

## The Audacity of Natural Law

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### The audacity of natural law

Consider the following statements:

- It is intrinsically immoral to have sexual intercourse with someone who is not one's spouse.
- Parents have a duty to raise their children, and children have a duty to obey and revere their parents. Unless extreme circumstances make it impossible, children should be raised by their biological parents.
- It is intrinsically immoral to deliberately cause a sexual act to be infertile.
- It is immoral to drink live blood.
- Suicide is intrinsically immoral.
- It is always wrong to kill an innocent person, even if he has low quality of life and wants to die.

Setting aside for the moment the all-important question of whether or not these statements are true, what they have in common is that they all belong to the natural law system of ethics. They all take a set of biological facts—coitus, filiation, death—and purport to read moral meanings out of them. The natural law presumes that the human body is charged with meaning, so that biological acts and relations have their significance built into them. The “natural meaning” of the act exists prior to and independent of what the actor understands or intends by that act, and yet he is morally bound by the natural meaning none the less. I saw a nice example of natural law reasoning in the movie *Vanilla Sky*. (It's not very good; don't watch it.) I don't remember the characters' names, but in actors' names here is the setup: Tom Cruise has been sleeping with coworker Cameron Diaz in an informal relationship, and then he decides to leave her for Penelope Cruz. (When you're Tom Cruise, you can do those sorts of things.) Diaz's character becomes distraught and pleads with Cruise that he can't just leave her like that after they have coupled. “Your body makes a promise even if you don't.” This is a natural law way of thinking. We say that fornication is wrong because when you have sex with someone, you make her a promise—whether that's what you and her want to communicate or not—and that promise is the same one a person makes at a wedding ceremony.

This way of seeing things is very different from the modern mentality (although, as we've seen, the old mentality pops up in unexpected places). Modern man is, whether he admits it or not, strongly shaped by Cartesian dualism to see the body as “brute matter”, as *res extensa* distinct from the *res cogitans* (the soul). Meaning, it is believed, is a distinctly mental phenomenon. Its origin, and indeed its whole being, is in the mind. What an act means is what the actor intended it to mean and what he knew his observers would take it to mean—no more, no less.

Modern ethics is usually consequentialist or deontological. Sin is identified either as harming someone else or instrumentalizing him (treating him as a “mere means”). Harm and instrumentalization are defined solely in terms of the person’s preferences and choices. Natural law agrees that harm and instrumentalization are wrong, but it defines them differently, in terms of man’s natural *telos* and natural meanings.

Modern man finds this idea of normative natural meanings foolish and arbitrary. Natural law advocates are said to be ignoring the person to focus on the body, of ignoring intention to focus on biological function. Natural law is accused of committing the “naturalistic fallacy” by hostile philosophers; Catholic heretics accuse it of “physicalism”. These accusations have the merit of getting at the essence of the disagreement. It’s “physicalism” to believe that sex, parenthood, etc. don’t just mean what we decide for them to mean, then we natural lawyers are physicalists.

The modern critique of natural law has an undeniable plausibility. Biological facts can no doubt affect our and other people’s desires and thus indirectly become morally relevant on modernity’s terms, but it is not obvious how they can dictate duties to *theres cogitans* independent of these considerations. And yet, there are strong reasons why we should give the natural law account a careful hearing before we dismiss it.

First of all, one must be clear that to object to physicalism means having a quarrel not only with a few Catholic ethicists, but with the consensus of all mankind. Across ages and cultures, all peoples have believed in natural meanings. If nothing else, they have all agreed on the moral import of filiation and kinship. That one person emerged from the uterus of another is a biological fact. The social state of “motherhood” recognizes not only this fact, but also duties and rights that are supposed to flow necessarily from it. A man has no right to expect love from his neighbors or coworkers. His behavior may warrant their respect, but love can only be an unearned gift. He has no right to ask his secretary “Why don’t you love me?” nor would she probably have any answer. Love was never “on the table”. A man can expect his mother to love him; the very relationship gives him a rightful expectation. “Mother, why didn’t you love me?” is a natural question for an unloved son to ask. There probably is a reason, although no reason could justify so grave a failure of duty. I have special duties to my children and my kin. Partly, this is because they happen to be the people who are closest to me, but this isn’t the whole story. I would fail morally if my brother on the other side of the country were homeless and I didn’t fly him to me and take him under my roof; yet there are homeless strangers in my very county to whom I am not obliged to make such an offer.

The consequentialist and deontologist can only agree with these intuitions by accident. They will often grant that having children raised by their biological parents is administratively convenient. As a practical matter, it would be hard for

the State to find enough caretakers to replace all these parents. But the family is only a matter of practicality, and in fact its ultimate value is open to question. After all, it puts children at the mercy of people with no childcare training and next to no official supervision, all because of a “biological accident”; our bureaucratic age wouldn’t tolerate such feudal anarchy in any other area of life. Similarly, they may agree that a particular act of adultery was wrong because it hurt the other spouse’s feelings, but they must also admit that this is because that spouse is being irrational. A regime of universal promiscuity, where sex is “just like shaking hands”, might well be a happier world, and, consent assumed, wouldn’t obviously involve reducing any other person to a “mere means”.

Here is the second reason to consider carefully before rejecting the system of natural meanings. As the two examples above indicate, a world without them would be a nightmare. Unchecked by natural law, consent, efficiency, and happiness maximization would replace the love of parents with the expertise of childcare professionals; it would erase the bonds of family, ethnicity, and nation; it would reduce sex to a meaningless pastime. Our desires would be satisfied. We would all be happier. Or would we? For me, one of the most important aspects of happiness is the knowledge that I personally matter to some particular other people. Being a man of no great importance, these people are a half-dozen family members. What I do matters because they depend on me and they care about me. In the post-natural bureaucratic utopia, there will be nothing like this. What I do won’t matter much to anyone else—this will be true by construction. If anyone really depended on me, that would limit both our freedoms. It would make me dependent unequal, because if I failed that person would suffer, through no fault of his own, relative to those depending on someone else. There must be supervision, uniform rules, backups and failsafes, so that in the end I can’t be allowed to matter to anyone else.

As Hegel pointed out, there is a leap from abstract right and morality to the ethical life. We have no way to put abstract moral rules (e.g. utilitarian or Kantian) into effect—no way to know what they *mean*—until we are embodied in an “ethical society” where everybody has a specific place and duties. How, though, are we to assign these particular duties? Modern abstract ethical systems can only produce abstract organizations and can never provide this element. In the past, it has always come from relationships like marriage and filiation that rely on natural law for their normative character. After they are wiped out, a utilitarian calculus of the future may register the unhappiness that results, but it could not replace what it had destroyed. Natural law seems to be the only way to lock particular people in duties to each other. There is true happiness from the sense of meaning this provides, and the utilitarian rulers of the future might be forced to reinvent natural law as a “noble lie” to fill this void. Let us then see first if we can defend the theory honestly as truth.

A defense of natural law must establish several points. To fail on any one of them is to fail overall. First, it must defend the claim that there are natural meanings. It must establish that these are not merely projections of our subjective wishes or the mistaking of the customs and assumptions of our own culture for universals of nature. I will address this issue in the next section. Next, it must argue that these natural meanings are morally binding. This step is often skipped over, but I think it's a crucial and underdeveloped part of the theory. Suppose we allow, with Cameron Diaz, that sex has a natural meaning that includes commitment. Why could not the man and woman simply agree that this natural meaning is not the one they intend to give it? That way, no false expectations would be generated; moving on would not be a betrayal. That natural meanings are binding I will argue in this essay's third section. Finally, we must ask how the two meanings, what something naturally means and what we intend, are meant to relate to each other. We must show that natural law does not itself fall back into a different sort of dualism. This will be the subject of the final section.

### **Desires and goods**

Man is an animal, and like all animals is subject to cravings and urges whose satisfaction brings pleasure and whose frustration brings discomfort. It is the mark of a nonrational urge that its aim is a subjective state of satisfaction rather than an objective state of affairs. An irrational animal eats to satisfy hunger, and it congregates with its fellows for the comfort of being part of the herd. An outside observer can identify objective functions served by these urges, how they keep the animal alive and contribute to the excellence proper to its species. The animal itself, if it is irrational, cannot achieve the mental separation from its own immanent compulsions to take this outside view. For small decisions—like the decision to have a snack or watch a television show—humans too are often content to gratify their urges. For important things, though, we demand motives of another sort.

Man is not just an animal, but also a person. To be a person means that one is not locked in immanence; one can take an outside view even when one's own impulses are in play. In addition to being driven by urges, we can be motivated by reasons. For rational actions, the ultimate end is not subjective satisfaction, but some objective state of affairs regarded as good. Let us call these ends—objective states of affairs regarded as valuable in themselves—as “goods”. Because we act to preserve goods, rather than just satisfy urges, we are more than just very clever animals. We hear the claims of objective value; this is our special dignity as persons.

Usually, cravings and goods are not antagonistic motives. Goods serve not to frustrate cravings, but to enable them by showing how any given craving is ordered to an objective good. Our satisfaction of this desire is “rationalized”, not in the common sense of that word as “given a spurious excuse” but in its literal sense. The desire is elevated to rational life; it becomes meaningful as the bodily

apprehension of a real good. Mind and body are harmonized. Our natural capabilities as humans also acquire meaning—when we identify what good a capability is ordered toward serving, we say that we have found that capability’s function.

Some examples may help. We all know the desire to believe things that comfort us—that we are safe, valued, loved. However, there is also a great good in knowing the truth and comporting oneself to it, even if the truth happens to be distressing. Our sensory organs and our intellect are intrinsically ordered toward truth—it’s their function. Notice here that intrinsic function can be something different from adaptive value. No doubt it was the ability to evade predators and capture prey, or something like that, that selected for these abilities. Nevertheless, their function is to truth. No one doubts that truth—at least about important things—is good in itself, and acquiring this good is simply what the senses and intellect do. To know the truth would be for them to be doing their basic activity fully and without hindrance. In the bodily order, there are physical pleasures; they are related to but distinct from the good of health. In the interpersonal order, we crave the feeling of being loved; this is related to but distinct from the good of really being loved and the good of true intimacy. In the social order, there is the comfort of the crowd; this is distinct from but usually related to the good of moral community.

For each good, there is a simulacrum whereby one can choose to separate the good from its accompanying pleasures and seek only the latter. To do so is to degrade oneself, to descend into the subpersonal level of immanence, to forsake truth. All forms of self-deception are degrading in this way. So, to a lesser extent, is gluttony, attending to the body as a nexus of pleasures rather than goods. Most pitiable of all are counterfeit interpersonal pleasures. Prostitution is a base substitute for the marital bond, stripping the conjugal embrace of its personal dimension by paying a woman to pretend to be one’s wife. I once saw a news documentary on a service in Japan whereby lonely old men could hire a group of actors to pretend to be their family for a day. I thought it was the saddest thing I’d ever seen. What a great failure it is of that society that there seem to be so many people living without the genuine good of family love. The list of natural goods doesn’t itself provide us with the first principles of practical reasoning. These are given by the two great commandments: to love God with all one’s heart, mind and soul, and to love one’s neighbor as oneself. What natural goods do is to tell us what it means to love one’s neighbor and what it means to love oneself. We love them by promoting what is good for them. Of all the natural functions identified by natural lawyers, the most noble are those identified as serving the good of other people. These functions identify humanity as being “designed” for love. Hence the special attention natural law gives to man’s reproductive capacities. Most of our bodily features are ordered to our own good, but masculinity and femininity are ordered to serving another. Every difference between men and women points to a way that each is called to promote the good of child or spouse. It is obviously not for their own

good, individualistically conceived, that women have breasts, but for their childrens'. (We natural law advocates really like tits. They're such obvious examples of this kind of thing.)

One might object that this perception of natural goods is really just a projection of the human mind, rather than a real feature of nature. This objection fails to recognize that the human mind is itself a part of human nature, so that if our intellects are apt to assign a particular meaning to certain biological facts, this is itself a fact of human nature. The accusation of projection is only meaningful when the subject and object are different. It makes sense to say that "humans find worms disgusting" is a fact about human nature rather than worm nature and should be considered irrelevant to the study of worms. That human reason discerns gender differences as being ordered to family and reproduction is not extraneous in this way.

A more serious objection is that our understanding of human goods and functions might just be cultural artifacts. After all, we do see nontrivial differences in mores and ethical beliefs between cultures. The response to this objection must be more subtle, because it does point to an important aspect of social life. Our recognition of human nature is mediated by our culture. It's not simply that some parts of morality (the natural law part) are given directly by nature while some other unrelated parts ("mere" custom) are set by the culture. If it were that simple, natural lawyers wouldn't have to care about the culture. Nor can we settle for the cultural relativism of many anthropologists, according to which there are certain universal tasks that any collection of humans must perform to survive multiple generations (this being the "natural" part) but that how these tasks are fulfilled (e.g. children raised by parents or by the tribe as a whole) are cultural/historical fabrications about which nothing else can be said, at least on the level of universal human nature. An advocate of natural law reads a thick account of human flourishing from the data of human nature, and not every arrangement that enables social survival will also be found to promote integral personal excellence.

I wish to avoid the error, common among natural law ethicists, of trying to prove too much at an overly abstract level. There's no need to claim that my culture has a complete list of human goods or that it has a fully adequate understanding of any of them. In fact, I will be arguing later (in the final part of this series) we usually don't understand the natural meanings of our acts in their full depth, and that this is an important part of the natural law understanding of the human condition. Nor is it true that humanity has never posited false goods. Liberalism itself could be said to be positing a new fundamental human good, one unrecognized as such by all past civilizations, namely personal autonomy—a sort of super-good that overrides all others. Since I reject this elevation of autonomy, I cannot argue in general that anything ever believed to be a human good must really be one.

How does one tell true goods from false ones. I believe that children are a true good and autonomy a false good, but how can I be sure of this? There are several clear indicators. First, there is the consensus of all mankind; every people except our own has always regarded descendants as a blessing, and everyone but the perverse West has regarded individualism as a social disease. Second, there is consistency with the great commandments. True human goods give us ways of loving God, self, and neighbor, and while it is always possible to pursue a genuine good illicitly, i.e. in a way incompatible with these loves, no genuine good involves rejecting the commandment by its very nature. Having children with one's spouse is an expression of and opportunity for love of neighbor. Autonomy, on the other hand, involves by its very nature a rejection of God's rightful sovereignty. Third, there is the consistency between goods. Since human nature is presumed to be intelligible, no true good should intrinsically contradict another one, although, again, accidents of circumstance may force us to choose between them. So, for example, a man must in practice often sacrifice many true goods for his children, but having children doesn't intrinsically preclude any other good. Autonomy, on the other hand, intrinsically requires an at least partial rejection of the good of knowing the truth and the good of living in community. Both truth and community limit one's ability to posit one's own conception of the Good in complete independence of an objective order of being and of other people. Fourth, there is objectivity; as we have said, the point of natural goods is that they emancipate us from our own point of view. The claim of autonomous man to dictate all value from his own will makes it impossible for him to escape from himself, just as an emperor who conquered the whole world would have no way to visit a foreign country. Finally, there is the consideration of function: a true good involves the perfect activity of some natural human function. Begetting and raising children is the execution of many natural functions (functions that would otherwise have no natural meaning at all). Here the defender of autonomy might seem to have a leg to stand on. Surely the autonomous positing of meaning is the highest execution of our faculty of choice? In fact it is not. Conversion and martyrdom are the highest examples of free choice, and these are authentic but not autonomous. In them, a person freely affirms what is recognized as an objective supreme Good. All other rational choices do this same thing, if to a lesser degree. Positing a meaning of life as a naked act of will would be something much different—a perverse form of choice detached from the larger context of human goods. (In fact, most such attempts to define the good for oneself just involve delivering oneself over to subrational impulses. It could hardly be any other way. Man cannot really posit goods; he can only recognize them. If he discards these preexisting goods and looks inside himself for another principle of action, he will find nothing but his pre-rational cravings.)

From the above, one can see that there are rational criteria for distinguishing true from false natural goods. One can easily convince oneself that the traditionally recognized ones show all the marks of being genuine.

### **What my body means, what I mean**

Suppose it is true that there are natural meanings to our corporeal acts, independent of and prior to any additional meanings we choose to confer upon them. To what degree am I accountable for the natural meaning of my acts? To take a common example, let us admit that sexual intercourse has a natural meaning and purpose, that it is about procreation via family, binding generation to generation and husband to wife, and expressing a radical donation of self to one's spouse. Are men and women always obliged to mean all this whenever they engage in the conjugal act? Must I mean what my body means?

One position would be that natural meanings have, of themselves, no moral import. This would salvage the liberal position, even after admitting natural significations. Most liberals would frown on a man deliberately promising lifelong fidelity to a woman without meaning it. On the other hand, they would insist that what the two parties understand by the conjugal act is the only morally relevant data. A man and a woman who wanted the incidental pleasures of sex without the commitment the act implies could just agree not to mean by intercourse what intercourse naturally means.

This position has the advantage of allowing all sorts of indulgences while attempting to maintain some moral standards. As a way of relating to one's body and its given "language" for expressing love and intimacy, though, this is very unsatisfactory. It implies a practical Cartesianism. My ego or self is conceived as an entirely separate thing from my body, a thing that I am said to "own" the way I own my furniture. But my body is my interface with the world and my fellows; in separating myself from it, I separate myself from them. A lover doesn't see me, doesn't touch me, isn't close to me; she only sees, feels, and embraces my body, an automaton I control but that is too separate from my "self" to be a true locus of intimacy. What's more, the choice of whether or not to endorse natural meanings is one that we never approach in a contextual vacuum. The natural meanings are always given. They provide a context that conditions any other meanings we choose to affirm. If I have sex with a woman without marrying her, I am rejecting her as my wife and treating her as unworthy of that commitment. I can't object that marriage was a proposition never brought up, and therefore never rejected. The act of intercourse itself brought it up by natural signification. At that point, the only choices are to consciously endorse the body's promise or to repudiate it. If you want to not marry a woman and not reject her, there is only one way: don't sleep with her.

The most obvious alternative would be to acknowledge a duty to always consciously mean by an act whatever that act naturally means. This is closer to the natural law view. It would mean that, before I perform an action, I should consider the natural meaning, translate it into a series of propositions of the kind I can mentally affirm or deny, and then affirm them all while performing the action with a clear conscience. This view certainly respects the language of the body; in fact, it errs in being too conscientious. Must we really expect every young bride and groom to enumerate in a set of clear propositions the whole meaning of



marital love, in all its depth and force and subtlety, before they are allowed to consummate their marriage? I have certainly never done such a thing, nor do I believe that any philosopher or saint has ever done it; I doubt the thing could be done at all.

One important problem is that natural acts and relations like marriage are only really understood from the inside by engaging in them and being mentally shaped by the experience: “conatural knowledge”, as the Thomists call it. No doubt the bride and groom must have some idea what marital love means, or they couldn’t meaningfully promise it, but their understanding of it is expected to grow as they live it. Living marital love forms the mind and the imagination, so that one can more fully understand what it is that one initially promised. To expect full understanding from the start would have things backwards. More fundamentally, the second approach falls into the same rationalist error as the opposite, liberal, position. It assumes that the only kind of meanings are the kind that can be reduced to finite sets of propositions. This, however, is not true, as we know from the philosophical investigation of art. A work of art is certainly meaningful, and may even have a “message”, but the meaning can never be completely captured by a verbal explanation; explanations of what the artwork “says” never really capture what it *shows*. Natural meanings are another case of showing rather than saying. They contain propositions, but they are not exhausted by them. They are in a sense larger than our minds. What’s more, the fact that something is expressed naturally rather than verbally/intellectually is itself significant. If a couple were to read off to each other all of my statements about the meaning of sex, this would not be identical to actually performing the marital embrace.

### **The body’s promise, the mind’s amen**

Is there then no way around rationalism and the dualist’s alienation from the body? In fact, there is another possibility, one that doesn’t cut the person off from the suprarational capacities of his body to express meaning. Rather than saying, “This act means X, Y, and Z; therefore I affirm X, Y, and Z”, he can say “I affirm the totality of what this act means.” If he knows that the act naturally means X, Y, and Z, then he must indeed accept those propositions, but he doesn’t truncate the act’s meaning to his partial understanding of it, nor to his intellectual, linguistic mode of signification. He accepts that his actions have dimensions of meaning that he may not entirely understand, and yet he commits himself to the whole meaning. He may not realize all that he has promised his wife, but even what he doesn’t yet understand he acknowledges as already promised.

It is this third way that natural law proposes as man’s proper way of being in the world. One can see why, despite being the true and only way to overcome alienation from one’s body, natural law has been embraced more readily by the less intelligent sectors of society. Those with high IQ are more confident in their ability to give meaning to their lives through sheer intellectual exertion. They think it fitting that a smarter man can think up a more comprehensive statement of love than a duller man, and they are less eager to imagine that God Himself has given

to every man, regardless of intellect, a way of “speaking” his love for his wife with a profundity that no human intellect can match. Those of us who lack the elite’s mental gifts also lack some of their hubris. We would not wish for the depth of meaning in our lives to be limited to what our own imaginations could provide. We Christians believe that God Himself uses natural significations, the “language of the body”, to make Himself present to us in the sacraments. God doesn’t overwrite the natural meaning, but uses it to express His relationship to us. It is precisely the natural meaning of marriage as total self-donation between husband and wife that lets it serve as the living image of Christ and His Church. And it is fitting that a suprarational mode of signification should serve as the channel for the superhuman gift of grace. When I receive the Blessed Sacrament, the priest holds the host before me saying “the body of Christ”, and I say “Amen”. What does the “amen” mean? Not that I can really fathom what it means that the thing before me is the body of the Incarnate God, or that I could fully say what it means—what I’m “getting myself into”—for me to consume it. I have some idea, based on the natural symbolism of consumption, but my “amen” means “I mean what this act means”. Because I can say this, I can say more than it is possible for a human mind to say; I can perform a supernatural act.

Even more important is the mode of expression natural meanings provide. Natural meanings are given, rather than being products of one’s private intellect. They allow us to step outside the limits of our imaginations, of our personal fixations and eccentricities, of the personality and style that we craft for ourselves. What I say about marriage, fatherhood, and filiation is always colored by my self-image, my idea of what “a person like me” would say. Natural meanings, by their impersonal—let us instead say “suprapersonal”—nature, allow me to step outside myself and make a completely authentic response to the thing itself. Being a husband and father means taking on a universal role, a role not of my making but one that lets me participate in the mystery of creation. The ephemera of my personality fall away, and I engage this mystery, not as “bonald” (35 year old, assistant professor, *Star Trek* fan, etc) but simply as Man. By my imagination, I have my own private world, but by natural meanings, I am one with every human being who ever lived. Fatherhood means the same thing for every father; it’s bigger than any one of us, and yet it is at the core of each of us. Reflecting on these matters helps us see the real unity of the human race, the unity alluded to in the expression “Man” (“Adam” in Hebrew). Man is the whole race considered together as one, but Man is also the essence of each individual, what we find when we look deeply into ourselves. This escape from oneself and into Man is so important that cultures create formalized rituals—at weddings, funerals, etc—to provide more of it. Here again, part of the act’s meaning is its universality, that I speak the same wedding vows my father said and my son will say.

In this matter the Christian has an advantage. What is abstract for natural reason becomes concrete and vivid in the light of the Faith. God’s substance and essence are one, so He alone can bridge complete universality and

concreteness. We believe that Man was made in His image, and at the appointed time, God Himself became Man, a new Adam, making Himself the core of humanity. So when he acts “as Man”, the Christian realizes a sense in which he is acting “as Christ”. When the body makes a promise (through sex, childbirth, etc), it is ultimately God Himself making the promise. If we would not be so mean as to break our own word, how much more should we take care not to break His!

So we find our corporeal existence charged with meaning; God Himself has lent it His own voice. Will you protest against this aspect of human nature because you didn't choose it? But this is what you are! This is your inmost nature. Surely the proper response to so great and holy a thing is reverence. Reverence and gratitude. Let us embrace our place in the order of nature, the place chosen for us by the Creator. Let us respect the language of the body, with its suprarational, suprapersonal mode of signification. Let us follow its calling to grow out of ourselves by putting on Man.