topic

Contemporary Natural Law Theory

INTRODUCTION *to* CONTEMPORARY THEORIES *of* NATURAL LAW

Any attempt to summarize and compare theories of natural law from the early twentieth century to the present day inevitably becomes entangled in the debates between the theories themselves. Nevertheless, it is illuminating to see contemporary theories of natural law as falling into two general categories:

- Neo-Thomism
- The Grisez, Finnis and Boyle Theory

Neo-Thomism is the vigorous and complex revival of the thought of the thirteenth century Dominican theologian St. Thomas Aquinas, who is perhaps the paradigmatic natural law thinker. The most important source of the neo-Thomist revival was Pope Leo XIII's 1879 encyclical letter *Aeterni patris*, in which Leo called for the rejuvenation of Christian philosophy and proposed St. Thomas Aquinas as its exemplar. In the decades following Leo's call, neo-Thomism coalesced into a number of contrasting schools that emphasized different aspects of Aquinas teaching, or focused on meeting the challenges of different modern philosophers such as Kant or Husserl. Key early figures in neo-Thomism are Reginald Garrigou-Lagrange, Charles De Koninck, Joseph Maréchal, Etienne Gilson, and Jacques Maritain. All of these figures were Catholics and most were clerics; concern for the natural law was just a part of their concern for elaborating a comprehensive philosophy and theology. Garrigou-Lagrange presented a Thomism that was indebted to the Scholastic commentary tradition; De Koninck emphasized Aquinas' Aristotelianism; Maréchal reworked Aquinas to engage Kant and Descartes; Gilson and Maritain stressed, in different ways, the priority and distinctiveness of Thomistic metaphysics.

Maritain's work on the natural law had the greatest influence on American thought. He taught in the United States during and after the Second World War and was involved in politics at high levels (in particular the drafting of the UN Declaration of Human Rights). In some respects Maritain's political writings anticipated the work of Harvard philosopher John Rawls. More recent figures who have developed neo-Thomism with a more exclusive focus upon natural law include: Russell Hittinger, J. Budzisewski, Ralph McInerny, Henry Veatch, and Martin Rhonheimer. With the exception of Veatch, these neo-Thomists also self-consciously work within the Catholic tradition.

Another, although smaller and less well-defined, strand of neo-Thomism originated in Anglophone philosophy with the work of Peter Geach, Anthony Kenny, G. E. M. Anscombe, Herbert McCabe, Alan Donagan, Mark C. Murphy, Eleonore Stump, Anthony Lisska, and Alasdair MacIntyre. Although these thinkers have been influenced by the Catholic mainstream of neo-Thomism, many of their preoccupations and concerns are native to the analytic philosophical tradition that arose with Frege, Russell, and Wittgenstein. Many of the 'analytic' neo-Thomists, in particular MacIntyre, have made important contributions to contemporary moral theory. The relationship of these contributions to the natural law tradition is contested, however, because they are often framed in terms of "virtue theory," and the compatibility of an ethic of virtue with a morality of law is a debated issue.

The second category of contemporary theories is the version of natural law theory developed in collaboration among Germain Grisez, John Finnis, and Joseph Boyle. It can be seen as part of the broader neo-Thomist revival, but also as friendly opposition to it. The Grisez, Finnis, and Boyle theory is inspired by Aquinas, but is ultimately a novel philosophical enterprise that rejects central tenets of Aquinas's thought, and is noteworthy for its systematic character and engagement with practical moral

questions. The theory emphasizes the priority of practical knowledge, as opposed to speculative knowledge of nature, in moral theory. Other collaborators in the Grisez, Finnis, and Boyle project include Robert P. George, Patrick Lee, and Christopher Tollefsen.

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