The New Natural Law Theory and the Basic Human Good of Work

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The “New” Natural Law Theory (NNLT) is a moral theory grounded in a reinterpretation of Saint Thomas Aquinas’s understanding of the first principles of the natural law, elaborated and defended over several decades initially by Germain Grisez, John Finnis, and Joseph Boyle, and subsequently by many other philosophers and moral theologians.1 On the “new” view, the first principles of practical reason, and hence of the natural law, are known self-evidently by practical reason, and not by inference from truths about human nature. These first principles identify a number of basic human goods as to-be-pursued, and the NNLT understands “morality” as a matter of being reasonable in pursuing the various options for actions that these goods, identified more fully below in Section I, make possible.2

NNLT provides a distinctive account of the role that the good of work plays among practical reason’s foundations. In this essay, I identify the NNLT account of the nature of and value of work. I then look at some practical consequences of the NNLT understanding of the good of work; and situate the NNLT understanding of work within a larger theological context.

The Foundations of Practical Reason

All action, on the New Natural Law account, aims at some good. The chain of practical reason identifying our possible reasons for action cannot go on forever, and eventually terminates, for rational action, in one or another of a limited number of “basic human goods.” Goods such as human life and health, knowledge, friendship, aesthetic experience, personal integrity, marriage, and religion all offer agents opportunities for action that promise forms of benefit that are unique to each good and irreducible to any other good. It is thus perfectly intelligible to seek knowledge, for example, for its own sake, beyond the obvious instrumental benefits provided by that good.

“Work” is often identified by NNL theorists in conjunction with the good of “play” and more recently, it is encompassed within a single good of “excellence in performance.” In Germain Grisez’s 1983 statement of the theory, the basic good is identified as “activities of skillful work and of play, which in their very performance enrich those who do them”4 Here and elsewhere, emphasis is on the skilled performance as that aspect of either work or play that benefits and perfects human persons: whether one is playing a musical instrument, writing a philosophy paper, or engaged in the cooking of a meal, an agent is better off if she plays well, writes capably, or cooks with knowledge and skill rather than, in any particular case, doing so in a careless, slovenly, or ignorant way. So work and play both share a core aspect that is perfective of human beings.

Of course, there is a common-sense difference between activities which we would consider work and activities we would consider play that NNL theorists would not deny: work always has an external product which is at least partly an end for the agent, while the agent who is engaging in play can seemingly do so for the sake of the activity of play itself. It is work, for example, to plow a field, build a table, or write a book; it is play to engage in an athletic contest, to dance, or to play cards with friends.

Nevertheless, this apparent difference seems ultimately to be only apparent, for play *does* result in an external product, namely, the *playing* itself: the dancing, for example, is a reality that comes into being with the activity of the dancers. One might object that work is done *for the sake of* the external object in a way that play is not; but while it is true that the forms of work are shaped more by the demands for this or that product (as I will discuss shortly), the *good* of work, like the good of play, is, again, to be found in the skillful activity that produces the product; the production of an external reality just as such is not the perfective aspect of either work or play. So there is a strong argument for considering the good at stake here to be unitary: it is the good of *excellence in performance for its own sake*. That excellence can be pursued even in projects for which a concrete material object is also sought as a product: the paradigm case of work. It can also be sought when it is the performance itself which is the primary end. And, because of the way in which, in fact, even play results in an external reality, the activities of dance, or sport, or any other paradigmatic form of play can likewise be sought in whole or in part for the sake of thatexternal reality as a product to be enjoyed or consumed by others, i.e., play can be pursued as a form of work.

Is there then *any* difference between play and work on the NNL account? I believe there is.5 In the paradigmatic form of play, the standards by which excellence or skill are determined, identified, and pursued are to a great degree internal to the activity itself. In a game, for example, a contingently determined set of rules is constitutive of the play of the game and its resolution (e.g., in victory and defeat), and what it means to be skilled at the game emerges in relation to that set of constitutive rules. There is thus no real way to identify excellence in performance in a game in a social world that lacks that game.

By contrast, the standards of excellence and skill in work are determined to a considerable extent by the nature of the product that is sought. When the work one is engaged in is that of the physician, and one’s end is ministering to a patient’s health, that end is determinative of what it means to be an excellent or skilled physician. The excellence that is perfective of the physician is not purely internal to a social form or practice that can be identified apart from the end that is sought in the practice.

This is true also when play is pursued *as* work for the sake of the external product of the activity of play itself, for a form of play really only becomes a form of work if there is something about the external constituted reality that is desirable from the point of view of those not directly engaged in the play themselves (or desirable to the players for reasons external to the good of the performance itself). For example, some (though perhaps not all) forms of dance are enjoyable for non-participants to watch. It is thus the external reality of a dance *considered as an object of aesthetic contemplation* that now will partly shape what it means to be skilled and excellent at dance, at least when it is considered a form of work and not “merely” play. The same could be said of many games that become “professionalized.”

Nevertheless, it remains the case that the most central benefit of both work and play for the agent engaged in either is to be found in the excellence of skilled performance. And this, in turn, is consistent with a claim that is central to the NNL theory, and, I believe, to the entirety of the Thomistic tradition of ethics, viz., that the goods that perfect human beings are, as Grisez puts it, “aspects of persons, not merely things they have.”6 In a recent paper, John Finnis puts this claim into dialogue with the work of Pope Saint John Paul II, who distinguishes between the external aspect of work -- its exterior object -- and its subjective aspect -- that in work which remains in the agent.7 Elsewhere, the Pope refers to the transitive and intransitive aspects of action, including the action of working. Work, as action that is chosen freely, is thus itself perfective of the human being, part of the agent’s self-constitution that comes about through deliberation, choice, and action. As Finnis puts it,

one’s free choices establish, create one’s own identity or character – not, of course, one’s identity as male or female, or (somewhat differently) as slave or free, identities that are not within one’s power to choose for oneself. Thus one’s choices are not only transitive, i.e., transiting out from one’s will into one’s behavior and one’s efficacy in shaping things and events in the world. They are also intransitive: each free choice is an act by which I who am choosing constitute myself the person I will henceforth be, as the person I will remain unless and until (if ever) I repent of that choice, either formally by contrition and resolve to amend my ways, or informally by making a new choice incompatible with the former one.8

Thus, as I will discuss in the next section, whether one works well or not will be central to the person one is and becomes. Work, like all other basic human goods, offers human persons opportunities for constituting themselves well or ill, and thus an agent’s dispositions and choices toward the good of work are central features of the ethical life.

Ethical Action

As noted, the NNL theory identifies a multiplicity of human goods. Each such good is distinct from the others: there is no single form of good or goodness to which the variety is reducible, no homogenous property to be found across all actions that aim at human goods. Thus, as between categories of goodness there is an important form of incommensurability that vitiates the possibility of an objective ranking on the basis of the goodness of different *kinds* of good.

There is a second kind of incommensurability to be found between the different options that the goods make available as opportunities for agents. Just as it is possible to pursue the good of knowledge in a perhaps infinite variety of ways, so it is also possible to pursue the good of work in a perhaps infinite variety of ways (and of course, pursuing knowledge in a sustained form of inquiry, such as scientific inquiry, *is* work), the vast majority of which surely, are not yet known (a point I return to shortly). But for an agent faced with distinct options to pursue this or that different good, or even this or that instance of the same good, there is no commensurability *of goodness* by which one option may be ranked as possessing more good than another. For an agent faced with the necessity of free choice between options, then, a maximizing strategy is non-sensical.

Instead, NNL theorists argue that the appropriate response as determined by practical reason is one of openness to all the goods in all persons for whom the goods are goods. Such openness would be blocked were reason’s categorical openness to be fettered by desire, and so the foundational norm of morality may be understood, as it was by classical moral theorists, as “Follow right reason.”9 One can also identify at least as an ideal the state of affairs that would be willed by an agent who willed only in accordance with right reason: an ideal of integral human fulfillment among all persons. Moral choices could then be guided by consideration of which options were and were not in line with right reason and integral human fulfillment. NNL theorists articulate the first principle of morality so understood as “In voluntarily acting for human goods and avoiding what is opposed to them, one ought to choose and otherwise will those and only those possibilities whose willing is compatible with a will toward integral human fulfillment.”10

This first principle of morality remains to be specified in a set of general norms that then can play a more substantive role in practical deliberations. So, for example, NNL theorists argue that some action types are such as to be reasonably judged *always morally impermissible*, namely, when the action is such as to include intended damage or destruction to an instance of a human good.11 Intended killing of a suffering patient for the sake of relief of his suffering is morally wrong, for example, since it is a violation of this norm.

A second general norm concerns fairness: one should not let the distribution of burdens and benefits that result from one’s actions be determined by feelings that are not in accordance with reason. To accept benefits from an action while shifting burdens onto those who will gain nothing, for example, is often a failure of fairness. This norm is at the heart of many, though not all, considerations of justice, and thus obviously is of political and well as personal importance.12

Two other norms are of relevance to the discussion of the good of work. The first concerns the structure of an agent’s life. Reasonable pursuit of the goods requires commitments; but commitments, if not adequately ordered in relation to one another are likely to conflict. Thus reasonable agents consider the order of their pursuit of human goods and the commitments they make in pursuit of such goods across the whole of their lives. The reasonable agent, that is, thinks vocationally about the order of his or her life.13

A second concerns the ways in which the experience of at least some goods, and perhaps all, can be simulated without all, some, or perhaps any of the actual good being realized. Drugs can be consumed in order to create the experience of knowledge or friendship; fake remedies pursued to create the illusion but not the reality of good health; religious rituals can be engaged that foster sentiment but not genuine harmony between human and divine.14

How are these norms brought to bear on the good of work? Having identified four general norms, all in need of further specification, in the remainder of this section, I briefly discuss the ways in which each norm can be followed or violated.

No Intentional Damage or Destruction of an Instance of a Basic Good

Criticizing the norm against intentional damage or destruction of a basic good, Michael Pakaluk writes that in accordance with this norm, a “police officer can no more stop the loud trumpeter from playing outside my window at night, it seems, than society can execute a murderer.”15 But this does not follow from an adequate account of intention: the police officer wishes to restrict the noise that is made and to enable me to sleep; that the good of play, as such, is restricted, is a side effect; one might say the same when the police officer interrupts me *at work* to ask about a local crime: interrupting, and hence in some sense damaging, the good of work is here a side effect.

What could it mean to intend damage or destruction of an instance of the good of work? Since the core of that good is excellence in performance, it would seem that *intending non-excellence* in some particular performance is a violation of the norm. This might be pursued as an end, out of some form of hatred for the good, or, as seems more likely, as a means to some end. One might, for example, deliberately do shoddy work in order to: make someone angry, engage in a form of protest, cheat someone, and so on. Of course, these instances of deliberate sabotage of the good must be distinguished from all the ways in which, sometimes reasonably, sometimes unreasonably, we do less than our best work, but where the privation of excellence is a side effect – of lack of sufficient care, of time constraints, of faulty work habits, and so on (some of these causes will be further addressed below). But to deliberately seek the privation of excellence in performance as an end or means will be genuinely to violate this norm, and thus is always to be ruled out by practical reason functioning without error.

Fairness

Work is frequently – perhaps most frequently – pursued in community with others. Work is done within families to maintain households, within business settings with other employees and supervised by employers, within government agencies, and so on. It is clear that these settings are the occasion of many forms of unfairness; the discussion will thus be far from exhaustive.

There are, to begin with, the forms of unfairness that can be brought about by poor performance even when performance is not intended as impoverished (though also when it is): to do poor work often shifts burdensome consequences of poor work onto persons other than the agent of the work. In some cases, those burdens are imposed on other employees, in some cases on employers, and in some cases on both.

Poor workmanship typically creates poor products; in some cases, these render the products’ consumers unable to make adequate use of those products. In other cases, it can make those consumers unsafe. These constitute unfair burdens to the consumer of the product. And if poor products are sold at the same or similar price as better products, with their failings concealed, this is additionally unfair to the consumer *qua* purchaser.

Much work consists of providing services to consumers, rather than a created product (and many forms of work do both). Poor service of others, even when not intended as poor, creates strains in personal communion between the worker and those she serves. In principle, service jobs of almost any sort are opportunities for the extension of community: to help another, even when carried out as part of one’s job, builds interpersonal communion between persons, and to allow that communion to be damaged because one is unwilling to do good work is very often to be unfair. This can easily be seen by considering how unhappy we are to be on the receiving end of another agent’s bad personal service, whether in a restaurant, when dealing with a government agent, or in a medical context, for example. To be willing to work poorly in a service job is thus to fail to abide by the Golden Rule: Do not do unto others as you would not be done by.

In a broader context, work creates occasions of fairness and unfairness with regard to hiring opportunities, interpersonal treatment within the workplace, and wages. Here, as elsewhere, the concerns of fairness are reasonably articulated as concerns of justice: it is a matter of justice, and hence of right, that persons be hired on the basis of characteristics and skills relevant to excellence of performance; it is a violation of justice and right to hire in a way that unreasonably favors some over others on the basis of characteristics irrelevant to such performance.16 It is a matter of justice and right that the workplace be an environment in which employers treat employees and employees treat their employers and each other respectfully, honor reasonable boundaries of personal space, and cooperate on terms of mutual reciprocity; it is a failure of justice and right when such conditions do not exist. And it is, finally, a matter of justice and right, because a matter of fairness, that work be justly remunerated, that good work be acknowledged and sometimes rewarded; likewise that important work be acknowledged and rewarded; and that persons generally be rewarded for their work in ways that do not rely upon arbitrary or discriminatory differences such as race or sex.

The NNL understanding of work is Catholic, and the work of Grisez and Finnis, among others, is deeply consonant with that of John Paul II especially. That Pope wrote that “However true it is that man is destined for work and called to it, in the first place, work is ‘for man,’ and not man ‘for work.’”17 This must remembered in thinking about the nature of the workplace and the relationship between employer and employee; in addition to the common good of whatever product or external reality the work of a group serves, it must always also serve the common good of good work itself.

Work and Personal Vocation

The lives of persons should manifest good order, and that order is brought about in many important respects through the making of commitments that structure the agent’s life. The most ultimate of such commitments, a religious commitment, will be discussed in the final section of this essay. Here, it suffices to note that among the most important structuring commitments after religious and familial commitments is that to an agent’s work. Much work requires a period of apprenticeship in which the agent learns how to do good work – for some forms of work that period is quite extensive. And for many forms of work, good work can only be achieved through some form of devotion and concern for excellence at that work. So one’s commitment to this or that form of work will typically play an important role within one’s personal vocation, the life plan to which one believes oneself called.

This, in turn, requires the agent to give attention to one’s chosen field of work to ensure that it is fully reasonable. In discerning whether this or that form of work should be integrated into the structure of an agent’s vocation, the agent should surely consider ability, opportunity, desire, and need. Does the agent have the requisite natural talent for this or that form of work? Are there opportunities for this form of work available to the agent? Is it something she is emotionally suited for? And does the product of this form of work respond to genuine human needs, as opposed to unreasonable desires?

Agents who, having considered these questions and answered them reasonably, judge it reasonable to make a commitment to this or that form of work must then insure that their commitment is itself reasonably ordered in relation to other vocational commitments. In some cases, the ways in which the demands of one commitment should relate to those of another are set by the nature of the good pursued in the commitment. So, for example, commitment to the good of marriage rightly takes a kind of precedence over other commitments: one’s commitment to one’s work thus needs to be ordered appropriately in relation to one’s marriage and family responsibilities. On the other hand, a form of work like doctoring requires significant commitment of time and energy; it is likely to be incompatible with a number of other pursuits that might be too time consuming, too risky, or perhaps inappropriate for someone with a physician’s commitment to health to pursue.

The Appearance of Good Work

In regard to many goods it is possible to distinguish between the reality of the good’s pursuit, and the appearance of its pursuit, the subjective sensations characteristic of the good’s successful pursuit. Excellence typically has internal to its experience certain forms of pleasure, for example, and it is thus possible to attempt to pursue simulations of those pleasures without pursuit of the genuine good itself. Other experiential aspects of the pursuit or achievement of a good can also be simulated.

For example, the experience of friendship, without the real thing, can be simulated in friendships of pleasure, or even by means of the shared enjoyment of intoxicants among relative strangers. But to pursue the appearance of the good apart from the real thing is unreasonable, judged by the standard of the first principle of morality.

The experience of excellence in performance that is internal to the pursuit of the good of work is likewise simulable. A student about to work can spend an inordinate amount of time *preparing* for work, for example, and various psychological stratagems might be utilized to convince oneself that one had done better work and achieved more than was actually the case. This is different from deliberately doing poor work and perhaps typically involves some form of self-directed dishonesty (“I really put in eight good hours today!”). So it seems necessary to cultivate virtues of truthfulness and well as other forms of discipline in order to make sure one’s experience of good work tracks reality.

More could be said in relation to each of these ethical dimensions of work on the NNL account. Readers are encouraged to consult, for example, Chapter 10 of Germain Grisez’s *Way of the Lord Jesus*, Volume II, *Living a Christian Life*, “Work, Subhuman Realities, and Property.” I turn now, however, to the relation of work in the NNLT to that theories larger theological claims.

The Theological Frame

In this final section I offer only three brief remarks on the theological significance of the NNL account of the good of work.

Central to Germain Grisez’s moral theology and eschatology is a particular understanding of the Kingdom of Heaven as the ultimate end of human life. The Kingdom is a form of communion between all persons, human, non-human (angelic, Martian), and divine, that encompasses all aspects of human flourishing – all human goods. In the Kingdom, the possibilities for human flourishing, in communion with all other persons, are extended eternally in a perpetually open-ended way: human flourishing in the Kingdom is not a project that will ever be “complete.”18

Thus, *first*, the good of work is of necessity present in eternal life in the Kingdom if it is an essential aspect of human flourishing. But, presumably, in the Kingdom above all, the gap between work and play is even smaller than in this mortal life, since the need for external products of the sort needed for this human life will be minimized or perhaps eliminated. What will remain is the possibility of continued excellence of performance, in accordance with internal standards that can scarcely be imagined by us now. Since both the forms of performance and their standards are provided for us by God for the sake of His eternal glory – the glory of the coming to fruition of His loving plan for us – there is a way in which, or a standpoint from which, the good of excellence of performance can be seen as the form of life in the Kingdom.

*Second*, the Kingdom is both prefigured and prepared in the work of this mortal life. Grisez’s eschatology is deeply formed by a passage from the Second Vatican Council’s *Gaudium et Spes:*

For after we have obeyed the Lord, and in His Spirit nurtured on earth the values of human dignity, brotherhood and freedom, and indeed all the good fruits of our nature and enterprise, we will find them again, but freed of stain, burnished and transfigured, when Christ hands over to the Father: "a kingdom eternal and universal, a kingdom of truth and life, of holiness and grace, of justice, love and peace." On this earth that Kingdom is already present in mystery. When the Lord returns it will be brought into full flower.19

Thus, the fruits of the work that is done on earth will be found in the Kingdom. This includes especially the intransitive fruits, for by our good work we constitute the good character which a necessary condition of being worthy to enter the Kingdom; but also, it seems, it will include in some way the transitive fruits of our “enterprise”, which we will find again burnished and transfigured. The suggestion here is that some aspects of the material world and culture which are built in and through human work will also be part of the Kingdom.

So work will be part of the Kingdom, and work prefigures and constitutes the Kingdom. In both ways, work partakes of a theological significance. In conclusion I wish to suggest a *third* dimension of the theological significance of work which is made apparent within the NNL theory. In its transitive dimension, work obviously works operates upon the materials of the natural world, transforming them, but not essentially creating them. But every choice to work, and to work well, in a way shaped by the norms articulated earlier in this essay, does indeed bring something from nothing, for there are no sufficient conditions for any particular choice being made except for the free choosing of the agent whose choice it is.

Thus, the choice to work is in a real way an image of and even participation in God’s creation *ex nihilo*. As Finnis notes, “by work, human persons fulfil, develop or realize themselves, that is, we each share in God’s creation of us, even when the work – what we are working on, or working at – is humble in its ‘objective character’ as work.”20 That we are able to work is thus a profound instance of “participation in God's wisdom and goodness by man formed in the image of his Creator. It expresses the dignity of the human person and forms the basis of his fundamental rights and duties.”21

ENDNOTES

1. See P. Lee, “The New Natural Law Theory,” in *The Cambridge Companion to Natural Law Ethics*, edited by Tom Angier (Cambridge: Cambridge University Press, 2019), 73-91.

2. A further discussion of the NNLT and its differences from other forms of Thomistic natural law may be found in C. Tollefsen, “The New Natural Law Theory,” *Natural Law, Natural Rights, and American Constitutionalism*, 2012: http://www.nlnrac.org/contemporary/new-natural-law-theory. Accessed July 11, 2024.

3. J. Finnis, *Natural Law and Natural Rights,* 2nd edition. (Oxford: Oxford University Press. 2011), 448.

4. G. Grisez, *The Way of the Lord Jesus*, vol. 1, *Christian Moral Principles*. (Quincy, IL: Franciscan Press, 1983), 124.

5. See C. Tollefsen, “The Good of Play in John Finnis’s Natural Law and Natural Rights,” *Revista Persona y Derecho* 83: 2020. 571-590.

6. Grisez, op. cit., 121.

7. J. Finnis, “John Paul II and the Foundations of Ethics,” <https://angelicum.it/st-john-paul-ii-institute-of-culture/wp-content/uploads/2022/05/Finnis-JP2-Lecture-2020-21.pdf>. Accessed May 13, 20204.

8. *Ibid*., 8.

9. J. Boyle, “On the Most Fundamental Principle of Morality,” in *Reason, Morality, and Law: The Philosophy of John Finnis*, edited by John Keown and Robert P. George. (Oxford: Oxford University Press, 2013).

10. G. Grisez, J. Finnis, and J. Boyle, “Practical Principles, Moral Truth, and Ultimate Ends,” *American Journal of Jurisprudence* 32: 1987, 99–151, at 128.

11. J. Finnis, *Moral Absolutes: Tradition, Revision, and Truth*. (Washington, D.C.: The Catholic University of America Press, 1991.)

12. J. Finnis, *Natural Law and Natural Rights*, 106-109.

13. *Ibid.*, 103-105.

14. Grisez, op. cit., 214-215.

15. M. Pakaluk, “The Philosophical Case against the Philosophical Case against Capital Punishment,” *Public Discourse*, 2018. <https://www.thepublicdiscourse.com/2018/01/20643/>. Accessed May 14, 2024.

16. Amongst a group of people working together, “relevant to excellence of performance” will reasonably be understood in a fairly broad way. The most skilled agent is unlikely perform well in an environment of upright agents if he is, for example, publicly deficient in virtue (a point suggested to me by Gene Callahan).

17. Pope John Paul, II. *Laborem Exercens: On Human Work*. <https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens.html>, #6. Accessed May 14, 2024.

18. G. Grisez, “The True Ultimate End of Human Beings: The Kingdom, Not God Alone,” *Theological Studies* 69: 2008.

19. Second Vatican Council. *Gaudium et Spes*, 1965, #39. <https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html>. Accessed May 14, 2024.

20. Finnis, “John Paul II and the Foundations of Ethics.”

21. Catechism of the Catholic Church. 1997, #1978. <https://www.vatican.va/archive/ENG0015/_INDEX.HTM>. Accessed May 14, 2024.