On the nature and constitution of human flourishing

Each claim in order to the share for the subsequent argument

With the recent research and findings of the nature in this section I want to make certain about the nature and constitution of genuine human flourishing. (2) a claim concerning the nature and constitution of genuine human flourishing. (3) a claim concerning the nature and constitution of genuine human flourishing. (4) a claim concerning the nature and constitution of genuine human flourishing. If these claims are correct then the nature and constitution of genuine human flourishing can be a natural law theory. (5) a claim concerning the nature and constitution of genuine human flourishing. Can a natural law theory?
important divide between more traditional natural law theorists who, following Aquinas, give a deeper metaphysical account of what makes it the case that certain types of activities and experiential states are basic goods, and those, following Finnis and Germain Grisez, who do not. More traditional Thomists claim that any adequate account of what makes it the case that something is an aspect of human flourishing must appeal to a teleological account of human nature according to which human beings have an *ergon* or function. Finnis and his followers have vehemently denied this. In what follows, I will not attempt to adjudicate this controversy.

On the Proper Role and Limits of the State

The third and final feature of natural law theories I wish to highlight is a thesis concerning the proper role and limits of the state. Put succinctly, the natural law theorist says that the proper and central role of the state is to provide the basic material, institutional, educational, and social circumstances in which a flourishing life can be chosen and lived. Notice that the proper function of the state is best understood as providing the circumstances in which a flourishing life can be chosen and lived; it is to provide its citizens with the *opportunity* to flourish. According to the natural law account, the state itself cannot guarantee that its citizens will choose a flourishing life, let alone flourish. The state can, however, take various steps to promote and protect (either directly or indirectly) the flourishing of its citizens. Thus, most natural law theorists have thought it proper for the state to enact “morals laws” of various kinds that render illegal certain types of activities that are thought to be inimical to the authentic flourishing of persons (e.g., recreational drug use, prostitution, and so on). However, it should be emphasized that, according to most natural law theorists, the state’s ability to implement and enforce morals laws is limited in several ways. For one thing, the nature law limits the measures the state can take to provide for or protect the flourishing of its citizens. The state is never to act in such a way that expresses an intention to destroy, frustrate, or inhibit the participation in, or the opportunity to participate in, the basic goods. For another, as Aquinas himself made clear, the state cannot demand too much of its citizens. Passing morals laws of an especially stringent sort may be futile, and may be the occasion for social ferment and even greater vice. So most natural law theorists agree that it is permissible and advisable for the state to allow its citizens to engage in certain kinds of activities that, strictly speaking, contravene the natural law.

II. Our Central Question

The central question I raised at the outset of this essay asks: does a natural law theory of the Aristotelian-Thomist variety have the resources to offer an adequate justification for the provision and protection of religious civil liberties? Interestingly enough, Aquinas thought it did. It was Aquinas’s conviction that it is the proper role of the state to provide for and protect the various religious civil liberties of at least some of its citizens. Aquinas reasoned that it is
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of human persons. Religion is a basic good if it provides an ultimate intelligible reason for action. But agnostics and even atheists can easily grasp the intelligible point of considering whether there is some ultimate, more-than-human-source of meaning and value, of enquiring as best one can into the truth of the matter, and of ordering one's life on the basis of one's best judgment. Doing that is participating in the good of religion. Just as one has reason, without appeal to ulterior reasons . . . to pursue knowledge, enter into friendships and other forms of community, strive for personal integrity, develop one's skills and realize one's talents, one also has reason, without appeal to ulterior reasons, to ascertain the truth about ultimate or divine reality and, if possible, to establish harmony and enter into communion with the ultimate source(s) of meaning and value.17

If I understand George correctly, participating in the basic good of religion has two main components: first, it involves inquiring into whether there is an ultimate source of meaning and value; and, second, it involves ordering one's life on the basis of one's best judgment about whether there is such an ultimate source (which I shall hereafter simply call "God").

How, then, do we get from the claim that religion is a basic good to the conclusion that the state ought to provide and protect religious civil liberties? George never explicitly spells out his argument. But something like the following, I surmise, is what George has in mind:

1. Every person and institution, including the state, has basic moral reasons not to intentionally inhibit the opportunity for persons to choose to participate in the various basic goods, but has reason to intentionally protect such participation.
2. Religion is a basic good.
3. Therefore, every person and institution, including the state, has basic moral reasons not to intentionally inhibit the opportunity for persons to choose to participate in the good of religion, but has reason to intentionally protect such participation.
4. Providing for and protecting various religious civil liberties (e.g., the right to assemble and worship in a way one pleases, and so on) is a centrally important way by which the state can intentionally not inhibit but intentionally protect the opportunity for persons to choose to participate in the basic good of religion.
5. Hence, the state has basic moral reasons to provide for and protect various religious civil liberties.

I wish to press two sorts of objections to this argument. I want to maintain, first of all, that even if the participation in the good of religion is intrinsically good, and even if the state has a basic reason to provide for and protect such participation, George needs to furnish further considerations for thinking that these basic reasons are not overridden by other factors. Second, I wish to contend that participating in the good of religion does not provide basic reasons to positively value it and, hence, that religion is not a basic good.

The First Objection

Let us suppose that George is right to say that religion is a basic good and, thus, that participating in the good of religion is itself intrinsically good. That is to say, let us assume that it is intrinsically good to inquire into the nature and existence of God and to order one's life in accordance with one's best judgment about these issues. However, even if it were true that it is intrinsically good that one order one's life according to one's best judgment concerning whether God exists and what God is like, it may still be the case—and sometimes is the case—that the particular ordering of a life made on the basis of that judgment is intrinsically bad. Thus, it may be the case—and sometimes is the case—that the badness of a particular ordering is sufficient to defeat the intrinsic goodness of having ordered one's life according to one's best judgment concerning the nature and existence of God.

Consider, for example, a religious sect that espouses a view about reality that we might call "cosmic illusionism." This sect maintains that the way reality appears to us is deeply and systematically misleading. Though reality may appear to have different sorts of entities and various sorts of distinctive components, this is not the case. There are no distinctions to be found in reality; reality is really pure, undifferentiated "consciousness." Let us also suppose that this sect holds that, on account of their illusory nature, the apparent beauties of this world are to be shunned, political life should be shunned, and communal life is to be avoided. Now consider someone who belongs to this sect. After reflection, this person has come to accept the major tenets of this sect and she attempts to order her life according to these tenets. Pretty clearly, though it may be good that our sect member has ordered her life according to her best judgment concerning the existence and nature of the divine, the particular ordering of her life looks to be very bad indeed. As a consequence of adhering to the principles of this sect, this person holds packs of false beliefs about the nature of reality and fails to participate in the goods of aesthetic appreciation, sociality, and marriage, to name a few. In this case, it seems as if the badness of the ordering of our sect member's life
participating in the good of knowledge and the good of practical reason are in different ways dependent upon the value of these goods. The first is the good of knowledge, which is achieved through participation in the good of practical reason. The second is the good of practical reason, which is achieved through participation in the good of knowledge.

If the first is to be understood as a pursuit of knowledge, then it appears to be more directly connected to the good of practical reason. The second is to be understood as a pursuit of practical reason, which is more indirectly connected to the good of knowledge.

In this way, we may see how the pursuit of practical reason is connected to the pursuit of knowledge. However, it is important to note that the pursuit of knowledge does not directly contribute to the pursuit of practical reason. Rather, it provides a foundation upon which the pursuit of practical reason can be built.

In conclusion, the pursuit of knowledge and the pursuit of practical reason are interconnected, but they are not identical. The pursuit of knowledge is necessary for the pursuit of practical reason, but it is not sufficient. The pursuit of practical reason requires a deeper understanding of the nature of reality and the role of human beings in it.
Moreover, we have grounds for believing that the sorts of reasons that participation in the good of knowledge and the good of practical reasonableness yield are explanatorily more basic than those yielded by the participation in the putative good of religion. Participation in the good of religion is just a way of participating in these explanatorily more fundamental goods. So, on the assumption that a thing is a basic good if and only if a person has a basic reason to positively value the participation in that thing, then it follows that the putative good of religion is not a basic good.

Three Replies

How might one respond to this argument? Here are three different replies.

One line of response runs as follows. To establish that religion is not a basic good, we would have to show that participating in the basic goods of knowledge and practical reasonableness fully explains why it is worthwhile to participate in the good of religion. But the argument just offered doesn’t do that. At best, it offers a partial explanation of why we have reasons to participate in the good of religion. It ignores the fact that we have additional reasons to participate in the good of religion. These additional reasons are generated (in part) by the fact that it is the existence and nature of God into which we are inquiring. It is the object of the good of religion that makes it distinctively worthwhile to participate in it.

The fundamental problem with this reply is that, if it is correct, it results in an inordinate proliferation of basic goods. For consider any subject matter into which it is worthwhile to inquire. Take, for example, an existentially weighty matter such as the nature and existence of the soul, the nature of human flourishing, or the basis of morality. Or consider an existentially less central, though nevertheless worthwhile, subject such as Rembrandt’s use of light, Charlie Parker’s use of the diminished scale, or Chaucer’s use of irony. According to the present reply, the reasons a person has for inquiring into any of these issues and ordering her life accordingly, and her best judgment on these matters is not exhausted by the fact that in doing so she participates in the goods of knowledge and practical reasonableness. The object of each of these inquiries gives a person additional reasons to pursue them. However, if this “extra worthiness” is sufficient to transform an activity into a basic good, then we shall have to say that there are basic goods corresponding to each of these activities—and countless others like them. But George, Finnis, and company do not say this; they do not say that there is a basic good corresponding to inquiring into the nature of the soul or Rembrandt’s use of light. And it is probably good that they do not. Once we have such a fine-grained account of basic goods in place, then we will be tempted to say that inquiring into any worthwhile subject counts as a basic good. Moreover, fundamental to Finnis’s and George’s account of the basic goods is the claim that a good is basic only if it cannot be “reduced to merely being an aspect of” any of the other basic goods. But if being an “aspect” of a good is simply being a manner of participating in it, then it is difficult to see how the present reply can be sustained. An activity such as inquiring into the nature of the soul looks merely to be a way by which we participate in goods such as knowledge and practical reasonableness.

The second response to the argument takes a different route. It says that, while the argument we have offered so far may be successful in showing that the good of religion as George understands it is not a basic good, it is not successful in establishing that the good of religion as Finnis understands it is not a basic good. This is because Finnis offers us a distinct account of the nature of the good of religion that is not vulnerable to the kinds of arguments that we have raised against George’s account. Here is Finnis’s most extensive defense of the claim that religion is a basic good:

But is it reasonable to deny that it is, at any rate, peculiarly important to have thought reasonably and (where possible) correctly about these questions of the origin of the cosmic order and of human freedom and reason—whatever the answers to these questions turn out to be, and even if the answers have to be agnostic or negative? And does not that importance in large part consist in this: that if there is a transcendent origin of the universal order-of-things and of human freedom and reason, then one’s life and actions are in fundamental disorder if they are not brought, as best one can, into some sort of harmony with whatever can be known or surmised about that transcendent order and its lasting order?

One might interpret this passage to claim that the good of religion is not merely an aspect of the good of knowledge or the good of practical reasonableness. To be sure, participating in the good of religion consists in inquiring into whether there is a God and what God’s nature is like. But it is more than this. It also involves (if the more-than-human order is personal) something like having one’s will in accordance with the will of the divine. Thus, one might say that the good of religion is a distinct good that is more analogous to the good of friendship and community than the good of knowledge or practical reasonableness.

There are several problems with this reply. To begin with, it does not follow that if the putative good of religion is distinct from the good of knowledge and the good of practical reasonableness it is thereby a basic good. It may still be the case that the reasons we have for participating in the good of religion can be deduced
TRENCE CUNEO

Can a National Law Theorist Justify Religious Liberalism? (2)

 electrons that the national law theorists cannot help to develop a series of refutations of the above. The question of whether religious practices are protected by the national law is a matter of law.

It is important to note that the national law theorists cannot help to develop a series of refutations of the above. The question of whether religious practices are protected by the national law is a matter of law.
arguments to the effect that (1) the state is incompetent in many cases to ascertain whether the goodness of participation in a particular religious tradition is defeated by other bad features of such participation, and (2) the state will sometimes have broadly pragmatic reasons to provide and protect religious civil liberties even when it has good reason to believe that such participation undercuts the participation in various basic goods. If the natural law theorist can successfully execute these three stages of the argument, then she will have given a sufficient justification for the state to grant religious civil liberties to participate in certain religious traditions. Though to this we should add the following qualification: if the state has good reason to believe that participation in a particular religious tradition has the effect of clearly and deeply damaging the common good, the state may revoke or not grant civil liberties to participate in that tradition.

This, I claim, is the sort of general strategy to which a natural law theorist should appeal. I want to close by considering in a little more depth how the natural law theorist might fill in some of the details of the argument. However, I should emphasize that what follows is just the broadest sketch of such an argument. All too often I simply glide over various intricacies and nuances that would characterize a more fully developed argument.

III. The Positive Argument

Suppose for the moment that the natural law theorist has successfully identified a cluster of basic goods the participation in which is intrinsically good. And suppose, moreover, that this list of basic goods roughly corresponds to the list that Finnis, Griswold, and George offer. What the natural law theorist should then attempt to establish, I suggest, is that participation in certain religious traditions is linked in various ways to the participation in these basic goods and, thus, the state has reasons to provide and protect civil liberties to participate in these traditions. More specifically, I suggest that the natural law theorist can identify at least two general ways in which participation in certain religious traditions is connected with the participation in the basic goods.

The first way in which participation in certain religious traditions is tied to participation in the basic goods is that we can participate in the various basic goods by way of participating in certain religious traditions. In other words, participation in certain religious traditions is often an instance of participation in the various basic goods. Indeed, it is this type of answer that has been lurking just below the surface of the second objection we raised earlier against George's view. What that objection brought out is that, while it may be the case that there is no good of religion, the participation in various religious traditions is closely linked to the participation in goods such as knowledge and practical reasonableness. Consider again the basic good of knowledge. And let's suppose that we understand this good rather broadly so that it encompasses other epistemic praiseworthy states such as wisdom, understanding, and aesthetic appreciation. Surely Finnis and George are correct to point out that participation in certain religious traditions is a way by which we endeavor to gain knowledge or understanding of some centrally important issues (e.g., whether God exists, the good for humankind, the nature of right and wrong, and so forth). And surely they are correct to claim that such participation is valuable. Granted, such participation doesn't very often take the form of dispassionate or detached inquiry into these matters. Rather, it often takes the form of engaging in a religious way of life; that is, it often takes the form of engaging in certain rites, consulting certain texts and authorities, practicing certain disciplines, developing various kinds of aesthetic sensibilities, and so on. But as Pascal pointed out concerning the Christian faith, such active engagement is one of the most apt ways by which we can explore the contours of a given religious tradition and its claims to truth.

Or take, as another example, what Finnis calls the good of practical reasonableness. As Finnis describes it, the good of practical reasonableness consists in bringing one's intelligence to bear effectively on the problems of choosing one's actions and lifestyle and shaping one's character. Finnis invites us to characterize the practically reasonable agent (at least in part) as the person who has effectively conformed her actions, lifestyle, and character to her best judgments concerning how she ought to act and live. If this is an accurate depiction of practical reasonableness, then we should affirm that we can, and often do, participate in this good by way of participating in certain religious traditions. In seeking out wisdom concerning the human condition or the nature of God, and effectively conforming our actions, lifestyles, and character traits to our best judgments on these matters, we participate in the good of practical reasonableness.

Knowledge and practical reasonableness, however, are not the only two goods in which we can participate by way of participating in certain religious traditions. There is also the basic good of community and friendship. If we say that a community is instantiated when (and only when) agents have a common end and aim together to realize that end, then many religious groups count as communities. Religious groups instantiate the intrinsic good of community by corporately worshiping God, sharing a vision that they will benefit others in important manners (such as bringing salvation, material and spiritual sustenance, etc.), and so on.

This is to indicate just several manners in which participation in certain religious traditions can be an instance of participation in various basic goods. We
are formed. An implication of this is that, according to natural law views, the state of affairs in which the condition is met is a moral evil, and the act of forming the condition is a moral wrongdoing.

By implication, if the condition is not met, then the act of forming the condition is not a moral wrongdoing. This is because the condition is not met, and therefore the act of forming the condition is not a moral act.

This is an important point, because it shows that moral wrongdoing is not simply a matter of consequences. It is also a matter of the state of affairs in which the condition is met or not met. If the condition is met, then the act of forming the condition is a moral wrongdoing. If the condition is not met, then the act of forming the condition is not a moral wrongdoing.

In conclusion, the state of affairs in which the condition is met is an important factor in determining whether an act is a moral wrongdoing. The state of affairs in which the condition is met determines whether the act of forming the condition is a moral wrongdoing or not.
has additional reason to allow and protect the liberties to participate in these religious traditions. In allowing for and protecting these freedoms, the state helps to provide the conditions in which a flourishing life can be chosen and lived.

But as I have indicated already, the natural law theorist must say more than this if she is to provide an adequate justification for the provision and protection of religious civil liberties. Even though participating in certain religious traditions may be an instance of participating in one or another basic good, and even though such participation may help to form the qualities in persons that are necessary for them to flourish, these good states of affairs can be defeated by other bad aspects of this participation. At the end of the day, the participation in certain religious traditions can just as well undercut authentic human flourishing as it can contribute to it. Thus, we are forced to move into the third and final stage of the natural law theorist's argument.

It is at this third stage of argument that the natural law theorist must appeal to more pragmatic considerations. In response to the observation that the goodness of participating in certain religious traditions can be defeated by bad aspects of that participation, the natural law theorist can say several things. First, she should admit that though a central role of the state is to provide the necessary conditions in which a flourishing life can be chosen and lived, the state is in many cases incompetent to discern whether the valuable aspects of participation in certain religious traditions are defeated by the bad aspects of such participation. So, for example, it may be the case that there are valuable aspects of a person's being a Theravada Buddhist or a Presbyterian. It may also be the case that these valuable aspects are defeated by the further fact that the central doctrines of Theravada Buddhism or Presbyterianism to which this person asssents, and on which she has based her life, are false. But most would agree, I think, that it lies outside the competence of the state to discern whether that is the case. Whether the central claims made by the adherents of certain religious traditions are true is typically an extremely complex and difficult issue to decide. So we ought not to expect the state to issue accurate pronouncements on this matter. And since it lies outside the ability of the state to decide this issue competently, and since there are clearly valuable features of being a Theravada Buddhist or a Presbyterian, the natural law theorist can claim that the state ought not to disallow religious civil liberties to Theravada Buddhists or Presbyterians.

Other cases will be different. It might be plain from the perspective of natural law theory that the valuable aspects of participation in a given religious tradition are defeated by the bad aspects of such participation. So, for example, it may be clear from a natural law perspective that participation in a sect that advocates cosmic illusorism, and the detachment from aesthetic pleasure, genuine comm-

munity, political activity, and so on, is an overall bad thing. But, as Aquinas made evident, this doesn't itself imply that the state ought to revoke religious civil liberties in such circumstances. It may be that prohibiting participation in such traditions would only increase social unrest, or promote that religion by creating martyrs, or would make overly stringent demands on the citizenry, or would be impossible to enforce in practice. In cases such as these, the natural law theorist may allow religious civil liberties to participate in certain kinds of religious traditions in order to prevent the occurrence of even greater evils. Of course, none of this should suggest that there will never be cases in which the state ought not to revoke or not permit religious civil liberties to participants in a particular religious tradition. It may be that participating in certain religious traditions is so harmful to the common good that the state must severely limit or ban such participation altogether.

IV. A Final Objection

I would like to close by considering an objection to what I have argued. It might be complained that the position I have defended implies that religion is an instrumental or mere contributory good. According to the view I have outlined, it might be said, participation in religious traditions is good and religious civil liberties ought to be protected, insofar as the participation in religious traditions of certain kinds contributes in various positive ways to the participation in other basic goods. But this approach — so the objection runs — seems wrongheaded. The strategy doesn't accurately reflect that manner in which many religious persons defend their claim to religious civil liberties. The way in which many religious persons defend their claim to religious civil liberties is not by pointing to the fact that participation in religious traditions of various kinds is crucial for, say, forming and sustaining effective identities. Rather, what many religious persons emphasize is how important — how centrally and intrinsically important — practicing religion is to them in their ordinary lives.

This objection correctly emphasizes that the success of the present strategy relies on the ways in which participation in religious traditions of certain kinds contributes in positive ways to participation in the basic goods. But it doesn't follow from this that participation in such religious traditions is a mere instrumental or contributory good. Nor have I claimed that the present strategy is the only way by which a natural law theorist can justify the provision and protection of religious liberties; there may be other sorts of strategies available. Moreover, when pressed on the issue of why the state ought to provide for and protect
says that “a person’s life is autonomous if it is to a considerable extent his own creation.” See George, Making Men Moral, chap. 6.

17. Ibid., 221.
18. Finnis, Natural Law and Natural Rights, 92.
19. Ibid., 89–90.
20. This is the sort of view defended in Murphy, Natural Law and Practical Reasoning, 131–33.
21. For example, the fact that were I to give a small amount of money to my friend, then I would relieve his financial distress looks to be a reason to act. It is not unlikely that I can bring about the state of affairs picked out by the antecedent of this counterfactual (giving a small amount of money to my friend) at the actual world. Moreover, the state of affairs picked out by the consequent (relieving my friend’s financial distress) is very important. Contrast this with the fact that were Bilbo Baggins to be alive, it would be good to befriend him. In this case, the state of affairs picked out by the antecedent (Baggins’s being alive) is very unlikely to obtain at the actual world; Baggins is a fictional character, and, thus, though the state of affairs specified in the consequent (its being good to befriend Baggins) is valuable, I nonetheless have little reason to attempt to befriend Baggins because it is so improbable that Baggins is at any time alive at the actual world.
22. Finnis, Natural Law and Natural Rights, 88.
23. There are complexities concerning the nature of a community that I am ignoring here. For more on the subject, see Murphy, Natural Law and Practical Reasoning, 126–30.
24. See the essays by Coleman and Hollenbach in Religion and Contemporary Liberalism, ed. Paul Weithman (Notre Dame, Ind.: University of Notre Dame Press, 1997), that claim that participation in certain sorts of religious traditions helps people to develop certain kinds of character traits whose instantiation is especially important for the health of a liberal democracy.
27. It may be that religion is not intrinsically good according to the way Finnis and George characterize intrinsic goodness. But that may simply be a problem with their account of intrinsic goodness.

THE RENUNCIATION OF CONSCIENCE

MARK C. MURPHY

Nicholas Wolterstorff’s 1998 Stone Lectures begin with a reminder of the witness of Polycarp, bishop of Smyrna, a second-century Christian who was martyred for refusing the proconsul’s order to disparage Christ and declare full allegiance to Caesar. A soldier’s sword eventually had its way with Polycarp, but Polycarp remained loyal to Christ, his king.

Wolterstorff obviously approves—“approves” is far too weak a word—of Polycarp’s response in the face of the proconsul’s demand. The response—“For eighty and six years have I been his servant, and he has done me no wrong; how can I blaspheme my King, who has saved me?”—hits the mark. And Wolterstorff obviously thinks that the audience of the Stone Lectures will approve as well. There is no effort, because there is no need, to defend Polycarp’s judgments and actions. It is obvious to all sensible Christians that Polycarp’s choice was the right one. Wolterstorff takes his task to be entirely that of understanding more clearly the basis for the rightness of Polycarp’s choice rather than that of seeing whether Polycarp chose properly in disobeying the proconsul’s order.

Thomas Hobbes, like Wolterstorff, has much to teach us about the nature of political authority, and about how it can be in tension with the demands of divine authority. And Hobbes, like Wolterstorff, is a Christian. But Hobbes’s views on