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REDISCOVERING REALISM IN ETHICS

REV. RONALD D. LAWLER*

Leading national news magazines have featured articles on the crime wave that currently plagues our country. Reading them, one may be reminded of the sober remarks of John Finnis in his treatment of law: "And in this world, as it is, justice may need to be secured by force; failure to attempt to resist by force the depredations of invaders, pirates, and recalcitrants will normally be a failure in justice."¹ Conversely, it appears that we cannot honorably employ force to control the actions of others unless we are certain that the deeds we seek to repress are unjust and inhuman, and that the law enforced is a fair and proper pursuit of what is good.

Many people, protected by religious traditions, family convictions, or an unusual education are unaware of the profundity of contemporary challenges to our most cherished moral traditions. Many obvious signs of the great moral unrest in our society exist—sexual revolution, the drug society, our international preparedness for atomic war, and the terrible abortion industry. For too long, these signs have been disregarded as simply a disturbing and potentially dangerous difference of opinion on what is really good. The reality about us, however, is even more radical for these moral, sexual, and intellectual causes have led a number of our most influential thinkers to despair, rendering them unable to grasp anything as objectively worthwhile or as authentically good.

Unfortunately, it has become commonplace for educators to teach that nothing is objectively good. They seem to believe that knowledge consists only of valueless facts, because nothing else is objectively real. While people can have values which they can clarify and insist upon, educators maintain that the world conceals what is objectively worthy of love, hate, good, or evil.²

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¹ J. FINNIS, *NATURAL LAW AND NATURAL RIGHTS* 260 (1980).

² This familiar noncognitivism was taught explicitly by emotive ethicists, A. AYER, *LANGUAGE, TRUTH, AND LOGIC* 43-44, 108-09 (2d ed. 1946); C. STEVENSON, *ETHICS AND LANGUAGE*

The presence of this tide of antirealism is exemplified by a cartoon on the cover of a popular book in contemporary business ethics. An obviously successful businessman calls to his secretary from a board meeting: "Miss Dugan, will you please send someone in here who can distinguish good from evil." Accordingly, with great pleasure we welcome John Finnis to this Colloquium, for his works can surely assist us, even in our times, to more clearly distinguish good from evil.

In a certain sense, we are suffering today from an excess of ethical activity. While our reporters document the increase in major crimes, a furious amount of moralizing, moral debate, and ethical analysis is occurring everywhere. A society that studies ethics, however, does not necessarily become highly moral or noble. Outbursts of ethical energy are taking place today in virtually every professional and public field. Centers of value are springing up among us like spring flowers or, perhaps, like spring weeds. In every field, as Professor Henry Veatch has said, there is a demand for "ethics to order."

The surge in ethical activity has taken place at a time when the dominant theories in ethics have been singularly without resources to respond to the questions posed. One remembers the well known essay, "Modern Moral Philosophy" in which G.E.M. Anscombe wrote: "It is not profitable for us at present to do moral philosophy."³ She indicated that many of the presuppositions of a reasonable and human ethic are so inaccessible today that ethical study is as likely to corrupt the innocent as to make them practically wise.

There is another explanation for the current crisis in ethics. Although the professors of ethics have grand intentions, it is difficult to exaggerate the folly of many contemporary ethics courses. Ordinarily, a textbook in medical, business, or government ethics will begin with a study of several forms of ethical theory.⁴ Contrary positions are sketched in painful brevity while some kind of utilitarianism is certainly presented. The chapter may mention relativism, intuitionism, and perhaps deontological ethics—a type of Kantianism without the serious complexities with which Kant struggled. Natural law theory may even be mentioned, but it will be presented in a form that no intelligent person could approve. The total effect of this preliminary, theoretical section is demoralizing, for no sense of a necessary and hopeful struggle to ascertain what is authentically good for man is conveyed. The impression is more akin to an ethical

37-80 (1944), and implicitly by later analytic ethicists, R. LAWLER, *PHILOSOPHICAL ANALYSIS AND ETHICS* (1968).

³ See Anscombe, *Modern Moral Philosophy*, 33 *PHILOSOPHY* 1 (1958).

⁴ See, *ETHICAL THEORY AND BUSINESS* (T. Beauchamp & N. Bowie eds. 1979); S. GOROVITZ et al, *MORAL PROBLEMS IN MEDICINE* 1-11 (1976); *CONTEMPORARY ISSUES IN BIOETHICS* 6-48 (T. Beauchamp & L. Walters eds. 1977).

smorgasbord in which one is invited to make a selection from a variety of different positions.

One is then thrust into the chaos of live moral debate, unfortified with any adequate method to evaluate moral arguments. The student is presented with rhetorically powerful statements of opposing positions on a great array of questions. It would seem difficult to devise a method more calculated to create moral confusion and despair. Accordingly, the path of moral education must certainly proceed in some other way, but the dominant noncognitive methods of ethical theorizing have made progress difficult.

Professor Finnis' *Natural Law and Natural Rights* commends to the contemporary world a more satisfying, rational approach to moral questions. His refreshing new treatment of natural law refocuses our attention to the substantial issues that contemporary ethical theory has neglected. Obvious difficulties, however, are encountered when the theory of natural law is presented to the modern world.

Through an exposition of Alfred North Whitehead's concept of "climate of opinion," Professor Carl Becker illustrates the difficulties of presentation in *The Heavenly City of the Eighteenth Century Philosophers*.⁵ He employs an imaginary account of a conversation among Thomas Aquinas, his disciple Dante, and two modern professors. The modern professors wish to be courteous to Aquinas; so they ask him: "Tell us something about natural law." St. Thomas begins: "it is evident that all things partake somewhat of the eternal law, in so far as . . . they derive their respective inclinations to their proper acts and ends. . . ."⁶ Becker continues to quote at length from Aquinas's greatest work. The jargon gets more and more unintelligible, so the modern professors turn to Aquinas' friend, Dante, and ask him: "What do you good people think of the idea of a league of nations?" Dante, of course, is ready with a few words from *De Monarchia*. "Mankind is a whole with relation to certain parts, and is a part with relation to a certain whole. It is a whole, of course, with relation to particular kingdoms and nations, . . . and it is a part with relation to the whole universe, as is self-evident. Therefore, in the manner in which the constituent parts of . . . humanity correspond to humanity as a whole, so, we say, . . . humanity corresponds as a part to its larger whole"⁷

If we were the modern professors, Becker suggests that our first impulse might be to concede that Aquinas and Dante were not in top form even though their words were taken from their greatest works. Alternatively, we might complain that they were offending us with nonsense.

⁵ C. BECKER, *THE HEAVENLY CITY OF THE EIGHTEENTH CENTURY PHILOSOPHERS* 1-33 (1932).

⁶ *Id.* at 3.

⁷ *Id.* at 3-4.

Becker explains that what renders Dante's argument of Aquinas' definition meaningless to us is not bad logic or want of intelligence, but the medieval climate of opinion. The medieval era had its suppositions, methods, and logic, and the modern world has its own. Communication between the two, however, is at best difficult. Becker's account of both Aquinas' and his own climate of opinion is clearly constructed from personal bias. He does, however, address the difficult question of how natural law should be presented. This is of great importance to this Colloquium.

One who wishes to give to the contemporary world and its pressing practical problems the resources of sound natural-law thinking must first break through the multiple misunderstandings which seem inevitable. One advantage of Finnis' approach to natural law is that he does not perceive contemporary professors as a reincarnation of their Middle Age counterparts. Rather, he understands the thought process of the contemporary scholar as being in the dominant analytical tradition of our times. He discloses in his preface that at one time even he did not "suspect that there might be more to theories of natural law than superstition and darkness."⁸ His astonishing mastery of classical literature and history has further aided the persuasiveness of his campaign in favor of the adaption of the natural law. It is not surprising that his work has been received with encouraging appreciation from many in the analytic tradition.⁹

The traditional defenders of natural law thinking may be understandably disturbed when their heritage is presented to a changed world in notably different forms. They are legitimately concerned that something of substantial importance may be lost in the new translation. One must not fail to acknowledge, however, the range of scholarship revealed in the Finnis work, its astonishing mastery of the relevant literature, and its clear grasp of central points of practical thinking which were often confused within the Thomistic tradition. Upon further examination, one discovers the clarity with which Finnis illuminates contemporary legal and political thought. Accordingly, the traditionalist should be willing to entertain implicit suggestions that certain ways of presenting natural law are invaluable in the peculiar circumstances of our times.

In its general outline, natural law certainly supports the dignity of man, for it insists that we can know what is good and what is evil. It maintains that good and evil, and right and wrong are not injected into the world by will, whether by tyrants, or benign legislators. Rather, by his

⁸ FINNIS, *supra* note 1, at vi.

⁹ Finnis' work has received an encouraging response from English ethicists and philosophers of law, a response that is perhaps surprising in light of the profound differences between his nuanced classical position and that of dominant analytical positions. See McInerney, 25 AM. J. JURIS. 1, 1-15 (1980); McCormick, 1 OXFORD J. LEGAL STUD., 99, 101-03 (1981); Schall, 42 THEOLOGICAL STUD., 160-62 (1951).

intelligence, each person can come to know for himself the presence of good and evil in both his own acts and in the acts of others. Therefore, because we live in a real and intelligible world that is rich with goodness, our experience and understanding of what is, plus our knowledge of good and evil, will enable us to pursue good in order to intelligently guide our lives.

In his chapter on "Images and Objections," Finnis addresses the significant current objections to natural law theory.¹⁰ I wish to treat only one of the problems he discusses—one closely related to Becker's account of "climates of opinion."

Natural law is most at home in an era such as that in which Aquinas' grand intellect dwelled. It flourishes in a world of purpose and meaning where teleology orders real natures, in a world which is grasped as the product of an intelligent God. Finally, the theory thrives heartily in a culture which has fully explored the ontology of man's being, one in which his essential traits are known and commonly recognized.

We, however, engage in moral debate with people who do not live in such a world. As a result, important questions inevitably arise: does practical reasoning in accord with natural law presuppose agreement on a great many theoretical issues, issues with which we are not likely to agree? Before beginning a treatise on natural law which seeks to convince people of the truth or certainty of its conclusions, must we lead them to accept a realistic metaphysics? Must we formally persuade society of the truth of a realistic philosophy of nature and especially of a philosophical anthropology? Must we not only grasp the goodness of authentic values, but also show that God is the source of the intelligibility of the world before we can fruitfully engage in moral discussions? Does the validity of practical reasoning depend upon theoretical truths properly established in a theoretical, philosophical study in which very few people engage?

We are not concerned here with the importance of these theoretical questions to the moral philosopher. Certainly, the practical inquiries cannot be wholly resolved, as Finnis himself insists,¹¹ until the profound questions about man, the world, and God are adequately explored. Must all useful debate, however, await the satisfactory solution of such questions?

Finnis, relying on Aquinas and the work of Germain Grisez,¹² developed a powerful argument for a considerable autonomy of moral science. Ethical thought, he concluded, is related to important theoretical studies of man, the world, and God, but practical thinking has its own first principles, and its own modes of reasoning. Despite its interrelations with the-

¹⁰ FINNIS, *supra* note 1, at 23-55.

¹¹ *Id.* at 371-411.

¹² Finnis acknowledges that he is indebted to the work of Germain Grisez.

oretical issues, one can approach practical thinking with a certain directness, by focusing on the matters entirely indispensable for sound practical thinking.

Finnis' natural-law teaching is distinguished by its clarity, order, simplicity, and depth. At the outset of his preface, he writes: "The book is no more than introductory. Countless relevant matters are merely touched upon or are passed over altogether. Innumerable objections receive no more than the silent tribute of an effort to draft statements that would prove defensible if a defense against objections were explicitly undertaken."¹³ He means this seriously, for anyone who teaches ethics knows that every book expounding ethical theory will omit much. I believe, however, that he has selected a wise focus. While he could not possibly treat every issue, he does explore the things which need to be kept in mind for a more complete understanding. Moreover, he directly and forcefully confronts the central questions facing natural-law theory today.

The first great issue addressed by Finnis involved the authentic goodness of the most basic human goods that are facets of human fulfillment or happiness. In the contemporary world we must respond to those who have come to believe that nothing *is* good; that neither life, truth, friendship, integrity, nor beauty has an authentic and really knowable goodness. Today, all practical reasoning is concerned with achieving what is good in one's action and life, but many people question whether there are authentic goods to pursue.

Although it appears that men pursue an infinite variety of objectives, an object or factor analysis will reveal that they are pursuing only a limited number of types of ends and goods. Among good and evil men of all cultures we see efforts to nourish life and flourish in it, to know the truth, to play and to enjoy what is beautiful, to have friends, to live one's life with integrity, and to be at peace with the mystery that underlies all the world. The hunger for such goods motivates every noble as well as every base action.

In the face of the nihilism of our culture and of the insistent noncognitivism of contemporary theory, how could we show that the values sought everywhere are authentic and objectively precious goods? It may seem strange to answer this by saying that the basic forms of human flourishing—the basic goods—are obvious to anyone practically acquainted with them whether through his own inclinations, or vicariously, by the character and work of others. It may seem unusual to describe the objective reality of principles of action as "evident" while others sharply deny them to be such. "Evidence," however, does not mean obvious before serious reflection. Some evident truths, Aquinas notes, are known

¹³ FINNIS, *supra* note 1, at iv.

to the wise, though one does not need to be especially wise to grasp that life is good. Cultural blocks, for example, could keep people from interpreting, understanding, or acknowledging aspects of reality which in principle can be grasped immediately.¹⁴

The first principles, from which all else flows in a given order, must be grasped with immediacy. These principles, however, also need the most serious critical justification. They cannot be defended by any formal proofs or strict arguments, but need intelligent justification in view of the objections that may be raised by the noncognitivist of our time. Misunderstandings must be cleared away by demonstrating the absurdity of contradictions to the principles.

Finnis seeks to avoid none of this labor. Like Aquinas, however, he holds that the first principles of the practical order are evident and need not be deduced from the truths of philosophical anthropology or metaphysics. Finnis' detailed critical justification of the evident principle that knowledge¹⁵ is worthy of pursuit deserves very careful reflection.

In defending first practical principles we directly address the despairing claims of noncognitivists that it is not possible to know goodness as an objectively knowable aspect of reality. One could easily misunderstand what Finnis is trying to establish. Certainly, he is not asserting that the disputed moral judgments can be intuitively grasped as surely true. He is affirming, however, the evident value of the ends of all human striving, and further, that one must immediately grasp the goodness of the ultimate ends of acting. Moreover, although he understands that many intellectual objections to this exist, he believes that these problems can be worked out and the objections answered. One must come to grasp immediately, as a principle, not as a conclusion, the good of the basic values. This is traditional Thomism, which Finnis presents in an especially brilliant manner.

Reflection on nature in a natural-law theory cannot be avoided¹⁶ because what is good for man depends upon his nature. Obviously, Finnis has done this,¹⁷ for he reveals how we intelligently grasp the goodness of the basic values, drawing from human experience the realization that knowledge and life are goods for man. It is through reflection on our own actions, choices, and experiences of seeking and finding answers, that we come to grasp that knowledge is good for us as an indispensable aspect of human flourishing.

The contemplation that is required to determine that knowledge is good for man is quite different from the causal analysis which uncovers

¹⁴ *Id.* at 65.

¹⁵ *Id.* at 59-80.

¹⁶ Henry Veatch develops this criticism of Finnis in a paper delivered at the Colloquium.

¹⁷ FINNIS, *supra* note 1, at 69-74.

the ontological structures of man. To pursue the knowledge of man and of God by this latter method would profoundly deepen our understanding of the practical truth that knowledge is good and should be pursued.

The next element I would like to discuss is Finnis' account of the basic requirements for practical reasonableness. Let us suppose that one has grasped the goodness of life, knowledge, friendship, and other human goods. He no longer lives in the valueless world of existential or analytical noncognitivists, but in a world rich with goodness. Every truth, form of beauty, and dimension of friendship which can be grasped has its own authentic goodness. Is the problem of human choosing solved? Clearly, it is not. Since there are so many ways of pursuing what is good, the question then becomes what are the prudent methods of choice.¹⁸

Surely the wise and good man is not distinguished from the foolish and evil man because the former pursues only goods, while the latter pursues death and muddled thinking. The good and evil man alike seek good, but the former seeks it in accordance with the directives of practical reasonableness, and the latter seeks it unsatisfactorily.

It must then be asked how one reasons rightly in shaping the actions of one's life. What are the principles that must guide our decisions about the rightness or wrongness of individual acts or of kinds of actions? Is the fact that one has a good intention sufficient to make an act upright? May we commit a minor evil to achieve a great good? In the muddled moral debates of our time, the question of the coherence and truth of proposed modes of practical thinking is often ineffectively examined.

The major objection against Thomistic natural-law theory has been that it does not explain how the many specific moral rules of conduct proposed by Thomas Aquinas are connected to the allegedly self-evident principles.¹⁹ If a moral theory is to be helpful in defending precious human values and human rights, it must show how to proceed from first principles to specific moral directives.

Unfortunately, in these crucial areas ethical theory tends to be vague. Aristotle, for example, notes that the way to think well in ethics is to think as the right-minded and virtuous man does.²⁰ That, however, is not a detailed plan. Indeed, it may prove useful for one who wishes to be practically wise to have been born of the right parents, and in the right society,²¹ so that virtuous habits will be instilled in him.

Of course, one can imagine knowing persons who are paradigms of moral behavior—people who handle the complex problems of moral life in ways that we recognize as excellent. We need more than models

¹⁸ *Id.* at 100-33.

¹⁹ D. O'CONNOR, *AQUINAS AND NATURAL LAW* 68 (1967).

²⁰ *Cf.* *NICOMACHEAN ETHICS* I, 3: 1095a7-11; 4: 1095b5-13; X, 9: 1179b27-30.

²¹ *Id.* at X, 9: 1179b27-1180a5.

though. We need to grasp the principles the good man is following so that we may be able to act in light of principles discovered to be right.

Finnis' treatment of the requirements of practical reasoning follows Germain Grisez's very closely, though his work reveals many fine original developments. I believe, however, that to some extent he is restating elements of prudence that can be found in much of the classical tradition. Certainly it did not escape Aquinas, or the natural law tradition, that one must reason rightly from principles to conclusions in order to have sound moral directives and wise laws. In his treatment of the virtues, Aquinas gave the guidance to practical wisdom that Finnis seeks to present more systematically in developing the principles of practical reasoning.²²

Still it must be confessed that in traditional studies, analysis of the forms of practical reasoning has been less than rigorous. Today, it is essential to provide orderly and clear accounts of the diverse practical principles that are necessary in moral reflection. For example, it is clearly necessary to determine whether consequentialism, which has been a powerful force at the heart of current attack on received principles in Christian moral theology, is indeed a coherent doctrine of practical thinking. Conversely, is the theory that has been defended so long as evident and as essential for defending human values, namely, that one must not do evil even though good may come of it, critically defensible as a basic principle of moral thought? Finnis argues this latter position forcefully.²³

Among the immediate practical virtues of Professor Finnis' book is, in my judgment, the strong defense he provides for the classical (principled) modes of thinking. The defenders of the right of life, of received sexual ethics, or those who earnestly long for just reforms in the social order, will find Finnis' work a vigorous justification to the principles and modes of moral thinking—one necessary for sound human conclusions.

Addressing the canons of practical reasonableness, Finnis claims that they are as obvious as the norms of rationality, the principles of logic, and the presupposed canons of explanation, whether in the context of practical thought or in that of natural science, mathematics, or logic. Again, it might seem strange to insist that these frequently denied principles which are the focus of intense moral debate should be called evident. Yet, I believe that Finnis does defend his position well.

Additionally, he shows in detail what he means by "evident."²⁴ In his analysis of specific principles, he traces the sources of our certainty concerning the validity of moral thinking and invites courageous reflection on the central issues. There is sometimes a fear to proceed to the ultimate evidences, for what we find may not be strong enough to sustain our

²² See J. PIEPER, *PRUDENCE* (1954).

²³ FINNIS, *supra* note 1, at 115-25.

²⁴ *Id.* at 64-69.

deepest convictions. In any event, the invitation to carry on this search should be irresistible. A patient, critical defense of basic principles is needed if we are to know that our moral thought is justified and not based on illusion. Finnis' work is an excellent guide to this reflection.

To follow the path of Finnis' book, is to find a satisfying answer to many problems. Practical questions can be studied in ways that enable communication and honest debate between peoples whose views of life are very dissimilar. He addresses the most critical and central questions of practical thinking itself: What are the goods we can immediately grasp as objectively precious? What are the valid and coherent ways of arguing from basic goods to practical conclusions and to judgments about what is good and evil? He shows how moral debate, even in our splintered world, can be rational discourse rather than rhetoric, and illustrates this in a substantial treatment of issues of justice. He has drawn upon the rich resources of the classical tradition and the clarity of analytical philosophy to present natural law theory in a way that speaks with persuasive force to contemporary minds.