Natural Law Ethics in Disciplines Abstract to Applied

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Abstract: Language suggestive of natural law ethics, similar to the Catholic understanding of ethical foundations, is prevalent in a number of disciplines. But it does not always issue in a full-blooded commitment to objective ethics, being undermined by relativist ethical currents. In law and politics, there is a robust conception of "human rights", but it has become somewhat detached from both the worth of persons in themselves and from duties. In education, talk of "values" imports ethical considerations but hints at a subjectivist view of them. In the psychology and sociology of drug use, ethically thin concepts of "harm minimisation" and "self-image" dominate discussion and distract attention from the virtue of temperance and the training of character. A more forceful assertion of an ethics based on the worth of persons in these cases would be most desirable. Arguments against objectivity in the fundamentals may be replied to by examining the parallel between ethics and the discipline whose objectivity has been least challenged by relativist arguments, mathematics.

If you were around in the 1950s, you'll remember that it was clear who the main enemy was for Catholics. It was the Communists. With the Comms, you knew where you were. There were visible Communist regimes and Communist parties, and you could read the works of Marx and Lenin to find out what they believed. If you wanted to argue, you knew what you were arguing against.

By the mid-60s – when I first heard about these things – the situation had become much more confusing. Conservative Catholics especially were concerned that something had gone wrong, with falling church attendances, falling vocations, and more widespread dissent even among those still attending church. Obviously this was in some sense due to a shift in currents of thought, with more liberal or libertarian ideas becoming more widely accepted than they had been. But how to find who was responsible so as to be able to attack them? It wasn't the Communists doing it – they were largely discredited in the West by this time, and although trying to reinvent themselves as leaders of the "New Left", they plainly did not have influence with the broad mass of people who were gradually changing their ideas. Nor was it the

Freemasons, who had been attacked by the Church for a century or two as fomenters of liberal ideas – their support was collapsing faster than that of the churches. It was concluded that the enemy was something called "humanism".

That diagnosis had something to be said for it. But as an enemy humanism was not very satisfactory. It was very hard to find, for one thing, in the sense of finding an institutional manifestation or authoritative text. There was a Humanist Society, which did put forward some classical Enlightenment anti-religious principles and advocated abortion, euthanasia and so on. But it was hard to credit it with any real influence – its membership was minute, no-one of importance was a member, politicians had no reason to worry about its electoral influence. If the entire group of attendees at the Humanist Society's gathering had been miraculously converted en masse, it would have made no discernible difference to the inroads of liberal ideas in society at large.

It was the same with various later ideological opponents, such as the reworkings of humanism called poststructuralism and postmodernism (as the medieval inquisitors used to say about the ever-changing panorama of heresies they faced, "by whatever names they are called, having many faces but intertwined in their tails . . ."). Those movements of thought washed through universities and well beyond, but very few people admitted to being full-blooded postmodernists etc, and it was very hard to pin down a book or an individual argument of which it could be said "If we refute that, we've won." (I did write an [article on Australia's Wackiest Postmodernists](), and there are some very crazy ones out there, but they do not form a coherent party.)

Still, humanism and its variants have a minimal coherence that means it is possible to identify an Achilles heel they have, when it comes to the foundations of ethics. Their central claim is that humans are important – that is what fuels both their indignation at the supposedly evil doings of the forces of priestcraft and superstition and their genuine concern for the betterment of humanity. But they have a view of what humans are – an atheist and materialist one – that undermines the absolute importance of humans, by claiming that humans are much the same kind of thing as galaxies and cockroaches.

It ought to be possible for those with a more positive view of what humans are, such as Catholics, to make that point and establish themselves are truer "friends of humanity". They have not explained themselves very clearly. It is time to work harder.

Basic Natural Law Ethics

Let me review the basics of ethics, as I see them. It is not my theory, of course, merely my view of what should be emphasized and in what order. Talk about ethics involves a great number of different sorts of concepts – rules, virtues, values, outcomes, rights, responsibility, freedom, choice, sins etc … Ethics is about all those things, but it is not *fundamentally* about them.

When we are confronted with pictures of genocide victims dug up (e.g. of the Srebrenica massacre) we think "Those were people like us, and something terrible happened to them." Our emotional reaction gives us an immediate perception of the violation and destruction of something of immense value, a human life. To lack such emotions (as can happen with autistics) is to miss out on important ethical understanding. So while reason is important in ethics, so is emotion. (Which is not to say either reason or emotion is infallible – but in combination they give a direct insight into the worth or preciousness of human life.)

Rai Gaita, in *Good and Evil: An Absolute Conception* (p. 319) asks us to imagine "a tutorial in which one of its members had been a victim of terrible evil of which all the other members were aware, and in which the tutor invited them to consider whether our sense of the terribleness of evil was not an illusion. Everyone would be outraged if the tutor was serious and struck by unbelieving horror if he was." Being sceptical about something as ethically basic as the terribleness of evil, Gaita says, is not only wrong but an evil act against the victims of evil.

It is especially in such extreme cases of evil that we are forced to admit our sense of the worth of persons, but we can equally become aware of it in more positive and ordinary circumstances. Indeed the normal experience of mutual positive affirmation between friends, family and colleagues has the purpose of affirming human worth. We assure people of their worth because we believe in their worth.

We are also in general firmly convinced of the *equal* worth of persons. That is what drives our unwillingness to decide in the lifeboat-style dilemmas (the staple of first-year teaching in secular ethics, that ask who should be thrown out of a lifeboat if not all can survive). (Equal worth need not imply equal treatment irrespective of circumstances, of course – children have equal rights to legal protection but they don't have equal rights to vote because they don't have the ability to vote.)

Conclusions about what actions ought to be done, and about virtues, rights, duties and so on ought to follow from the basic worth of persons. For example, killing is wrong because it destroys something of great worth, a human life (but there could be exceptions if there is conflict between the worths of different lives, as in self-

defence). My right to life is just the implications of my worth seen from my perspective, and your duty not to kill me is the same seen from your perspective.

What I have just explained is called a "natural law" perspective on ethics. It contrasts with two other perspectives – on the one hand a "naturalist" view according to which morality is just custom, whatever customs evolution and history happen to have come up with, and at the opposite extreme, a divine command theory of morality, which holds God can command anything he likes to be right (for example, genocide). These views have well-known problems (further in *Catholic Values and Australian Realities*, ch. 8)

Unfortunately from a marketing point of view, "natural law" has come to be associated more with rules about stem cells, condoms and so on than these matters of foundations. Of course the natural law perspective does have implications for those questions. It is just a pity that the concentration on controversial issues obscures the main lines of what natural law ethics is about. It is much more about the Nuremberg Trials than about the Pill, much more about "natural justice" than about "if God had wanted us to fly, he would have given us wings."

Rights

Humanists, and the silent majority of persons in the street influenced by them at one or many removes, do not agree with any of the above. They regard any attempt to be objectivist in ethics as an attempt to impose some religious dogma, and they advocate "tolerance" of the differing ethical perspectives of various tribes (not including religiously dogmatic tribes, obviously).

However, at the same time as humanists have been breaking down respect for objectivity in ethics in general, there has been one aspect where objectivity has been becoming more and more accepted.

Discourse about "rights" has certainly spread remarkably in the last few decades. There is a long history, going back largely to late medieval Catholic conceptions and revived by the framers of the American Constitution. But people in the first half of the twentieth century did not talk at length the way we do now about "human rights" – though it might well have benefited them to do so, given the series of gross violations of human rights between 1914 and 1945. The new wave largely begin with the success of the 1948 Universal Declaration of Human Rights, which produced a list that carried conviction, and incorporated a very objectivist and absolutist understanding of rights, such as a preamble beginning with "recognition of the

inherent dignity and of the equal and inalienable rights of all members of the human family" (in large part due to the efforts of one of the framers, the Lebanese Thomist Dr Charles Habib Malik). The power of the concept of rights was revealed especially after the Helsinki Declaration of 1975, as described in [Tony Judt's *Postwar*](). I'll quote some extracts from Judt – the story is fascinating:

> [Around 1970] The language of rights, or liberties, was firmly inscribed in every European constitution, not least those of the Peoples' Democracies. But as a way of thinking about politics, `rights talk' had been altogether unfashionable in Europe for many years. After the First World War rights – notably the right to self-determination – had played a pivotal role in international debate … but these were *collective* rights – the rights of nations, peoples, minorities. Moreover, the record of collectively-asserted rights was an unhappy one … it had become depressingly obvious that force, not law, was the only effective way to establish precedence…

> Post-1945 rights talk … concentrated on individuals. This too was a lesson of war. Even though men and women were persecuted in the name of their common identity (Jews, gypsies, Poles, etc) they suffered as individuals; and it was as individuals with individual rights that the new United Nations sought to protect them. The various Conventions on Human Rights, Genocide or Social and Economic Rights that were incorporated into international law and treaties had a cumulative impact upon public sensibilities; they combined an eighteenth-century, Anglo-American concern for individual liberties with a very mid-twentieth-century emphasis upon the obligations of the state to ensure that a growing spectrum of greater and lesser claims were met – from the right to life to the `right' to `truth in advertising' and beyond.

> What propelled this legal rhetoric of individual rights into the realm of real politics was the coincidence of the retreat of Marxism with the international Conference on Security and Cooperation in Europe, which had opened in Helsinki the same year that *The Gulag Archipelago* was published in Paris. Until then, talk of `rights' had been disfavoured among left-leaning European intellectuals, echoing Marx's famous dismissal of the `so-called rights of man' as egoistic and `bourgeois'… [pp. 564-5]

> In August 1975 the Helsinki Accords were unanimously approved and signed [between the major Eastern and Western countries]. On the face of

things, the Soviet Union was the main beneficiary of the Accords… under Principle I, it was agreed that the `participating states will respect each other's sovereign equality … [and] territorial integrity… and `refrain from any intervention, direct or indirect, … in the internal or external affairs … of another participating State…[1]

But also included … was a list of rights not just of states, but of persons and peoples, grouped under Principle VII (`Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief') and VIII (`Equal rights and self-determination of peoples'.) Most of the political leaders who signed off on these clauses paid them little attention – on both sides of the Iron Curtain it was generally assumed that they were diplomatic window dressing, a sop to domestic opinion, and in any case unenforceable …

It did not work out that way … From this wordy and, it seemed, toothless list of rights and obligations was born the Helsinki Rights movement. Within a year of getting their long-awaited international conference agreement, Soviet leaders were faced with a growing and ultimately uncontrollable flowering of circles, clubs, networks, charters and individuals, all demanding `merely' that their governments stick to the letter of that same agreement … Hoist on the petard of their own cynicism, Leonid Brezhnev and his colleagues had inadvertently opened a breach in their own defenses. Against all expectation, it was to prove mortal. [501-3]

"Human rights" have played a role in many issues since, from Timor to refugees to current debates about the rights of children in remote aboriginal communities to be protected against violence. There have been some attacks on the wide use of concepts of rights, coming from those who think there is too much demanding of rights and not enough about duties and obligations to theorists from both the left and right who fear that appeals to rights might interfere with their programs to promote socialism or *laissez faire* capitalism. Those complaints have made very little impact, and appeal to human rights remains politically and often legally a very powerful strategy.

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[1] A Polish joke from around 1980 (not from Judt): What is the most peaceloving country in the world? Afghanistan – because it doesn't interfere even in its own internal affairs. What is the least peaceloving country in the world? It's the United States, because it interferes in the internal affairs of the Soviet Union, all over the world.

That ought to be very miuch to the advantage of those promoting an objective natural law position on ethics, since it is hard, logically, to believe in objectivity for rights without believing in the objectivity of human worth, of obligations, of virtues and so on. How could there be just *rights*? Unfortunately, this connection seems to be rarely made, or if it is, the message does not seem to have gained currency.

"Values" in Schools

It's widely agreed that the stampede from public to private school education is in large part driven by parents' belief that religious schools are stronger on "values". Public schools have defended themselves and there has been a long public debate over "values in education". This debate has been very dispiriting from a conceptual point of view, with little effort from most participants to explain what values are right and why – to explain it, that is, either to pupils undergoing "values education", to the public, or to themselves. The word "values" itself has a soggily relativist feel to it, as if we all need to find our own values, the ones that work for us…

One of the recent attempts in the field is the 2003 Federal Government `Values education study' from the Curriculum Corporation with the resulting `Draft National Framework for Values Education in Australian Schools' from the Dept of Education, Science and Training. It lacks both a philosophical basis and a coherent plan. There are some positive features, certainly, that would not have been found in an older document, such as the reference to developing `resilience' in students at risk of suicide and drugs. But in the Study, there are excessive efforts to make sure there is nothing offensive to any possible interests. The schools in the case studies were mostly quite unclear as to what values they were promoting and why, with the exception of Al Faisal College, whose program `incorporates a range of Islamic values (including honesty, respect, tolerance, modesty, courtesy, trust, politeness in manner and speech, cleanliness, industriousness and hospitality).'

The Draft Framework's list of values is reasonable enough:

1. **Tolerance and Understanding** (Accepting other people's differences and being aware of others).
2. **Respect** (Treating others with consideration and regard).
3. **Responsibility** – personal, social, civic and environmental (Being

accountable for and in charge of a course of action – responsibility for one's own actions, including the exercise of self-discipline; responsibility for the way in which one interacts and cooperates with others especially for resolving differences in constructive, non-violent and peaceful ways; responsibility for one's role in and contribution to society; and responsibility for one's own role in the maintenance and preservation of the environment).

4. **Social Justice** (Being committed to the pursuit and protection of the common good where all persons are entitled to legal, social and economic fair treatment).

5. **Excellence** (Seeking to accomplish something noteworthy and admirable individually and collectively, and performing at one's best).

6. **Care** (Caring for self and showing interest in, concern for and caring for others).

7. **Inclusion and Trust** (Being included and including others, listening to one another's thoughts and feelings actively and creating a climate of mutual confidence).

8. **Honesty** (Being truthful and sincere, committed to finding and expressing the truth, requiring truth from others, and ensuring consistency between words and deeds).

9. **Freedom** (Enjoying all the rights and privileges of citizenship free from unnecessary interference or control, and standing up for the rights of others; ensuring a balance between rights and responsibilities).

10. **Being ethical** (Acting in accordance with generally agreed rules and/or standards for right [moral] conduct or practice).

The values are satisfactory and form a coherent whole. There is a broad range of different and important values, and they are fairly free of the `political correctness' that John Howard fears has become endemic in state schools. But it is unfortunate that `tolerance' appears first (though coupling it with `understanding' does broaden its scope). Tolerance is a genuine virtue, and one easy to reach agreement on except perhaps among some fringe groups. But it is hardly central to right action. To put it bluntly, to be tolerant, all you really need to do is do nothing. And finishing with `being ethical' is content-free, especially when it is explained as acting in accordance with `generally-agreed values' – surely the difficult cases of moral action are those

where one's values conflict with what is generally agreed in one's peer group and one must become a whistleblower or dissident. And is the total effect a touch chilly? There is little about positive warmth among families and friends. Is love to be valued in Australian schools? It seems not.

Whether the list of values is adequate or not, it is hard to see them being realised in schools through the vapid managementspeak of the `Suggested approaches' in the document, like `Schools discuss values to be fostered with the local community', `negotiate and manage the process of clarifying school values', `monitor their approach to values education on an ongoing basis', and so on. That leaves it unclear what will be happening on the ground. The `values roadshow' promised in the 2004 Federal Budget has yet to be filled out, and at $1600 per school, is possibly not planned to make a big impact. Until something more definite is provided (a textbook, or plans for school talks by visiting community representatives such as small business employers and refugee advocates), it is hard to see the process as a serious operation. Meanwhile private schools will continue to make money from their marketing spiel claiming they are stronger on `values'.

The demand for values, which is a very justified demand, can only be satisfied by some coherent objectivist ethics. It's time to get on with that.

Drug and Alcohol Education

I noticed a UNSW study on alcohol education which found that education on "harm minimization" was effective with teenage females but not males. It seemed the males were more inclined to think that doing "wild" things while drunk was some kind of "badge of honour"; so the authors of the study are working on including more information on the dangers of erectile dysfunction. The question is whether drug education should limit itself to warning of the danger of physical harms or whether it should try adding something more strictly ethical. For example, is there any point in putting to teenagers not just "you'll go blind if you do X" but "it's honorable not to do X and you can be proud of yourself if you don't"? For example, that you can be proud of yourself if you're sober enough to drive your friends home safely. I don't know the answer. I just suspect that handing drug and alcohol education over to psychologists and sociologists whose training emphasises the separation of their sciences from ethics has led to a limited set of ideas on what to include in education. This partly

explains why the medical model occupies so much space, as if addicts have a medical "condition" that requires an expensive treatment program such as methadone replacement. There are cases where that may be a useful perspective, but it ignores the many cases where the problem can be solved or prevented by freely-willed self-control on the part of the potential "victim". (Further research will be conducted in the Restraint Project).

A Catholic schoolteacher remarked to me recently that drug education at her school included the idea that "because you are worthwhile God loves you". She wondered what a secular school could say at the same point.

The Worst Argument in the World

One might wonder, with an enemy as flabby and unfocussed as "humanism", whether there is any coherent argument behind it. There is, though it has not been widely recognised. In 1985 David Stove ran a Competition to Find the Worst Argument in the World. In his marking scheme, half the marks went to the degree of badness of the argument, half to the degree of its endorsement by philosophers. Thus an argument was sought that was both very bad, and very prevalent.

He awarded the prize to himself, for the following argument

　　　　We can know things only
- as they are related to us
- under our forms of perception and understanding
- insofar as they fall under our conceptual schemes,
　　　etc.
　　So,
we cannot know things as they are in themselves.

Perhaps that leaves you cold, as you may think you have not seen that argument. Two short passages from Stove's later book, *The Plato Cult*, deal with people everyone has actually met. Speaking of the typical products of a modern high school, he writes:

> Their intellectual temper is (as everyone remarks) the reverse of dogmatic, in fact pleasingly modest. They are quick to acknowledge that their own opinion, on any matter whatsoever, is only their opinion; and they will

> candidly tell you, too, the reason why it *is* only their opinion. This reason is,
> that it is *their* opinion.

And who can fail to recognise Stove's picture of another group of players in the intellectual world?

> The cultural-relativist, for example, inveighs bitterly against our science-based, white-male cultural perspective. She says that it is not only injurious but cognitively limiting. Injurious it may be; or again it may not. But why does she believe that it is cognitively limiting? Why, for no other reason in the world, except this one: that it is ours. Everyone really understands, too, that this is the only reason. But since this reason is also generally accepted as a sufficient one, no other is felt to be needed.

These arguments – or, less euphemistically, dogmas – are versions of Stove's `Worst Argument' because all there is to them as arguments is: our conceptual schemes are *our* conceptual schemes, so, we cannot get out of them (to know things as they are in themselves). In Alan Olding's telling caricature, `We have eyes, therefore we cannot see.'

There are examples in postmodernist writings – in the more clearly written of them, at least. But let us take something from more classical regions of humanism, ethics as explained by the atheist materialist version of science. A version particularly untroubled by philosophical sophistication appears at the beginning of E.O. Wilson's *Sociobiology* (which is the original of many of Dawkins' ideas):

> … self-knowledge is constrained and shaped by the emotional and control centers in the hypothalamus and limbic system of the brain. These centers flood our consciousness with all the emotions — hate, love, guilt, fear, and others — that are consulted by ethical philosophers who wish to intuit the standards of good and evil. What, we are then compelled to ask, made the hypothalamus and limbic system? They evolved by natural selection. That simple biological statement must be pursued to explain ethics and ethical philosophers, if not epistemology and epistemologists, at all depths.

The argument is: `We cannot know ethical truths (if there are any) except through the urgings of our back-of-brain plumbing, therefore, we cannot know ethical truths at all.' Attempts to make this argument more philosophically svelte are unlikely to change its basic logical form.

There are two answers to any such arguments. The first is to point out their invalidity. The second is to explain that if they were valid, they would apply equally well against mathematics. And even in these sceptical times, relativism about

mathematics is not widely held. The parallel between mathematics and morals, when it comes to objectivity, has a lot of mileage in it.

Conclusion

All sorts of people are out there talking unselfconciously about "rights", "harms", "values", "justice" and so on, concepts which are meaningless without some grounding in an objectivist natural law philosophy of ethics. Those promoting such a view – and the Catholic Church is the only major organization in the business – should work on those opportunities by insisting that only they have a total story that makes sense of those concepts.