

# Natural Law: Historical Foundations and Contemporary Relevance

Brendan Shea

Spring 2025

# Natural Law: Ancient Roots and Contemporary Relevance

## What is Natural Law?

**Natural law** is the philosophical view that certain moral principles are inherent in nature and can be discovered through human reason.

- Human beings across different cultures and historical periods have recognized fundamental principles of right and wrong that appear to transcend human convention.
- The earliest written legal codes, such as the **Code of Hammurabi** (circa 1750 BCE), reflected beliefs about justice being grounded in something deeper than mere human agreement.
- Contemporary debates about human rights, environmental ethics, and international law continue to draw upon natural law concepts.

# Plato's Forms and Universal Justice

- **Plato** (428-348 BCE) developed his philosophy during Athens' recovery from defeat in the Peloponnesian War, seeking stable foundations for knowledge and justice.
- The **Theory of Forms** posits that abstract concepts like justice, beauty, and goodness exist as perfect, unchanging realities that transcend the physical world.
- In *The Republic*, Plato argues that justice is not merely a human convention but reflects an eternal, objective moral order that can be understood through philosophical reasoning.
- The **Form of the Good** serves as the ultimate source of all moral truth and knowledge, making objective moral knowledge possible through rational investigation.

# Aristotle: Nature, Reason, and the Good Life

- **Aristotle** (384-322 BCE), Plato's student and Alexander the Great's tutor, developed a more empirically-grounded approach to understanding nature and human flourishing.
- The concept of **teleology** suggests that everything in nature has an inherent purpose or end (*telos*) that defines its proper function and excellence.
- Human beings, as rational animals, achieve their natural end through the development of moral and intellectual **virtues** that enable a life of practical wisdom.
- The **natural law tradition** draws heavily from Aristotle's insight that moral truths can be discovered by examining human nature and its proper development.

## Key Contribution

Aristotle established the framework for understanding morality as grounded in human nature and discoverable through practical reason.

# Stoic Philosophy and Universal Reason

- The **Stoic school** (founded c. 300 BCE by Zeno of Citium) emerged during the Hellenistic period when Greek city-states were losing autonomy, prompting questions about universal moral principles.
- **Logos** (divine reason) pervades the universe according to Stoic philosophy, making moral truth discoverable through rational reflection on nature.
- The Stoics developed the concept of **cosmopolitanism**, arguing that all humans share in divine reason and therefore belong to a universal moral community.
- Their emphasis on natural law as universal rational principles strongly influenced Roman jurisprudence and later Christian thought.

## Legacy

Stoic ideas about universal reason and moral law transcending political boundaries remain influential in international law and human rights theory.

# Cicero: Natural Law in Roman Thought

- **Marcus Tullius Cicero** (106-43 BCE) wrote during the crisis of the Roman Republic, seeking to defend republican values against political corruption and tyranny.
- In *De Re Publica*, Cicero argues that the **true law** is right reason in agreement with nature, which is universal, unchangeable, and eternal.
- Cicero's concept of **ius gentium** (law of nations) represented an attempt to identify universal principles of justice common to all peoples.
- His writings preserved Greek philosophical ideas about natural law and transmitted them to medieval Christian thinkers.

*"True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting." - Cicero, De Re Publica*

# Augustine: Bridging Classical and Christian Natural Law

- **Augustine of Hippo** (354-430 CE) developed his ideas during the decline of the Western Roman Empire, wrestling with questions about divine and human law.
- He synthesized classical natural law theory with Christian theology, arguing that **eternal law** exists in the mind of God and is partially accessible to human reason.
- In *City of God*, Augustine explores how natural law relates to both divine providence and human free will in shaping moral behavior.
- His concept of **just war theory** drew on natural law principles to establish moral criteria for military conflict.

## Innovation

Augustine's integration of natural law with Christian theology created a framework that would dominate Western moral philosophy for nearly a millennium.

# Avicenna: Islamic Natural Law

- **Ibn Sina** (Avicenna, 980-1037 CE) wrote during the Islamic Golden Age, synthesizing Aristotelian philosophy with Islamic theology.
- He developed a sophisticated theory of **practical intellect** (*al-'aql al-'amali*) that perceives moral truths through rational reflection on nature.
- Avicenna's concept of **fitrah** suggests that human beings have an innate disposition to recognize moral truth, similar to the Western notion of natural law.
- His writings influenced both Islamic and Christian natural law traditions through Latin translations that reached medieval Europe.

## Cross-Cultural Impact

Avicenna demonstrates how natural law concepts developed independently in different philosophical traditions while maintaining similar core principles.



# Thomas Aquinas: Synthesizing Faith and Reason

## Historical Context

**Thomas Aquinas** (1225-1274) developed his natural law theory during the medieval renaissance, when newly rediscovered Aristotelian texts were transforming European thought.

- His masterwork, the *Summa Theologica*, presents a comprehensive synthesis of Christian theology with Aristotelian philosophy.
- Aquinas argues that human beings can discover moral truth through:
  - Natural reason examining human nature
  - Divine revelation in scripture
  - The teachings of the Church
- This synthesis resolved the apparent tension between faith and reason by showing how both could lead to moral truth.

# The Four Types of Law According to Aquinas

- **Eternal Law** represents God's rational governance of all creation, the divine wisdom directing all things to their proper ends. Ex: laws of physics.
- **Natural Law** is the participation of rational creatures in eternal law through their ability to discover moral principles by reason. Ex: moral truths.
- **Human Law** consists of specific rules derived from natural law to govern particular societies. Ex: legal codes.
- **Divine Law** (revealed in scripture) guides humans to their supernatural end of eternal beatitude. Ex: the Ten Commandments.

# Primary Precepts of Natural Law

- The **first principle of practical reason** states that good is to be done and pursued, and evil avoided.
- From this principle, Aquinas derives several primary precepts that reflect basic human goods:
  - Preserve human life
  - Reproduce and educate offspring
  - Seek truth, especially about God
  - Live in society with others
  - Act according to reason
- These precepts are self-evident to all rational creatures, universally binding, and unchangeable in their fundamental aspects.

## Key Point

These primary precepts form the unchanging foundation of all moral reasoning in Aquinas's system.

# Secondary Precepts and Human Law

- **Secondary precepts** show how natural law principles are applied to concrete situations through human reasoning.
- The process of deriving these rules requires:
  - Careful analysis of human nature and its needs
  - Consideration of particular circumstances
  - Application of practical wisdom
- Unlike primary precepts, secondary precepts can vary across different societies and circumstances while remaining grounded in natural law.
- These precepts form the basis for human law, which must be derived from natural law to be legitimate.

# Practical Reason and Synderesis

- **Practical reason** differs from theoretical reason by focusing on what ought to be done rather than what is true.
- **Synderesis** is the natural habit of mind by which we know the basic principles of moral law without the need for investigation or proof.
- The relationship between practical reason and synderesis works in the following way:
  - Synderesis provides the first principles of moral action
  - Practical reason applies these principles to particular situations
  - Together they enable moral decision-making in concrete circumstances

# Natural Inclinations as Moral Guides

## Fundamental Concept

Aquinas argues that our natural inclinations point us toward genuine human goods and can serve as reliable guides for moral behavior.

- The **natural inclinations** include fundamental human tendencies that we share with:
- All substances:
  - The inclination to preserve our own being
  - The drive for self-preservation
- All animals:
  - The inclination to reproduce
  - The drive to care for offspring
- Rational creatures uniquely:
  - The desire to know truth, especially about God
  - The inclination to live in society

# The Role of Virtue in Natural Law

- **Virtues** are stable dispositions of character that enable us to act consistently with natural law principles.
- Aquinas identifies several key virtues necessary for moral life:
  - Prudence (practical wisdom in moral matters)
  - Justice (giving each their due)
  - Fortitude (courage in facing difficulties)
  - Temperance (moderation in pursuing pleasures)
- These virtues are not innate but must be developed through practice and habituation.
- The virtuous person more readily perceives moral truth and acts upon it with greater ease.

# Human Nature and the Common Good

- **Human nature** is inherently social, meaning that individual flourishing cannot be separated from the good of the community.
- The **common good** transcends the mere sum of individual goods while including them.
- Political authority derives its legitimacy from its service to the common good.
- Laws serve their proper purpose when they:
  - Foster conditions for human flourishing
  - Protect individual rights within the context of community
  - Promote virtue among citizens

## Contemporary Relevance

This understanding of the relationship between individual and common good remains central to Catholic social teaching and some forms of political theory.



# Origins of Double Effect in Aquinas

## Definition

The **Doctrine of Double Effect** (DDE) provides a framework for evaluating actions that have both good and bad consequences.

- Aquinas first articulated this principle in his discussion of self-defense in the *Summa Theologica*.
- The classic example concerns whether it is permissible to kill an aggressor in self-defense:
  - The good effect: preserving one's own life
  - The bad effect: the death of the aggressor
- Aquinas argues that such actions can be permissible if the death is not intended but is an unintended consequence of a legitimate act of self-preservation.

# The Four Conditions of Double Effect

- For an action with both good and bad effects to be morally permissible, it must satisfy four conditions:
- **Nature of the Act:**
  - The action itself must not be morally wrong independent of its consequences
  - The act must be good or morally neutral in itself
- **Intention of the Agent:**
  - The agent must intend only the good effect
  - The bad effect must be unintended and unavoidable
- **Distinction of Effects:**
  - The bad effect must not be the means to the good effect
  - Both effects must flow directly from the action
- **Proportionality:**
  - The good effect must outweigh the bad effect
  - There must be a sufficiently grave reason for causing the harm

# Classic Applications: Self-Defense and Medical Ethics

- **Self-Defense** provides the paradigmatic case for double effect reasoning:
- In medical ethics, double effect is often applied to cases such as:
  - Terminal sedation of patients in severe pain
  - Treating ectopic pregnancies
  - High-risk pregnancies where saving the mother may result in fetal death
- Key considerations in medical applications:
  - The distinction between intended and foreseen consequences
  - The role of professional obligations
  - Balancing competing goods

## Medical Context

The principle helps guide difficult clinical decisions where treatments may have both beneficial and harmful effects.

# Contemporary Debates in Double Effect

- Contemporary philosophers have raised several important challenges to double effect reasoning:
- **The Intention Problem:**
  - How can we reliably distinguish between intended and merely foreseen consequences?
  - Does the distinction matter morally?
- **The Closeness Problem:**
  - When are bad effects too close to good effects to be permissible?
  - Can we meaningfully separate means from side effects?
- New applications in modern contexts:
  - Military targeting and civilian casualties
  - Research ethics and risk assessment
  - Environmental policy decisions

# Natural Law Foundations of Just War Theory

## Origins

**Just War Theory** emerged from natural law thinking about the moral use of force, developed through Augustine, Aquinas, and later theorists.

- The theory addresses two fundamental questions derived from natural law principles:
  - When is it morally permissible to go to war? (*jus ad bellum*)
  - What actions are morally permissible in warfare? (*jus in bello*)
- Natural law provides the theoretical foundation by establishing:
  - The right of political communities to self-defense
  - The obligation to protect the innocent
  - The requirement of proportionality in the use of force

# Jus ad Bellum: Justice in Going to War

- **Just Cause** must exist for war to be morally permissible:
  - Self-defense against armed attack
  - Defense of others against grave injustice
  - Recovery of what has been wrongfully taken
- **Right Intention** requires that the war be fought for the just cause and not other motives.
- **Proper Authority** means that only legitimate political authorities can declare war.
- **Proportionality** requires that the expected benefits outweigh the anticipated harms.
- **Last Resort** means that all peaceful alternatives must be exhausted first.

# Jus in Bello: Justice in Conducting War

- **Discrimination** requires distinguishing between combatants and non-combatants.
- Military actions must respect the principle of **non-combatant immunity**:
  - Civilians cannot be directly targeted
  - Civilian casualties must be unintended
  - Reasonable precautions must be taken to minimize civilian harm
- **Proportionality in conduct** requires that:
  - Military actions must not cause excessive harm
  - The force used must be proportional to military objectives
  - Unnecessary suffering must be avoided

## Modern Application

These principles form the basis of international humanitarian law and the laws of armed conflict.

# Just War Theory in the Modern World

- Contemporary challenges to traditional just war theory include:
- New forms of warfare:
  - Cyber warfare and its relationship to traditional concepts of force
  - Autonomous weapons systems and moral responsibility
  - Non-state actors and asymmetric warfare
- Modern just war theorists must address:
  - Humanitarian intervention
  - Preventive war
  - Global terrorism
- The enduring relevance of natural law principles in addressing:
  - The moral status of civilian immunity
  - Proportionality in new contexts
  - The relationship between justice and peace



# New Natural Law Theory: Foundations

## Key Innovation

**New Natural Law Theory** represents a significant attempt to ground natural law in practical reason without depending on metaphysical or theological premises.

- Developed by Germain Grisez, John Finnis, and Joseph Boyle in response to:
  - Challenges from modern analytical philosophy
  - The need for secular justification of moral claims
  - Questions about the relationship between fact and value
- The theory argues that basic goods are:
  - Self-evident to practical reason
  - Irreducible to one another
  - Equally fundamental

# New Natural Law Theory: Basic Human Goods

- **Basic human goods** are fundamental aspects of human flourishing that:
- Provide reasons for action:
  - Life and health
  - Knowledge and aesthetic experience
  - Excellence in work and play
  - Harmony between persons
  - Harmony between emotions and judgment
  - Practical reasonableness
  - Religion and spirituality
- These goods are:
  - Incommensurable (cannot be ranked)
  - Pre-moral (provide basis for moral reasoning)
  - Universal (apply to all humans)

# Natural Law and Legal Theory

- **Legal naturalism**, developed by scholars like Michael Moore, argues that:
- Law necessarily connects to moral truth through:
  - The nature of legal interpretation
  - The role of practical reason in law
  - The function of legal systems
- Key claims about legal meaning:
  - Legal terms refer to real moral properties
  - Judges discover rather than create legal content
  - Moral reality constrains legal interpretation

## Central Insight

Legal meaning is not purely conventional but connects to objective moral reality that judges must work to discover.

# Natural Law in Contemporary Jurisprudence

- Contemporary natural law approaches to legal interpretation emphasize:
- The role of practical reason in law:
  - Understanding law as a rational enterprise
  - Identifying the point or purpose of legal rules
  - Developing coherent interpretive frameworks
- Applications to concrete legal issues:
  - Constitutional interpretation
  - Human rights law
  - Criminal law theory
- Challenges to legal positivism:
  - The separation of law and morality
  - The nature of legal authority
  - The grounds of legal obligation

# The Naturalistic Fallacy Challenge

## Key Challenge

The **naturalistic fallacy**, identified by G.E. Moore, questions whether we can derive moral 'ought' statements from factual 'is' statements about human nature.

- Natural law theorists have responded to this challenge by:
  - Arguing that practical reason grasps basic goods directly
  - Showing how nature can be normative without committing the fallacy
  - Demonstrating how facts about human nature can inform moral reasoning
- This debate raises fundamental questions about:
  - The relationship between facts and values
  - The nature of moral knowledge
  - The foundations of ethical reasoning

# Strengths of Natural Law Theory

- Natural law theory provides compelling accounts of:
- Moral Knowledge:
  - How we can know moral truth
  - Why moral knowledge is widely shared
  - How moral reasoning develops
- Practical Reasoning:
  - The connection between reason and goodness
  - How to evaluate competing claims
  - The role of wisdom in decision-making
- The theory successfully:
  - Grounds human rights
  - Explains moral universals
  - Bridges theory and practice

# Challenges to Natural Law Theory

- **Empirical challenges** question natural law's claims about:
- Human Nature:
  - Evolutionary accounts of morality
  - Cultural diversity in moral beliefs
  - The role of emotion in moral judgment
- **Philosophical challenges** include:
  - The fact-value distinction
  - Moral relativism
  - Competing accounts of practical reason

## Contemporary Context

These challenges have led to sophisticated developments in natural law theory rather than abandonment of the approach.

# Future Directions in Natural Law Theory

- Contemporary natural law theorists are developing new approaches to:
- Foundational Questions:
  - The nature of practical reason
  - The relationship between law and morality
  - The grounds of human rights
- Emerging Challenges:
  - Artificial intelligence and moral agency
  - Environmental ethics
  - Global justice

## Enduring Relevance

Natural law theory continues to provide valuable insights for addressing contemporary moral and legal challenges while evolving to meet new intellectual demands.