



Natural Law

by Gordon Babst

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Natural Law refers to the tradition of reading into nature laws that are not merely descriptive, but prescriptive. For adherents of natural law, nature does not merely state natural facts, but also offers a moral code, or reveals a moral order, usually anchored in a god whose intentions can be read in nature.

In Christian theology, natural law is that part of God's teaching that can be discerned through nature (as opposed to revelation or grace or scripture). As developed by medieval scholasticism, it became the basis of both sacred and secular law, including laws regulating sexual practices.

From the perspective of natural law, nature is viewed as the basis for morality and the civil law. Significantly, however, natural law does not refer to the regularities found in the natural world as discovered by natural scientists, who, *qua* scientists, are not engaged in ethical evaluations of the natural world.

Origins in the Ancient World

The natural law tradition began with the Stoics of ancient Greece, who viewed reason as mankind's common tool, one connecting human beings to the natural reality of the cosmos that revealed itself and its objective principles through the natural light of human reason.

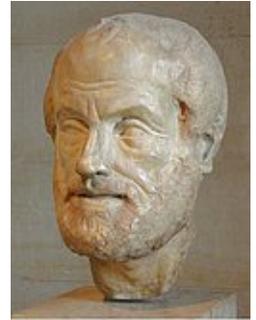
Aristotle (384-321 B. C. E.) later argued, moreover, that nature and its laws also reveal a common *telos*, or purpose, shared by all mankind; namely, it is human nature to achieve happiness through cultivation of the right habits of virtue as naturally befit a human being and appear "good" to reason.

St. Thomas Aquinas

St. Thomas Aquinas (1225-1274), a medieval scholastic, rearticulated the Aristotelian conception of natural law in a Christian context, writing that "a law is nothing else but a dictate of practical reason emanating from the ruler who governs a perfect community," by whom is meant God, whose will is the "eternal law." Aquinas adds that "this participation of the eternal law in the rational creature is called the natural law." Human laws that do not reflect this grounding are simply not laws, properly speaking.

Aquinas, then, argues that natural law governs all of nature, but, unlike the brutes, only man possesses a will of his own and can choose to ignore the natural law or, worse, become habituated to defying it and so reject that to which he is naturally inclined, acting not according to reason and virtue, which incline him to know God, but according to his basest instincts.

Aquinas used the conception of natural law to condemn illicit sexual relations: "certain sins are said to be



Top: A Roman copy of a Greek sculpture of the head of Aristotle.

Above: An altarpiece depicting Thomas Aquinas created by Carlo Crivelli in 1476. The image of the sculpture of Aristotle appears under the Creative Commons Attribution ShareAlike 2.5 License.

against nature; thus contrary to sexual intercourse, which is natural to all animals, is unisexual lust, which has received the special name of the unnatural crime." It is from Aquinas' moral systematization of natural law that the general condemnation of same-sex behavior received its most enduring legal justification in the Western tradition.

Anti-Gay Appeals to Natural Law

Claims that homosexual activity violates natural law continue to be part of Roman Catholic teaching, including the 1992 Catechism.

Recently, natural law theorist John Finnis, an anti-gay rights advocate, has updated the argument so as to focus attention on the natural complementarity between male and female both as physical beings (that is, penis and vagina fit) and as emotional beings with personalities and physical, emotional, and spiritual needs.

Finnis directs his purportedly objectively-based argument against same-sex marriage, and denigrates all non-heterosexual relationships, as well as sexual relations between unmarried heterosexual men and women.

Critiques of Natural Law

The obvious and fatal critique of the argument from natural law and its objectivity is to point out that it selectively derives a normative stance from a description of the sex organs and other biologically-determined structural features of men and women. The natural law argument ignores other arguments neutral or favorable to homosexuality made by some natural scientists and psychobiologists.

Moreover, the natural law interpretation of nature is biased in favor of religious belief, since it is ultimately grounded in the presupposition that nature has an ethical purpose or intention that is identical with the purposes and intentions of the Christian God. Hence, natural law tends to depend on circular reasoning; it discovers in nature what its adherents already believe is the intention of the Christian God.

In the final analysis, despite natural law's pretense to objectivity, it is impossible to downplay the divine element in the scholastic natural law tradition, with its prior notion that biological facts are as they are because that is how God commanded them to be.

Contemporary gay men and lesbians who wish to adhere to natural law theory may have to reject its grounding in the goodness and purpose of a god, or, alternatively, adopt a rival view of the intentions of the god that they believe give natural law its basis and legitimacy.

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About the Author

Gordon A. Babst is Assistant Professor of Political Science at Chapman University in Orange, California, and is responsible for the curriculum in political philosophy and theory. He is the author of *Liberal Constitutionalism, Marriage, and Sexual Orientation: A Contemporary Case for Dis-Establishment* (2002), and teaches a course on politics in a sexually diverse society. His research interests include issues of religion and politics, and the notion of a liberal-democratic society.