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NATURAL LAW AND THE PROBLEM OF POSTMODERN EPISTEMOLOGY

Mark Liederbach[†]

I. INTRODUCTION

In his article *Returning to Moral 'First Things': The Natural Law Tradition and Its Contemporary Application*, J. Daryl Charles made the following provocative statement:

Natural law serves as a bridge between Christian and non-Christian morality. In civil society, religious and nonreligious people conform to the same ethical standard in order to be governable. A revival in natural-law thinking, therefore, must be a highest priority for the Christian Community as we contend in, rather than abdicate, the public square.¹

Why do I describe this statement as provocative? Two reasons. First, while Roman Catholics have traditionally embraced natural law theology, Protestants have been far more suspicious about certain elements of it with some even outright denying its viability for ethics (i.e., Karl Barth).² Second, great skepticism exists among an increasingly Postmodern society that questions not only the existence of natural law, but even the most fundamental structures of reasoning by which, if it were real, it could be accessed.

Therefore, if Charles is correct in his claim that a revival in natural-law thinking “must take place” to build a bridge, then at least two things have to be addressed if there is to be a hope of actually building that bridge. First, Catholic and Protestant Christians must identify points of common ground to serve as a basic foundation upon which they can agree and constructively move forward. Second, Christians in general must demonstrate why and how natural law theory is vitally necessary for personal and public life in an increasingly Postmodern era. While it is beyond the scope of this Article and the length of this symposium to address either of these adequately, it is my intention in this Article to offer some thoughts on each.

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1. J. Daryl Charles, *Returning to Moral "First Things": The Natural Law Tradition and Its Contemporary Application*, 6 *PHILOSOPHIA CHRISTI* 59, 75 (2004).

2. See *NATURAL THEOLOGY: COMPRISING NATURE AND GRACE BY EMIL BRUNNER & REPLY NO! BY KARL BARTH* (1956).

II. DISCOVERING A STARTING POINT: THE ONTOLOGY OF LAW AND GENERAL REVELATION

A. *Historical Grounding of Natural Law*

In his influential article, *The Concept of Natural Law in Greek Thought*, Helmut Koester demonstrated that long before Christians adopted a notion of natural law the Greeks both assumed its existence and relied upon it for social governance.³ For example, consider the following quote by Cicero in his *De Republica*:

There is a true law: right reason. It is in conformity with nature, is diffused among all men, and is immutable and eternal; its orders summon to duty; its prohibitions turn away from offense. . . . To replace it with a contrary law is a sacrilege; failure to apply even one of its provisions is forbidden, no one can abrogate it entirely.⁴

Not only was the idea of natural law present in the Greek sources influencing early Christian writers, David Bockmuehl and David Novak have persuasively argued that natural law thinking was also firmly established in the Jewish tradition that likewise influenced early Christian ideas of morality. For example, Bockmuehl comments in *Jewish Law in Gentile Churches* that “the idea of a law according to nature is well established [in Judaism] prior to Philo. . . and it suggests furthermore that Philo’s development of natural law theory is in fact indebted not only to Stoic ideas of the preceding two generations, but to a well documented and long-standing tradition within Second Temple Judaism itself.”⁵ In *Jewish Social Ethics*, Novak argues that Natural law thinking is necessary for the very cogency of Jewish ethical reflection because “even though the covenant between God and Israel transcends nature, it still accepts nature as a limit and its own precondition. . . . Hence [natural law] functions as a formal criterion of judgment within the covenant itself and its law.”⁶

It should be no surprise then that Paul would include a discussion of natural law in chapters one through three of the book of *Romans*⁷ that clearly indicates a level of moral accountability present to human beings apart from the written

3. Helmut Koester, *The Concept of Natural Law in Greek Thought*, in RELIGIONS IN ANTIQUITY 521-41 (Jacob Neusner ed., 1968).

4. CICERO, DE REPUBLICA bk. III, §§ 22-33.

5. MARKUS BOCKMUEHL, JEWISH LAW IN GENTILE CHURCHES: HALAKHAH AND THE BEGINNING OF CHRISTIAN PUBLIC ETHICS 111 (2003).

6. DAVID NOVAK, JEWISH SOCIAL ETHICS 15 (1992).

7. Especially *Romans* 2:14-15.

laws of God. Later, St. Augustine described human existence prior to the Fall as a period in which image bearers lived in a perfected state harmonious with the laws of nature. That is, the universe itself was so ordered and structured in the prelapsarian state that humans had no need for a written law. The laws of God were not only present in the fabric of the universe—in nature—but also “imprinted on the heart of man as a seal upon wax.”⁸

While both Paul and Augustine recognized that sin marred the ability to rightly know the moral law of God, as Augustine understood it, the natural moral law was “the law that iniquity itself does not efface.”⁹ That is, perception of the law may diminish but the law itself does not. Thus, when God gives the written law, it is not because the natural law does not exist but because human ability to know and perceive it is damaged. In Augustine’s words: “God wrote on the tables of the Law what men did not read in their hearts.”¹⁰

By the time the Christianized concept of natural law reached its zenith in the writings of Thomas Aquinas, there had been a long process of thought and integration that relied on authoritative texts that were systematized and being interpreted into the daily life of the church.¹¹ The concept of natural law inherited from the Jews and Greeks and adopted into the Christian tradition was not a mere accommodation to Hellenism. Rather, by the time the scholastics—and in particular Thomas Aquinas—engaged the topic, natural law thought had been tested and tried. These trials had adapted the concept of natural law into one that drew heavily upon the teachings of Moses in *Genesis* and Paul in *Romans* and had become “thoroughly imbedded in a framework of scriptural and theological reflection.”¹²

One need not look far into the Reformation tradition to see that the notion of natural law has a rich and honored place among its foremost thinkers. For example, regarding the natural law Luther commented:

Not an individual is there who does not realize, and who is not forced to confess, the justice and truth of the natural law outlined in the command, “All things therefore whatsoever ye would that men should do unto you, even so do ye also unto them.” The light of this law shines in the inborn reason of all men. Did they but regard it, what need have they of books, teacher or laws? They carry with

8. AUGUSTINE, ON THE TRINITY bks. 14, 15, 21. See also A TREATISE ON GRACE AND FREE WILL, ch. 16.

9. AUGUSTINE, CONFESSIONS bks. 2, 4, 9.

10. AUGUSTINE, EXPOSITION ON THE PSALMS, at *Psalms* 57, ¶ 1.

11. JEAN PORTER, NATURAL AND DIVINE LAW: RECLAIMING THE TRADITION FOR CHRISTIAN ETHICS 45 (1999).

12. *Id.* at 49.

them in the depths of their hearts a living book, fitted to teach them fully what to do and what to omit, what to accept and what to reject, and what decision to make.¹³

Calvin likewise recognized the existence of natural law in the *Institutes* when he commented:

It is a fact that the law of God which we call the moral law is nothing else than a testimony of natural law and of that conscience which God has engraved on the minds of men. Consequently, the entire scheme of this equity of which we are now speaking has been prescribed in it. Hence this equity alone must be the goal and rule and limit of all laws.¹⁴

In fact, the consistency among Reformers on their recognition of the basic reality of natural law led John T. McNeill to comment:

There is no real discontinuity between the teaching of the Reformers and that of their predecessors with respect to natural law. Not one of the leaders of the Reformation assails the principle. Instead, with the possible exception of Zwingli, they all on occasion express a quite ungrudging respect for the moral law naturally implanted in the human heart and seek to inculcate this attitude in their readers. Natural law is not one of the issues on which they bring the Scholastics under criticism. With safeguards of their primary doctrines but without conscious resistance on their part, natural law enters into the framework of their thought and is an assumption of their political and social teaching. . . . For the Reformers, as for the Fathers, canonists, and the Scholastics, natural law stood affirmed on the pages of Scripture.¹⁵

How could McNeill make such a claim? In addition to the history of natural law thinking and how it entered in to Christianity, when one further considers the manner in which Thomas Aquinas grounded and understood the nature of law, McNeill's reasoning becomes even clearer.

13. Martin Luther, *Sermon for the Fourth Sunday after Epiphany: Rom. 13:8-10*, in 7 THE SERMONS OF MARTIN LUTHER 73 (John Nicholas Lenker ed., 1983).

14. JOHN CALVIN, *INSTITUTES OF THE CHRISTIAN RELIGION* bk. IV, chap. 20, § 16 (John T. McNeill ed., Ford Lewis Battles trans., 1960) (1559).

15. John T. McNeill, *Natural Law in the Teaching of the Reformers*, 27 J. OF RELIGION 168 (1946).

B. Aquinas and Natural Law

A proper understanding of Aquinas' view of natural law relies upon a recognition of the context and structural outline of the work in which his most developed discussion on the topic exists: the *Summa Theologica*. Peter Kreeft's summary is helpful:

The structural outline of the *Summa Theologica* is a mirror of the structural outline of reality. It begins in God, Who is "in the beginning." It then proceeds to the act of creation and a consideration of creatures, centering on man, who alone is created in the image of God. Then it moves to man's return to God through his life of moral and religious choice, and culminates in the way or means to that end: Christ and His Church. Thus the overall scheme of the *Summa*, like that of the universe, is an *exitus-redditus*, an exit from and a return to God, Who is both Alpha and Omega. God is the ontological heart that pumps the blood of being through the arteries of creation into the body of the universe, which wears a human face, and receives it back through the veins of man's life of love and will.¹⁶

When Thomas develops his theory of law, then, he does so within this larger *exitus-redditus* context. Thomas explains that a "law is nothing else but a dictate of practical reason emanating from the ruler who governs a perfect community."¹⁷ Thus, those laws that flow from the Ruler of the universe (God) are those that govern all of creation according to His divine plan and will. These laws Thomas describes as the *eternal law*. William E. May helpfully explains that:

Thomas taught that all creation—the cosmos and all things within it—is under the governance of God's intelligence. Thus, the eternal law is the *ratio* or divine plan of the governance of all things insofar as this *ratio* or divine plan exists within the mind of God himself as the ruler of the universe.¹⁸

Therefore, the end to which the eternal law points is that which is the ultimate good (*Summa Bonum*) of all things and that which will bring about ultimate happiness (the purpose of the law).¹⁹

16. PETER KREEFT, *SUMMA OF THE SUMMA* 15 (1990).

17. ST. THOMAS AQUINAS, *SUMMA THEOLOGICA*, pt. I-II, q. 91, a. 1 (Benziger Bros. ed., 1947) (1274), available at <http://www.ccel.org/a/aquinas/summa/FP.html>.

18. WILLIAM E. MAY, *AN INTRODUCTION TO MORAL THEOLOGY* 45 (1991).

19. AQUINAS, *supra* note 17, pt. I-II, q. 90, a. 2.

Regarding *natural law*, then, Aquinas argues that “it is evident that all things partake somewhat of eternal law in so far as, namely from its being imprinted on them, they derive their respective inclinations to their proper acts and ends.”²⁰ Therefore, to the degree that human beings perceive elements or portions of the eternal law and/or act according to it they are participating in it. It is this active participation in the eternal law that Thomas describes as the “natural law.” As Charles Rice puts it,

Morality is governed by a law built into the nature of man and knowable by reason. Man can know, through the use of his reason, what is in accord with his nature and therefore good. . . . The natural law is a set of manufacturer’s directions written into our nature so that we can discover through reason how we ought to act.²¹

The crucial point is that Thomas’ understanding of natural law is participation in the eternal law, not the discovery of a moral law independent from God. For Aquinas, the ontology of law itself is *directly dependent* upon the existence of God. Likewise, Aquinas clearly understood natural law as directly dependent upon a coherence in the mind of image bearers with the mind and plan of God. Thus, Russell Hittinger is right when he asserts that “nowhere does Thomas define natural law in anything but theological terms.”²²

In fact, in a Thomistic understanding of natural law, it is proper and right to understand that the basic first principles of natural law (such as “good is to be done and evil to be avoided”) are a form of revelation. As J. Budziszewski explains:

To call these first principles part of revelation is not a euphemism, for they come from God; they are utterly dependent on his arrangements in creation. We know them for no other reasons than they are the divinely ordained design of the world, the divinely ordained design of the intellect, and the divinely ordained correspondence between them. Creation may be fallen, but it has not been destroyed; its instructions may be resisted, but they cannot be overthrown; the knowledge of them may be suppressed, but it

20. *Id.* at pt. I-II, q. 91, obj. 2.

21. CHARLES RICE, 50 QUESTIONS ON THE NATURAL LAW: WHAT IT IS & WHY WE NEED IT 30 (rev. ed. 1999).

22. Russell Hittinger, *Catholic Moral Theology, in A PRESERVING GRACE: PROTESTANTS, CATHOLICS, AND NATURAL LAW* 5 (Michael Cromartie ed., 1997) [hereinafter A PRESERVING GRACE].

cannot be abolished.²³

C. *So Why Are Evangelicals So Afraid?*

This point raises an important question: If natural law ought properly be understood as a system of law embedded in the eternal law of God and which should be seen simply as a part of general revelation, why has there been so much reluctance to embrace it on the part of Protestants? The answer, I believe, is largely due to how the doctrine of natural law eventually developed in light of some of the epistemological claims of Modernity. Simply put, as the philosophy of Descartes, Hume and Kant became accepted in Western culture, the Premodern Christian understanding of human rationality began to decline. The Christian view that human rationality is embedded in the created order and directly dependent upon a coherence with the mind of God was eventually replaced by a view of autonomy and an over-inflated view of the ability of humans to reason and discover “truth” apart from God.

This is significant because so many of the modern preconceptions about natural law ethics assume that what is meant by a “natural law theory” is a system of morality that claims a moral authority in nature that is somehow distinct from God himself. That is, there is a tendency to associate natural law with a kind of moral rationalism that excludes any appeal to direct theological grounds. Hugo Grotius’ argument that even if God did not exist natural law would continue to exercise its dominion and its authority over us is perhaps the first and most poignant example of this independent form of natural law theory.²⁴

This, however, was clearly not the case in Premodern Christianity. In fact, as even the earlier cursory development of Aquinas’ understanding demonstrated, his view of natural law was so dependent upon his ontological assumptions about God and the nature of the universe that his view of natural law would make very little sense without his direct appeals to “direct theological grounds.”

Despite this reality, Dan Westberg points out that “most Protestant ethicists or theologians have been wary of compromise with a doctrine of moral standards based on human nature or reason.”²⁵ Whereas with Thomas, Luther and Calvin their various conceptions of natural law recognized the need of a

23. J. BUDZISZEWSKI, *EVANGELICALS IN THE PUBLIC SQUARE* 33 (2006).

24. HUGO GROTIUS, *ON THE LAW OF WAR AND PEACE* 11-13 (Francis W. Kelsey trans., 1925). See a discussion of this in Daniel Westberg, *The Reformed Tradition and Natural Law, in A PRESERVING GRACE*, *supra* note 22, at 112-13; *see also* JACQUES MARITAIN, *NATURAL LAW: REFLECTIONS ON THEORY AND PRACTICE* 46-47 (William Sweet ed., 2001).

25. Westberg, *supra* note 24, at 103.

vital connection with God's eternal plan and authority, "by the nineteenth century, natural law had become a semi-autonomous principle perceivable by unaided reason."²⁶

In addition to the problem of an autonomous moral knowledge, Protestants (and many secularists) also reacted against a phenomenon that William Edgar describes as "deductivism." Edgar comments,

Perhaps the chief and fatal characteristic of the later natural law presentations is the feature of deductivism. This is the assumption that from a few clear and certain principles one can rationally deduce a set of moral principles and convert them to civic laws, thus claiming for the legal system a grounding in natural law. . . . The decisive twentieth century rejection of naturalism in moral philosophy and in theology by both liberals and fundamentalists becomes more understandable when seen as a reaction to the kind of ethics represented by the assumption of rational systems, both Catholic and Protestant.²⁷

As a result, Evangelical theologians are reluctant to pursue ethical theories of natural law because there is a fear that it might ultimately detract from an emphasis on the more perfect revelation of God via the Bible.²⁸

Of course, the place of greatest disagreement regarding the doctrine of natural law relates to epistemology and to what extent the precepts of natural law can be known and applied. But even on this point I believe there is perhaps less diversity between Catholic and Protestant perspectives than presumed. For example, Aquinas comments that while the first principles of natural law are relatively clear and discernable, "the more we descend to matters of detail, the more frequently we encounter defects. Accordingly then in speculative matters truth is the same in all men . . . , but only as to the general principles."²⁹ Calvin concurs with this assessment.³⁰ As Westberg points out, "Calvin's view of natural law is that the principles that can be assigned to natural law are extremely general. Because individuals and societies do not inherently have a clear set of principles, they can easily be mistaken."³¹

26. William Edgar, *A Response to The Reformed Tradition and Natural Law*, in *A PRESERVING GRACE*, *supra* note 22, at 124.

27. Westberg, *supra* note 24, at 117.

28. BUDZISZEWSKI, *supra* note 23, at 31.

29. AQUINAS, *supra* note 17, at pt. I-II, q. 94, a. 4.

30. CALVIN, *supra* note 24, at bk. IV, chap. 20, § 16; *see also* bk. II, chap. 8, § 1.

31. Westberg, *supra* note 24, at 106.

The comments of Puritan Francis Turretin, one of the most influential seventeenth-century Puritan theologians, indicate a similar perspective. He writes,

The first principles of natural law admit of no error, as Turretin comments that although “in these conclusion this law has been in many ways corrupted after sin, both by natural corruption, and by vicious custom, by which the base vices and crimes sometimes receive the name of virtues and obtain praise . . . still this does not prevent its always remaining the same among all, as to its first principles, and the immediate conclusions thence deduced. . . . Although various practical notions have been obscured after sin and for a time even obliterated; it does not follow either that they were entirely extinguished, or that they never existed at all. For the commonest principle, that good should be done and evil avoided, is unshaken in all, although in the particular conclusions and in the determinations of that good, men may often err, because vice deceives us under that appearance and shadow of virtue.”³²

Thus, it seems to me that ultimately both of these fears reflect an ignorance of the legacy of natural law in Protestantism which has in turn “brought discredit on the whole enterprise.”³³ Therefore, when speaking of natural law, perhaps the most foundational points Christians need to consider as a common ground for engaging the public square relate to how we understand the foundation of law and limit our claims of certainty to the most basic and fundamental principles of natural law. When natural law is understood and described as a system of law ontologically grounded in the eternal law of God that provides accountability to the most basic moral principles, then the initial predisposition against it that Protestants often bring to the discussion may well evaporate.

III. WHY AND HOW NATURAL LAW THEORY IS VITAL IN THE POSTMODERN ERA

Up to this point, I have tried to address the question of what basic common ground might exist between Catholic and Protestant Christians that might serve

32. Francis Turretin (1623-87), one of the most influential seventeenth-century Puritan theologians, explains a Protestant view of natural law. Francis Turretin, *Is There a Natural Law?*, *5, available at <http://www.marshillaudio.org/catalog/printres.asp> (on file with the Liberty University Law Review).

33. Westberg, *supra* note 24, at 104.

as a starting point in a revival of natural-law thinking. I now wish to switch my attention and briefly discuss why and how Christians must demonstrate that natural law theory is vitally necessary for personal and public life in an increasingly Postmodern era.

A. *Why?*

1. *Perspectivism*

In his *Primer on Postmodernity*, Stanley Grenz argues that a central premise of Postmodern epistemology is the rejection of the idea “that language has a fixed meaning connected to a fixed reality or that it unveils definitive truth.”³⁴ Based on this epistemological claim, Postmodern thinkers further assert that universally binding truth claims (such as those discovered via natural law) ought to be rejected because human beings are limited in their ability to discover any transcendent or ultimate reality. Instead, the best any person can do is view the facts and data of their environment through the perspective and linguistic filters of their given narrative.

Based on this form of reasoning, then, the Postmodern argument asserts that we must no longer seek transcendent meanings or attempt to discover natural laws; rather we must seek to “deconstruct” the “mythical” conclusions about the nature of reality and truth that are sometimes claimed because “truth does not reside in words but in contextual and historical situations in which words are used.”³⁵ Put another way, a fundamental assertion of Postmodern epistemology is the *rejection of any ground for knowing any truth outside of self or communally derived ideas*. Of course, what this also implies is “that there is no one meaning of the world, no transcendent center to reality as a whole.”³⁶ Meaning is limited to the “language game” present within any given narrative and thus any claim to a universally shared perspective or a “meta-narrative” based on the assumption of either a created order or a shared human reasoning process is nonsensical.

All that remains possible in terms of knowledge is the discovery of personal “truths” and the deconstruction of any given communal narrative in order to discover what rules and values that narrative uses to determine meaning. Any hope for a transcendent source of authority like natural law or special revelation dissolves into communal or personal relativism or what is sometimes described

34. STANLEY J. GRENZ, *PRIMER ON POSTMODERNITY* 141 (1996).

35. ROBERT E. WEBBER, *ANCIENT-FUTURE FAITH: RETHINKING EVANGELICALISM FOR A POSTMODERN WORLD* 22-23 (1999).

36. GRENZ, *supra* note 34, at 6.

as “Perspectivism.”³⁷

2. Unanchored Consciences

Of course, what this amounts to is the claim that one’s personal conscience and personal convictions (or those of the community he or she belongs to) ought to become the chief sources of moral authority and autonomy. This idea, of course, is rightly identified as a core value of the Postmodern worldview. In Postmodern thinking, communities or narratives become the place where one’s values, ideas, and perceptions are shaped and where one also plays a part in shaping the communal values, ideas and perceptions. Ultimately, the only grounding one could appeal to for his or her personal conviction would be the prevailing cultural perspective; a grounding that will rumble and shift with each new set of ideas. In the final analysis, it may just prove that this perspective is nothing more than a Postmodern return to Hume’s ethics of sentimentalism.³⁸

Once this move is made, the erosion of any claim to universal moral norms (and thus even the first principles of natural law) are completely undercut. The only value that remains is the rather anemic notion of *tolerance* or the passive willingness to accept anything as “true for that person.” Indeed, one could say this serves as the Golden Rule of Postmodernity. Whereas once upon a time an ethic built on natural law theory attempted to align moral choices based on generally revealed moral laws of nature with the mind and eternal law of God, in a Postmodern world this ideal has degenerated into the tepid idea of people being “true to themselves” or perhaps “true to their community.” Universal truth claims based on the eternal mind and will of God have been replaced by a Beach Boys song: “Be True to Your School.”

3. Legal Positivism and the Specter of Nietzsche’s “Will to Power”

On the level of public policy, Postmodern commitments truly do introduce nightmarish possibilities. Once morality becomes little more than a particular

37. For this reason, all claims to absolute “Truth” should be disregarded in favor of communal or even personal perspectives on “truth.” This is the foundational premise that gives rise to the almost incoherent idea that while something may be “true for you” it is not true for everyone. Francis Schaeffer pointed out, somewhat ahead of his time, this move toward the distinction between what may be described as little “t” truth and big “T” Truth. Each autonomous knower can have something *true* for him or her, but the postmodernist will argue that one can have no certain knowledge of *Truth* applicable to everyone and every community. See Francis Schaeffer’s discussions of truth and what he at times referred to as “true truth” in FRANCIS SCHAEFFER, *THE GOD WHO IS THERE* 108-47 (1968), and in FRANCIS SCHAEFFER, *ESCAPE FROM REASON* 19-29 (1968).

38. It is for this reason that David Wells argues that Postmodernity is actually best described as “hyper-modernism.” See DAVID WELLS, *ABOVE ALL EARTHLY POW’RS* 48 (2005).

narrative's public sentiment, the public law can only be promulgated in the form of socially constructed ethical ideas relevant only to individuals or particular communities.³⁹ Not only does this make international law virtually impossible, in an increasingly "flat world" it pushes forward the need to find or create a "global community."⁴⁰

In addition, because the Postmodern assumptions eliminate any appeal to a transcendent order for authority, the only weight a law can logically carry is that which any particular narrative's government has enough might to enforce. Stated another way, in terms of law and society, if the Postmodern philosophical assumptions about the nature and grounding of knowledge hold, there are only two possibilities for universal moral structure. In Postmodern times, universal moral structures will have to come either from a Nietzschean "will to power" in which morality is imposed by a ruler or from a form of Hobbesian social contract theory that relies on legal positivism grounded in thought more than narrative specific pragmatism *ala* Richard Rorty.⁴¹

In such an environment, claims to natural law are ultimately viewed as overstated expressions of what in reality is simply a communal or narrative specific interpretation of available data—at best. At worst, they become a false claim to universal knowledge wrongly used to impose morally imperialistic agendas on others who have no actual obligation to submit or accede to the claimed demands.

39. Indeed, this is a central contention of Alasdair MacIntyre's influential *After Virtue*. See ALASDAIR MACINTYRE, *AFTER VIRTUE* (2d ed. 1984). See also his follow up book *Whose Justice, Which Rationality*. ALASDAIR MACINTYRE, *WHOSE JUSTICE? WHICH RATIONALITY?* (1988) [hereinafter *WHOSE JUSTICE?*]. Grenz comments helpfully about this point as well when he writes:

The postmodern worldview operates with a community-based understanding of truth. It affirms that whatever we accept as truth and even the way we envision truth are dependent on the community in which we participate. . . . Further, and far more radically, the postmodern worldview affirms that this relativity extends beyond our perceptions of truth to its essence: there is no absolute truth; rather, truth is relative to the community in which we participate. On the basis of this assumption, postmodern thinkers have given up the Enlightenment quest for any one universal, supra-cultural, time less truth. They focus instead on what is held to be true within a specific community. They maintain that truth consists in the ground rules that facilitate the well-being of the community in which one participates.

GRENZ, *supra* note 34, at 8.

40. The term "flat world" is taken from Thomas Friedman's widely read cultural analysis *The World is Flat*. THOMAS FRIEDMAN, *THE WORLD IS FLAT* (2006).

41. See, e.g., RICHARD RORTY, *THE CONSEQUENCES OF PRAGMATISM* (1982).

B. How?

So how should Christians begin to demonstrate the claim that natural law theory is vitally necessary for personal and public life in this increasingly Postmodern era?

1. Remember the Foundation of Law

To begin, if the fundamental claim of the Premodern natural law is true—that all law is ontologically grounded in God and thus while it may be resisted or denied, it cannot be obliterated—then J. Budziszewski's advice is right on the money. We must remember: "there is no need to cave in to epistemological 'perspectivism'; there really is a truth, not just different points of view about truth, and God desires to lead us into it."⁴² Why? Because what the

Christian natural law tradition teaches us is what nonbelievers, in fragmentary fashion, already know—whether or not they *know* that they know it, whether or not they *think* that they know it, and even if they would rather *not* know it. Viewed this way, the art of cultural apologetic is less a matter of laying foundations than of digging up and repairing them, less a matter of talking people into truths they do not yet know than of dredging up what they do know but have not acknowledged. In the words of the apostle Paul, a law is written on the heart. In fallen humans, it is far easier to suppress than we might wish, but it is altogether impossible to erase.⁴³

2. Identify the Incoherence of Postmodernity

A second way Christians can demonstrate the necessity of the claim to natural law in a Postmodern age is to simply point out the absurdity of the basic claims of Postmodern ethics. For example, in his work *The End of the Law*, Stephen Theron addressed the Postmodern value of tolerance and the agreement to disagree about moral statements. Theron argues that while we can take this approach, we cannot expect such a perspective to actually hold society together unless the view on tolerance holds some hidden assumptions about person's and their value. He writes,

In itself the stance [on tolerance] is based either upon nihilism, a destructive lie, or upon a positive belief in human dignity with consequent respect for personal conscience. But this already amounts to a philosophy sufficiently positive to expose much of the

42. BUDZISZEWSKI, *supra* note 23, at 19.

43. *Id.* at 37.

cant of popular [post modern thinking] as empty self-contradiction.⁴⁴

In other words, why bother respecting another's opinion unless I assume a basic principle of justice and value relating to that other person. The value of tolerance itself must be grounded upon some prior form of natural law claim in order to carry the moral weight Postmodernists want it to.

3. Be Strategic

Russell Hittinger argues that in the realm of public square it may be wise to avoid the phrase "natural law" because its use and meaning has become convoluted and thus the term may be counterproductive even though the doctrine is necessary. The negative reactions to natural law that Senators Joseph Biden and Ted Kennedy displayed at the 1991 Clarence Thomas Supreme Court nomination hearings are a case in point. Hittinger comments,

The question is whether we should refer to the moral discourse in this sphere as "natural law." Of course, we believe it is the natural law that renders the gentiles amenable to the rudiments of moral discourse . . . [but] the basis of moral order will not stand or fall on whether, or to what extent, we use the words "natural law."⁴⁵

It may simply be wiser to use phrases like "foundational civic duties and laws," "foundational principles of justice," or even "basic principles of common sense and intuition" when debating in the public square.⁴⁶ In each case, however, the philosophical and moral effort is founded on the underlying reality of natural law principles.

In this way, natural law can be utilized to formulate and champion what might best be described as a lowest common denominator (LCD) foundation of laws that promote the common good and provide a shield in society against laws that violate basic human dignity.⁴⁷

4. Remember the Importance of the Gospel

Having recognized the strategic benefits of developing a LCD foundation based on natural law reasoning, in order for these arguments to have long-term impact in the public square we will ultimately have to address the metaphysical and epistemological questions that swirl around the issue. The reason for this

44. STEPHEN THERON, *THE END OF THE LAW* 2 (1999).

45. Russell Hittinger, *Natural Law and Catholic Moral Theology*, in *A PRESERVING GRACE*, *supra* note 22, at 28.

46. A potent example of a recent work that has successfully taken this approach is FRANCIS BECKWITH, *CHOOSING LIFE* (2007).

47. For further discussion on these points see RICE, *supra* note 21, at 62-63.

assertion is that while, for example, a natural law based case against abortion may be logically sound, in a postmodern society the form of logic itself may be questioned. Upon what basis does one claim the authority to assert that the form of argumentation about abortion being used is the “right” form? What would be the epistemic justification? Why is the valuation of human life a higher order principle than autonomy? How could one be sure or know that this form of natural law rationality is superior to another non-natural law form of argumentation?

Without an explicit link to metaphysical/worldview foundations even the natural law based arguments will run the risk of falling prey to Postmodernism’s denial of a perspective that transcends particular narratives. In the words of Alasdair MacIntyre, when it comes to making public policy, “whose justice” and “which rationality” should be used?⁴⁸ Without a more explicit and certain apologetic to demonstrate the grounding of law, any moral project runs the danger of being labeled as just one tradition’s “vantage point”—including the natural law perspective.

IV. CONCLUSION

Efforts to bridge the gap between Christian and non-Christian morality through the reliance upon an LCD developed by an appeal to basic moral principles may fall prey to an over-reliance on an assumed sentiment within a given moral community. My point is not that we should avoid appealing to things like our “deepest moral intuitions” or “common sense experience” as proofs for a foundational moral order, but that when such claims serve as the foundational authority, left alone they are in danger of losing their moral influence. That is, if an LCD approach is not sufficiently grounded in a transcendent metaphysical perspective, then the competing moral perspectives are in danger of becoming little more than dueling convictions arising from dueling consciences formed in dueling worldview commitments.

It is for this reason that at the end of the day, while natural law can indeed serve as the “bridge between Christian and non-Christian morality” that J. Daryl Charles believes it can, we must not lose sight of the ultimate reason for building the bridge. The reason Christians must find common ground to build this bridge and the reason why Postmodernity must be challenged is not first of all so that we can achieve a moral society. Rather, as Aquinas was at pains throughout the *Summa* to demonstrate, God created the universe with the purpose of *exitus et redditus*. That is, all things were created by Him and for

48. WHOSE JUSTICE?, *supra* note 39, at 401-02.

His glory and everything (and everyone) ought to return to Him the glory due His name.

Even if we succeed in building a natural law bridge that enables us to “contend in and not abdicate the public square,” why should anyone be obliged in conscience to obey the natural laws? For as Jacques Maritain rightly asserts, “if God does not exist, the Natural Law lacks obligatory power.”⁴⁹ Thus, while natural law may provide the bridge Charles wants into the public square, ultimately it is the Gospel that provides the bridge from the public square to the *Summon Bonum* or highest end of human flourishing. As Charles Rice correctly surmises, “the natural law makes no ultimate sense without God as its author.”⁵⁰ And it is God Himself—not a moral public square—that is the Gospel.

49. MARITAIN, *supra* note 24, at 46-47.

50. RICE, *supra* note 21, at 30.