be innately sinful.³⁹

Natural law learns about natural purposes from a variety of sources, including philosophy and science. Thomas used available scientific analyses of the order of nature to support normative claims regarding the human body,⁴⁰ the creation of women,⁴¹ the nature of the passions,⁴² and the like. Modern moralists criticize this reliance on Ulpian's "physicalism" on the grounds that it gives excessive priority to biological structures at the expense of distinctively rational capacities,⁴³ but at least it made clear that human nature should not be reduced to consciousness, rationality, and will.

Thomas believed the most basic moral standards could be, and in fact were, known by almost everyone. These include, in capsule form, the Golden Rule and, in somewhat more amplified form, the second table of the Decalogue. Yet he thought that revealed divine law was necessary, among other things, to make up for the deficiency of human judgment, to provide certain moral knowledge, especially in concrete matters,⁴⁴ and to give finite human beings knowledge of the highest good, the beatific vision. Reason is competent to grasp the precepts that promote imperfect happiness in this life, both the individual life of virtue and the more encompassing common good of the wider community. It suffers from obvious limitations but it nevertheless has broad competence to grasp the goods proper to human nature and to identify the virtues by which they are attained. Thomas even claimed that there would be no need for divine law if human beings were ordered only to their natural end rather than to a supernatural end.⁴⁵

The Rise of Modern Natural Law

Historians trace the origins of the new modern theory of natural law to a number of major influences too complex to do more than simply acknowledge here. Four factors will be mentioned: nominalism, "second Scholasticism," international law, and the liberal rights theory of Hobbes and his intellectual heirs.

The emergence of nominalism inaugurated a movement away from the Thomistic attempt to base ethics on universal characteristics of human nature. Its shift of attention away from the general to the particular thereby inaugurated a new focus of attention on the individual and his or her subjective rights. The complementary development of voluntarism gave primacy to the will rather than the intellect and to the good, as distinct from the true.⁴⁶

The English Franciscan William of Ockham (c. 1266–1349) replaced the will's finality to the good with a radical freedom to choose between opposites (the so-called freedom of indifference). This led to a new focus on obligation and law and to the displacement of virtue from the center of the moral life.⁴⁷ If God functions with divine "freedom of indifference," then moral obligations are products of the divine will rather than the divine understanding of the human good.⁴⁸ Since God's will is utterly free, God could have decreed, for example, adultery to be morally obligatory. Ockham subtly changed natural law theory by interpreting it in a way that gave new force to the subjective notion of right. He did so in part for practical reasons, both to support Franciscans who wanted to renounce their natural right to property, as well as to defend those who sought moral limits to the power of the pope. Ockham, however, continued to regard subjective right as subordinate to natural law.⁴⁹

The rise of "second Scholasticism" in the Renaissance constituted another factor influencing the development of modern natural law theory. The Spanish Dominican Francisco de Vitoria (1483–1546) developed an account of universal human dignity in the course of mounting arguments to refute philosophical justifications offered for the European exploitation of the native peoples of the Americas. His *De Indis* argued from the basic humanity of the natives to their natural right of control and action (*dominium*) over their own bodies and possessions, the right to self-governance,⁵⁰ and the right to self-defense.⁵¹

The Spanish Jesuit Francisco Suárez (1548–1617), author of the massive *De legibus et legislatore Deo*, contributed significantly to the slow

accretion of voluntaristic presuppositions into the natural law. Suárez understood morality primarily as conformity to law. Since law and moral obligation can only be produced by a will, human nature in itself can only be said to carry natural inclinations to the good but no morally obligatory force. On one level, Suárez concurred with Thomas's judgment that reason can discover the content of the human good, but unlike his famous forbear he held that its morally *binding force* comes only from the will of God.⁵² Suárez moved from this moral voluntarism to develop an account of subjective right as a moral faculty in every individual. He assumed without argument the full compatibility of Thomistic natural law with the newer notion of subjective rights.⁵³

The practical need to obtain greater stability in relations among the newly established European nation-states provided a third major stimulus for the development of modern natural law theory. The viciousness and length of the wars of religion in the sixteenth and seventeenth centuries underscored the need for a theory of law and political organization able to transcend confessional boundaries.

Dutch Protestant jurist Hugo Grotius (1585–1645), known as the “Father of International Law,” constructed a version of rights-based natural law in order to provide a framework for ethics in his intensely combative and religiously divided age. Grotius's early work was occasioned by the seizure of a ship at sea in territory lying outside the boundaries controlled by law. His major work, *De iure belli et pacis* (1625), offered the first systematic attempt to regulate international conflict by means of just war criteria; many of its provisions were incorporated into later Geneva conventions.

Grotius understood natural law largely in terms of rights. In this way he anticipated developments in the twentieth century. Following the Spanish Scholastics, he understood rights to be qualities possessed by all human beings as such rather than as members of this or that particular political community. He held that the norms of natural law are established by reason and are universal: they bind morally even if, though impossible (*etiamsi daremus*),

there were no God—a claim found neither in the earlier moral theology of Thomas Aquinas nor in later Catholic social teachings. Protection of these norms is morally necessary for any just social order. From this theoretical principle he could derive the practical conclusion that even parties at war are obligated to respect the rights of their enemies.

Natural law theories evolved in directions Grotius never intended. They came to regard the human predicament as essentially conflicted, apolitical, and even antisocial. The Peace of Westphalia (1648) established the modern system of international politics centered on the sovereign nation-state, the context for the political reflections of later Catholic social teachings in documents like *Pacem in terris* and *Dignitatis humanae*. Though Grotius was a sincere Christian with no desire to secularize natural law theory, he believed for the sake of agreement that it was necessary to abandon speculation on the highest good, the ideal regime, or anything more elevated than a minimal version of Christian belief. This period generated the first proposals to approach morality from a purely empirical perspective in order to establish a “science of morals.” From this point on, the major theoreticians of natural law were lawyers and philosophers rather than theologians. Through the influence of Grotius, natural law was established as the dominant mode of moral reflection in the seventeenth and eighteenth centuries.

A fourth and definitively modern interpretation of natural law was developed by Thomas Hobbes (1588–1679) and his followers. Hobbes produced the first fully modern theory of rights-based natural law. His originality lay in part in the way he attempted to begin his analysis of human nature from the “new science” and to break completely with the classical Aristotelian teleological philosophy of nature that had permeated the writings of the “schoolmen.” Modern science from the time of Bacon conceived of nature as a machine that can be analyzed sufficiently by reducing its wholes to simple parts and then investigating how they function via efficient and material causality.⁵⁴ Following Galileo, Hobbes held that all matter was in motion and would con-

tinue in motion unless resisted by other forces. He strove to apply the rules of Euclidean geometry and physics to human behavior for the joint purposes of explanation and control. Modern science was concerned with uniformity of operations or "natural necessity," which stood in sharp contrast to the classical notion of nature composed of Aristotelian finalities that act only "for the most part." "Only in a universe empty of *telos*," explains Michael Sandel, "is it possible to conceive a subject apart from and prior to its purposes and ends. Only a world ungoverned by a purposive order leaves principles of justice open to human construction and conceptions of the good to individual choice."⁵⁵ The coupling of the new mechanistic philosophy of nature with a voluntaristic philosophy of law led to a radical recasting of the meaning of natural law.

Politics and ethics, like science, seek to conquer and control nature. Hobbes held that each individual is first and foremost self-seeking, not naturally inclined to "do good and avoid evil." We are not naturally parts of larger social wholes, but rather artificially connected to them by choices based on calculating self-interest. He abandoned the classical admonition to "follow nature" and to cultivate the virtues appropriate to it. There are accordingly no natural duties to other people that correspond to natural rights. The "right of nature" is prior to the institution of morality. The "Right of Nature" (*ius naturale*) is "the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing any thing, which in his own Judgment, and Reason, hee shall conceive to be the aptest means thereunto."⁵⁶ In stark contrast to Thomas Aquinas, Hobbes separated right (*ius*) from law (*lex*): "right, consisteth in liberty to do, or forbear; whereas Law, determineth, and bindeth to one them; so that Law, and Right, differ as much, as Obligation, and Liberty."⁵⁷ By nature individuals possess liberty without duty or intrinsic moral limits. Nothing could be further from Hobbes's view of humanity than the presumption of early Catholic social teachings that each person is, as Leo

XIII put it, "the steward of God's providence, [and expected] to act for the benefit of others" (RN 22).

Hobbes derived a set of nineteen "natural laws" from the foundation of self-preservation: to seek peace, form a social contract, keep covenants, and so on. Only the will of the sovereign can impose political order on individuals who are naturally in a state of war with one another. Law is, and ought to be, nothing but the expression of the will of the sovereign. There is no higher moral law outside of positive law and the social contract, hence Hobbes's rather chilling inference that "no law can be unjust."⁵⁸

Lutheran Samuel von Pufendorf (1632–94) is sometimes known as the "German Hobbes." *De iure naturae et gentium* (1672) followed the Hobbesian logic that individuals enter into society to obtain the security and order necessary for individual survival. Pufendorf believed nature to be fundamentally egoistic and therefore only made to serve higher purposes by the force of external compulsion. If the natural order is utterly amoral, God's will determines what is good and what is evil and then imposes it on humanity by divine command. We are commanded by God to be sociable and to obey out of fear of punishment. (Natural law would collapse, Pufendorf believed, if theism were undermined.) Morality here is thus anything but living "according to nature"—on the contrary, natural law ethics combats the utter amorality of nature. Pufendorf, like Grotius, sought to provide international norms on the basis of natural law moral principles that are universally valid and acceptable whatever one's religious confession. It led the way to later attempts to construct a purely secular natural law moral theory.

John Locke (1632–1704), especially in his *Essays on the Law of Nature* (1676) and *Second Treatise on Civil Government* (1690), followed his predecessors' interest in limiting quarrels by establishing laws independent of both sectarian religious beliefs and controversial metaphysical claims about the highest good. Locke agreed with Hobbes that natural right exists in the presocial state of nature. Human beings abandon the anarchic state of nature and enter into

the social contract for the sake of greater security. The purpose of government is then to protect "Lives, Liberties, and Estates."⁵⁹ When it fails to do so, the people have a right to seek a better regime. Lockean natural law functioned as the "foundation" of positive laws, the first of which is that "all mankind" is to be preserved,⁶⁰ and positive laws draw their binding power from this foundation.⁶¹

Modern natural lawyers came to agree on the individualistic basis of natural rights and their priority to natural law. Lockean natural right grounds religious toleration, a position only acceptable to Catholic social teachings (though on different grounds) with the promulgation of *Dignitatis humanae* in 1965. Since moral goodness was increasingly regarded as a private matter—what is good for one person might be bad for another—society could be expected only to protect the right of individuals to make up their own minds about the good life. The gradual dominance of modern ethics by legal language, and the eclipse of appeals to virtue, had an enormous influence on early Catholic social teachings.⁶²

Lockean natural law had a profound influence on Rousseau, Hume, Jefferson, Kant, Montesquieu, and other influential modern social thinkers, but leading philosophers came in turn to subject modern natural law to a variety of significant criticisms. Immanuel Kant (1724–1805), to mention one important figure, regarded traditional natural law theory as fatally flawed in its understanding of both "nature" and "law." He judged Aristotelian philosophy of nature and ethics to be completely inadequate: if "nature" is "the sum of the objects of experience" that can be perceived through the senses and subject to experimentation by the natural sciences,⁶³ then it cannot generate moral obligations. If "ethics" is concerned about good will, then it cannot be built upon the foundation of human happiness or flourishing.

Kant regarded classical natural law as suffering from the fatal flaw of "heteronomy," that is, of leaving moral decisions to authority rather than requiring individuals to function as autonomous moral agents.⁶⁴ Kant held that

since the will alone has moral worth, its rightness depends on the conformity of the agent's will to reason rather than on the practical consequences of his or her acts or their ability to produce happiness. An animal conforms to nature because it has no choice but to act from instinct, but the rational agent acts from the dictates of reason as determined by the "categorical imperative." Kant's understanding of the rational agent provided a powerful basis for an ethic based on "respect for persons," a doctrine of individual rights, and an affirmation of the dignity of the human person. Strains of Kant's ethics, mediated through both the negative and the positive ways in which it shaped phenomenology and personalism, came to influence the ethic of John Paul II. One does not find in the writings of John Paul II an agreement with Kant's belief in the sufficiency of reason, of course, but there is a recurrent emphasis on the dignity of the person, on the right of each person to "respect," and on the absolute centrality of human rights within any just social order.

In the nineteenth century, natural law was superseded by the utilitarianism of Jeremy Bentham (1748–1832) and John Stuart Mill (1806–73). Bentham attempted to base ethics on an account of nature—"nature has placed mankind under the governance of two sovereign masters, pain and pleasure"⁶⁵—but he was adamantly opposed to natural law and dismissed natural rights as "fictions" that present obstacles to social reform. The primary opposition to natural law in the past two centuries has come from various forms of positivism that regarded morality as an attempt to codify and justify conventional social norms.

CATHOLIC SOCIAL TEACHINGS

Catholic social teachings from Leo XIII through John Paul II have been influenced in various ways, either by way of agreement or by way of disagreement, by these natural law traditions. They have selectively incorporated, sometimes to the consternation of purists, both modern natural rights theories as well as the older views of medieval jurists and Scholastic

theologians. For Catholic social teaching has two main periods: the first period, from the fourteenth to the sixteenth centuries, drew from the medieval philosophical and theological tradition; the second, which employed natural law explicitly, direct, and philosophically, drew from the literature from the late nineteenth century. It has been explicitly biblical more often from the late nineteenth century than it assumes the existence of God in a more restricted fashion. Its philosophy sought to combine neoscholastic philosophy, and personalism, and phenomenology.

The term *neoscholastic* philosophical movement of the twentieth century Scholastics and the late Jesuit and Dominican tradition could counter-regulate.

Leo XIII

The first encyclical *Aeterni patris* (August 1878) of the Church "to restore the throne of St. Thomas."⁶⁶ Leo XIII's papacy about the century from socialism and the rise of these ideologies. Higher powers, protection of all individuals, of man and wife, and property.

Leo XIII's 1885 *The Christian Constitution* as a natural law extreme liberals who evil.⁶⁷ Natural law obligations. Arguing monarchists opposed and the disciples of the French jour-

theologians. For purposes of convenience, Catholic social teachings are often divided into two main periods: one preceding *Gaudium et spes* and the second following from it. Literature from the former period was primarily philosophical and its theological claims generally drew from the doctrine of creation. It employed natural law argumentation in an explicit, direct, and fairly consistent manner; its philosophical framework was neoscholastic. Literature from the more recent period has been explicitly biblical and its claims are drawn more often from the doctrine of Christ; it presumes the existence of the natural law but uses it in a more restricted, indirect, and selective fashion. Its philosophical matrix has attempted to combine neoscholasticism with continental philosophy, and particularly existentialism, personalism, and phenomenology.

The term *neoscholasticism* refers to a philosophical movement in the nineteenth and early twentieth centuries to return to the medieval Scholastics and their commentators (particularly Jesuit and Dominican) in order to provide a comprehensive philosophical system that could counter regnant secular philosophies.

Leo XIII

The first encyclical of Leo XIII (1878–1903), *Aeterni patris* (August 4, 1879), called on the Church “to restore the golden wisdom of St. Thomas.”⁶⁶ Leo was concerned from early in his papacy about the danger posed to civil society from socialism and communism. Adherents of these ideologies, he thought, refuse to obey higher powers, proclaim the absolute equality of all individuals, debase the natural union of man and wife, and assail the right to private property.

Leo XIII’s 1885 encyclical *Immortale dei* (*On the Christian Constitution of States*) justified government as a natural institution against those extreme liberals who regarded it as a necessary evil.⁶⁷ Natural law gives the state certain moral obligations. Arguing against both the Catholic monarchists opposed to the French Republic and the disciples of the excommunicated egalitarian French journalist Robert Felicité de

Lamennais (1782–1854), Leo insisted that natural law does not dictate one special form of government. Each society must determine its own political structures to meet its own needs and particular circumstances as long as they “bear in mind that God is the paramount ruler of the world, and must set Him before themselves as their exemplar and law in the administration of the State.”⁶⁸ Against militant secular liberalism, Leo regarded atheism as a crime and support for the one true religion a moral requirement imposed on the state by natural law. True freedom is “freedom from error” and the modern freedoms of speech, conscience, and worship must be carefully interpreted. The Church is concerned with the salvation of souls, and the state with the political order, but both must work for the true common good.

Leo’s 1888 encyclical *Libertas praestantissimum* (*The Nature of Human Liberty*) lamented forgetfulness of the natural law as a cause of massive moral disorder.⁶⁹ It singled out for particular criticism all forms of liberalism in politics and economics that would replace law with unregulated liberty on the basis of the principle that “every man is the law to himself.”⁷⁰ Proper understanding of freedom and respect for law begin with recognition of God as the supreme legislator. Free will must be regulated by law, “a fixed rule of teaching what is to be done and what is to be left undone.”⁷¹ Reason “prescribes to the will what it should seek after or shun, in order to the eventual attainment of man’s last end, for the sake of which all his actions ought to be performed.”⁷² The natural law is “engraved in the mind of every man” in the command to do right and avoid evil; each person will be rewarded or punished by God according to his or her conformity to the law.⁷³

Leo applied these principles to the “social question” in *Rerum novarum* (1891). The destruction of the guilds in the modern period left members of the working class vulnerable to exploitation and predatory capitalism. The answer to this injustice, Leo held, included both a return to religion and respect for rights—private property, association (trade unions), a living wage, reasonable hours, sabbath rest, education, family life—all of which

TEACHINGS

from Leo XIII been influenced in agreement or by the natural law tradition incorporated, on of purists, both ies as well as the sts and Scholastic

are rooted in natural law. Leo countered socialism, his major *bête noire*, with a threefold defense of private property. First, the argument from dominion (RN 6) echoes some of the language of the *Summa theologiae*, though without Thomas's emphasis on "use" rather than "ownership."⁷⁴ The second argument is based on the worker leaving "an impress of his personality" (RN 9) and resembles that found in Locke's *The Second Treatise of Government*.⁷⁵ The third and final argument bases private property on natural familial duties (RN 13); it is taken from Aristotle.⁷⁶

The basic welfare of the working class is not a matter of almsgiving but of distributive justice, the virtue by which the "ruler" properly assigns the benefits and burdens to the various sectors of society (RN 33). Justice demands that workers proportionately share in the goods that they have helped to create (RN 14). The Leonine model of the orderly society was taken from what he took to be the order of nature—a position that had been abandoned by modern natural lawyers. Assuming a neoscholastic rather than Darwinian view of the natural world, Leo held that nature itself has ordained social inequalities. He denounced as foolish the utopian belief in social leveling, that is, nature is hierarchical and "all striving against nature is in vain" (RN 14). In response to the class antagonisms of the dialectical model of society, Leo offered an organic model of society, inspired by an image of medieval unity, within which classes live in mutually interdependent order and harmony. "Each needs the other: capital cannot do without labor, nor labor without capital" (RN 19; cf. LE 12). Observation of the precepts of justice would be sufficient to control social strife, Leo argued, but Christianity goes further in its claim that rich and poor should be bound to each other in friendship.

Natural law gives responsibilities to, but imposes limits on, the state. The state has "a special responsibility to protect the common good" and "to promote to the utmost the interests of the poor." The end of society is "to make men better," so the state has a duty to promote religion and morality (RN 32). Since the family is prior to the community and the

state (RN 13), the latter have no sovereign control over the former. Anticipating Pius XI's "principle of subsidiarity" (QA 79–80), Leo taught that the state must intervene whenever the common good (including the good of any single class) is threatened with harm and no other solution is forthcoming (RN 36).

Pius XI

Pius XI (1922–39) wrote a number of encyclicals calling for a return to the proper principles of social order. In 1931, the "Fortieth Year" after *Rerum novarum*, he issued *Quadragesimo anno*, usually given the English title, *On Reconstructing the Social Order*. Pius XI used natural law to back a set of rights that were violated by fascism, Nazism, and communism. Rights were also invoked to underscore the moral limits to the power of the state. The right to private property, for example, comes directly from the Creator so that individuals can provide for themselves and their families and so that the goods of creation can be distributed throughout the entire human family. State appropriation of private property in violation of this right, even if authorized by positive law, contradicts the natural law and therefore is morally illegitimate.

Natural law includes the critically important "principle of subsidiarity." Based on the Latin *subsidium*, "support" or "assistance," subsidiarity holds that "one should not withdraw from individuals and commit to the community what they can accomplish by their own enterprise and industry" (QA 79).⁷⁷ Subsidiarity has a twofold function: negatively, it holds that high-level institutions should not usurp all social power and responsibility, and positively, it maintains that higher-level institutions need to support and encourage lower-level institutions. More "natural" social arrangements are built around the primary relations of marriage and family, and intermediate associations like neighborhoods, small businesses, and local communities. These primary and intermediate associations must help themselves and contribute to the common good. What parades as industrial progress can in fact destroy the social

fabric. When it accords public authority works requirements of the com- met. Natural law challe- ism as well as socialism not unjustly deprive ci- property, it ought to b- into harmony with the- good. Nature strives t- whole for the good of b-

Pius XI's *Casti con-* 1930), usually translat- *riage*,⁷⁸ made more exp- law than did *Quadragesi-* this document gives pr- about specific classes of- tion, artificial birth con- XI condemned artificial- grounds that it is "intrin- The "conjugal act" is des- creation, and the delibe- this purpose is "intrinsic- tion of this natural or- nature and a self-destruct- the will of the Creator. I- to destroy or mutilate th- other way render themse- ural functions, except w- can be made for the good- Because human beings- marriage relations are n- tracts that can be dissol- cannot be permitted by- harmful effects on both i- the entire social order.⁸²

While not usually co- ing," *Casti connubii* had- political implications. Du- cate the Nazis passed the- tion of Hereditary Hea- calling for those deterri- eight categories of here- from schizophrenia to a- compulsory sterilization; castration of "habitual of- morals" (including the ci- tion"); and the Nurember- "Law for the Protection of- German Honor" (1935).

fabric. When it accords with the natural law, public authority works to ensure that the true requirements of the common good are being met. Natural law challenges radical individualism as well as socialism. While the state may not unjustly deprive citizens of their private property, it ought to bring private ownership into harmony with the needs of the common good. Nature strives to harmonize part and whole for the good of both.

Pius XI's *Casti connubii* (December 31, 1930), usually translated *On Christian Marriage*,⁷⁸ made more explicit appeals to natural law than did *Quadragesimo anno*. Natural law in this document gives precise ethical judgments about specific classes of acts such as sterilization, artificial birth control, and abortion. Pius XI condemned artificial contraception on the grounds that it is "intrinsically against nature." The "conjugal act" is designed by God for procreation, and the deliberate attempt to thwart this purpose is "intrinsically vicious."⁷⁹ Violation of this natural ordering is an insult to nature and a self-destructive attempt to thwart the will of the Creator. Individuals "are not free to destroy or mutilate their members, or in any other way render themselves unfit for their natural functions, except when no other provision can be made for the good of the whole body."⁸⁰ Because human beings have a social nature, marriage relations are not simply private contracts that can be dissolved at will.⁸¹ Divorce cannot be permitted by civil law because of its harmful effects on both individual children and the entire social order.⁸²

While not usually considered "social teaching," *Casti connubii* had powerful social and political implications. During Pius XI's pontificate the Nazis passed the "Law for the Protection of Hereditary Health" (July 14, 1933), calling for those determined to have one of eight categories of hereditary illness (ranging from schizophrenia to alcoholism) to undergo compulsory sterilization; a law authorizing the castration of "habitual offenders against public morals" (including the charge of "racial pollution"); and the Nuremberg Laws, including the "Law for the Protection of German Blood and German Honor" (1935). Between 1934 and

1939 about 400,000 people were victims of forced sterilization. At the time, natural law faced its most compelling opponent in racist naturalism.⁸³ Advocates of these laws justified them through a social Darwinian reading of nature: individuals and groups compete against one another and have variable worth. Only the strongest ought to survive, reproduce, and achieve cultural dominance. Hitler's brutal view of nature reinforced his equally brutal view of humanity: "He who wants to live should fight, therefore, and he who does not want to battle in this world of eternal struggle does not deserve to be alive!"⁸⁴

Pius XI condemned as a violation of natural right both the practice of forced sterilization⁸⁵ and the policy of state prohibition of marriage to those at risk for bearing genetically defective children. Those who do have a high likelihood of giving birth to genetically defective children ought to be persuaded not to marry, argued the pope, but the state has no moral authority to restrict the natural right to marry.⁸⁶ He invoked Thomas's prohibition of the maiming of innocent people to support a right to bodily integrity that cannot be violated by the state for any utilitarian purposes, including the desire to avoid future social evils.⁸⁷

Pius XII

Pius XII (1930–58) continued his predecessor's criticism of fascism and totalitarianism on the twofold ground that they attack the dignity of the person and overextend the power of the state. He was the first pope to extend Catholic social teaching beyond the nation-state and into a broader, more international context. His first encyclical, *Summi pontificatus* (October 27, 1939), attacked Nazi aggression in Poland.⁸⁸ Before becoming pope, Pacelli had a hand in formulating Pius XI's 1937 denunciation of Nazism, *Mit Brennender Sorge*.⁸⁹ This encyclical invoked the standard argument that positive law must be judged according to the standards of the natural law to which every rational person has access.⁹⁰ *Summi pontificatus* attacked Nazi racism for "forgetfulness of that law of human solidarity and charity which is dictated

and imposed by our common origin, and by the equality of rational nature in all men, to whatever people they belong, and by the redeeming Sacrifice offered by Jesus Christ on the Altar of the Cross."⁹¹ Human dignity comes not from blood or soil but, Pius XII argued, from our common human nature made in the image of God. The state must be ordered to the divine will and not treated as an end in itself. It must protect the person and the family, the first cell of society.

Pius XII had initially continued Pius XI's suspicion of liberalism and commitment to the ideal of a distinctive Catholic social order grounded in natural law, but he was more concerned about the dangers of communism than those of fascism and Nazism. The devastation of the war, however, gradually led him to an increased appreciation for the moral value of liberal democracy. His Christmas addresses called for an entirely new social order based on justice and peace. His 1944 Christmas address in particular acknowledged the apparent reasonableness of democracy as the political system best suited to protect the dignity of the person.⁹² This step toward representative democracy, held at arm's length by previous popes, marked the beginning of a new way of interpreting natural law. It signaled a shift away from his immediate predecessor's organicist vision of the natural law with its corporatist model for the rightly ordered society. Since democracy has to allow for the free play of ideas and arguments, even this modest recognition of the moral superiority of democracy would soon lead the church to abandon policies of censorship in *Pacem in terris* (1963) and established religion in *Dignitatis humanae* (1965).

John XXIII

Pope John XXIII (1958–63) employed natural law in his attempt to address the compelling international issues of his day. *Mater et magistra*, his encyclical concerned with social and economic justice, repeated the fundamental teachings of his predecessors regarding the social nature of the person, society as oriented to civic friendship, and the state's obligation to promote

the common good, but he did so by creatively wedding rights language with natural law.

Like his predecessor, John XXIII offered a philosophical analysis of the moral purposes that ought to govern human affairs, from interpersonal to international relations. He spoke of the "person" not as a unified Aristotelian substance composed of matter and substantial form with faculties of knowing and willing, but as a bearer of rights as well as duties. The *imago Dei* grounds a set of universal and inviolable rights and a profound call to moral responsibility for self and others. Whereas Leo XIII adopted the notion of rights within a neoscholastic vision that gave primacy to the natural law, John XXIII meshed the two languages in a much more extensive way and accorded much more centrality to the notion of human rights.⁹³

Individual rights must be harmonized with the common good, "the sum total of those conditions of social living whereby men are enabled more fully and readily to achieve their own perfection" (MM 65; also PT 58). This implies support for wider democratic participation in decision making throughout society, a positive encouragement of "socialization" (MM 59), and a new level of appreciation for intermediary associations (PT 24). These emphases from the natural law tradition provide an important corrective to the exaggerated individualism of liberal rights theories. Interdependence is more pronounced in John than independence. Moral interdependence is not only to characterize relations within particular communities, but also the relations of states to one another (see PT 83). International relations, especially to resolve these conflicts, must be conducted with a desire to build on the common nature that all people share.

John XXIII's most famous encyclical, *Pacem in terris*, developed an extensive natural law framework for human rights as a response to issues raised in the Cuban missile crisis. John developed rights-based criteria for assessing the moral status of public policies. He applied them to particular questions regarding the foreign policies of states engaged in the cold war, and specifically to the work of international

he did so by creatively
with natural law.

John XXIII offered a
the moral purposes
an affairs, from inter-
relations. He spoke of
fied Aristotelian sub-
tatter and substantial
wing and willing, but
ll as duties. The *imago*
versal and inviolable
to moral responsibil-
Whereas Leo XIII
of rights within a
gave primacy to the
meshed the two lan-
extensive way and
rality to the notion of

be harmonized with
im total of those con-
; whereby men are
adily to achieve their
5; also PT 58). This
democratic participa-
throughout society, a
f "socialization" (MM
ppreciation for inter-
24). These emphases
radition provide an
he exaggerated indi-
theories. Interdepen-
nced in John than
terdependence is not
ions within particular
relations of states to
) . International rela-
these conflicts, must
sire to build on the
eople share.

rious encyclical, *Pacem*
extensive natural law
ghts as a response to
in missile crisis. John
criteria for assessing
c policies. He applied
ons regarding the for-
gaged in the cold war,
work of international

agencies, arms control and disarmament, and,
of course, positive human rights legislation.
The key principle of *Pacem in terris* is that "any
human society, if it to be well ordered and pro-
ductive, must lay down as a foundation this
principle, namely, that every human being is a
person, that is, his nature is endowed with
intelligence and free will. Indeed, precisely
because he is a person he has rights and obliga-
tions flowing directly and simultaneously from
his very nature. And as these rights are univer-
sal and inviolable so they cannot in any way be
surrendered" (PT 9).

Like Grotius, John XXIII believed that nat-
ural law provides a universal moral charter that
transcends particular religious confessions. He
also believed with Thomas Aquinas and Leo
that the human conscience readily identifies
the order imprinted by God the Creator into
each human being. John XXIII was in general
more positively inclined to the culture of his
day than were Leo XIII and Pius XI to theirs,
yet all affirmed that reason can identify the
dignity proper to the person and acknowledge
the rights that flow from it. Protestant ethicists
lamented John's high level of confidence in
moral reason, optimism about historical devel-
opments, and tendency not fully to face con-
flicting values and interests.⁹⁴

John XXIII was the first pope to interpret
natural law in the context of genuine social and
political pluralism and to treat human rights as
the standard against which every social order is
evaluated. His doctrine of human rights pro-
posed what David Hollenbach calls "a norma-
tive framework for a pluralistic world."⁹⁵ It
represented a significant shift away from a nat-
ural law ethic promoting a specific model of
society to one acknowledging the validity of
multiple valid ways of structuring society pro-
vided they pass the test of human rights.⁹⁶ This
expansion set the stage not only for distin-
guishing one culture from another but also for
distinguishing one culture from human nature
as such. *Pacem in terris* signaled a dawning
recognition of the need for a moral framework
that does not simply impose one particular and
culturally specific interpretation of human
nature onto all cultures.

John XXIII's position resonated with that
developed by John Courtney Murray, for whom
natural law functioned both to set the moral
criteria for public policy debate and to provide
principles for the development of an informed
conscience. What Murray called the "tradition
of reason" maintained that human reason can
establish a minimum moral framework for
public life that can provide criteria for assessing
the justice of particular social practices and
civil laws.

The development of the just war theory pro-
vides a helpful example of how this approach to
natural law functions. It provides criteria for
interpreting and analyzing the morality of
aggression, noncombatant immunity, treatment
of prisoners of war, targeting policies, and the
like. Though the origin of the just war theory
lay in antiquity and medieval theology, its prin-
ciples were further developed by international
law in the seventeenth and eighteenth cen-
turies, and refined by lawyers, secular moral
philosophers, and political theorists in the
twentieth century. It continues to be subject to
further examination and application in light of
evolving concerns about humanitarian inter-
vention, preemptive strikes against terrorists,
and uses of weapons of mass destruction. The
danger that it will be used to rationalize deci-
sions made on nonmoral grounds is as real
today as it was in the eighteenth century, but
the "tradition of reason" at least offers some
rational criteria for engaging in public debate
over where to draw the ethical line between
what is ethically permissible and what is not.

Vatican II: Gaudium et spes

John XXIII's attempt to "read the signs of the
times"⁹⁷ was adopted by Vatican II (1962–65).
Gaudium et spes began by declaring its intent to
read "the signs of the times" in light of the
gospel. These simple words signaled a very fun-
damental transformation of the character of
Catholic social teachings that took place at the
time. We can mention briefly four of its impor-
tant features: a new openness to the modern
world, a heightened attentiveness to historical
context and development, a return to scripture

and Christology, and a special emphasis on the dignity of the person.

First, the Council's openness to the modern world contrasted with the distance and sometimes strong suspicions of popes earlier in the century. It recognized "the proper autonomy of the creature," that "by the very nature of creation, all things are endowed with their own solidity, truth, and goodness, their own laws and logic" (GS 36). This fundamental affirmation of "created autonomy" expressed both the Council's reaffirmation of the substance of the classical natural law tradition and its ability to distinguish the core of the vital tradition from its naïve and outmoded particular expressions.⁹⁸ This principle led to the admission that "the church herself knows how richly she has profited by the history and development of humanity" (GS 44).

Second, the Council's use of the language of "times" signaled a profound attentiveness to history.⁹⁹ This focus was accompanied by a new sensitivity to possibilities for change, pluralism of values and philosophies, and willingness to acknowledge the deep social and economic roots of social divisions (see GS 63). The natural law theory employed by Catholic social teachings up to the Council had been crafted under the influence of ahistorical continental rationalism. The kind of method employed by Leo XIII and Pius XI developed a modern "morality of obligation" having its roots in the Council of Trent and the subsequent four centuries of moral manuals.¹⁰⁰ Whereas Leo tended to attribute philosophical and religious disagreements to ignorance, fear, faulty reasoning, and prejudice, the authors of *Gaudium et spes* were more attuned to the fact that not all human beings possess a univocal faculty called "reason" that leads to identical moral conclusions.

Third, a new awareness of historicity necessarily encouraged a deeper appreciation of the biblical and Christological identity of the Church and Christian life. Openness to engage in dialogue with the modern world (*aggiornamento*) was complemented by a "return to the sources" (*ressourcement*), especially the Word of God. The new biblical emphasis was reflected in the profoundly theological understanding of

human nature developed by *Gaudium et spes*, or, more precisely, a "Christologically centered humanism."¹⁰¹ Neoscholastic natural law tended to rely on the theology of creation but the Council taught that the inner meaning of humanity is revealed in Christ: "The truth," they wrote, "is that only in the mystery of the incarnate Word does the mystery of man take on light. . . . Christ, the final Adam, by the revelation of the mystery of the Father and His love, fully reveals man to man himself and makes his supreme calling clear. . ." (GS 22; see also GS 10, 38, and 45). *Gaudium et spes* thus focused on relating the gospel, rather than applying "social doctrine," to contemporary situations.¹⁰²

The new emphasis on the scriptures led to a significant departure from the usual neoscholastic philosophical framework of Catholic social teaching. The moral significance of scripture was found not in its legal directives as "divine law" but in its depiction of the call of every Christian to be united with Christ and actively to participate in the social mission of the Church. The Council's "turn to history" encouraged a more existential understanding of the concrete dynamics of grace, nature, and sin in daily life, and away from the abstract neoscholastic tendency to place nature and grace "side by side."¹⁰³ Philosophical argumentation was to be balanced by a more theologically focused imagination, policy analysis with prophetic witness, and deductive logic with appeals to the concrete struggles of the Church.

Fourth, the council fathers continued John XXIII's focus on the dignity of the person, which they understood not only in terms of the *imago Dei* of Genesis but also, as we have seen, in light of Jesus Christ. The doctrine of the incarnation generates a powerful sense of the worth of each person. The Christian moral life is not simply directed by "right reason" but also by conformity to the paschal mystery. Instead of drawing on "divine law" to confirm conclusions drawn from natural law reasoning (as in RN 11), the Word of God provides the starting point for discernment, the moral core of ethical wisdom, and the ultimate court of appeal for Christian ethical judgment.

Focus on the dignity of the person was naturally accompanied by greater attention to conscience as a source of moral insight. Placed in the context of sacred history, human experience reinforces the claim that we are caught in a "dramatic struggle between good and evil." Acknowledging the dignity of the individual conscience encouraged the Church to endorse a more inductive style of moral discernment than was typically found in the methodology of neoscholastic natural law.¹⁰⁴ It accorded the laity greater responsibility for their own spiritual development and encouraged greater moral maturity on their part. In virtue of their baptism, all Christians are called to holiness. The laity was thus no longer simply expected to implement directives issued by the hierarchy. On the contrary, "the task of the *entire* People of God [is] to hear, distinguish and interpret the many voices of our age, and to judge them in light of the divine word" (GS 44, emphasis added; see also MM 233–60). Out of this soil grew the new theology of liberation in Latin America.

The council fathers did not reject natural law, but they did subsume it within a more explicitly Christological understanding of human nature. Standard natural law themes were retained. "In the depths of his conscience, man detects a law which he does not impose upon himself, but which holds him to obedience" (GS 16). Every human being is obliged to conform to "the objective norms of morality" (GS 16). Human behavior must strive for "full conformity with human nature" (GS 75). All people, even those completely ignorant of scripture and the Church, can come to some knowledge of the good in virtue of their humanity. "All this holds good not only for Christians, but for all men of good will in whose hearts grace works in an unseen way" (GS 22).

The council fathers placed great emphasis on the dignity of the person, but like John XXIII they understood dignity to be protected by human rights, and human rights to be rooted in the natural law. As Jacques Maritain wrote: "The dignity of the human person? The expression means nothing if it does not signify

that, by virtue of the natural law, the human person has the right to be respected, is the subject of rights, possesses rights."¹⁰⁵ Dignity also issues in duties and the duties of citizenship are exercised and interpreted under the influence of the Christian conscience.

The biblical tone and framework of *Gaudium et spes* displayed an understanding of natural law rooted in Christology as well as in the theology of creation. The council fathers gave more credit to reason and the intelligibility of the good than Protestant critics like Barth would ever concede,¹⁰⁶ but they also indicated that natural law could not be accurately understood as a self-sufficient moral theory based on the presumed superiority of reason to revelation. Just as faith and intelligence are distinct but complementary powers, so scripture and natural law are distinct but harmonious components of Christian ethics. The acknowledgment of the authority of scripture helped to build ecumenical bridges in Christian ethics.

The council fathers knew that practical reasoning about particular policy matters need not always appeal explicitly to Christ. Yet they also held that Christ provides the most powerful basis for moral choices. Catholic citizens *qua* citizens, for example, can make the public argument that capital punishment is immoral because it fails to act as a deterrent, leads to the execution of innocent people, and legitimates the use of lethal force by the state against human beings. Yet Catholic citizens *qua* citizens will also understand capital punishment more profoundly in light of Good Friday.

The influence of *Gaudium et spes* was reflected several decades later in the two most well-known U.S. bishops' pastorals, *The Challenge of Peace* (1983) and *Economic Justice for All* (1986). The process of drafting these pastoral letters involved widespread consultation with lay and non-Catholic experts on various aspects of the questions they wanted to address. The drafting procedure of the pastoral letters made it clear that the general principles of natural law regarding justice and peace carry more authority for Catholics than do their particular applications to specific contexts. It had of

course been apparent from the time of Leo that it is one thing to affirm that workers are entitled to a just wage as a general principle and another to determine specifically what that wage ought to be in a given society at a particular time in its history. The pastorals added to this realization both much wider and public consultation, a clearer delineation of grades of teaching authority, and an invitation to ordinary Christians to engage in their own moral deliberation on these critically important social issues. The peace pastoral made clear the difference between the principle of proportionality in the abstract and its specific application to nuclear weapons systems, and both of these from questions of their use in retaliation to a first strike. It also made it clear that each Christian has the duty of forming his or her own conscience as a mature adult. Indeed, the bishops inaugurated a level of appreciation for Christian moral pluralism when they conceded not only the moral legitimacy of universal conscientious pacifism but also of selective conscientious objection. They allowed believers to reject a venerable moral tradition that had been the major framework for the tradition's moral analysis of war for centuries. Some Catholics welcomed this general differentiation of authority because it encouraged the laity to assume responsibility for their own moral formation and decision making, but others worried that it would call into question the teaching authority of the magisterium and foment dissent. The bishops subsequently attempted, though unsuccessfully, to apply this consultative methodology to the question of women in the Church.¹⁰⁷

Paul VI

Paul VI (1963–78) presented both the neoscholastic and historically minded streams of Catholic social teachings. Influenced by his friend Jacques Maritain, Paul VI taught that Church and society ought to promote “integral human development”¹⁰⁸—the whole good of every human person. Paul VI understood human nature in terms of powers to be actualized for the flourishing of self and others. This more dynamic and hopeful anthropology

placed him at a great distance from Leo XIII's warning to utopians and socialists that “humanity must remain as it is” and that to “suffer and to endure, therefore, is the lot of humanity” (RN 14). Paul's anthropology was personalist: each human being has not only rights and duties but also a vocation (PP 15). Thus *Populorum progressio* (1967) was concerned not only that each wage earner achieve physical sustenance (in the manner of *Rerum novarum*) but also that each person be given the opportunity to use his or her talents to grow into integral human fulfillment in both this world and the next (PP 16). Since this “transcendent humanism” focuses on “being” rather than “having,” its greatest enemies are materialism and avarice (PP 18–19).

Paul VI understood that since the context of integral development varies across time and from one culture to the next, social questions have to be considered in light of the findings of the social sciences as well as through the more traditional philosophical and theological analysis. The Church is “situated in the midst of men,” and therefore has the duty of studying the “signs of the times and of interpreting them in light of the Gospel.” In addressing the “signs of the times,” the Church cannot supply detailed answers to economic or social problems. She offers “what she alone possesses, that is, a view of man and of human affairs in their totality” (PP 13, from GS 4). Paul knew that the magisterium could not produce clear, definitive, and detailed solutions to all social and economic problems.

This virtue is particularly evident in Paul VI's apostolic letter *Octogesima adveniens* (1971). This letter was written to Cardinal Maurice Roy, president of the Council of the Laity and of the Pontifical Commission for Justice and Peace, with the intent of discussing Christian responses to “the new social problems” (OA 8) of postindustrial society. These problems included urbanization, the role of women, racial discrimination, mass communication, and environmental degradation. Paul's apostolic letter called every Christian to take proper responsibility for acting against injustice. As in *Populorum progressio*, it did not pre-

ence from Leo XIII's and socialists that "it is" and that to "be" is, therefore, is the lot of anthropology was being has not only a vocation (PP 15). (1967) was con- venge earner achieve manner of *Rerum* person be given or her talents to fulfillment in both (PP 16). Since this focuses on "being" eatest enemies are 18–19).

since the context of s across time and ct, social questions t of the findings of through the more l theological analy- d in the midst of : duty of studying d of interpreting " In addressing the rch cannot supply ic or social prob- one possesses, that an affairs in their). Paul knew that oduce clear, defin- : to all social and

y evident in Paul *gesima adveniens* tten to Cardinal e Council of the Commission for tent of discussing new social prob- ial society. These tion, the role of , mass communi- gradation. Paul's Christian to take ng against injus- io, it did not pre-

sume that natural law could be applied by the magisterium to provide answers to every specific question generated by particular communities. In the face of widely varying circumstances, Paul wrote, "it is difficult for us to utter a unified message and to put forward a solution which has universal validity" (OA 4). Instead, it is "up to the Christian communities to analyze with objectivity the situation which is proper to their own country, to shed on it the light of the Gospel's unalterable words and to draw principles of reflection, norms of judgment and directives for action from the social teaching of the Church" (OA 4). Whereas Leo expected the principles of natural law to yield clear solutions, Paul leaves it to local communities to take it upon themselves to apply the gospel to their own situations. Natural law functions differently in a global rather than simply European setting. Instead of pronouncing from "above" the world, now the Church "accompanies humankind in its search." The Church does "not intervene to authenticate a given structure or to propose a ready-made model" to all social problems. Instead of simply reminding the faithful of general principles, it "develops through reflection applied to the changing situations of this world, under the driving force of the Gospel" (OA 42).

It bears repeating that Paul VI's social teachings did not abandon, let alone explicitly repudiate, the natural law. He employed natural law most explicitly in his famous treatment of sex and reproduction, *Humanae vitae* (1967). This encyclical essentially repeated, in somewhat different language, the moral prohibitions given a half century earlier by Pius XI in *Casti connubii* (1930). Paul VI presumed this not to be a distinctively Catholic position—"our contemporaries are particularly capable of seeing that this teaching is in harmony with human reason"¹⁰⁹—but the ensuing debate did not produce arguments convincing to the "right reason" of all reasonable interlocutors.

Humanae vitae repeated the teleological claim that life has inherent purposes and each person must conform to them. Every human being has a moral obligation to conform to this natural order. In sexual ethics, this view of

nature generates specific moral prohibitions based on respect for the body's "natural functions,"¹¹⁰ obstruction of which is "intrinsically evil." The key principle is clear and allows for no compromise: "each and every marital act must of necessity retain its intrinsic relationship to the procreation of human life."¹¹¹ Neither good motives nor consequences (e.g., humanitarian concern to limit escalating overpopulation) can justify the deliberate violation of the divinely given natural order governing the unitive and procreative purposes of sexual activity, by either individuals or public authorities.

Critics argued that Paul VI's "physicalist" interpretation of natural law failed to appreciate sufficiently the complexities of particular circumstances, the primacy of personal mutuality and intimacy in marriage, and the difference between valuing the gift of life in general and requiring its specific expression in openness to conception in each and every act of intercourse.¹¹² Another important criticism laments the encyclical's priority with the rightness of sexual acts to the negligence of issues pertaining to wider human concerns. James M. Gustafson observes that in *Humanae vitae* "considerations for the social well-being of even the family, not to mention various nation-states and the human species, are not sufficient to justify artificial means of birth control."¹¹³

"Revisionists" like Joseph Fuchs, Peter Knauer, and Richard McCormick argued that natural law is best conceived as promoting the concrete human good available in particular circumstances rather than in terms of an abstract rule applied to all people in every circumstance.¹¹⁴ They pointed to a significant discrepancy between the methodology of *Octogesima adveniens* and that of *Humanae vitae*.¹¹⁵

John Paul II

John Paul II (1978–2005) interpreted the natural law from two points of view: the personalism and phenomenology he studied at the Jangiellonian University in Poland and the neoscholasticism he learned as a graduate student at the Angelicum in Rome.¹¹⁶ The pope's moral teachings and his description of current

events made significant use of natural law categories within a more explicitly biblical and theological framework. One of the central themes of his preaching reminds the world that faith and revelation offer the deepest and most reliable understanding of human nature, its greatest purpose and highest calling. Christian faith provides the most accurate perspective from which to understand the depth of human evil and the healing promise of saving grace.

Echoing the integral humanism of Paul VI, John Paul asked in his first encyclical, *Redemptor hominis*, whether the reigning notion of human progress “which has man for its author and promoter, makes life on earth more human in every aspect of that life. Does it make a more worthy man?”¹¹⁷ The ascendancy of technology and science calls for a proportionate development of morals and ethics. Despite so many signs of progress, the pope noted, we are forced to face the question of what is most essential: “whether in the context of this progress man, as man, is becoming truly better, that is to say more mature spiritually, more aware of the dignity of his humanity, more responsible, more open to others, especially the neediest and the weakest, and readier to give and to aid all.”¹¹⁸ The answer to these questions can only be reached through a proper understanding of the person. Purely scientific knowledge of human nature is not sufficient. One must be existentially engaged in the reality of the person, and particularly as the person is understood in light of Jesus Christ. John Paul’s Christological reading of human nature is inspired by *Gaudium et spes*: “only in the mystery of the incarnate Word does the mystery of man take on light” (GS 22).

John Paul II’s social teachings rarely explicitly mention the natural law. In fact, the phrase is not even used once in *Laborem exercens* (1981), *Sollicitudo rei socialis* (1987), or *Centesimus annus* (1991). The moral argument of these documents focuses on rights that promote the dignity of the person; it simply takes for granted the existence of the natural law. John Paul II’s social teachings invoke scripture much more frequently, and in a more sustained, meditative fashion, than did that of any of his

predecessors. He emphasizes Christian discipleship and the special obligations incumbent on Christians living in a non-Christian and even anti-Christian world. He gives human flourishing a central place in his moral theology, but construes flourishing more in light of grace than nature. The pope’s social teachings express his commitment to evangelize the world. Even reflection on the economy comes first and foremost from the point of view of the gospel. Whereas *Rerum novarum* was addressed to the bishops of the world and took its point of departure from “man’s nature” (RN 6) and “nature’s law” (RN 7), *Centesimus annus* is addressed to “all men and women of good will” and appeals “above all to the social message of the Gospel” (CA 57).

John Paul II’s most extensive discussion of natural law occurs not in his social encyclicals but in *Veritatis splendor* (1993), the encyclical devoted to affirming the existence of objective morality. The document sounds familiar themes. Natural law is inscribed in the heart of every person, is grounded in the human good, and gives clear directives regarding right and wrong acts that can never be legitimately violated. John Paul reiterates Paul VI’s rejection of ethical consequentialism and “situation ethics.” “Circumstances or intentions can never transform an act intrinsically evil by nature of its object [the kind of act willed] into an act ‘subjectively’ good or defensible as a choice.”¹¹⁹ He also targets erroneous notions of autonomy.¹²⁰ True freedom is ordered to the good and ethically legitimate choices conform to it.¹²¹

John Paul II’s emphasis on obedience to the will of God and on the necessity of revelation for Christian ethics leads some observers to suspect that he presumes a divine command ethic. Yet the pope’s ethic continues to combine two standard principles of natural law theory. First, he believed that the normative structure of ethics is grounded in a descriptive account of human nature and, second, he insisted that knowledge of this structure is disclosed in revelation and explicated through its proper authoritative interpretation by the hierarchical magisterium. Since awareness of the natural law has been blurred in the “modern con-

science," the pope argued, the world needs the Church, and particularly the voice of the magisterium, to clarify the specific practical requirements of the natural law. Using Murray's vocabulary, one might say that the pope believed that the magisterium plays the role of the "wise" to the "many" that is the world. As an "expert in humanity," the Church has the most profound grasp of the principles of the natural law and also the best vantage point from which to understand their secondary and tertiary (if not also the most remote) principles.¹²²

The pope, however, continued to hold to the ancient tradition that moral norms are inherently intelligible. People of all cultures now acknowledge the binding authority of human rights. Natural law *qua* human rights provides the basis for the infusion of ethical principles into the political arena of pluralistic democracies. It also provides criteria for holding accountable criminal states or transnational actors that violate human dignity by engaging, for example, in "genocide, abortion . . . deportation, slavery, prostitution . . . degrading conditions of work which treat laborers as mere instruments of profit."¹²³

John Paul II applied the notion of rights protecting dignity to the ethics of life in *Evangelium vitae* (1995). Faith and reason both testify to the inherent purpose of life and ground a universal obligation to respect the dignity of every human being, including the handicapped, the elderly, the unborn, and the otherwise vulnerable. "Intrinsically evil acts" cannot be legitimated for any reasons, whether individual or collective. The moral framework of society is not given by fickle popular opinion or majority vote but rather by the "objective moral law . . . the 'natural law' written in the human heart."¹²⁴ States as well as couples, no matter what difficulties and hardships they face, "must abide by the divine plan for responsible procreation." Sounding a theme from Pius XI and Paul VI, the pope warns his listeners that "the moral law obliges them in every case to control the impulse of instinct and passion, and to respect the biological laws inscribed in their person."¹²⁵ He employs natural law not only to oppose abortion, infanticide, and euthanasia

but also newer biomedical procedures regarding experimentation with human embryos. The pope's claim that "a law which violates an innocent person's natural right to life is unjust and, as such, is not valid as a law" suggests to some in the United States that *Roe v. Wade* is an unjust law and therefore properly subject to acts of civil disobedience. It also implies resistance to international programs that attempt to limit population expansion through distributing means of artificial birth control.

Natural law provides criteria for the moral assessment of economic and political systems. The Church has a social ministry but no direct relation to political agenda as such. The Church's social doctrine is not a form of political ideology but an exercise of her evangelizing mission (SRS 41). It never ought to be used to support capitalism or any other economic ideology: "For the Church does not propose economic political systems or programs, nor does she show preference for one or the other, provided that human dignity is properly respected and promoted." It does not draw from natural law any one correct model of an economic or political system, but it does require that any given economic or political order affirm human dignity, promote human rights, foster the unity of the human family, and support meaningful human activity in every sphere of social life (SRS 41; CA 43).

John Paul II's interpretation of natural law has been subject to various criticisms. First, critics charge that it stresses law, and particularly divine law, at the expense of reason and nature. As the Dominican Thomist Herbert McCabe observed of *Veritatis splendor*, "despite its frequent references to St. Thomas, it is still trapped in a post-Renaissance morality, in terms of law and conscience and free will."¹²⁶ Second, the pope has been criticized for an inconsistent eclecticism that does not coherently relate biblical, natural law, and rights-oriented language in a synthetic vision. Third, he has been charged with a highly selective and ahistorical understanding of natural law. Thus what he describes as "unchanging" precepts prohibiting intrinsic evil have at times been subject to change, for example, the case of slavery. As John Noonan

puts it, in the long history of Catholic ethics one finds that “what was forbidden became lawful (the cases of usury and marriage); what was permissible became unlawful (the case of slavery); and what was required became forbidden (the persecution of heretics).”¹²⁷ Critics argue that John Paul II has retreated from Paul VI’s attempt to appropriate historical consciousness and therefore consistently slights the contingency, variability, and ambiguities of historical particularity.¹²⁸ This approach to natural law also leads feminists to accuse the pope of failing sufficiently to attend to the oppression of women in the history of Christianity and to downplay the need for appropriately radical change in the structures of the Church.¹²⁹

RECENT INNOVATIONS

The opponents of natural law ethics have from time to time pronounced the theory dead. Its advocates, however, respond by pointing to its adaptability, flexibility, and persistence. As the distinguished natural law commentator Heinrich Rommen put it, “The natural law always buries its undertakers.”¹³⁰ The resilience of the natural law tradition resides in its assimilative capacity. More broadly the Catholic social tradition from its start in antiquity has been eclectic, that is, a mixture of themes, arguments, convictions, and ideas taken from different strains within Western thought, both Christian and non-Christian. The medieval tradition assimilated components of Roman law, patristic moral wisdom, and Greek philosophy. It was subjected to radical philosophical criticism in the modern period but defenders of the tradition inevitably arose either to consolidate and defend it against its detractors or to develop its intellectual potentialities through the critical appropriation of conceptualities employed by modern and contemporary philosophy. Catholic social teaching has engaged in both a retrieval of the natural law ethics of Aquinas and an assimilation of some central insights of Locke and Kant regarding human rights and the dignity of the person. Scholars have argued over whether this assimilative pattern exhibits a

talent for creative synthesis or the fatal flaw of incoherent eclecticism.

Philosophers and theologians have for the past several decades made numerous attempts to bring some degree of greater consistency and clarity to the use of natural law in Catholic ethics. Here we will mention three such attempts: the new natural law theory, revisionism, and narrative natural law theory.

The new natural law theory of Germain Grisez, John Finnis, and their collaborators offers a thoughtful account of the “first principles of practical reason” to provide rational order to moral choices. Even opponents of the new natural law theory admire its philosophical acuity in avoiding the “naturalistic fallacy” that attempts illicitly to deduce normative claims from descriptive claims, or “ought” language from “is” language.¹³¹ Practical reason identifies several basic goods that are intrinsically valuable and universally recognized as such: life, knowledge, aesthetic appreciation, play, friendship, practical reasonableness, and religion.¹³² It is *always* wrong to intend to destroy an instantiation of a basic good.¹³³ Life is a basic good, for example, and so murder is always wrong. This position does not rely on faith in any explicit way. Its advocates would agree with John Courtney Murray that the “doctrine of natural law has no Roman Catholic presuppositions.”¹³⁴ Despite some ambiguities, this position presents a formidable anticonsequentialist ethical theory in terms that are intelligible to contemporary philosophers.

The new natural law theory has been subject to significant criticisms, however. First, lists of basic goods are notoriously ambiguous, for example, is religion always an instantiation of a basic value? Second, it holds that basic goods are incommensurable and cannot be subjected to weighing, but it is not clear that one cannot reasonably weigh, say, religion as a more important good than play. This theory takes it as self-evident that basic goods cannot be attacked. Yet this claim seems to ignore Niebuhr’s warning that human experience is by its very nature susceptible not only to significant conflict among competing goods but even to moral tragedy in which one good cannot be

is or the fatal flaw of

logians have for the
e numerous attempts
f greater consistency
atural law in Catholic
mention three such
l law theory, revision-
law theory.

theory of Germain
d their collaborators
t of the "first princi-
provide rational order
pponents of the new
its philosophical acu-
rationalistic fallacy" that
ce normative claims
or "ought" language
ctical reason identifies
e intrinsically valuable
l as such: life, knowl-
ion, play, friendship,
and religion.¹³² It is
o destroy an instantia-
ife is a basic good, for
s always wrong. This
a faith in any explicit
gree with John Court-
ctrine of natural law
presuppositions."¹³⁴
his position presents
ntialist ethical theory
ible to contemporary

theory has been subject
owever. First, lists of
usly ambiguous, for
s an instantiation of a
olds that basic goods
l cannot be subjected
clear that one cannot
religion as a more
: This theory takes it
ic goods cannot be
n seems to ignore
uman experience is by
e not only to signifi-
cating goods but even
one good cannot be

obtained without the destruction of another. Third, the new natural law theory is criticized for isolating its philosophical interpretation of human nature from other descriptive accounts of the same and for operating without much attention to empirical evidence for its conclusions. For example, Finnis opines, without any empirical evidence, that same-sex relations of every kind fail to offer intelligible goods of their own but only "bodily and emotional satisfaction, pleasurable experience, unhinged from basic human reasons for action and posing as its own rationale."¹³⁵ Critics ask: To what extent is such a sweeping generalization confirmed by the evidence of real human lives rather than simply derived from certain a priori philosophical principles?

A second interpretation of the natural law comes from those who are often broadly classified as "revisionists." They engage in a selective retrieval of themes of the natural law tradition in terms of the concrete or "ontic" or "pre-moral" values and "dis-values" confronted in daily life. The crucial issue for the moral assessment of any pattern of human conduct, they argue, is not its "naturalness" or "unnaturalness" but its relation to the flourishing of particular human beings. The most distinctive feature of the revisionist approach to natural law, particularly when contrasted with the new natural law theory, is the relatively greater weight it gives to ordinary lived human experience as evidence for assessing opportunities for human flourishing.¹³⁶ It holds that moral insights are best attained "by way of experience,"¹³⁷ that "right reason" requires sufficient sensitivity to the salient characteristics of particular cases, and that moral theology needs to retrieve the ancient Aristotelian virtue of *epicheia*, or equity, the capacity to apply the law intelligently in accord with the concrete common good.¹³⁸ This ethical realism, as moral theologian John Mahoney puts it, "scrutinizes above all what is the purpose of any law and to what extent the application of any particular law in a given situation is conducive to the attainment of that purpose, the common good of the society in question."¹³⁹ Revisionists thus want to revise some moral teachings of the Church so that

they can be pastorally more appropriate and contribute more effectively to the good of the community.

Revisionists are convinced that there is a significant difference between the personal and loving will of God and the determinate and impersonal structures of nature. They do not believe that a proper understanding of natural law requires every person to conform to given "biological laws." Indeed, some revisionists believe that natural law theory must be abandoned because it is irredeemably wedded to moral absolutism based on "physicalism." They choose instead to develop an "ethic of responsibility" or an "ethic of virtue." Other revisionists, however, remain committed to the ancient language of natural law while working to develop a historically conscious and morally sensitive interpretation of it. Applied to sexual ethics, for example, they argue that the "procreative purpose" of sexual intercourse is a good in general but not necessarily a good in each and every concrete situation or even in each particular monogamous bond. They argue that some uses of artificial birth control are morally legitimate and need to be distinguished from those that are not. On this ground they defend the use of artificial birth control as one factor to be considered in the micro-deliberation of marriage and family and in the macro-context of social ethics.

Critics raise several objections to the revisionist approach to natural law. First is the notorious difficulty of evaluating arguments from experience, which can suffer from vagueness, overgeneralization, and self-serving bias. Second, revisionist appeals to human flourishing are at times insufficiently precise and inadequately substantive. Third, critics complain that revisionists in effect abandon natural law in favor of an ethical consequentialism based in an exaggerated notion of autonomy.¹⁴⁰

A third and final contemporary "narrativist" formulation of natural law theory takes as its starting point the centrality of stories, community, and tradition to personal and communal identity. Alasdair MacIntyre has done the most to show that reason, and by extension reason's interpretation of the natural law, is "tradition-dependent."¹⁴¹ Christians are formed in the

Church by the gospel story, so their understanding of the human good will never be entirely “neutral.” Moral claims are completely unintelligible when removed from their connection to the doctrine of Christ and the Church, but neither can the moral identity of discipleship be translated without remainder into the neutral mediating language of natural law.

Narrativists agree with the “new natural lawyers” that we are naturally oriented to a plethora of goods—from friendship and sex to music and religion—but they attend more seriously to concrete human experiences as the context within which people come to determine how (or, in some cases, even whether) these goods take specific shape in their lives. Narrativists, like the revisionists, hold that it is in and through concrete experience that people discover, appropriate, and deepen their understanding of what constitutes true human flourishing. But they also attend more carefully both to the experience, not as atomistic and existentially sporadic but as sequential, and to the ways in which the interpretations of these experiences are influenced by membership in particular communities shaped by particular stories. Discovery of the natural law, Pamela Hall notes, “takes place within a life, within the narrative context of experiences that engage a person’s intellect and will in the making of concrete choices.”¹⁴²

All ethical theories are tradition-dependent, and therefore natural law theory will acknowledge its own particular heritage and not claim to have a “view from nowhere.”¹⁴³ Scripture, and notably the Golden Rule and its elaboration in the Decalogue, provided the tradition with criteria for judging which aspects of human nature are normatively significant and ought to be encouraged and promoted, and, conversely, which aspects of human nature ought to be discouraged and inhibited.

This turn to narrativity need not entail a turn away from nature. The human good includes the good of the body. Jean Porter argues that ethics must take into account the considerable prerational, biological roots of human nature and critically appropriate contemporary scientific insights into the animal

dimensions of our humanity.¹⁴⁴ Just as Aquinas employed Aristotle’s notion of nature to explicate his account of the human good, so contemporary natural law ethicists need to incorporate evolutionary accounts of human origins and human behavior in order to understand the human good.

Nor does appropriating narrativity require withdrawal from the public domain. “Narrative natural law” *qua* natural law still understands the justification for basic moral norms in terms of their promotion of the good that is proper to human beings considered comprehensively. It can advance public arguments about the human good but it does not consider itself compelled to avoid all religiously based language in the manner of John A. Ryan¹⁴⁵ or John Courtney Murray.¹⁴⁶ Unlike older approaches to the common good, it will “accept a radically plural, non-hierarchical and not easily harmonizable notion of the good.”¹⁴⁷ Its claims are intelligible to people who are not Christian, but intelligibility does not always lead to universal assent. It thus acknowledges that Christian theology does not advance its claims on the supposition that it has the only conceivable way of interpreting the moral significance of human nature. Since morality is “under-determined” by nature, “there is no one moral system that can plausibly be presented as the morality that best accords with human nature.”¹⁴⁸

Critics lodge several objections to narrative natural law theory. First, they worry that giving excessive weight to stories and tradition diminishes attentiveness to the structures of human nature and thereby slides into moral relativism. What is needed instead, one critic argues, is a more powerful sense of the metaphysical basis for the normativity of nature.¹⁴⁹ Narrativists, like revisionists, acknowledge the need to beware of the danger of swinging from one extreme of abstract universalism and “oppressive generalizations” to the other extreme of “bottomless particularity.”¹⁵⁰ Second, they worry that narrative ethics will be unable to generate a clear and fixed set of ethical standards, ideals, and virtues. Stories pertain to particular lives in particular contexts, and moralities shift with changes in their historical

contexts. Moral norms emerging from narratives alone are inherently unstable and subject to a constant process of moral drift. Narrativists can respond by arguing that these two criticisms apply to radically historicist interpretations of narrative ethics but not to narrative natural law theory.

THE ROLE OF NATURAL LAW IN CATHOLIC SOCIAL TEACHING IN THE FUTURE

Natural law has been an essential component of Catholic ethics for centuries and it will continue to play a central role in the Church's reflection on social ethics. It consistently bases its view of the moral life and public policies, in other words, on the human good. Its understanding of the human good will be rooted in theological and Christological convictions. The Church's future use of natural law will have to face four major challenges pertaining to the relation between four pairs of concerns: the individual and society, religion and public life, history and nature, and science and ethics.

First, natural law will need to sustain its reflection on the relation between the individual and society. It will have to remain steady in its attempt to correct radical individualism, an exaggerated assertion of the sovereignty and priority of the individual over and against the community. "Utilitarian individualism" regards the person as an individual agent functioning to maximize self-interest in the market system and "expressive individualism" construes the person as a private individual seeking egoistic self-expression and therapeutic liberation from socially and psychologically imposed constraints.¹⁵¹ The former regards the market as opportunistic, ruthless, and amoral, and leaves each individual to struggle for economic success or to accept the consequences of failure. The latter seeks personal happiness in the private sphere where feelings can be expressed and private relationships cultivated. What Charles Taylor calls the "dark side of individualism" so centers on the self that it "both flattens and nar-

rows our lives, makes them poorer in meaning, and less concerned with others or society."¹⁵²

Natural law theory in Catholic social teaching responds to radical individualism in several ways. First and foremost, it offers a theologically based account of the worth of each person as made in the image of God. Second, it continues to regard the human person as naturally social and political and as flourishing within friendships and families, intermediary groups, and larger communities. The human person is always both intrinsically worthwhile and naturally called to participate in community.

Two other central features of natural law provide resources with which to meet the challenge of radical individualism. One is the ethic of the common good that counters the presupposition of utilitarian individualism that markets are inherently amoral and bound to inflexible economic laws not subject to human intervention on the basis of moral values. Catholic social teaching holds that the state has obligations that extend beyond the "night watchman" function of protecting social order. It has the primary (but by no means exclusive) obligation to promote the common good, especially in terms of public order, public peace, basic standards of justice, and minimum levels of public morality.

A second contribution from natural law to the problem of radical individualism lies in solidarity. The virtue of solidarity offers an alternative to the assumption of therapeutic individualism that happiness resides simply in self-gratification, liberation from guilt, and relationships within one's "lifestyle enclave."¹⁵³ If the person is inherently social, genuine flourishing resides in living for others rather than only for oneself, in contributing to the wider community and not only to one's small circle of reciprocal concern. The right to participate in the life of one's own community should not be eclipsed by the "right to be left alone."¹⁵⁴

A second major challenge to Catholic social teachings comes from the relation between religion and public life in pluralistic societies. Popular culture increasingly regards religion as a private matter that has no place in the public sphere. If radical individualism sets the context

for the discussion of the public role of religion, there will be none. Catholic social teachings offer a synthetic alternative to the privatization of faith and the marginalization of religion as a form of public moral discourse. Catholic faith from its inception has been based in a theological vision that is profoundly corporate, communal, and collective. The gospel cannot be reduced to private emotions shared between like-minded individuals.

Catholic social teachings also strive to hold together both distinctive and universally human dimensions of ethics. There are times and places for distinctively Christian and universally human forms of reflection and dialogue, respectively. In broad public contexts within pluralistic societies, Catholic social teachings must appeal to “human values” (sometimes called “public philosophy”).¹⁵⁵ The value of this kind of moral discourse has been seen in the Nuremberg Trials after World War II, the UN Declaration on Human Rights, and Martin Luther King Jr.’s “Letter from a Birmingham Jail.” In more explicitly religious contexts, it will lodge claims on the basis of Christian commitments, beliefs, or symbols (now called “public theology”).¹⁵⁶ Discussions at bishops’ conferences or parish halls can appeal to arguments that would not be persuasive if offered as public testimony before judicial or legislative bodies. Catholic social teachings are not reducible to natural law, but they can employ natural law arguments to communicate essential moral insights to those who do not accept explicitly Christian arguments. The theologically based approach to human rights found in Catholic social teachings strives to guide Christians, but they can also appeal across religious and philosophical boundaries to embrace all those who affirm, on whatever grounds, the dignity of the person. As taught by *Gaudium et spes*, there must be “a clear distinction between the tasks which Christians undertake, individually or as a group, on their own responsibility as citizens guided by the dictates of a Christian conscience, and the activities which, in union with their pastors, they carry out in the name of the Church” (GS 76).

A third major challenge facing Catholic social teaching concerns the relation of nature and history. The intense debates over *Humanae vitae* pointed to the most fundamental issues concerning the legitimacy of speaking about the “natural law” in an age aware of historicity. Yet it is clear that history cannot simply replace nature in ethics. Since the center of natural law concerns the human good, the “is” and the “ought” of Catholic social teachings are inextricably intertwined. Personal, interpersonal, and social ethics are understood in terms of what is good for human beings and what makes human beings good. It holds that human beings everywhere have, in virtue of their humanity, certain physical, psychological, moral, social, and religious needs and desires. Relatively stable and well-ordered communities make it possible for their members to meet these needs and fulfill these desires, and relatively more socially disordered and damaged communities do not.

This having been said, natural law reflection can no longer be based on a naïve view of the moral significance of “nature.” Knowledge of human nature by itself does not suffice as a source of evidence for coming to understand the human good. Catholic social teaching must be alert to the perils of the “naturalistic fallacy”—the assumption that because something is natural, it is ipso facto morally good—committed by those, like Herbert Spencer and the social Darwinians, who naively attempted to discover ethical principles embedded within the evolutionary process itself.

As already indicated above, natural law reflection always runs the risk of confusing the expression of a particular culture with what is true of human beings at all times and places. Reinhold Niebuhr, for example, complained that Thomas’s ethics turned “the peculiarities and the contingent factors of a feudal-agrarian economy into a system of fixed socio-economic principles.”¹⁵⁷ The same kind of accusation has been leveled against modern natural law theories. It is increasingly taken for granted that people are so diverse in culture and personal experience, personal identities so malleable and plastic, and cultures so prone to historical variation, that any generalizations made about them

will be simply too broad and vague to be ethically illuminating. Though it will never embrace postmodernism, Catholic social teaching will need to be more informed by sensitivity to historical particularity than it has been in the past. The discipline of theological ethics, unlike Catholic social teachings, has moved so far from naïve essentialism that it tends to regard human behavior as almost entirely the product of choices shaped by culture rather than rooted in nature. Yet since human beings are biological as well as cultural beings, it is more reasonable to attend to the interaction of culture and nature than to focus on one to the exclusion of the other. If “physicalism” is the triumph of nature over history, relativism is the triumph of history over nature. Neither extreme ought to find a home in Catholic social teachings, which will have to discover a way to balance and integrate these two dimensions of human experience in its normative perspective.

A fourth challenge that must be faced by Catholic social teaching concerns the relation between ethics and science. The Church has in the past resisted the identification of “reason” with “natural science.” It has typically acknowledged the intellectual power of scientific discovery without regarding this source of knowledge as the key to moral wisdom. The relation of ethics and science presents two broad challenges, one positive and the other negative. The positive agenda requires the Church to interpret natural law in a way that is compatible with the best information and insights of modern science. Natural law must be formulated in a way that does not rely on archaic cosmological and scientific assumptions about the universe, the place of human beings within it, or the interaction of human beings with one another. Any tacit notion of God as “intelligent designer” must be abandoned and replaced with a more dynamic contemporary understanding of creation and providence. Catholic social teachings need to understand natural law in ways that are consistent with evolutionary biology (though not necessarily neo-Darwinism). John Paul II’s recent assessment of evolution avoided a repetition of the Galileo disaster and clearly affirmed the legiti-

mate autonomy of scientific inquiry. On October 22, 1996, he acknowledged that evolution, properly understood, is not intrinsically incompatible with Catholic doctrine.¹⁵⁸ He taught that the evolutionary account of the origin of animal life, including the human body, is more than a mere hypothesis. He acknowledged the factual basis of evolution but criticized its illegitimate use to support evolutionary ideologies that demean the human person.

Negatively, Catholic social teaching must offer a serious critique of the reductionistic tendency of naturalism to identify all reliable forms of knowing to scientific investigation. “Scientific naturalism” can be described (if simplistically) as an ideology that advances three related kinds of claims: that science provides the only reliable form of knowledge (“scientism”), that only the material world examined by science is real (“materialism”), and that moral claims are therefore illusory, entirely subjective, fanciful, merely aesthetic, only matters of individual opinion, or otherwise suspect (“subjectivism”). This position assumes that human intelligence employs reason only in instrumental and procedural ways, but that it cannot be employed to understand what Thomas Aquinas called the “human end” or John Paul II the “objective human good.” The moral realism implicit in the natural law presuppositions of Catholic social thought needs to be developed and presented to provide an alternative to this increasingly widespread premise of popular as well as academic culture.

In responding to the challenge of scientific naturalism, the Church must continue to acknowledge the competence of science in its own domain, the universal human need for moral wisdom in matters of science and technology, the inability of science as such to offer normative guidance in ethical matters, and the rich moral wisdom made available by the natural law tradition. The persuasiveness of the natural law claims made by Catholic social teachings resides in the clarity and cogency of the Church’s arguments, its ability to promote public dialogue through appealing to persuasive accounts of the human good, and its willingness to shape the public consensus on

important issues. Its persuasiveness also depends on the integrity, justice, and compassion with which natural law principles are applied to its own practices, structures, and day-to-day communal life; natural law claims will be more credible when they are seen more fully to govern the Church's own institutions.

NOTES

1. Aristotle, *Nicomachean Ethics* 5.7, 1134b18, trans. Martin Ostwald (Indianapolis, Ind.: Bobbs Merrill, 1962), 131.

2. Cicero, *De re publica* 3.22.

3. *Institutes* I,1. *The Institutes of Gaius*, Part 1, ed. and trans. Francis De Zulueta (Oxford: Clarendon, 1946), 4.

4. Alan Watson, ed., *The Digest of Justinian*, 2 vols. (Philadelphia: University of Pennsylvania Press, 1998), bk. I, 13 (no pagination). Justinian's *Digest*, bk. I, 1, attributes this view to Ulpian.

5. Justinian, *Digest* I, 1.

6. See Athenagoras, "A Plea for Christians," chaps. 25 and 35 in *The Writings of Justin Martyr and Athenagoras*, ed. and trans. Marcus Dods, George Reith, and B. P. Pratten (Edinburgh: Clark, 1870), 408ff. and 419ff., respectively.

7. See "Dialogue with Trypho the Jew," chap. 93, in *ibid.*, 217. On patterns of early Christian response to pagan ethical thought, see Henry Chadwick, *Early Christian Thought and the Classical Tradition: Studies in Justin, Clement, and Origen* (Oxford: Clarendon, 1966), and Michel Spanneut, *Le Stoïcisme des Pères de l'Église: De Clément de Rome à Clément d'Alexandrie* (Paris: Éditions du Seuil, 1957). Tertullian provided a more disparaging view of the significance of "Athens" for "Jerusalem."

8. Chadwick, *Early Christian Thought*, 4–5.

9. For an influential modern treatment, see Ernst Troeltsch, "The Ideas of Natural Law and Humanity in World Politics," in *Natural Law and the Theory of Society: 1500–1800*, ed. Otto Gierke, trans. Ernest Barker (Boston: Beacon, 1960). A helpful correction of Troeltsch is provided by Ludger Honnefelder, "Rationalization and Natural Law: Max Weber's and Ernst Troeltsch's Interpretation of the Medieval Doctrine of Natural Law," *Review of Metaphysics* 49 (1995): 275–94. On Rom. 2:14–16, see John W.

Martens, "Romans 2:14–16: A Stoic Reading," *New Testament Studies* 40 (1994): 55–67, and Rudolf Schnackenburg, *The Moral Teaching of the New Testament* (New York: Seabury, 1979). Schnackenburg comments on Rom. 2:14–15: "St. Paul's 'by nature' cannot simply be equated with the moral *lex naturalis*, nor can this reference be seen as straight-forward adoption of Stoic teaching" (291).

10. From Origen, "Commentary on Romans," cited in *The Early Christian Fathers*, ed. and trans. Henry Bettenson (New York and Oxford: Oxford University Press, 1956), 199, 200.

11. *Against Faustus the Manichean* XXII. 73–79, in *Augustine: Political Writings*, ed. Ernest L. Fortin and Douglas Kries, trans. Michael W. Tkacz and Douglas Kries (Indianapolis, Ind.: Hackett, 1994), 226; *Patrologia Latina* (Migne) 42, 418.

12. See Augustine, *De Doctrina Christiana* 2, 40; PL 34, 63.

13. See Alan Watson, ed., *The Digest of Justinian*, with Latin text, ed. T. Mommsen and P. Krüger, 4 vols. (Philadelphia: University of Pennsylvania Press, 1985); A. Watson, ed., *The Digest of Justinian*, 2 vols., rev. English-language ed. (Philadelphia: University of Pennsylvania Press, 1998).

14. See note 5, above; *Institutes* 2.1.11. See also Thomas Aquinas's adoption of the threefold distinction: natural law (common to all animals), the law of nations (common to all human beings), and civil law (common to all citizens of a particular political community). ST II-II 57, 3. This distinction plays an important role in later reflection on the variability of the natural law and on the moral status of the right to private property in Catholic social teachings (e.g., RN 8).

15. *Decretum*, Part 1, distinction 1, prologue; *The Treatise on Laws (Decretum DD. 1–20) with the Ordinary Gloss*, trans. Augustine Thompson and James Gordley, *Studies in Medieval and Early Modern Canon Law*, vol. 2 (Washington, D.C.: Catholic University of America Press, 1993), 3.

16. *Ibid.*, Part 1, distinction 8; in *Treatise on Laws*, 25.

17. See Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law, 1150–1625* (Atlanta: Scholars Press, 1997), 65.

18. See Ernest L. Fortin, "On the Presumed Medieval Origin of Individual Rights," *Communio* 26 (1999): 55–79.

A Stoic Reading," *New* (1979): 55–67, and Rudolf Schnackenburg: "St. Paul's 'by nature' with the moral *lex naturalis* seen as straight-forward" (291).

mentary on Romans," *Fathers*, ed. and trans. (Oxford: Oxford University Press, 2000).

19. *Genesis* XXII. 73–79, ed. Ernest L. Fortin and Michael W. Tkacz and (Indianapolis: Hackett, 1994), 42, 418.

20. *Trinitaria Christiana* 2, 40;

The Digest of Justinian, ed. and trans. P. Krüger, 4th ed. (Philadelphia: University of Pennsylvania Press, 1998).

21. *De Civitate Dei* 2.1.11. See also the threefold distinction (between animals, the law of nature, and civil law), and the particular distinction of political community (the distinction plays an important role on the variability of the social status of the right in Catholic social teachings (e.g.,

22. *Introduction*, prologue; *The* (1–20) with the Ordinal, ed. by Thompson and James (Washington, D.C.: Catholic University of America Press, 1993), 3.

23. *Introduction* 8; in *Treatise on the Law of Nature: The* (New York: Fordham University Press, 1997), 65. "On the Presumed Rights," *Communio*

19. ST I-II, 90, 4. See Clifford G. Kossel, "Natural Law and Human Law (Ia IIae, qq. 90–97)," in *The Ethics of Aquinas*, ed. Stephen J. Pope (Washington, D.C.: Georgetown University Press, 2002), 169–93.

20. ST I-II, 90, 1.

21. *Ibid.*, I-II, 94, 3.

22. See *Phys.* II.1, 193a28–29.

23. *Pol.* 1252b32.

24. *Ibid.* 1.2.1253a; see also Plato, *Republic* 428e–429a.

25. ST I-II, 94, 2.

26. See *ibid.* I-II, 94, 2. See also Cicero, *De officiis*, I. 4; Lottin, *Le droit naturel chez Thomas d'Aquin et ses prédécesseurs*, rev. ed. (Bruges: Beyaert, 1931), 78–81.

27. *Laws*, I.xii, 33; emphasis added.

28. ST I-II, 94, 2. See also Cicero, *De officiis*, I. 4.

29. ST I-II, 94, 2.

30. *De Lib. Arbit.* I, 15; PL 32, 1229; for Thomas, ST I, 22, 1–2; I-II, 91, 1; 91, 2.

31. ST I-II, 31, 7; emphasis added.

32. See *ibid.* I, 96, 4; I-II, 72, 4; II-II, 109, 3 ad 1; 114, 2, ad 1; 129, 6, ad 1; also *De Regno*, I, 1; *In Ethic.*, IX, lect. 10, no. 1891; *In Polit.*, I, lect. I, no. 36–37.

33. See ST I, 60, 5; I-II, 21, 3–4; 90, 2; 92, 1, ad 3; 96, 4; II-II, 58, 5; 61, 1; 64, 5; 65, 1; see also Jacques Maritain, *The Person and the Common Good*, trans. John J. Fitzgerald (Notre Dame, Ind.: University of Notre Dame Press, 1946).

34. See ST I-II, 21, 4, ad 3.

35. See *ibid.* I-II, 109, 3; also I-II, 21, 4; II-II, 26, 3.

36. ST II-II, 57, 1. See Lottin, *Droit Naturel*, 97; also see *idem*, *Moral Fondamentale* (Tournai: Desclée, 1954), 173–76.

37. See ST II-II, 78, 1.

38. *Ibid.* II-II, 110, 3.

39. *Ibid.* II-II, 153, 2. See *ibid.* II-II, 154, 11.

40. *Ibid.* I, 119.

41. *Ibid.* I, 92, 1.

42. *Ibid.* I-II, 23.

43. See Michael Bertram Crowe, *The Changing Profile of the Natural Law* (The Hague: Martinus Nijhoff, 1977).

44. See ST I-II, 91, 4.

45. *Ibid.* I-II, 91, 4.

46. See Yves Simon, *The Tradition of Natural Law* (New York: Fordham University Press, 1952),

61, and Servais Pinckaers, chap. 10 in *The Sources of Christian Ethics*, trans. Mary Thomas Noble (Washington, D.C.: Catholic University of America Press, 1995).

47. See Pinckaers, *Sources*, 240–53, who relies in part on Vereecke, *De Guillaume d'Ockham à saint Alphonse de Ligouri*. See also Étienne Gilson, *History of Christian Philosophy in the Middle Ages* (New York: Random House, 1955), 489–519. Michel Villey's *Questions de saint Thomas sur le droit et la politique* regards Ockham as the first philosopher to break with the premodern understanding of *ius* as objective right and to put in its place a subjective faculty or power possessed naturally by every individual human being. Richard Tuck's *Natural Rights Theories: Their Origin and Development* (Cambridge: Cambridge University Press, 1979) traces the origin of subjective rights to Jean Gerson's identification of *ius* and liberty to use something as one pleases without regard to any duty. Tierney shows that the origins of the language of subjective rights are rooted in the medieval canonists rather than invented by Ockham. See Tierney, *The Idea of Natural Rights*.

48. See Simon, *Tradition of Natural Law*, 61.

49. See B. Tierney, who is supported by Charles J. Reid Jr., "The Canonistic Contribution to the Western Rights Tradition: An Historical Inquiry," *Boston College Law Review* 33 (1991): 37–92, and Annabel S. Brett, *Liberty, Right, and Nature: Individual Rights in Later Scholastic Thought* (Cambridge and New York: Cambridge University Press, 1997).

50. See, for instance, *On Civil Power*, ques. 3, art. 4, in *Vitoria: Political Writings*, ed. Anthony Pagden and Jeremy Lawrence (Cambridge: Cambridge University Press, 1991), 40. Also Ramón Hernandez, *Derechos Humanos en Francisco de Vitoria* (Salamanca: Editorial San Esteban, 1984), 185.

51. On *dominium*, see chap. 2 in Tuck, *Natural Rights Theories*. Further study of this topic would have to include an examination of the important contributions of two of Vitoria's students, Domingo de Soto and Fernando Vázquez de Menchaca. See Bartolomé de las Casas, *In Defense of the Indians*, trans. Stafford Poole (DeKalb: North Illinois University Press, 1992).

52. See John Mahoney, *The Making of Moral Theology: A Study of the Roman Catholic Tradition* (Oxford: Clarendon, 1987), 224–31.

53. See Ernest L. Fortin, "The New Rights Theory and the Natural Law," *Review of Politics* 44, no. 4 (1982): 602.
54. See Thomas Hobbes, chap. 6 in *De corpore*.
55. Michael Sandel, *Liberalism and the Limits of Justice* (New York: Cambridge University Press, 1998), 175. An alternative to Sandel is provided by the defense of modern natural law by David Braybrooke, *Natural Law Modernized* (Toronto: University of Toronto, 2001).
56. Thomas Hobbes, *Leviathan*, ed. C. B. MacPherson (New York: Penguin), I.14, 189.
57. *Ibid.*
58. *Ibid.*
59. John Locke, chap. 9 in *The Second Treatise of Government*, ed. Peter Laslett (New York and Scarborough, Ont.: New American Library, 1960), esp. 395.
60. Chap. 11 in *ibid.*, 314; chap. 16 in *ibid.*, 319.
61. Chap. 131, in *ibid.*, 398.
62. See Alasdair MacIntyre, *After Virtue* (Notre Dame, Ind.: University of Notre Dame Press, 1981, rev. ed., 1984).
63. Immanuel Kant, *Critique of Pure Reason* (1781), trans. Norman Kemp Smith (New York: St. Martin's, 1965), 23.
64. See I. Kant, *Foundations of the Metaphysics of Morals*, 1787, Second Section.
65. Jeremy Bentham, *The Principles of Morals and Legislation* (New York: Hafner, 1948), 1.
66. Leo XIII, *Aeterni patris* 31, in *The Church Speaks to the Modern World: The Social Teachings of Leo XIII*, ed. Étienne Gilson (Garden City, N.Y.: Doubleday, 1954), 50.
67. Leo XIII, *Immortale dei* (*On the Christian Constitution of States*), in *ibid.*, 157–87.
68. *Ibid.*, 163, number 4.
69. Leo XIII, *Libertas praestantissimum* (*The Nature of Human Liberty*), in *ibid.*, 57–85, number 15.
70. *Ibid.*, 66, number 15.
71. *Ibid.*, 61, number 7.
72. *Ibid.*
73. *Ibid.*, 76, number 32.
74. See ST II-II, 66, 1.
75. J. Locke, Bk. II, chap. 27. Leo was influenced in this matter by Jesuit theologian Luigi Taparelli d'Azeglio (1793–1862). See Richard L. Camp, *The Papal Ideology of Social Reform: A Study in Historical Development, 1878–1967* (Leiden: E. J. Brill, 1969), 55, 56; see also Normand Joseph Paulhus, *The Theological and Political Ideals of the Fribourg Union* (Ph.D. diss., Boston College–Andover Newton Theological Seminary, 1983).
76. See *Pol.* 1261b33.
77. See RN 52 against improper "absorption" and CA 48 on "coordination" for the common good; also EJA 124 and *Catechism of the Catholic Church* 1883. Pius's subsidiarity also provided inspiration for the "distributism" or "distributivism" of Chesterton, Belloc, and Dorothy Day.
78. In *The Church and the Reconstruction of the Modern World: The Social Encyclicals of Pius XI*, ed. Terence P. McLaughlin (Garden City, N.Y.: Image, 1957), 115–70.
79. *Casti connubii*, in *ibid.*, 136, number 54.
80. *Ibid.*, 141, number 71.
81. See *ibid.*, 148, number 86.
82. See *ibid.*, 149–50, numbers 89–91.
83. It is important to note that eugenics policies were not the invention of Nazi Germany. Widespread forced sterilization of those deemed "criminally insane," "feeble-minded," or otherwise "mentally defective"—often residing in public mental institutions—was practiced in the United States well before the Nazification of the German legal system. In 1926 Justice Oliver Wendell Holmes justified sterilization policies by arguing that "it is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind." Roman Catholic bishops provided the strongest opposition to the eugenics movement in the United States. See Edward J. Larson, *Sex, Race, and Science: Eugenics in the Deep South* (Baltimore: Johns Hopkins University Press, 1996).
84. Adolf Hilter, *Mein Kampf*, in *Social and Political Philosophy: Readings from Plato and Gandhi*, ed. John Somerville and Ronald E. Santoni (Garden City, N.Y.: Doubleday, 1963), 445.
85. *Casti connubii*, in *Social Encyclicals of Pius XI*, ed. T. P. McLaughlin, 140, number 68.
86. *Ibid.*, 140, number 69.
87. *Ibid.*, 141, number 70, citing ST II-II, 108, 4 ad 2.
88. *Summi pontificatus* (October 27, 1939) (*On the Function of the State in the Modern World*), in *The Social Teachings of the Church*, ed. Anne Fremantle (New York: New American Library, 1963), 130–35.

f the Fribourg Union
Andover Newton The-

roper "absorption" and
ne common good; also
Catholic Church 1883.
ed inspiration for the
n" of Chesterton, Bel-

Reconstruction of the
cyclicals of Pius XI, ed.
len City, N.Y.: Image,

136, number 54.

86.
bers 89-91.

that eugenics policies
azi Germany. Wide-
those deemed "crimi-
or otherwise "mentally
public mental institu-
United States well
German legal system.
dell Holmes justified
g that "it is better for
ting to execute degen-
to let them starve for
revent those who are
ng their kind." Roman
strongest opposition
the United States. See
and Science: Eugenics in
hns Hopkins Univer-

ppf, in *Social and Polit-*
Plato and Gandhi, ed.
E. Santoni (Garden
445.

' *Encyclicals of Pius XI*,
nber 68.

citing ST II-II, 108, 4

ctober 27, 1939) (*On*
Modern World), in *The*
ed. Anne Fremantle
brary, 1963), 130-35.

89. *Mit brennender Sorge (On the Present Position*
of the Catholic Church in the German Empire), in *ibid.*,
89-94.

90. See *ibid.*, 91-92.

91. *Summi pontificatus*, in *ibid.*, 131, number 35.

92. See Pius XII, "Christmas Message 1944," in
Pius XII and Democracy (New York: Paulist, 1945),
301. See also the article in this volume by John P.
Langan, "Catholic Social Teaching in a Time of
Extreme Crisis: The Christmas Messages of Pius
XII (1939-1945)."

93. See Drew Christiansen's Commentary on
Pacem in terris in this volume.

94. See Reinhold Niebuhr, "Pacem in Terris: Two
Views," *Christianity in Crisis* 23 (1963): 81-83; Paul
Ramsey, "Pacem in Terris," *Religion in Life* 33 (win-
ter 1963-64): 116-35; Paul Tillich, "Pacem in Ter-
ris," *Criterion* 4 (spring 1965): 15-18, and *idem*, "On
'Peace on Earth,'" *Theology of Peace*, ed. Ronald H.
Stone (Louisville, Ky.: Westminster/John Knox,
1990). More favorable reviews of natural law in gen-
eral have emerged recently, as in James M.
Gustafson, *Ethics from a Theocentric Perspective*, 2
vols. (Chicago: University of Chicago Press, 1981
and 1983), Michael Cromartie, ed., *A Preserving*
Grace: Protestants, Catholics and Natural Law (Wash-
ington, D.C.: Ethics and Public Policy Center/
Grand Rapids, Mich.: Eerdmans, 1997), and Oliver
O'Donovan, *Resurrection and Moral Order: An Out-*
line for Evangelical Ethics, rev. ed. (Grand Rapids,
Mich.: Eerdmans, 1994).

95. David Hollenbach, *Justice, Peace and Human*
Rights: American Catholic Social Ethics in a Pluralistic
World (New York: Crossroad, 1988, 1990), 90.

96. *Ibid.*, 90.

97. PT 30-43, 57-59, 75-79, 126-29, 142-45,
based on Matt. 16:1-4, where Jesus rebukes the
Pharisees and Sadducees for their blindness before
the "signs."

98. See Johan Verstraeten, "Re-Thinking Catho-
lic Social Thought as Tradition," in *Catholic Social*
Thought: Twilight or Renaissance? ed. J. S. Boswell,
F. P. McHugh, and J. Verstraeten, *Bibliotheca*
Ephemeridum Theologicarum Lovaneinsium, vol. 157
(Leuven, Belgium: Leuven University Press, 2000).

99. See John O'Malley, "Reform, Historical Con-
sciousness, and Vatican II's *Aggiornamento*," *Theolog-*
ical Studies 32 (1971): 573-601.

100. See Pinckaers, *Sources*, Part 2.

101. Joseph Komonchak, "The Encounter
between Catholicism and Liberalism," in *Catholicism*
and Liberalism: Contributions to American Public Phi-
losophy, ed. R. Bruce Douglass and David Hollen-
bach (New York: Cambridge University Press,
1994), 82.

102. See M. D. Chenu, "*La doctrine sociale*" de
l'église comme idéologie (Paris: Cerf, 1979).

103. Jean-Yves Calvez and Jacques Perrin, *The*
Church and Social Justice: The Social Teaching of the
Popes from Leo XIII to Pius XII, 1878-1958, trans.
J. R. Kirwan (Chicago: H. Regnery, 1961), 39.

104. See in this volume chapters by C. Curran,
R. Gaillardetz, and M. Mich. Mich attributes the
development of an inductive methodology to MM.

105. Jacques Maritain, *The Rights of Man and*
Natural Law, trans. Doris Anson (New York:
Charles Scribner's Sons, 1943), 65.

106. See Karl Barth, "The Command of God the
Creator," chap. 12 in *Church Dogmatics*, vol. 3, no. 4,
trans. A. T. Mackay et al. (Edinburgh: T. & T. Clark,
1961), 3-31. See also the debate over the "orders of
creation" in Emil Brunner and Karl Barth, *Natural*
Theology, trans. P. Fraenkel (London: Geoffrey Bles,
Centenary, 1946).

107. See Charles E. Curran, "The Reception of
Catholic Social Teaching in the United States," in
this volume.

108. See Jacques Maritain, *Integral Humanism*,
trans. Joseph W. Evans (Notre Dame, Ind.: Univer-
sity of Notre Dame Press, [1936] 1973).

109. *Humanae vitae*, number 12, in *The Papal*
Encyclicals 1958-1981, ed. Claudia Carlen (Raleigh,
N.C.: Pierian, 1981), 226.

110. HV, number 17, in *ibid.*, 228.

111. HV, number 11, in *ibid.*

112. See Charles Curran, *Transitions and Tradi-*
tions in Moral Theology (Notre Dame, Ind.: Univer-
sity of Notre Dame Press, 1979).

113. James M. Gustafson, *Ethics from a Theocen-*
tric Perspective, vol. 2 (Chicago and London: Univer-
sity of Chicago Press, 1984), 59.

114. Representative essays can be found in
Charles E. Curran and Richard A. McCormick,
eds., *Readings in Moral Theology No. 1: Moral Norms*
and Catholic Tradition (Mahwah, N.J.: Paulist,
1979).

115. See Charles E. Curran, "Official Social and
Sexual Teaching: A Methodological Comparison,"

in *Tensions in Moral Theology* (Notre Dame, Ind.: University of Notre Dame Press, 1988), 87–109.

116. See John M. McDermott, ed., *The Thought of John Paul II* (Rome: Editrice Pontificia Università Gregoriana, 1993). One should note that personalism has been used by progressive as well as traditionalist interpretations of Catholic ethics. A revisionist form of personalism is found in Louis Janssens's classic article, "Artificial Insemination: Ethical Considerations," *Louvain Studies* 5 (1980): 3–29.

117. *Redemptor hominis*, number 15, in *Papal Encyclicals 1958–1981*, ed. C. Carlen, 256.

118. *Ibid.*, 256–57.

119. *Veritatis splendor*, number 81, in *The Splendor of Truth: Veritatis Splendor* (Washington, D.C.: U.S. Catholic Conference, 1993), 124–25.

120. Contrast Josef Fuchs, *Personal Responsibility: Christian Morality* (Washington, D.C.: Georgetown University Press, 1983) with Martin Rhonheimer, *Natural Law and Practical Reason: A Thomist View of Moral Autonomy*, trans. Gerald Malsbary (New York: Fordham University Press, 2000).

121. *Veritatis splendor*, number 72, in *Splendor of Truth*, 109–10.

122. See notes 95–97 above.

123. *Veritatis splendor*, number 80, in *Splendor of Truth*, 123, citing GS 27.

124. *The Gospel of Life, Evangelium Vitae: On the Value and Inviolability of Human Life* (Washington, D.C.: U.S. Catholic Conference, 1995), 70, 128.

125. *Ibid.*, 172, number 97.

126. Herbert McCabe, "Manuals and Rule Books," in *Considering Veritatis Splendor*, ed. John Wilkins (Cleveland, Ohio: Pilgrim, 1994), 67. See also William C. Spohn, "Morality on the Way of Discipleship: The Use of Scripture in *Veritatis Splendor*," in *Veritatis Splendor: American Responses*, ed. Michael E. Allsopp and John J. O'Keefe (Kansas City, Mo.: Sheed and Ward, 1995), 83–105.

127. John T. Noonan Jr., "Development in Moral Doctrine," in *The Context of Casuistry*, ed. James F. Keenan and Thomas A. Shannon (Washington, D.C.: Georgetown University Press, 1995), 194.

128. See Charles E. Curran, *Catholic Social Teaching 1891–Present: A Historical, Theological, and Ethical Analysis* (Washington, D.C.: Georgetown University Press, 2002), 61–66.

129. See Lisa Sowle Cahill, "Accent on the Masculine," in *John Paul II and Moral Theology: Readings in Moral Theology, No. 10*, ed. Charles E. Curran and Richard A. McCormick (New York: Paulist, 1998), 85–91.

130. Heinrich A. Rommen, *The Natural Law: A Study in Legal and Social History and Philosophy*, trans. Thomas R. Hanley (St. Louis, Mo.: Herder, 1947), 267.

131. On the "is-ought" issue, see Germain Grisez, "The First Principle of Practical Reason: A Commentary on the *Summa Theologiae*, 1–2, Question 94, Article 2," *Natural Law Forum* 10 (1965): 168–201.

132. John Finnis, *Natural Law and Natural Rights* (New York: Oxford University Press, 1980), 86–90.

133. *Ibid.*, 118–23.

134. John Courtney Murray, *We Hold These Truths: Catholic Reflections on the American Proposition* (New York: Sheed and Ward, 1960), 109.

135. *Aquinas: Moral, Political, and Legal Theory* (Oxford: Oxford University Press, 1998), 153, 151. For the major critique of this position, see Russell Hittinger, *A Critique of the New Natural Law Theory* (Notre Dame: University of Notre Dame Press, 1987).

136. See, for example, Margaret Farley, "The Role of Experience in Moral Discernment," in *Christian Ethics: Problems and Prospects*, ed. Lisa Sowle Cahill and James F. Childress (Cleveland, Ohio: Pilgrim, 1996). Whereas John Paul II identifies the normatively human with what is given in the scriptures and tradition and taught by the magisterium, the revisionist relies, in addition to these primary sources, on reasonable interpretations and judgments of what actually constitutes genuine human flourishing in lived human experience. Human flourishing is conceived much more strongly in affective and interpersonal terms than in strictly natural terms. One must acknowledge the qualifying phrase in addition to scripture and tradition to avoid the impression that this position favors experience over revelation or ecclesially established norms; the revisionist regards experience as one basis for selectively modifying and revising an ongoing moral tradition, not as its replacement.

137. ST II-II, 47, 15.

13
and S
13
14
Reason
14
(Notr
Press,
Law (P
Press)
Reclai
Rapid
1999).
14.
Huma
ered p
of rea
ence. S
has a
learn t
tion u
choice
143
(New
144
Law.
145
and Ec
146
147
Cathol
148
149
Law: T
275–30
150
151
Indivi
(San F
152
(Camb
1991),
153
15
Right
15
Dyna
1984)

hill, "Accent on the Masculine," *Moral Theology: Readings*, ed. Charles E. Curran and Richard McCormick (New York: Paulist, 1998), 86.

Wendell, *The Natural Law: A History and Philosophy*, (St. Louis, Mo.: Herder, 1998).

"Practical Reason" issue, see Germain, "Practical Reason: A Theological Perspective," *Law Forum* 10 (1965): 1-2.

Natural Law and Natural Law (University Press, 1980), 109.

Murray, *We Hold These Truths* (New York: Basic Books, 1960), 109.

Practical and Legal Theory (New York: Basic Books, 1998), 153, 151. See also Russell, *Natural Law Theory* (Notre Dame Press, 1980).

Margaret Farley, "The Moral Discernment," in *Practical and Legal Theory*, ed. Lisa Childress (Cleveland, Ohio: World, 1998), 153. See also John Paul II, "The Moral Discernment," in *The Moral Discernment*, ed. John Paul II (New York: Paulist, 1998), 153. See also John Paul II, "The Moral Discernment," in *The Moral Discernment*, ed. John Paul II (New York: Paulist, 1998), 153. See also John Paul II, "The Moral Discernment," in *The Moral Discernment*, ed. John Paul II (New York: Paulist, 1998), 153.

138. See *Nicomachean Ethics* 1137a31-1138a3, and ST II-II, 120.

139. See Mahoney, *Making of Moral Theology*, 242.

140. See Rhonheimer, *Natural Law and Practical Reason*.

141. See Alasdair MacIntyre, *After Virtue*, rev. ed. (Notre Dame, Ind.: University of Notre Dame Press, 1984); Pamela Hall, *Narrative and the Natural Law* (Notre Dame, Ind.: University of Notre Dame Press); Jean Porter, *Natural and Divine Law: Reclaiming the Tradition for Christian Ethics* (Grand Rapids, Mich.: Eerdmans/Ottawa, Ont.: Novalis, 1999).

142. Hall, *Narrative and Natural Law*, 37. Human learning takes time. Natural law is "discovered progressively over time and through a process of reasoning engaged with the material of experience. Such reasoning is carried on by individuals and has a history within the life of communities. We learn the natural law, not by deduction, but by reflection upon our own and our predecessors' desires, choices, mistakes, and successes." Ibid., 94.

143. Thomas Nagel, *The View from Nowhere* (New York: Oxford University Press, 1986).

144. See Porter, chap. 1 in *Natural and Divine Law*.

145. See John A. Ryan, *A Living Wage: Its Ethical and Economic Aspects* (New York: Macmillan, 1906).

146. See Murray, *We Hold These Truths*.

147. See John A. Coleman, "The Future of Catholic Social Thought," in this volume.

148. Porter, *Natural and Divine Law*, 141.

149. Lawrence Dean, "Jean Porter on Natural Law: Thomistic Notes," *Thomist* 66, no. 2 (2002): 275-309.

150. Cahill, "Accent on the Masculine," 86.

151. See Robert Bellah et al., *Habits of the Heart: Individualism and Commitment in American Life* (San Francisco: Harper and Row, 1985).

152. Charles Taylor, *The Ethics of Authenticity* (Cambridge, Mass.: Harvard University Press, 1991), 4.

153. Bellah et al., *Habits*, 71-75.

154. Samuel Warren and Louis Brandeis, "The Right to Privacy," *Harvard Law Review* 4 (1890): 193.

155. See J. Bryan Hehir, "The Discipline and Dynamic of a Public Church," *Origins* 14 (May 31, 1984): 40-43.

156. See Michael J. Himes and Kenneth R. Himes, chap. 1 in *Fullness of Faith: The Public Significance of Theology* (New York: Paulist, 1993).

157. Reinhold Niebuhr, *The Nature and Destiny of Man: A Christian Interpretation*, 2 vols. (New York: Scribners, 1964), 1:281.

158. See John Paul II, "Message to the Pontifical Academy of Sciences," *L'Osservatore Romano*, October 30, 1996, reprinted with responses in *Quarterly Review of Biology* 72, no. 4 (1997): 381-406. See also John Paul II, "Lessons of the Galileo Case," *Origins* 22 (November 12, 1992): 370-75.

SELECTED BIBLIOGRAPHY

Curran, Charles E., and Richard McCormick, eds. *Readings in Moral Theology No. 7: Natural Law and Theology*. New York and Mahwah: Paulist, 1991. Representative essays by moral theologians from a variety of perspectives.

Delhaye, Phillippe. *Permanence du droit naturel*. Louvain: Nauwelaerts, 1967. Historical survey of major figures in the history of moral theology.

Evans, Illtude, O.P., ed. *Light on the Natural Law*. Baltimore and Dublin: Helicon, 1965. Helpful studies in natural law from several disciplines.

Fuchs, Josef. *The Natural Law: A Theological Investigation*. New York: Sheed and Ward, 1965. Early attempt to examine the biblical basis of natural law.

George, Robert P., ed. *Natural Law Theory: Contemporary Essays*. New York: Oxford University Press, 1992. Representative of the new natural law theory.

Nussbaum, Arthur. *A Concise History of the Law of Nations*. New York: Macmillan [1947] 1954. Natural law and international law.

Sigmund, Paul E. *Natural Law in Political Thought*. Cambridge, Mass.: Winthrop, 1971. Selections of classic texts from the history of philosophy.

Strauss, Leo. *Natural Right and History*, 2d ed. Chicago: University of Chicago Press, 1965. Argues for re-examination of the normative status of nature.

Traina, Cristina L. H. *Feminist Ethics and Natural Law: The End of Anathemas*. Washington, D.C.: Georgetown University Press, 1999. Feminist reflections on natural law.