

REVISION: NATURAL LAW AND UTILITARIAN THEORIES

In questions of morality:

1. **Is God and religion important?**
2. **Is the use of reason important?**
3. **Are consequences of an act important?**

A places supreme value on God’s will as they see it. Reasoning and consequences pale in importance. A’s view – a strong theological voluntarism - is that of the protestant reformers.

B rejects religious considerations; morality is a matter of using one’s reason and weighing the consequences of an act. B’s view is that of a utilitarian atheist.

C places supreme value on God’s will but also considers the exercise of reason important. Consequences of an act usually do matter – but not always - in determining its morality. C’s view belongs to the Natural Law tradition as it has developed within the Catholic Church.

	God/religion important?	Reason important?	Consequences important?
A	✓✓	✗	✗
B	✗	✓	✓
C	✓✓	✓	✓✗

A and C are both Christian – why do they disagree? A, with a protestant reform view, rejects the reason as reliable in matters of faith and morals. Fallen reason, in their view, is *totally depraved*. It is only God’s grace infusing the Christian mind, they say, that can provide it access to truths in faith and morals.

C agrees that human reason was grievously wounded by the Fall – darkened but not totally depraved. The ‘natural light of reason’ can, with difficulty, access some truths in faith and morals. God’s grace is essential in completing and perfecting nature.

Natural Law and its significance

Allowing ‘unaided human reason’ some voice in moral philosophy leads to significant conclusions.

- **Historically**, it meant that the works of great pagan philosophers were respected by the Catholic Church (as well as by Judaism and Islam). St Thomas Aquinas inaugurated the scholastic age by his great synthesis of faith and reason – Christian revelation and Aristotelian philosophy.
- **Presently**, it means that the Catholic Church can conduct a moral dialogue with the secular world on the basis of a Natural Law understanding.
- **Eschatologically**, it means that those who have had no access to the Gospel still have a standard by which they will be judged: moral conscience, the law ‘written into their minds’ (cf. Romans 2:15-16).
- In matters of **legality**, it means that positive law (i.e. the laws of nation states) can be judged by an objective standard of Natural Law. Ask yourself, by what standard were the regimes of, say, the Nazis and of Slobodan Milosevic to be judged?

Natural Law - two approaches

There are two complementary approaches to the view that humans are under a common moral law. The first was used by Aquinas who built on Aristotle's teleological worldview. More later on this.

The second was used by thinkers like C. S. Lewis in comparing moral awareness in humans across the divides of culture and history. The box beside shows some of the data from his investigation (Appendix to 'The Abolition of Man'). He infers a common moral understanding across cultures and times.

Others object, finding evidence, they argue, for rather different moral hardwiring across cultures and times. Peter Singer, the Australian Preference Utilitarian, argues that on crucial moral matters, for example, abortion and infanticide, there have been at least two divergent moral understandings: the Judeo-Christian 'sanctity of life' view and that of other cultures which often adopted what amounted to a 'quality of life' view.

However, it isn't merely the commonality of morality across cultures and times that is compelling; it is the very existence of a 'moral sense' in humanity. Lewis elsewhere expounded a Moral Argument for the Existence of God. When as an atheist he rejected God's existence on the grounds that the universe was unjust and senseless, where did he as, as a product of a senseless universe, get a notion of justice? If the whole universe had no meaning, he argued, we should never have found out that it has no meaning. This led him to ponder on a transcendental basis for meaning and morality.

With or without purpose?

The first approach to Natural Law Ethics relies on the fundamental assumption of a *teleological* universe - a universe with a designing intelligence and a purpose behind it, a cosmos. Does the universe have purpose? Is it going in a particular direction? Or is it 'just there' as the English Philosopher Bertrand Russell and others have contended? Generally speaking, the first view (a directed universe - a cosmos) is accepted by theists, the second (an undirected, random universe) by materialist atheists. Both views are of ancient pedigree.

C S Lewis summed up the two positions:

The materialist view holds that 'matter and space just happen to exist, and always have existed, nobody knows why; and that the matter, behaving in certain fixed ways, has just happened, by a sort of fluke, to produce creatures like ourselves who are able to think.' (Mere Christianity, 1952)

The religious view holds that there is something behind it all; this something is 'more like a mind than it is like anything else we know. That is to say, it is conscious, and has purposes, and prefers one thing to another. And on this view it made the universe, partly for purposes we do not know, but partly ... to produce creatures like itself - I mean, like itself to the extent of having minds.' (ibid)

Do not murder. (Ancient Jewish, Exodus)

In Nastrond (Hell) I saw ... murderers. (Old Norse)

Never do to others what you would not like them to do you. (Ancient Chinese, Analects of Confucius)

I have not brought misery upon my fellows. (Ancient Egyptian, Confession of the righteous soul)

Natural Law Ethics and Utilitarian Ethics in summary

In NLE, God directs all things by an Eternal Law. The universe is created *in statu viae* – in a state of journeying. Human beings, individually and collectively, are part of purposeful or teleological universe. Human beings don't know the ultimate purposes for all things, but their particular purpose, their final purpose and end, is blissful union with God. This is what the scholastics called *beatitude*.

By virtue of having a rational mind and a free will, human beings are 'gravely privileged'. Humans can choose to work with or against God's purposes. In doing so, they can promote or frustrate their final end. Natural Law is 'natural' for humans not in the sense that it's always easy or a matter of following appetites, rather in the sense that it accords with human nature, which is rational.

The ancient Greek philosophers were the first to elaborate a natural law doctrine. Heraclitus spoke in the 6th century BC of a common wisdom that pervades the whole universe, '*for all human laws are nourished by one, the divine.*' Aristotle distinguished between two kinds of justice: natural law, which is absolute and objective, and conventional laws, which are changeable. According to *Stoicism*, the whole cosmos is rationally ordered by an active principle variously named God, mind, or fate. Later, Stoic belief was popularised among the Romans by the 1st-century BC orator Cicero, who gave a famous definition of natural law in his *De Republica*: '*True law is right reason in agreement with Nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands, and averts from wrongdoing by its prohibitions. . . . There will not be different laws at Rome and at Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all nations and for all times.*'

In his *Summa Theologiae* (1265-73) St Thomas Aquinas called the rational guidance of creation by God the '*Eternal Law*'. The Eternal Law gives all beings the inclination to those actions and aims that are proper to them. Rational creatures, by directing their own actions and guiding the actions of others, share in divine reason itself. '*This participation in the Eternal Law by rational creatures is called the Natural Law.*' Its dictates correspond to the basic inclinations of human nature. Thus, according to Aquinas, it is possible to distinguish good from evil by the natural light of reason.

There are a number of variants of utilitarianism, act, rule, positive, negative, ideal, preference, and so on. They share two common features: an intrinsic good and a calculus. First, something is posited (put forward) as good-in-itself, intrinsically good. This may be pleasure or happiness or friendship or aesthetic experience or preference or something else. Second, there is the necessity of calculating the consequences of an act insofar as it maximises utility (the balance of intrinsic good over its opposite).

Is utilitarianism atheistic? This has been a subject of much argument. John Stuart Mill believed that it accorded perfectly with the Golden Rule, while in the 1960s the Anglican Joseph Fletcher proposed his Situation Ethics, a theory that put agape-love as its one intrinsic good and a utilitarian calculus as a guide to maximising it. Against this, it must be recognised that utilitarian theories present grounds for morality other than religious, and that some major exponents of utilitarian thinking have been atheists.

On the other hand, NLE recognises that consequences of an act often play a major part in determining its morality. However, NLE proposes that some acts – irrespective of consequence – are evil-in-themselves, intrinsically evil. And this divides NLE from utilitarian theories.

In what crucial ways does Utilitarian thinking diverge from NLE?

	NLE	Util. Theories
Can the act in itself sometimes be decisive in the weighing of its morality?	Yes - <i>intrinsically evil acts</i>	No - <i>although RU more complex</i>
Can the consequences of an act be decisive in the weighing of its morality?	<i>Sometimes - but not always</i>	<i>Always - either directly or indirectly</i>
Is 'intrinsic good' naturalistically or transcendently based?	<i>Transcendentally</i>	<i>Naturalistically</i>
Is motive central to the morality of act?	<i>Yes - although cf. intrinsic evil</i>	<i>Appears to be incidental</i>
Absolute norms or a situation ethic?	<i>Absolute precepts - casuistry for difficult cases</i>	<i>No absolute norms - although RU complex</i>
Is belief in God important in holding to the ethical theory?	<i>Central</i>	<i>Not central</i>

Applying NLE

Remember the fundamental meta-ethic of NLE:
good = that which fulfils something's essence.

- a good knife cuts well.
- a good dog is the epitome of dogginess.
- a good pen writes well.

Aristotle noted the same was true of humans in their various trades and crafts:

- a good farmer farms well.
- a good flautist plays the flute beautifully.
- a good doctor tends his or her patients well.

So, if we know what the 'function or essence' of a human is, then we can begin to speak of a good human. This isn't straightforward. Nevertheless, Aquinas, developing Aristotle, found a way out of this problem. One can discover what human nature is by identifying those goals that human beings generally tend to seek. These values would presumably reflect the structure of our human nature, which natural law directs us to follow.

- Life.** From the natural inclinations that we and all other animals have to preserve our own existence, we can infer that life is good.
 - Positively, promote our own health, right of self-defence ...
 - • Negatively, murder and suicide are wrong
- Procreation.** From the natural inclination that we and all animals have to engage in sexual intercourse and to rear offspring, we can infer that procreation is a value.
 - Positively, general obligation to produce and rear children.
 - • Negatively, such practices as sterilization, homosexuality, masturbation and artificial contraception are wrong.
- Knowledge.** From the natural tendency we have to know, including the tendency to seek knowledge of God, we can infer that knowledge is a value.
 - Positively, pursue knowledge of the world and of God.
 - • Negatively, stifling of intellectual curiosity and the pursuit of knowledge is wrong, and a lack of religion is wrong.
- Sociability.** From the natural tendency we have to form bonds of affection and love with other human beings and to associate with others in societies, we can infer that friendship and love are good and that the state is a natural institution and therefore good.
 - Positively, pursue close relationships with other human beings; submit to the legitimate authority of the state, war justified under certain conditions if it is necessary to defend the state.
 - • Negatively, damaging proper human relationships, such as spreading slander and lies, are wrong, revolution and treason are wrong, except when the state is radically unjust.

A CASE OF EUTHANASIA

Diane Pretty suffers from MND, a degenerative state for which there is no prospect of recovery. She is asking the courts for the right of assisted suicide (in this case, for her husband to help her to die).

In NLE

'Good is to be done and pursued and evil avoided' is the First Precept of Natural Law.

Fundamental attack on values intrinsically evil.

Four values are incommensurable; they can't be traded off one against the other.

Do not do (intrinsic) evil to bring about a good end.

Qualifying principles:

Forfeiture

According to the *Principle of Forfeiture*, a person who threatens the life of an innocent person forfeits his or her own right to life.

Double effect

According to the *Principle of Double Effect*, it is morally permissible to perform an action that has two effects, one good and the other bad, if

- (1) the bad effect is unavoidable if the good effect is to be achieved,
- (2) the bad effect is unintended—that is, not a direct means to the good effect, and
- (3) a proportionally serious reason exists for performing the action.

Casuistry – the rational working out of how general precepts apply in (difficult) specific cases – is an important part of Natural Law.

Ordinary & Extraordinary Means

Ordinary means of preserving life are all medicines, treatments, and operations [that] offer a reasonable hope of benefit for the patient and [that] can be obtained and used without excessive expense, pain, or other inconvenience....

Extraordinary means of preserving life [are] all medicines, treatments' end operations [that] cannot be obtained without excessive expense, pain, or other inconvenience, or [that], if used, would not offer a reasonable hope of benefit.

In Utilitarian Ethics

AU and PU would certainly prescribe voluntary euthanasia as a moral course of action if the circumstances require it.

A key problem for both AU and PU, though, is calculating the utility of voluntary euthanasia. Who is involved? Who suffers? Whose pain counts most?

There is no separate concept of 'just means' divorced from 'just ends'. And so the ends can justify the means – a route rejected by NLE.

There is no concept of 'intrinsic evil' entirely divorced from consequences.

RU is more difficult; any rule adopted in RU must have high acceptance utility (many in society must accept the rule as reasonable). How acceptable would the rule be: '*In cases of terminal illness, allow the patient the right to have their life terminated should they wish it?*'

Peter Singer, a preference utilitarian, argues that the 'equal consideration of interests' is the guiding light when it comes to making ethical decisions. Singer, using PU, makes a compelling case for voluntary euthanasia. However, see criticism above.

Verdict:

Although it is by no means clear that Utilitarian theories weigh in favour of voluntary euthanasia, utilitarian thinkers tend to find support for it in utilitarianism.

NLE **proscribes** all forms of suicide, since they amount to an attack on the basic values of life and sociability. Neither the principles of forfeiture nor double effect can be applied in such a way as to justify a directly intended ending of an innocent life.

Though the Diane Pretty case attracts much sympathy, no exercise of casuistry can justify her assisted suicide, since casuistry means the application of basic precepts rather than their abandonment.

1 Apply both NLE and Utilitarian theories to:

- a) Case of offensive bombing to create terror and destroy morale and thereby (hopefully) end war.
- b) Issue of the use of artificial contraceptives.
- c) Issue of active homosexual relationships.

2 The case of the conjoined twins, 'Mary and Jodie', drew the following response from the Cardinal Archbishop of Westminster:

"This clearly is a tragic and heartrending case, and everyone is trying to do what is for the best. However, there is a fundamental moral principle at stake - no-one may commit a wrong action that good may come of it. The parents in this case have made clear that they love both their children equally, and cannot consent to one of them being killed to help the other. I believe this moral instinct is right." (Archbishop's Statement)

What principle(s) of NLE can you spot?

As far as ethics is concerned, does it matter which view is right?

Yes. Metaphysics will eventually influence ethics. If you accept the religious view, you'll believe that it is possible to work with or against the 'grain of the universe'. If you accept the materialist view, you'll probably reject absolute rights and wrongs, but you might feel that you should work to increase human pleasure/happiness/preference, since you feel them to be good.

Can't you be good under both codes?

Yes, in the sense of being sincere in following them. For example, both a Christian and an atheist might give to the same charity which wants to prevent river blindness among the poor. The act is the same, the motivations different. The Christian believes that you should love your neighbour, and when they're needy give them what help you can. The atheist utilitarian holds that giving the money has greater utility than keeping the money. However, there are certain situations when the sincere Christian and the sincere atheist would follow very different courses of action. Often these situations involve human life at its beginning or at its end. For Christians, being good is not just a matter of being sincere: the truth of a situation matters.