The Catholic Church’s Misplaced Defense of Natural Law

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The Roman Catholic Church bases its moral teaching on two sources: revelation and natural law. Church officials rely more heavily on the second of those standards. They routinely refer to the existence of natural law as the reason that a church teaching is unchangeable. By claiming to be the defender of natural law, church officials invite all men and women to join in the defense of humanity. The strange result is to drive away possible allies who do not accept any set of truths called natural law. Perhaps much of the world stubbornly refuses to see the obvious truth. However, the embarrassing fact for church officials is that a very large part of the church’s membership cannot make much sense of natural law.

The paper prepared for the 2014 synod that summarized responses to a widely circulated questionnaire concluded: “In a vast majority of responses and observations, the concept of natural law today turns out to be, in different cultural contexts, highly problematic, if not completely incomprehensible.” Do the bishops know what they mean by natural law or are they simply repeating formulas learned in the seminary many years ago? The argument of this essay is that the term natural law, adopted from Roman philosophy in early Christianity, was never exactly right for what the Christian Church was teaching. The term was close enough to be serviceable throughout the middle ages but by the seventeenth century its inadequacy should have been evident.

The Roman Catholic Church is trying to defend a code of morality that is not subject to whims, passing fashions, and the seven deadly sins. Throughout history there had seemed to be a stable set of rules for a moral life. At least it seemed that way before each group’s rules became subject to comparison with the rules of other groups. Anthropology led the way in the late 19th century toward what is called moral relativism. The modern meaning of “culture” was invented to indicate the differences between groups. The modern mantra became one of tolerating differences. We have different moralities so let us celebrate diversity. My people has its morality and you can have your morality and no one is in a position to be “judgmental” about morality.

Moral relativism was a lazy way to avoid the task of sorting out differences that are tolerable from other differences that would be impossible for the human race to sustain. The first half of the 20th century should have provided plenty of material for reflection on what is intolerable but it was only toward the end of the century that environmental destruction posed the problem directly. There remain many people who are unconvinced by scientific claims about human destruction of the environment but even they have to admit that if there are human practices that make the air unbreathable and the water undrinkable, the practices are wrong no matter how common. The revolution in communication is also bringing home that a group of people in one part of the world cannot be dismissed as merely having its own quirky morality if they can wreak

havoc in every part of the world. That principle applies to the Middle East but it also applies to the United States of America with its capacity to do violence in any place it wishes to do so.

An international ethic is struggling to be born under the rubric of human rights. That movement began only in the last third of the 20th century and is nowhere near functioning in much of the world. The term human rights is tossed about indiscriminately as if everyone knows what is meant and is committed to the observance of these rights. One big problem is that international law assumes that the nation-state should enforce human-rights law but the nation-state is often the chief violator. Perhaps a more basic obstacle to the realization of human rights is that trying to build an ethic by starting with rights is an illusion created in the last several centuries. Where does the idea come from that all people have rights and why would national governments observe such rights?

A common answer given is that these universal rights are stated in the British American document known as the Declaration of Independence and the much more influential French document, The Declaration of the Rights of Man and of the Citizen. According to these documents, the origin of universal rights is nature. Jefferson even claimed that these rights are “self-evident,” an assertion that cannot be defended on the basis of history. Jefferson himself seemed to miss the evident truth that women, American natives, and African slaves were human beings who should be included in any claim of universal rights. The United Nations published a document in 1948 entitled The Universal Declaration of Human Rights. The word universal is obviously misplaced. Thirty-nine nation-states (the Soviet bloc abstained) declared that a long list of rights were universal. How did they know that? They implicitly relied on Jefferson’s claim that human beings have rights even though there is no lawgiver that has established the rights.

The Catholic Church might have been a helpful contributor in discussions since World War II of a morality that must be accepted everywhere if the human race is to continue. Unfortunately, the Catholic Church had lost its way politically and was seen as a reactionary force in democratic movements and a resisting force to scientific and technological achievements. The Catholic Church could have provided a tradition to support the 18th century idea of rights; in fact, both the French and the British Americans spoke about “natural rights” because of a centuries-long discussion of natural rights in the Catholic Church.

It should be noted, however, that Christian morality was not erected on the basis of natural rights; the rights were derived from something more profound and universal. In medieval language what comes first is natural law; and because there is a law that controls human action, there are human obligations that each person has. And from those obligations, the notion of rights arises. If I have an obligation to pay a debt then someone has a right to be paid. If I have

an obligation not to murder, then other people have a right to live. That sequence seems

backwards to us, and it could be argued that the obligation already implies a prior right. But obligation was the more directly derived from the idea of a natural law.

There would be no point in trying to convince the modern world of the sequence of law followed by duty, followed by right, but there is a valuable idea here that the concept of right only works within a context of other moral categories. An entire ethic cannot be built upon the idea of rights. That fact is half admitted today with the cliché that in addition to rights we need *responsibilities.*  But all that this phrase usually does is eliminate the idea of duty or obligation and substitute a word to which everyone gives lip service but which seldom has any practical effect. If the idea of responsibility were actually taken seriously, it would be examined historically and logically It might then be able to serve to relate right and obligation. Responsibility could not play the role that natural law did in medieval writing but it could raise a good question about to whom or to what are human beings responsible. The environmental movement does raise that question but it can only come up with “nature” as the object for human accountability which is not compelling for changing the behavior of most people.

The Origin and History of “Natural Law”

It is always helpful to ask where a term came from, who coined the term, and why it was thought to be needed. For example, in his 1790 book, *Introduction to the Principles of Morality and Legislation,* Jeremy Bentham used the word international. In a footnote he says that he realizes he is inventing a new word but he thinks the reader of English will understand it. Until 1790, something called the “law of nations” functioned both for matters internal to nations and between nations. Bentham correctly grasped that the ambiguity could and should be cleared up by coining a new word that means between nations. He acknowledges his debt to a French writer for having created the equivalent term in French. The new word was an immediate success: international law was born.

The “law of nations” was one of three kinds of law that the Roman thinker Cicero named. In addition, there was law that was passed by nations and a law that Cicero called natural. Cicero was more a lawyer than a philosopher but he had a controlling influence on much of Western philosophy by his translations of Greek philosophical concepts. The Christian movement encountered this language of Latin translations that had been stamped by the Stoic philosophy of the time. Christianity inevitably absorbed many of these philosophical terms, including the words religion and nature. In some cases it was obvious that Christianity was giving a new meaning to a term (such as “sacrament” that had meant a military oath) but in other cases the language helped to shape the way Christianity developed. Cicero’s “natural law” was never quite right for Christianity but the differences could be missed by later generations. Christianity, in fact, could

be mistaken as having adopted the Stoic code of morality (including the word morality) as submission to what nature dictates.

The term natural law has always been ambiguous because of the extreme ambiguity of the word nature that started out simply enough as a concept to explain the movement of a living creature. Each living thing was said to have a nature; but because the web of living things is interrelated with the non-living world, “nature” could include each thing. Does a river or a rock have a nature? Not according to the original meaning but one can easily see how the idea would spread beyond the boundary of each living individual to all individuals. That same movement to include non-living objects generated a meaning of nature as an encompassing idea in which individual things participate. The idea that nature can be imagined as the mother of life arose quite early in Greek philosophy. However, while Aristotle lists six meanings of nature he does not include the meaning of nature as mother of us all. Aristotle as biologist and physicist sticks close to what he sees as the primary meaning of nature, namely, the force within each living thing that is the source of its movement.

Christianity adopted the term nature even though it was not part of the Christian heritage found in the Bible, that is, in what the church calls the Old Testament. There was no word for nature in the Hebrew language. The ancient Israelites spoke of flesh and blood, earth and water, forests and deserts – not to mention sex – without using the word nature. Not being philosophically inclined, Hebrew speakers found no need for “nature.” The earliest Christian gospel would also have no need to speak of nature. The term entered Christian tradition mainly through the writing of St. Paul who uses “nature” and “natural” in unsystematic ways. Paul was not a great fan of Greek philosophy.

From early in its history, the Christian Church was confronted with the problem of how to talk about Jesus in relation to God. Controversies abounded as the discussion moved between Greek and Latin vocabularies. What emerged in the Latin part of the church was a distinction between “nature” and “person.” It was a brilliant creation of language that proved helpful, not only in speaking of God and Jesus the Christ, but as applicable to every human being.

The invention of “nature” had provided a useful concept in differentiating one kind of thing from another. Christianity went further in helping to create a sense of individuality by recognizing a difference between what I am and who I am. Nature was no longer the ultimate idea to which the humans with their own nature must submit, as it was in Stoicism. The person, while preserving what he or she is (nature), has the possibility of going beyond what is given by the fact of human kind. Person and choice imply one another. Although the Stoics had introduced the idea of human choice, that choice was limited to either challenging nature or submitting to nature; death was a

constant reminder that the wise choice was to obey nature. By the invention of “person,” Christianity transformed the meanings of both nature and choice.

Augustine of Hippo

The person who brought together the early strands of Christian thinking in the West was Augustine of Hippo, a north African of the late 4th century CE. Augustine was perhaps the first person to see clearly the implications of distinguishing between a person with the capacity for choice and a nature that each person carries from birth. Our choices form a “second nature” that shapes our given nature for good and for ill. Augustine also saw the need for a “supernatural grace” – a gift beyond nature – because the human race has made a mess of its own history.

Augustine is blamed for introducing the badly named doctrine of “original sin” as a burden and limitation on our freedom. What he is not usually credited with is his contribution to the idea of freedom itself, the idea of human will as the ability to choose among several possibilities. Original sin was his recognition that the human race and its members have been failing badly as far back as we can trace. The failures are inexplicable if one looks only at an individual and his or her intention to act for what is good. Humans are the tragic animals whose great treasure of freedom is consistently used in ways that destroy their own best interests.

Augustine was not a great philosopher but he might be called the first modern psychologist. Many of the great modern thinkers, including Rousseau, Freud, and Wittgenstein, carried on a dialogue with Augustine because they realized that he had insights into the human condition that were hardly known in the ancient world and are rare even today. His *Confessions* is often called the first autobiography, the moment when a human being could stand outside himself and see his life as a spectator. He saw that seemingly minor choices could lead to disaster in one’s life. But he also saw that if open to the helps that are divine gifts a human being can overcome the distractions that society poses and might accomplish great things.

Augustine was an admirer of Cicero and adopted much of his language. He did not intend to contradict Cicero’s idea of a natural law. But in fact, Augustine presents a much more complex picture of the person than the human being submitting to a law of nature. Unfortunately, Augustine’s great insights were lost for centuries on people who did not start from the rich classical base that Augustine had assimilated. To this day, Augustine is often dismissed as someone obsessed with sin, especially sexual sins. Admittedly, he is not a good guide for sexual enlightenment. But as Garry Wills points out, if one actually reads what Augustine preached, one finds far more concern with the injustices of the social order than with sexual failings.

Thomas Aquinas

The philosopher who could appreciate Augustine was the 13th century Dominican friar, Thomas Aquinas. Thomas frequently quotes Augustine and tries never to contradict him. But there is no denying that Thomas shifts the perspective of the Christian story to a more positive note. Yes, the story of human history is one of constant failure and the need for redemption, but first it is a story of a glorious creation which is entrusted to human care. Sin is a constant problem but the way to oppose sin is not with scalpel and scissors but with an increase of goodness, mercy and kindness. Thomas’s meaning of goodness is not reducible to what humans aim at; instead it is expressed in the principle *omne bonum diffusivum sui est*: the good is that which is diffusive of itself. The good life is one which overflows with a generous influence on other lives.

Thomas’s moral writing is often described as a “natural law” morality which is to miss the point of a morality of the person. Like Christian thinkers before him, he distinguished between nature and person; in his case he made this distinction the center of his teaching. According to Thomas, there is nothing greater in the universe than the person; thus, sin is a violation of personhood. God is only offended when we act against our own being.

“Self-deception” is a central category of Thomas’ thought; he was heir here to the brilliant psychological insights of Augustine. We always act for our own good; the question is whether we perceive accurately the self that we serve. A selfish person is mistaken about the self; the alternative to selfishness is a better understanding of the self. The 19th century alternatives of “selfishness” or “altruism,” simply opposes self and other; that is a hopeless basis for morality. In Christian terms, a morally good act is one that affirms the mutual relation of self and the neighbor in response to the love of God. A knowledge of our good is always obscured by the split in the human psyche that has to be struggled with throughout the whole of life.

Thomas does accept the term “natural law” but he confines his discussion of the term almost entirely to one question of the *Summa Theologiae*. Natural law is not a law in any usual sense of the term law. It is “manifested” only in the human mind as principles of action. For not acting against our own nature, we have to follow the deepest of human inclinations. Only with what Thomas calls “determinations” can the principles of natural law be a guide to action. Today those determinations would be found in the study of history, conclusions from scientific research, and testimonies by people who have experience of the practice in question. One point of progress for the human race is that groups who in the past could not get their voices heard now have a chance to make their case in worldwide liberation movements.

Thomas Aquinas, like Augustine of Hippo, would be a terrible guide on matters of sexual practice. Some of his opinions are dead wrong. But a principle such as respect for each person is

as true today as ever and needs to be applied even more widely. Catholic Church officials ought not to cite Thomas’s work as a catechism of answers for today’s problems. The way to respect the work of Thomas Aquinas is to continue his work by filling out principles that he called natural law with the best of today’s knowledge and the deepest inclinations of the human self.