

REVISED AND EXPANDED EDITION

WHAT WE CAN'T NOT KNOW



A Guide

J. Budziszewski

IGNATIUS

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A New Phase of an Old Tradition

*How what we hold in common is related
to what we do not hold in common.*

During the eight years since the first edition was published, a shift that had already been going on among natural law thinkers has gained ever-greater clarity and momentum. The book reflected that change: although I was appealing to the common sense of the plain man, to the ethical patrimony of the whole human race, I made no attempt to write as a generic person whose intellectual traditions and faith community made no difference. In fact I called attention to these things—not, as I said, to shut others out of the conversation, but to invite them in.

That might have seemed a strange way to extend an invitation to dialogue. In order to talk about what we have in common, shouldn't we bracket our differences? In order to touch what is universal, don't we have to suppress everything that isn't? Well, no. Why not? At various points in the first edition—for example, in commenting on the link between nature and tradition, between virtue and vision, and between deep conscience, which does not vary, and surface conscience, which

does—I certainly gave reasons. What I didn't explain is how different this approach to natural law may seem from other ways of thinking about it. In other words, although the book reflected a shift in the understanding of natural law, it didn't explicitly discuss the shift. This new edition provides an opportunity to do so.

Speaking in the broadest possible terms, the natural law tradition has passed through three historical phases and is now entering the fourth.

Phase one belonged to the philosophers. Ancient thinkers like Aristotle discovered that beings have natures, and tried to develop intellectual tools for thinking about them. Other thinkers, especially the Stoics—although this idea is present in embryo in Aristotle too—suggested that the principles of these natures could be expressed in terms of laws, real laws, which were somehow the work of the divine mind.

Phase two belonged to the theologians. Jewish thinkers worked out the implications of the ancient tradition that before God gave the Torah to the “sons” or descendants of Abraham, He had already given commandments to the sons of Noah, which means to the whole human race. Islamic thinkers of the now much less influential Mutazilite school maintained that good and evil are embedded “in things”, in the structures of creation. Christian thinkers explicitly appropriated the whole philosophical tradition. As Joseph Cardinal Ratzinger suggested before his accession to the papacy, in the early days of Christianity, “in an environment teeming with gods”, when believers were asked to which god their God corresponded, “the answer ran: to none of them. To none of the gods to whom you pray but solely and alone to him to whom you do not pray, to that highest being of whom your philosophers speak.” He rightly remarks, “The choice thus made meant opting for the *logos* as against any kind of myth”,¹

but pointedly adds, “By deciding exclusively in favor of the God of the philosophers and logically declaring this God to be the God who speaks to man and to whom one can pray, the Christian faith gave a completely new significance to this God of the philosophers. . . . [T]his God who has been understood as pure Being or pure thought, circling round forever closed in upon itself without reaching over to man and his little world . . . now appeared to the eye of faith as the God of men, who is not only thought of all thoughts, the eternal mathematics of the universe, but also *agape*, the power of creative love.”² In the natural law, the power, love, and wisdom of this God were united, and in the grace of Christ the capacity to follow it was restored. Here I must repeat another point from the first edition: although the thinkers of these faith communities were mindful of their traditions, they were not hermetically sealed from each other. It was no accident that the period during which the thinkers of my faith achieved their greatest insights into natural law coincided with the period during which they were intensely and simultaneously engaged with the pagan thought of Aristotle, the Jewish thought of Maimonides, and the Muslim thought of Averroës.

Phase three was dominated by the thinkers of the Enlightenment. For various reasons—in some cases religious skepticism, in others fear of religious wars—they tried to sever the connections between religion and philosophy, between faith and reason. Their aim was to make natural law theory theologically *neutral*—a body of axioms and theorems that any intelligent, informed mind would consider obvious once they were properly presented, in fact equally obvious no matter what religion or wisdom tradition the mind followed, or whether it followed any at all. It wasn’t that the Enlightenment thinkers didn’t believe in God. Although some were atheists, others were Christians, of a sort. The problem was somewhat different, and it was twofold.

In the first place, they thought that one could know all the important things about man even while knowing very few of the important things about God. It was enough to work out His existence as a theorem; there was no further need to know His name, the history of His self-disclosure, His mighty deeds in history. In one way this was a regression to the Unknown God of the Athenians, to the “pure Being or pure thought, circling round for ever closed in upon itself without reaching over to man and his little world”. Yet like all apparent regressions, in another way it was not that at all; whenever we try to return to an earlier stage and reject what we have learned since then, we lose what we had then too. The problem with the Athenians was simple ignorance; they had never heard about *agape*. The problem with the thinkers of the Enlightenment was rejection; they had heard about *agape* but decided that it wasn't important. This was a kind of intellectual blindness, and it was progressive. Having lost their grip on *agape*, they came to lose their grasp on the *logos* too. Consequently, they felt a greater and greater need to make natural law theory to be not only theologically neutral but even ontologically neutral, independent of *anything* else that might be important. And this was impossible. In the second place, they thought that the ability of the mind to grasp the truth about man was independent of moral virtue. To put it another way, ethics was like mathematics. A scoundrel ought to grasp the virtue of purity just as easily as he grasped the Pythagorean theorem—and if he couldn't, well, then perhaps that showed it simply wasn't a virtue. Needless to say, this had a certain flattening effect on moral philosophy.

The reason we are entering a fourth phase is that the Enlightenment project collapsed. Modern man lost confidence in the possibility of an ethics that was both universal and yet somehow neutral. Some, relativists, retained the idea of ethics but abandoned the idea of universality; they thought each group has its

own right and wrong. This reduces statecraft to sheer power, because someone's right and wrong has to win and there is no way to arbitrate among them. Others, liberals, retained the idea of neutrality but abandoned the idea of ethics. They came to insist that the laws of the state must be justified in a way that is independent not only of theology and ontology, but of "one's conception of the good". Because this is impossible, what happens in practice is that their own views of the good prevail without challenge, just by pretending that they aren't really views of the good.

In this nascent fourth phase, natural law thinkers are beginning to follow a different path. While retaining the idea of a universal ethics, they have abandoned the Enlightenment fallacy of neutrality. Is there a *common* ground? Yes, because there is a single human nature. But is the common ground a *neutral* ground? No, because not all views of God, not all views of the structure of reality, not all views of human nature itself are equally adequate, and some make it harder to see the common ground. The new breed of natural law thinkers also reject the fallacy that natural law is like mathematics. To see it well, one must have pure eyes, and this requires moral virtue. Here we enter, not a vicious circle, but what may be called a virtuous circle. The more adequately one has been shaped and formed by traditions and disciplines that conform to the natural law, the more clearly one can discern the underlying moral realities on which these disciplines are based.

Now let me draw some of the consequences. Future natural law philosophers will be free of the delusion that one can reason about natural law independently of how well one has been brought up, in what one places faith, or to what intellectual tradition one is loyal. Natural law theory is itself the product of a tradition, and it thrives better in the soil of some faiths than others.

It may seem that this implies that the whole aspiration of natural law is a failure: that there is no universal ethics, that just because our roots suck up nourishment from different traditions, we have nothing to say to each other. On the contrary, what it really implies is that there must be a new way of speaking together. The Enlightenment thought we could speak with each other only by *setting aside* our traditions and regarding them as irrelevant—it was an antitraditional tradition, which could never look at itself in the mirror for fear of discovering the incoherency at its foundation. The truth is that we must speak with each other from *within* our traditions, because only these give us something to say to each other. As the first edition suggested, even the appeal to the generic presupposes the particular; for insight into what we hold in common, we must fall back on what we do not hold in common. Consequently, rather than being divorced from theology, natural law theory must be reintegrated with it—not despite the desire to find common ground, *but even because of it*.

We find a prominent illustration of the need to reintegrate natural law with theology in the recent statement of the International Theological Commission (ITC), “The Search for Universal Ethics: A New Look at Natural Law.”³ The ITC is an organ of the Catholic Church, a body of theologians that advises the Congregation for the Doctrine of the Faith, which in turn supervises doctrine. Its purpose in drafting the statement was to provide a basis for urgently needed dialogue about natural law among different religions and wisdom traditions. The last high point of such dialogue came during the post–World War II neo-Thomist revival. The tendency of that era was to seek a least common denominator, to present natural law philosophy with the least possible distraction from revealed theology. That approach met with some notable successes, especially the United Nations

Declaration of Human Rights, and it is not yet exhausted. Even so, experience has shown that in the absence of deeper consensus, such diplomatic achievements are problematic. There is less to them than meets the eye, and their language can even be hijacked by movements whose goals are far from the spirit of their authors. Despite the fact that the philosophy of the neo-Thomist revival was nothing like the philosophy of the Enlightenment, perhaps it was a little too much influenced by the Enlightenment's idea of what sort of thing universality is. Perhaps for this reason, the ITC's approach is just the opposite.

In the ITC's view, adequate theology is not a hindrance to dialogue, but its necessary condition. To be sure, "The Search for Universal Ethics" emphasizes the common patrimony of all human beings. It also emphasizes the specific insights which characterize the gospel and distinguish Christianity. It goes out of its way to emphasize that natural law cannot be viewed clearly except in the light of all three phases of salvation history: creation, the fall, and redemption. One of its most significant remarks is a quotation from a Second Vatican Council document: "The truth is that only in the mystery of the incarnate Word does the mystery of man find true light."⁴ One might suppose that this means merely that although Christ is the one perfect *example* of human nature, philosophy is able to grasp what human nature *is* apart from Christ. On the contrary, as recognized by John Paul II—who consistently emphasized the importance of the natural law and who first asked the ITC to address it—this compartmentalizing interpretation just will not work. "With these words", he wrote,

the Second Vatican Council expresses the anthropology that lies at the heart of the entire Conciliar Magisterium. . . . Christ alone, through his humanity, reveals the totality of the mystery of man. Indeed, it is only possible to explore the deeper meaning of this mystery if we take as our starting point man's creation in the

image and likeness of God. Man cannot understand himself completely with reference to other visible creatures. The key to his self-understanding lies in contemplating the divine Prototype, the Word made flesh, the eternal Son of the Father. The primary and definitive source for studying the intimate nature of the human being is, therefore, the Most Holy Trinity.⁵

What John Paul meant is that when we gaze upon Christ, what we see is the incarnation of love. Love is not accidental to God's nature, as though He may love or may not, but happens to love. The reason is that he is not just personal but tri-personal, a communion of three Persons so united in blazing love that they are not three Beings but one. Love, personal communion, makes sense for us, the images of God, because God in His Being is not like Thomas Hobbes' God, the greatest body, nor even like Aristotle's God, thought thinking itself. God *is* a communion of Persons. The fundamental event of the Enlightenment was that God—not Aristotle's, not Hobbes', but *this* God—was rejected. Consequently, John Paul thought, we have lost the truth of love, the truth of life, in fact the truth of ourselves. All these things must be recovered.

It is breathtaking that people so committed to the adventure of interreligious dialogue in search of *common* ground should have given such prominent attention to beliefs that are not held in common, which set their system of belief apart from others. Is it really possible that this may help instead of hinder? But why not? Why should a discussion among Protestants, Catholics, Jews, Muslims, and atheists, each of whom is invited to discuss his theological premises, be less rich and interesting than a conversation among Protestants, Catholics, Jews, and Muslims, each of whom is expected to impersonate an atheist?⁶

Such a conversation would require the members of each body not to suppress what makes them distinctive but to dwell on it

more carefully—not on what is distinctive about them *per se*, but on their distinctive angles on what it is that they share. Protestant thinkers, especially in the Reformed tradition, are rediscovering their own connections with the natural law tradition.⁷ Jewish thinkers are reconsidering whether something like a doctrine of natural law is implicit in the rabbinical and biblical teachings about the Wisdom embodied in creation.⁸ Hindu thinkers refer explicitly to natural law.

But such a conversation is also a great experiment, not just because it is difficult, but because some traditions may reject the invitation. The great question mark is Islam, and not only because of the doctrine of jihad. During the middle ages, Muslim thinkers were much more favorable to natural law than presently; today, the Mutazilite view that good and evil lie in the structures of creation is overshadowed, especially in the Sunni world, by the contrary view that they depend on a divine decree that separates the will of God from the wisdom of God and seems in the end to be arbitrary.⁹ Whether this historical tendency can be reversed is an open question.

Can we talk further? We will see.

Whom This Book Is For

*The persuaded, the half-persuaded,
and the wish-I-were-persuaded*

This book is about the lost world of the common truths—about what we all really know about right and wrong. For whom is it written? Not everyone. I am writing for the persuaded, the half-persuaded, and the wish-I-were-persuaded. It isn't that I am not interested in the others. But one cannot do everything at once, and at the moment I am not trying to convert. Convincing dissenters that they too really know what I claim they know is a task for another time, and although I do offer a few suggestions about how to do that, it isn't what I'm doing *here*.

Now every writer has a point of view. Mine is Christian. Some people will wish I had not said so; we encourage people of certain persuasions to “come out of the closet”, but Christians are supposed to stay inside it. If they don't stay inside it, they are accused of wanting others to get inside it. So let me make my purpose clear. In remarking that the book is Christian I do not mean to exclude non-Christians from the discussion, but to invite them in.

The reason for inviting them is that all people feel the weight of the moral law. Now it is true that not all people acknowledge this weight *as real law*; for that one has to believe in God, otherwise one will call it the weight of “instincts”, “feelings”, “socialization”, or some such thing instead of law. But Christians are not the only people who acknowledge the moral law as law. We aren’t even the first, for we are merely adopted children of Abraham, and the natural children were there before us. So another way to describe the audience of this book is to say that I am speaking not just to people of my own faith, but also to our older brothers, the Jews, and not only to Jews, but to all sorts of theists and would-be theists. When other people write of the common truths, naturally they will do so from within their own traditions. Rabbi David Novak, for example, has written about them from within Judaism.¹ Whenever they do so, I will be grateful for their voice, as I am for his.

In this book I hope to achieve two things. The first is to bolster the confidence of plain people in the rational foundations of their common moral sense. This requires not only explaining what these rational foundations are, but also explaining why this common sense is under attack—in particular, explaining how it is even *possible* for what we all really know to be denied, and why this *doesn’t* mean that isn’t really known.

The second goal is to present the explanation in such a way that all of the people who think and write about the common truths can achieve a firmer alliance in their defense. The object of such an alliance is to do what this book doesn’t do—to address the uncertain, the disoriented, and the self-deceived among our neighbors in a way that may bring them back into the fold of moral sense and sanity.

Unfortunately, the traditions that do affirm the common truths speak in such different ways that the unanimity of this affirmation

is obscured. One group speaks of the Noahide Commandments, another of common grace, another of natural law. Jews think “natural law” is a Christian thing, Protestants think it is a Catholic thing, and Catholics sometimes think it a medieval thing. In medieval times, some people thought that it was a Roman thing, and in Roman times, some people thought that it was a Stoic thing. On the contrary, by whatever name it is called it is a shared thing, a human thing, and most of the various traditions and theories about it hold similar presuppositions.

So, although I write from a Christian perspective, I try to keep these shared presuppositions in view. It isn't that I don't comment on the insights contributed by my own faith; I do, at some length. But I distinguish these insights from the shared presuppositions. My hope is not that we will never criticize or challenge each other, but that when we do, our challenges will become more constructive. To maintain a common moral front despite our disagreements about even deeper matters—such deeper disagreements as how to be *restored* to the bosom of that God whom we all claim to acknowledge—we need to talk with, not past, each other.

To return to the question of the audience, “the persuaded, the half-persuaded, and those desirous of being persuaded about the common moral truths, not only Christians, but also Jews, and not only Jews, but all sorts of theists and would-be theists”: although this is a broad category, it is plainly not universal, especially in our own times. Perhaps you who are reading this preface are committed to the other side. If you are—if you are firmly convinced that you *don't* really know what I claim we all really know, if you are not merely uncertain, but in opposition—let me say a word to you too.

Obviously you are not a part of my expected audience. But that does not mean that I want to hide the book from you; you are welcome to be a fly on the wall and listen in. Nor does it mean that

I do not want to talk with you; this particular book is not a good vehicle of that hoped-for conversation, but by all means let us talk. But let us be honest too. We *are* on different sides.

Some people consider it “uncivil” to say so. They think the “culture war” is the fault of people who admit there is a culture war, and that the very use of terms like “culture war” demonizes people on the other side. In their view, we must pretend that we all want the same things. But we don’t all want the same things, do we? We don’t even frame the issues in the same way. To mention but a single issue, I say that I want to protect life, but you say that I want to oppose choice. What I call life you call antichoice, and what you call choice I call killing.

I wish that this were only a quibble over words. There are few greater disagreements than the meaning of life and death, and it isn’t easy to see how people who disagree about it can agree about much else—at least much else of importance. In this conflict and bewilderment, and in all the related conflicts about the other great questions of how to live, to die, and to live together, some people use diplomacy itself as a means of war (I deplore the fact, but it is true), and what some people call “civility” is less about true civility than about making fools of the opposition. I believe in civility. But it is not a requirement of civility to pretend that there is no war.

Please understand me. If you truly reject the truths I say we “can’t not know”, I do consider you desperately confused, as, probably, you consider me. Moreover, I believe, not just from theory but from experience, that to be confused about such fundamental things, one must deeply want to be—for I was once on your side too, and I have given a lot of thought to how I got there and to why I stayed so long. But to speak of the embattlement of the public square does not mean that I hate you, that I have contempt for you, or that I consider

my own side pure. On the contrary, one of the slogans of the folk on my side of the argument is that “All men sin and fall short of the glory of God.” “All” includes us too. That means the quarrel is not between sinners and innocents, but between sinners who confess the moral facts which accuse us all, and sinners who deny them. But, of course, “sin” is another of those “uncivil” words.

“Why can’t we all just get along?” One reason is that we are no longer in ordinary times, when people more or less agree about the basic norms for human life (even if they violate them), but disagree about their implications. We are in extraordinary times, when people contend about the basic norms themselves. And how shall such dispute be conducted, when the norms for dispute are among the norms disputed? That is what our times are finding out.

As I said at the beginning, one cannot do everything at once, and I am not, in this book, seeking to draw those on the far side over to the near one. Even so, if you are over there, I would like to draw you. If you would like to come, I would love to have you back. In the meantime—so far as you will accept it—peace.

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To my wife, Sandra, I owe myself many times over, as no doubt she knows, though she never lets on. Or not very often.

It seems to me that every writer should end with gratitude to the one who was in the beginning, and whose very name is Word. A reviewer—a friendly one—once remarked that it seemed strange to see that sort of thanks in a book, as though the author were claiming divine inspiration. Of course, for whatever is amiss in these pages (and there will be much), the blame is mine. But permit me to be grateful if anything in them is true.

WHAT WE CAN'T NOT KNOW

The Moral Common Ground

The foundational moral principles are not only right for all, but at some level known to all.

Once upon a time it was possible for a philosopher to write that the foundational moral principles are “the same for all, both as to rectitude and as to knowledge”¹—and expect everyone to agree. To say that these principles are the same for all “as to rectitude” means that they are right for everyone; in other words, deliberately taking innocent human life, sleeping with my neighbor’s wife, and mocking God are as wrong for me as they are for you, no matter what either of us believes. To say that they are the same for all “as to knowledge” means that at some level, everyone knows them; even the murderer knows the wrong of murder, the adulterer the wrong of adultery, the mocker the wrong of mockery. He may say that he doesn’t, but he does. There are no real moral skeptics; supposed skeptics are playing make-believe, and doing it badly.

As I say, once upon a time a thinker who wrote such words could expect nearly everyone to agree. And nearly everyone did. The Christians agreed, the Jews agreed, and the Muslims

agreed. Moreover, they could call to their support the consensus of the rest of the human race. One might search the wide world over for a people who did not know the moral basics, but one would fail.

To be sure, the wide world over people also carved out excuses for themselves. I must not take innocent human life—but only my tribe is human. I must not sleep with my neighbor's wife—but I can make my neighbor's mine. I must not mock deity—but I can ascribe deity to a created thing instead of the Creator. And so, not only was moral knowledge universal, but the determination to play tricks on moral knowledge was universal, too. A law was written on the heart of man, but it was everywhere entangled with the evasions and subterfuges of men. Even so that law endured; and even so it was seen to endure.

IS THERE NO COMMON GROUND?

Today all that has changed. A thinker who writes such words can no longer expect most people to agree. In fact he must expect most people to disagree. He will be told that the foundational moral principles are plainly *not* the same for all, probably not even as to rectitude, and certainly not as to knowledge. They may not even be right for all, and they are certainly not known to all.

For example, don't we disagree profoundly about all three of the great matters I mentioned above—death, sex, and God? Consider death. An entire generation has now come of age taking for granted the liberty to kill one's children in the dim, soft refuge which was once considered the safest of all: the womb. The latest social movements seek to extend this strange liberty to other sorts of killing, especially infanticide and euthanasia. Whereas once it was thought that the helpless had the greatest

claim on our protection, now it is held that they have the least. Most medical schools have rewritten the Hippocratic oath to accommodate the view that a physician may be a killer as well as a healer.

Rather than ringing alarms about such changes, professional “ethicists” are in the front ranks of their promoters. A good example is found in the influential British bioethicist Jonathan Glover. According to this expert, human beings do not have a “right” to life at all. Personhood, he holds, is a matter of degree; some humans have more of it than others. He says that even some of those who do rate as persons have lives not worth living. One recalls the phrase of the early German euthanasia promoters, *lebensunwerten Leben*—“life unworthy of life”—but Glover goes yet further. Even the weak principle “It is wrong to destroy a life *which is worth living*” is too strong for him, for he says one must consider other values, and “there is a tacit ‘other things being equal’ clause”.² Occasionally it may even be right to kill someone who is not dying and who wants to go on living. He does say that only a monster of self-confidence would feel no qualms about such an act. Unfortunately, he does not say that only a monster of self-confidence would commit it. For people who do feel squeamish, he has advice: If you are going to kill, then use means that have other desirable effects. For example, you might deliberately administer an excessive dose of pain-killer. This “has the advantage of perhaps being less distressing to the person who has to carry it out”—and it has a “blurring quality which makes prosecution less likely”.³

Abortion and infanticide are easier still. In Glover’s view, neither of these acts is “directly” or intrinsically wrong. Abortion should be permitted at any stage, for any reason—even a late abortion because the parents want a boy, or because the mother’s pregnancy “will prevent a holiday abroad”.⁴ After all, he

says, unborn babies are “replaceable”. So, for that matter, are born ones: “If the mother will have other children instead, it is not directly wrong to prevent *this* foetus or baby from surviving.”⁵ You can always have a better one later. Infanticide he sees as a slightly different case, but only because killing born babies has stronger effects on third parties than killing unborn babies does. For example, it upsets people more. And it is more likely to set the culture on a slippery slope (as though we weren’t on one already). Although Glover considers the side effects of abortion too slight to justify *any* limits, he concedes that the side effects of infanticide may be great enough to justify *some* limits. But side effects can be reduced, and he offers suggestions for reducing the side effects of abortions. For example, if performing them does make abortionists and their helpers feel distress, then we could regard these people as “especially heroic, doing something intrinsically distasteful which yet prevents much unhappiness”.⁶ That would make them feel better. I suppose something like this could also be arranged for the people who work in infanticide centers. Then more infanticides could be allowed.

Notice the assumption behind all of this. We make up our foundational moral principles as we go along. They are not a given, like the laws of arithmetic, but a product of culture, like the style of our architecture. If we don’t like them, we can make up new ones. Traditional principles about the sanctity of human life and the horror of taking it from innocents may therefore be discarded when we have no further use for them; they don’t reflect authentic moral knowledge. They represent what *previous* people have invented, and if we would rather invent something different, we may. As Glover puts it: “The prospects of reviving belief in a moral law are dim. Looking for an external validation of morality is less effective than building breakwaters. Morality

could be abandoned, or it can be re-created. It may survive in a more defensible form when seen to be a human creation. We can shape it consciously to serve people's needs and interests, and to reflect the things we most care about."⁷

Notice too what follows if Glover's assumption is accepted. He says that "we" can re-create morality to suit ourselves. But who is this "we"? Presumably, people like Glover. But there are other people. If morality is created, not discovered, then surely different groups and individuals will create *different* moralities, for they will "care most" about different things. There will be no common standard by which to adjudicate the conflicts among these invented moralities. The clashes among them will be like clashes of clothing styles, with this strange difference—that the stakes are who lives and who dies.

This is just the quandary in which Glover finds himself. To be sure, he says that there are "resources", like sympathy and respect, on which the creators of morality might draw. But as his own sources tell him, the creators of other moralities may draw on other quite different resources. For some men, destruction is an intoxicant, mass murder a doorway to ecstasy, and communal killing "the closest thing to what childbirth is for women: the initiation into the power of life and death".⁸ If he is right about the moral law, we have no common ground; it is merely my morality against yours.

Could it be that only intellectuals think like this? Even if that were true, it would be quite enough to worry about, because intellectuals like Glover now command the heights of the professions, the academy, the courts, and the civil service. But intellectuals are not the only ones who think like this. They are merely the ones who think like this for a living. The universal common sense is less and less *our* common sense; disbelief in a common moral ground is becoming a pillar of middle-class prejudice.

People still, in some fashion, believe that it is wrong to murder, wrong to steal, wrong to cheat—wrong not for them but for everyone. But “my morality, your morality” is the language of everyday life, and the reigning platitude is “You shall not impose your morality on anyone else.”

If ever a value were destined for transvaluation, surely that one is. The recent string of public school shootings are a sign of this. We are beginning to see what happens when it occurs to the children of this middle class that even the prohibition of firing shotguns at one’s classmates “imposes a morality”—that the very platitude that one shall *not* impose his morality “imposes a morality”. The new norm is “You may impose whatever you want to, on whomever you please, for whatever reason captures your imagination.” As the adolescent mass murderer Eric Harris boasted at his website, “My belief is that if I say something, it goes. I am the law, if you don’t like it, you die.”

Some people think that there was once a common moral ground, but that it isn’t there any longer. Many go further. They say that there *never was* a common moral ground—that the notion of a standard of right and wrong which all can share has *always* been an illusion, an illusion from which we are only now beginning to escape.

As to where the illusion came from, theories are legion. At one extreme are those who blame the illusion on biology. “Morality . . . is merely an adaptation put in place to further our reproductive ends”, say Michael Ruse and E. O. Wilson. “Ethics as we understand it is an illusion fobbed off on us by our genes to get us to co-operate.”⁹ It is rather mysterious why Ruse and Wilson think escaping the illusion so important. It is even more mysterious how they expect anyone to escape it, considering that they suppose it to be programmed in our genes and hard-wired in our central nervous systems.

At the other extreme are those who blame the illusion on grammar. Yes, on grammar. A long chain of analytical philosophers maintains that moral questions—"Is murder always wrong?"—may *seem* to mean something because they follow the grammatical rules for the construction of meaningful sentences, but on closer examination mean nothing at all. They are "pseudo-questions" like "Does green smell worse than red?" True, the dismissal of moral questions as pseudo-questions has become somewhat less fashionable over the past couple of decades. This dismissal began to go out of style just around the time that philosophers of modest means discovered that they could make quite a good living as "practical ethicists", providing intellectual cover to businesses and hospitals and the like. Ironically, the turn to practical ethics merely deepens the sense that there is no common moral ground—because every practical ethicist gives different answers to the basic moral questions.

Yet these different answers are not completely different. The practical ethicists do have this in common, that nearly all of them oppose what *used* to be called morality. Each has his own pet principles—his own theory—and theory rules.

A case in point: Peter Singer, Ira B. DeCamp professor of bioethics at the University Center for Human Values, Princeton University, touted by the *New Yorker* as "the most influential living philosopher" and by former Princeton president Harold T. Shapiro, chairman of the National Bioethics Advisory Commission under former President Clinton, as "the most influential ethicist alive".¹⁰ Singer's theory is utilitarianism. Its pet principle is that pleasure is the only thing with moral value; seeking pleasure and avoiding pain: the only thing that matters. But animals feel pleasure too, he observes. Some animals may even have greater capacity for pleasure than some humans. A variety of consequences follow. He says cattle should not be killed for the

pleasure of diners, because it hurts the cattle. He says defective babies *may* be killed for the pleasure of their parents, because babies don't feel much anyway, and because defective people don't contribute much pleasure to society. He says a human being may have sex with a calf, but only so long as both enjoy it. But he says a human being should not have sex with a chicken, because it usually kills the chicken.¹¹ Everywhere the ceremony of innocence is drowned.

THERE IS A COMMON GROUND

But there is a common moral ground. Certain moral truths really are common to all human beings. Because our shoes are wet with evasions the common ground may seem slippery to us, but it is real; we do all know that we shouldn't murder, shouldn't steal, should honor our parents, should honor God, and so on. Preposterous, I know. Detail and defense of this outrageous claim are presented later in the book. The reason for writing it is just that the claim *has* become outrageous—in the original sense of provoking outrage. People become angry when one asserts the moral law.

This outrage is itself an amazing fact. It needs to be explained. Although I think that an explanation can be provided, the explanation does nothing to diminish the strangeness of the thing explained. We are passing through an eerie phase of history in which the things that everyone really knows are treated as unheard-of doctrines, a time in which the elements of common decency are themselves attacked as indecent. Nothing quite like this has ever happened before. Although our civilization has passed through quite a few troughs of immorality, never before has vice held the high *moral* ground. Our time considers it dirty-minded to treat sexual purity as a virtue; unfeeling to insist too firmly

that the sick should not be encouraged to seek death; a sign of impious pride to profess humble faith in God. The moral law has become the very emblem of immorality. We call affirming it “being judgmental” and “being intolerant”, which is our way of saying that it has been judged and will not be tolerated.

We should not be too discouraged. Like crabgrass growing through the cracks and crannies of concrete slabs, the awareness of the moral law breaks even through the crust of our denials. Consider Jonathan Glover again.

What makes Glover’s case intriguing is that after a career opening doors to atrocity, he wishes to be thought of as one who bars the doors against it. The most recent of his books is a critique of the holocausts and gulags of the twentieth century, of their torments and monstrosities both large and small.¹² The laudable purpose of the book is to understand how ordinary people can commit terrible deeds, and how they might be prevented from committing them. Glover says he has been thinking about the problem for years. In a slip that would have done Freud proud, he adds that the relevance of his previous books¹³ to the problem is “obvious”; for so it is, although not in the way that he means. His sliding scales of personhood, his replaceable babies, his lives not worth living—these embody the same techniques of “depersonalization” and “emotional distancing”, which so disturb him when they are practiced by other people. Psychologists speak of a “Stockholm Syndrome”, in which victims come to identify with their captors. Perhaps there is a parallel syndrome, in which scholars of atrocity adopt some of the patterns of thinking of their subjects. Or perhaps the syndrome we are witnessing is preemptive capitulation: If we reduce our conscience to rubble before the bad men get here, they will have nothing to destroy.

But I think that the problem is deeper. Glover sees himself as replacing traditional moral principles with a morality “less

likely to be eroded". The reason he thinks manmade morality more durable is that he cannot take seriously the idea of morality coming from God. A wise God, he thinks, would not have ordained a world "in which people are hanged after spending their last night nailed by the ear to a fence, or in which babies are cut out of their mothers' wombs with daggers".¹⁴ A wise God would have *made* man good, or at least made him grow better over time. There is a problem with this line of reasoning. It is hard to see why Glover should object to a world in which babies are cut out of their mothers' wombs with daggers, but not one in which mothers invite daggers into their wombs that their babies may be cut out. And that is only the beginning of his incoherencies. The whole meaning of morality is a rule that we ought to obey whether we like it or not. If so, then the idea of creating a morality we like better is incoherent. Moreover, it would seem that until we *had* created our new morality, we would have no standard by which to criticize God. Since we have not yet created one, the standard by which we judge Him must be the very standard that He gave us. If it is good enough to judge Him by, then why do we need a new one? Now any thinker can commit an error in logic. Multiple, matted incoherencies, like Glover's, seem to call for a different explanation. When, despite considerable intelligence, a thinker cannot think straight, it becomes very likely that he cannot face his thoughts. The closer to the starting point his swerve, the more likely this explanation becomes. Somewhere in his mind lies a mystery of knowledge that he must hide from himself at all costs. If he presupposes the old morality in the very act of denying it, the lesson is not that the old morality should be denied, but that he is in denial. If he makes humanity God and yet cries out against God's inhumanity, it is clear who has really been accused.

The form of the indictment is *not* “If you deny P, then you are in denial about P.” One is not “in denial” just because he denies that ice is cold, or that dogs normally have four legs. He might merely be mistaken; he might never have felt ice or seen dogs. Put right, the form of the indictment is “If your objection to P presupposes P, then you have not given us any grounds to disbelieve P; rather, you have given us grounds to think that you know P after all.” Perhaps the older thinkers were correct after all. Perhaps the foundational moral principles really are the same for all not only as to rectitude but as to knowledge. Perhaps they really are not only right for all, but somehow known to all.

That is the claim of this book. The common moral truths are no less plain to us today than they ever were. Our problem is not that there isn't a common moral ground, but that we would rather stand somewhere else. We are not in Dante's inferno, where even the sinners acknowledge the law which they have violated. We are in some other hell. The denizens of our hell say that they don't know the law—or that there is no law—or that each makes the law for himself.

And they all know better.

THE NAME OF THE COMMON GROUND

“Common moral ground” is a cumbersome term for the foundational principles of morality, and also a little thin. Saint Paul spoke of “a law written on the heart”.¹⁵ That is more evocative, but too narrow; Saint Paul wasn't referring to all the modes of moral knowledge, but only to conscience.¹⁶ Aristotle spoke of the “first principles of practical reason”. That doesn't quite serve our purposes either, because it refers only to the axioms (so to speak) and not the theorems. In our language, the simplest, most general, and most widely used term for what I am talking about

is “natural law”. It takes in both the foundational moral principles and their first few rings of implications, whether known to reason through conscience or through some other means.

The term does carry baggage. Many people disbelieve in the natural law because they mix it up with some detested *theory* of the natural law, which is like disbelieving in the laws of England because one finds fault with Blackstone’s famous commentaries on the laws of England. Or they mix up the natural law with a theory of something altogether unrelated to natural law, for instance, the theory of “justification by works”—the idea that if only a sinner performs enough moral deeds, God will take him back. Since I began writing about natural law, opinions have been attributed to me which I would never dream of propounding, and I have been pulled into disputes which I had never dreamt of entering. Among theologians there may be found a school of thought called presuppositionalism, which in some of its forms seems to deny the natural law. A theologian once remarked to me that he liked a book I had written because it was “about time someone went after the presuppositionalists”. Some time later, a philosopher wrote to complain that he *didn’t* like the book because it was plain to him that I *was* a presuppositionalist. The truth is that I am not a presuppositionalist—but neither was I “going after” those who are. C.S. Lewis was so anxious to avoid such misunderstandings that he experimented with another term for natural law, borrowing from the East the term “Tao”, which means “the Way”. The experiment, unfortunately, was unsuccessful. Although his book *The Abolition of Man* is perhaps the greatest work on natural law in the twentieth century, most scholars of natural law have never heard of it, and quite a few people who do read it mistakenly suppose that he endorsed the Eastern philosophy of Taoism.

My own approach is to go ahead and use the suspect term “natural law”, but warn readers not to jump to conclusions. In that spirit I offer the following clarifications.

Our subject is called natural *law* because it has the qualities of all law. Law has rightly been defined as an ordinance of reason, for the common good, made by him who has care of the community, and promulgated. Consider the natural law against murder. It is not an arbitrary whim, but a rule which the mind can grasp as right. It serves not some special interest, but the universal good. Its author has care of the universe, for He created it. And it is not a secret rule, for He has so arranged His creation that every rational being knows about it.

Our subject is called *natural* law because it is built into the design of human nature¹⁶ and woven into the fabric of the normal human mind. Another reason for calling it natural is that we rightly take it to be about what really is—a rule like the prohibition of murder reflects not a mere illusion or projection, but genuine knowledge. It expresses the actual moral character of a certain kind of act.

Knowledge of the natural law is *not* “innate”, for we are not born knowing it—although as soon as the child is capable of understanding what is meant by “murder” and by “wrong”, he is capable of recognizing that murder, in fact, is wrong. The natural law is *not* mere biological instinct—although it does take account of certain biological realities, for the practical requirements of love in the context of family life would no doubt be somewhat different among beings who had only one sex or whose young were ready to assume the responsibilities of adulthood as soon as they hatched out. The natural law is *not* mere custom—although the customs of almost all times and places more or less acknowledge it. The natural law is *not* just a deceptive name for moral law as known through the Bible—although biblical moral

law acknowledges it, conforms to it, and extends it. The natural law is *not* the same as the theories that philosophers construct about it—rather it is the reality which the theories attempt, with greater or lesser success, to describe. And the natural law is *not* a law of nature in the same sense that gravitation is a law of nature—indeed, principles like gravitation are “laws” only by distant analogy, for a falling apple is not freely and rationally conforming its behavior to a rule which it knows to be right.

To summarize: certain moral principles are not only right for all, but at some level known to all. They are the universal common sense of the human race, as well as the foundation of its uncommon sense. It makes a difference that they are right for all; otherwise there would be nothing for moral reasoning and persuasion to be about. It makes a difference that they are known to all; otherwise, even though moral reasoning and persuasion would be about something, they could never get started.

To penetrate the unknown, the mind must begin with what is known already. George Orwell wrote that “we have now sunk to a depth at which re-statement of the obvious is the first duty of intelligent men.” This book is an attempt at restatement.

PART I

THE LOST WORLD

*The lost treasury of ordinary sense,
and the state of the natural law tradition*

Things We Can't Not Know

*To recognize what we can't not know, we may
have to forget a few things we were taught.*

HERE IS THE ARGUMENT SO FAR. However rude it may be these days to say so, there are some moral truths that we all really know—truths which a normal human being is unable *not* to know. They are a universal possession, an emblem of rational mind, an heirloom of the family of man. That doesn't mean that we know them with unfailing, perfect clarity, or that we have reasoned out their remotest implications: we don't, and we haven't. Nor does it mean that we never pretend not to know them even though we do, or that we never lose our nerve when told they aren't true: we do, and we do. It doesn't even mean that we are born knowing them, that we never get mixed up about them, or that we assent to them just as readily whether they are taught to us or not. *That* can't even be said of "two plus two is four". Yet our common moral knowledge is as real as arithmetic, and probably just as plain. Paradoxically, maddeningly, we appeal to it even to justify wrongdoing; rationalization is the homage paid by sin to guilty knowledge.

These basic moral principles, together with their first few rings of implications, are the natural law. That may sound easy, but now comes work. Because the heart is devious, the hardest work is simply facing them. Because the world is complicated, the next hardest is applying them. For both these reasons, we make theories about the natural law, and also for a third—to oblige our sense of awe. I mean, of course, that these are the good reasons for theorizing. There are bad ones too.

AS REAL AS ARITHMETIC?

If there are truths that we can't not know, and others, perhaps, that we can't help learning, then what are they? Let's begin with what mankind grasps even in the midst of his evasions—that is to say, not precisely with what we really know, which is quite a lot, but with what the great majority of us in all times and places admit that we know, which is rather less. I like this old summary, offered by John M. Cooper in 1931:

The peoples of the world, however much they differ as to details of morality, hold universally, or with practical universality, to at least the following basic precepts. Respect the Supreme Being or the benevolent being or beings who take his place. Do not “blaspheme.” Care for your children. Malicious murder or maiming, stealing, deliberate slander or “black” lying, when committed against friend or unoffending fellow clansman or tribesman, are reprehensible. Adultery proper is wrong, even though there be exceptional circumstances that permit or enjoin it and even though sexual relations among the unmarried may be viewed leniently. Incest is a heinous offense. This universal moral code agrees rather closely with our own Decalogue taken in a strictly literal sense.¹

Cooper's reminder was lost among those other travelers' tales of Pacific free-love paradises and African tribes devoid of

conscience. But Margaret Mead was wrong about the Samoans, and Colin Turnbull was wrong about the Ik; the former turned out to be fierce defenders of chastity, the latter to have a strong sense of mutual obligation. Like other people, anthropologists may see only what they want to see, even when what they want to see is nothing.

Interestingly, a part of the common moral sense is that there *is* a common moral sense. It is not only a recurring theme in philosophy, but a tradition in most cultures and a presupposition of both Jewish and Christian scriptures. Philosophers call this common sense the “natural” law to convey the idea that it is somehow rooted in how things really are. Chinese wisdom traditions call it the Tao; Indian, the dharma or rita. The Talmud says it was given to the “sons” or descendants of Noah, which means all of us. Abraham was so sure of it that he dared to debate with God. Saint Paul said that when Gentiles do by nature what the law requires, they show that its works are “written on their hearts”.²

Thinkers concoct controversial theories about the plain man’s moral understanding, theories in which the plain man takes no interest and which he does not understand. Yet even then, the plain man’s knowledge constrains them. Short of direct divine revelation, there is simply no other place for moral reflection to begin, no other place for the wise to get their data. Good moral philosophers therefore don’t announce postulates that make no sense to anyone but themselves; rather, they connect the dots of what we know already and bring repressed or latent knowledge to the surface. Consider Cooper’s summary again. Although it may be difficult for my will to move from loving my tribesman as myself to loving a stranger as myself, it is no great leap for the understanding; the Sinaitic tribes even grouped the two maxims nearby (see Lev 19:18; 19:34), showing that the question “Who

is my neighbor?" was ancient even then. An equally short intellectual distance separates the widespread negative form of the Golden Rule from the positive: "Do not do unto others as you would not be done by" from "Do unto them as you would be." Again, if taking my neighbor's wife is so gravely wrong, then it isn't hard to work out that I should never do it. From not having my neighbor's wife to not desiring her is a pretty small step as well, and if conjugal union is so singular and set apart, then it isn't difficult to see the parallel between sex against it and sex before. Concerning "the benevolent being or beings" who take God's place, it is remarkable how widespread among pagan peoples we find the tradition of a High God above and beyond the lesser ones, even though He may not be offered any oblations.³ Against this background, Paul's complaint that the pagans are not ignorant of God, but rather ignore Him (see Rom 1:18–21), makes good sense.

Even poor moral philosophy tries to connect the dots of what we know already; the problem is that it does so badly. It picks and chooses which dots to connect, "cooking" the moral data as an incompetent statistician cooks the numbers. For example, we like to feel pleasure, so the utilitarian sort of cook ignores every datum but that. As utilitarians would have it, we don't want dinner, but the pleasure of feeling full; nor knowledge, but the pleasure of feeling knowledgeable; nor love, but the pleasure of feeling loved; nor God, but the pleasure of feeling—well, whatever God makes one feel. It follows that if it were possible to have the pleasures without the things, that would be just as good: eat, purge, and eat again. But why even go to that much trouble? Why not just shoot electricity into our pleasure centers and be done with it? A glucose and vitamin tap could keep us alive; only enough consciousness would be needed to be conscious of pleasure itself. Turn out the lights when you leave, Doctor. Thank you. Good night.

After decades of being lectured to by various groups—utilitarians (who ignore every dot but pleasure), libertarians (who ignore every dot but rights), relativists (who let everyone make up his own dots)—we are hearing from natural lawyers again. Why now?

Partly because we need the authentic natural law to save us from its impersonators. When the Supreme Court announced a “right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life”, some thought it was rejecting the very idea of natural law.⁴ Really it was asserting a degenerate theory of natural law, one widely held in the culture—or at least in those parts of it which our controllers choose to recognize, such as law schools, abortion facilities, and liberal seminaries. It was propounding a universal moral right *not* to recognize the universal moral laws on which all rights depend. Such liberty has infinite length but zero depth. A right is a power to make a moral claim upon me. If I could “define” your claims into nonexistence—as the Court said I could “define” the unborn child’s—that power would be destroyed.

Can we turn back the clock? Like John Bunyan’s pilgrim, can we return to the place where we got off the track and get back onto it again? Can we open the shuttered windows and let in the light of natural law?

Making good on this claim requires an understanding of nature as *designed* according to certain purposes. We have to view every kind of thing there is as an arrow directed naturally to its goal. The way Saint Thomas put this was to say that the “nature” of any particular thing is “a purpose, implanted by the Divine Art, that it be moved to a determinate end”. Provided that we haven’t been taught not to, this is the way we tend to think of things anyway. An acorn is not *essentially* something small with a point at one end and a cap at the other; it is something aimed at being

an oak. A boy in my neighborhood is not *essentially* something with baggy pants and a foul mouth; he is something aimed at being a man. In this way of thinking, everything in Creation is a wannabe. We just have to recognize what it naturally wants to be. Natural law turns out to be the developmental spec sheet, the guide for getting there. For the acorn, nature isn't law in the strictest sense, because law must be addressed to an intelligent being capable of choice. For the boy, though, it is. The acorn can't be in conflict with itself. He can.

But there is something missing here. According to the old tradition of natural law, the human arrow is unlike all others because it is directed to a goal which its natural powers cannot reach. We have one natural longing that nothing in nature can satisfy. That boy on the corner is something that by nature wants to be a Man, and being a Man is hard enough. But a Man is something that by nature wants to be in friendship with God, and that, short of grace, is impossible. God is not only the author of human nature, but the direction in which it faces and the power on which it depends, its greatest good. He isn't just the most important good *for me* because of my faith commitments; He is the most important simply. Revealed religion concurs: "For [even] the Gentiles seek all these things; and your heavenly Father knows that you need them all. But seek first his kingdom and his righteousness, and all these things shall be yours as well."⁵

Suddenly we run into a massive problem, for now we are speaking of two laws, the natural and the divine. The God who implanted His law in our design upsets the boat by announcing another law in words. What a scandal! Embarrassed, some natural lawyers assure us that the natural law would make perfect sense even if there were no God at all—forgetting that if there were no God there would be no nature either. On the other

hand, some believers say that since we have the Bible to tell us what to do, we don't need a natural law.

To such folk I may seem to be in trouble, because in the rest of this chapter and the next I will be drawing in some detail from Jewish and Christian scriptures and from Christian reflections about them. The charge will be that I am plainly not speaking about the natural law, but only about the particular teachings of my own religion, and the demand will be that if I am serious about discussing the natural law, I must discuss the generic, not the particular. After all, haven't I claimed that the natural law concerns what is not only right for all, but known to all?

APOLOGION

I'm sorry, but moral knowledge doesn't work that way; to say much about the generic one *has* to speak of the particular. Even though the elementary principles of the moral law are known by nature, they are elicited, elucidated, and elaborated by tradition. The notion that it could be otherwise expresses not the classical view of natural law, but a modern distortion of the classical view which took hold only in the Enlightenment. This distortion led to such silliness that eventually some serious people gave up on natural law altogether.

Nature dependent on tradition—does this sound inconsistent? It shouldn't. Even insights into “what we can't not know” require the assistance of others, for a good deal of what we know is latent: we may not realize *what it is* that we know, and we are certainly unlikely to know all its presuppositions and implications. Most of the “others” on whose assistance we rely will belong to previous generations, because people of our own time are likely to have the same blind spots that we do. What sound tradition does for us is like what some sculptors say they do

with the marble: liberate the figure which is imprisoned in the block. It gives voice to what in some sense we already know, but inarticulately. When tradition is silenced, people have to work all these things out for themselves—and that is nearly impossible. There is such a thing as self-evidence, but it should never be mistaken for what is evident to the isolated self.

A second reason why we need the help of tradition is that intellect and moral character work together; if the mind is like the eyes, then the virtues are like the lenses which focus them. The classical natural law thinkers held that although there are broad moral truths which cannot be blotted out of the heart of man, there are others, more remote from first principles, which can all too easily be blotted out—and the usual way to blot them is bad living. The goods of fidelity, for example, are plain and concrete to the man who has not strayed, but they are faint, like mathematical abstractions, to the one who is addicted to other men's wives. An old-fashioned way of putting this is that the assistance of "second nature" is needed for nature to come into its own; the natural is brought to bear by the habitual. Indispensable is a living tradition that transmits not only teachings, but disciplines.

There is another problem, too, which shows that we need not only the assistance of tradition, but the assistance of a particular kind of tradition. Clear vision of the moral law is crushing. Why is that? Because the first thing that an honest man sees with this clear vision is a debt which exceeds anything he can pay. Apart from an assurance that the debt can somehow be forgiven, such honesty is too much for us; it kills. The difficulty is that without a special revelation from the Author of the law, it is impossible to know whether the possibility of forgiveness is real. Therefore we look away; unable to accept the truth about ourselves, we may keep the law in the corner of our eye, but we cannot gaze

upon it steadily. We need another tradition, *greater* than natural law tradition, which settles the matter of forgiveness once and for all; otherwise our highest ethics will be cross-eyed with evasions. Why then should it be surprising that although natural law was named by the pagans and is in some dim fashion known apart from the Bible, reflection about it has never gone far except within the biblical traditions?

Paradoxically, then, even the appeal to the generic presupposes the particular; for insight into what we hold in common, we must fall back on what we do not hold in common. To say “You must not speak except generically” is to say “The most important things you must not speak.” Borrowing a metaphor used by C. S. Lewis in another context, our particular traditions are like the different rooms of a great house, and the public square is like the entrance parlor. The parlor is indispensable; it is where everyone meets and goes in and out. But we learn even our parlor manners in the family rooms, the family rooms are where people actually live, and one of the chief topics of parlor conversation is—surprise!—our families.

To be sure, members of different traditions cannot always speak together, but sometimes they can, and in ways that traditionless people never can. Although I am not an orthodox Jew, I see and respect what an orthodox Jew is getting at; a rootless modern has no idea. It was no accident that the period during which the thinkers of my faith achieved their greatest insights into natural law coincided with the period during which they were intensely and simultaneously engaged with the pagan thought of Aristotle, the Jewish thought of Maimonides, and the Muslim thought of Averroës. A Jewish thinker who is writing about the natural law will naturally draw from the resources of Judaism to do so; he will give far more attention than I do to the rabbinical tradition of reflection upon the “reasons of the laws” and to the

ancient Jewish idea of a Noahide covenant, which precedes the Abrahamic and Mosaic. Nevertheless, I too can reflect on these with profit, for they have leavened my tradition already.

The greater difficulty lies in speaking with people who have *no* traditions of unfolding the natural law, only “traditions” of evading it. Although this kind of conversation is not impossible, it presents special difficulties, which are best reserved for a later point in our discussion. We can better teach speech to the mute if we have learned it among people who speak.

What It Is That We Can't Not Know

A restatement of what the natural law tradition has always thought to be “written on the heart”

COOPER CONCLUDED that the universal moral code “agrees rather closely with our own Decalogue taken in a strictly literal sense”.¹ There is another way to think of this: that the biblical Decalogue, or Ten Commandments, states the most important part of the universal moral code in ideal form. If the anthropological data suggest something short of the ideal, that is not because nothing is universal, but because two universals are in conflict: universal moral knowledge, and the universal desire to evade it. The first one we owe to our creation. The second we owe to our fall.

This is how the Christian branch of the natural law tradition has viewed the Decalogue. The great natural lawyer Thomas Aquinas is quite clear about it. His admirers often ask, “Why don’t he and the other natural law thinkers say what the natural laws *are*?” I have heard the question asked by distinguished scholars. But he does; if they would read a little further, they would see that he thinks they are well summarized by the Ten

Commandments.² We misread him because of our own secular prejudice that natural law and biblical revelation are completely unrelated. His view is that, having both come from the same Lawmaker, they illuminate each other.

The Decalogue is not an exhaustive summary, but a suggestive summary. It does not include all of our natural moral knowledge, but it either states, implies, or presupposes a good deal of it. For example, the First Commandment states that only God is to be worshipped as God, but it presupposes the knowledge of God as well as several principles of justice, including the principle of gratitude and the principle “Give to each what is due to him.” The Sixth Commandment states merely that adultery is wrong, but it presupposes the institution of matrimony and implies that there is something special about it, thereby suggesting a much broader norm of sexual purity. The Eighth Commandment states merely that one must not bear false witness, but it presupposes provisions for public justice and suggests that we should seek to extend the truthfulness of relationships in general. To elucidate every implication and presupposition of the Decalogue would take more than a chapter, indeed more than a set of books. For this reason our own discussion must be written in such broad strokes that one could read while running.

THE CLASSICAL ENUMERATION

We will consider each of the Ten Commandments in turn, then consider them as a set.³ First come several Commandments about what is owed to God; then a larger number about what is owed to neighbor. To some it seems odd that duties to God should be reckoned part of the *natural* law, because they obviously presuppose some sort of faith. Up to a point, the natural law tradition agrees. For example, although Thomas Aquinas says that all ten

of the Commandments are in some sense self-evident, he makes a distinction between those which are evident to every mind and those which are evident to the faithful mind.⁴ It may seem as though he is contradicting himself: If some of them require faith, doesn't that mean they are *not* evident?

But there is no contradiction. Faith readjusts disordered mental powers so that we can *recognize* that the evident is evident—something like removing our fingers from our ears so that the music we have been listening to sounds more like what it is. In truth, every created intellect hears the music of its Creator. As Paul puts it, “Ever since the creation of the world his invisible nature, namely, his eternal power and deity, has been clearly perceived in the things that have been made.”⁵ The difficulty is that we human beings are prone to neglect even our duties to neighbors whom we can see; how much more prone are we to neglect our duties to God whom we cannot see. We are tempted to lavish the *sensus divinitatis* on things that are not divine. Faith—“the conviction of things not seen”⁶—is the virtue which enables us to resist this temptation. It is a kind of confidence, not “blind” in the sense of being unjustified, but justified by other means than sight. God is not the only thing of which we have conviction without sight. We cannot see our minds, our purposes, or our sensory experiences; some philosophers of mind refuse to believe in these things either. Yet we have good reason to believe that they are real.

These reflections help to understand why Thomas connected self-Evidence with faith. Faith—the right kind of faith—turns out to be not only a spiritual but an intellectual virtue, and the failure to acknowledge God is not a gap in our natural knowledge, but a failure to keep troth with it. The Commandments concerning God belong to the natural law just as surely as the ones concerning our neighbor do. Let us turn now to the First Commandment.

- I *I am the LORD your God, who brought you out of the land of Egypt, out of the house of bondage. You shall have no other gods before me. You shall not make for yourself a graven image, or any likeness of anything that is in heaven above, or that is on the earth beneath, or that is in the water under the earth; you shall not bow down to them or serve them; for I the LORD your God am a jealous God, visiting the iniquity of the fathers upon the children to the third and fourth generation of those who hate me, but showing steadfast love to thousands of those who love me and keep my commandments.* (Deut 5:6–10)

The point of the First Commandment is that the one true God, and only the one true God, is to be worshipped as God. To hold that this biblical injunction belongs equally to the *natural* law is to hold that although not everyone believes the Bible as the word of God, everyone does know that there is one true God and that he owes Him sole worship. If this is true, then those who say they don't know of any such God are fooling themselves, and biblical revelation merely "blows their cover".

The Commandment presupposes more than just the knowledge that God is real. It presupposes that we also understand that benefit incurs obligation, supreme benefit incurs supreme obligation, and we are indebted to God for benefits beyond all others. This in turn presupposes that we know the principle "Give to each what is due to him", what we owe God being loyalty, worship, and obedience. To deny Him is the deepest form of treason—much more serious than the ordinary sort.

The Commandment does not presuppose that God needs our devotion—only that we owe it to Him. If it is asked why He requires what He does not need, the answer is found in the nature He has imparted to us. As rational and moral beings, we are endowed with the capacity to recognize what is intrinsically

worthy of our gratitude. To pay this kind of debt ennoble us rather than demean us; to withhold it is a distortion of rational nature which puts us lower than the beasts.

Just what supreme boon does incur our obligation to God may be unclear. Not all people are indebted to God for release from the land of Egypt; that grace was for the Hebrews. But the natural law tradition has pointed out that all people are indebted to God for their being, and held that at some level we all know it. Friedrich Nietzsche, originator of the slogan “God is dead”, reported that at times he was overcome by gratitude. This admission is most interesting, because gratitude is not a self-regarding attitude like pleasure, but an other-regarding attitude like anger. It presupposes someone to whom gratitude is owed.

It is interesting that the Hebrews should have been reminded of a particular rather than a universal benefit. Such is our fallen condition that we are not impressed by the stupendous boon of creation; always we are asking God “What have you done for me *lately*?” Christianity returns to the theme of His recent benefits, holding that He offers release from another land of Egypt—the deeper house of bondage of which Egypt is the image, the burden of the fall itself. But these things go beyond the natural law.

- 2 *You shall not take the name of the LORD your God in vain: for the LORD will not hold him guiltless who takes his name in vain. (5:11)*

A paraphrase of the Second Commandment might be “You shall not use empty speech in connection with God.” The specific application is to the empty use of His name—to the word which *means* Him—but by implication it forbids every form of light, careless, dishonest, contemptuous, hypocritical, or blasphemous speech about Him.

To say that this is one of the things we can't not know—that it belongs not only to biblical injunction but to natural law—is to say that we naturally understand certain things about the relation of speech to reality, a theme to which we return in the Eighth Commandment. Even a liar's speech expresses something true; it may not tell us the state of the world, but it tells us the state of his heart. What empty God-talk tells us is that where there ought to be God, there is emptiness.

- 3 *Observe the sabbath day, to keep it holy, as the LORD your God commanded you. Six days you shall labor, and do all your work; but the seventh day is a sabbath to the LORD your God; in it you shall not do any work, you, or your son, or your daughter, or your manservant, or your maidservant, or your ox, or your ass, or any of your cattle, or the sojourner who is within your gates, that your manservant and your maidservant may rest as well as you. You shall remember that you were a servant in the land of Egypt, and the LORD your God brought you out thence with a mighty hand and an outstretched arm; therefore the LORD your God commanded you to keep the sabbath day. (5:12–15)*⁷

The Third Commandment declares that complete engrossment in mundane affairs is not merely tiring but debasing; one of the principles of our design is that times be set apart just for the remembrance of God. A presupposition of the Commandment is that although the created world in which we go about our labors is real and important, the Creator is more important still. Also presupposed is that we are built to run in cycles. It isn't possible for beings of our kind to do everything all the time; we need to do some things sometimes and other things at other times. Thus someone who says, "My work is my worship", is deceiving himself—or

else worshipping his work. Yes, we should do all our labors as though for God; but for God, we should intermit our labors.

Traditionally, these presuppositions of the biblical injunction have been regarded as belonging to the natural law. Of course the biblical injunction goes further, requiring that labor and intermission come in cycles of precisely seven days. This has *not* been regarded as belonging to the natural law.⁸ As in several other Commandments, the universal and particular are mixed.

- 4 *Honor your father and your mother, as the LORD your God commanded you; that your days may be prolonged, and that it may go well with you, in the land which the LORD your God gives you. (5:16)*

The point of the Fourth Commandment is that parents are God's delegated representatives to their children. To dishonor their authority dishonors the One who appoints them. In the biblical injunction they are appointed expressly, by words. According to the natural law tradition, they are also appointed tacitly, by the inclination to procreation and care of family which the Creator has imparted to us.

Scholars of the family have slowly, against great ideological pressure, been rediscovering this feature of our design. As two sociologists observe,

If we were asked to design a system for making sure that children's basic needs were met, we would probably come up with something quite similar to the two-parent ideal. Such a design, in theory, would not only ensure that children had access to the time and money of two adults, it also would provide a system of checks and balances that promoted quality parenting. The fact that both parents have a biological connection to the child would increase the likelihood that the parents would identify with the

child and be willing to sacrifice for that child, and it would reduce the likelihood that either parent would abuse the child.”⁹

5 *You shall not kill.* (5:17)

Our translations of the Fifth Commandment are somewhat misleading, in that the primary meaning of the Hebrew verb rendered “kill” is “murder”.¹⁰ Not all killing is murder, and the injunction has not traditionally been taken to forbid self-defense, capital punishment, or just war. So seriously did Hebrew law take bloodshed, however, that even justified wartime killing was thought to bring about ritual impurity. The biblical ground of the prohibition of murder is that man is the created image of God: “Whoever sheds the blood of man, by man shall his blood be shed; for God made man in his own image” (Gen 9:6). In biblical terms, to say that man is God’s created image is to say that the eternal God made man such a being that it was possible for God to have communion with him. It also means that he is God’s representative on earth, with a steward’s authority over the rest of creation.

How much of this carries over into natural law? It is certainly one of the things we can’t not know that no one may deliberately take innocent human life. The more particular doctrine of man as the created image of God seems unknown beyond the Bible’s sphere of influence; it is not one of the things we can’t not know. Some intuition of the sacredness of human life is universal nonetheless, and this foothold in our nature is what makes the doctrine of the *imago Dei* so compelling once heard. In this sense it might be said that nature contains a premonition of biblical revelation. Unfortunately, the intuition of the sacredness of human life can easily be deflected into various forms of idolatry, in which we reverence *ourselves*—as God, partly God, parts of God, gods, or on the way to becoming gods.

Insofar as this deflection requires exaggerating one of the things we can't not know (that human life is sacred) while suppressing another (that humans are not divine), it is profoundly dishonest. That does not prevent it from being common, and the same two-edged potentiality for good or evil, for development or perversion, can be found in every natural intuition.

6 *Neither shall you commit adultery.* (5:18)

In the biblical context, the Sixth Commandment is but one of many regulations regarding the sexual powers—but it is the most important. Its specific point is to forbid any married person from having sexual relations with anyone but his spouse. Except on the supposition that there is such a thing as marriage—a lasting covenant between one man and one woman for a procreative union of complements—it makes no sense. But the supposition is justified. Marriage is a universal institution, and the potentiality for it, like the potentiality for family, is built into human nature.

Not only does every culture recognize marriage, but everywhere it is esteemed above other erotic relationships. Even where concubinage is tolerated, a concubine does not have the status of a wife; even where casual liaisons are tolerated, a pickup does not have the status of a concubine. Although exceptions are known, they have been short-lived. For example, the medieval practice of “courtly” love temporarily held the relationship of knight and lady higher than the relationship of husband and wife—but the most interesting thing about the practice is that whatever had value in it was eventually absorbed into our matrimonial traditions, and whatever could not be absorbed into our matrimonial traditions died out.

A striking feature of marriage is that it is always bilateral: *one* man, *one* woman. This feature may be blurred by the fact that

in some places a man is permitted to have several wives; even then, however, he is understood to have entered into several marriages, not one marriage to several women. Moreover, although polygamy and polyandry are both sometimes tolerated, they are nowhere tolerated both at once: the situation in which Fred is married to Beth and Amy, Beth to Fred and Tom, Tom to Beth and Frieda, and Frieda to Tom and Sam is not found anywhere. Another striking feature of marriage is that it is always one *man* and one *woman*. This is not hard to understand either. In the first place, a man and man (or woman and woman) are not complements, but sameness; when their relationship is sexualized, rather than balancing each other they drive each other to extremes. In the second place, both sexes are needed for procreation—and not just because a man cannot make another man pregnant. Both sexes are needed to raise the child, because the female is better designed for nurture and the male for protection and discipline; both are needed to teach the child, because every young one needs a model of his own sex as well as the other. Children need a mom and a dad, not a mom and mom or a dad and dad.

Is there a best form of marriage? The trend in countries that once tolerated polygamy has been to ban it. On the other hand, for most of history the monogamous West has been somewhat out of step with the rest of the human race. Even in the West, moreover, although the ethical ideal has been absolute monogamy, the legal norm has been merely relative monogamy, which is also known as successive polygamy. What is one to make of this? Among natural law thinkers, the traditional view is that the superiority of monogamy is *not* one of the things we can't not know—but that it is plain upon reflection. Simultaneous polygamy reflects and reinforces a rigid hierarchy among men in which the number of one's wives is an index of prestige. By producing

a shortage of marriageable females, it causes hardship among males who do not belong to the privileged strata. Polygamy, whether of the simultaneous or successive sort, undermines spousal intimacy, weakens the bond between father and child, turns women into social inferiors (or at least increases their vulnerability), and kindles jealousy—not only among different wives, but among the children of different wives.

Besides, polygamy cannot satisfy the heart. Aren't love poems all over the world addressed from the Lover to the Beloved? A lyric "to my darlings, Mary, Ellen, Susan, Penelope, Martha, Hortense, and Gwen", would be recognized everywhere as farce.

7 *Neither shall you steal.* (5:19)

As the Fourth Commandment presupposes the institution of the family and the Sixth Commandment presupposes the institution of marriage, so the Seventh Commandment presupposes the institution of personal property. The point of the Commandment is that no one shall take from another what belongs to him against his reasonable will. Natural law tradition has claimed that this precept too is universally known. To be sure, there is a good deal of disagreement among the peoples of the world as to what kinds of things may become personal property, how much personal property may be accumulated, and what limits there should be on its use. Such questions belong to the remoter parts of the natural law, not its first principles. Nevertheless, all recognize such a thing as personal property, all recognize that theft is wrong—and socialists do not like having their pockets picked any better than capitalists do.

Even arguments against the Seventh Commandment pay it homage between the lines. Take for example the argument that it cannot be wrong for a starving man to steal a bit of food from one

who has plenty but refuses to part with it. Those who propose this line of reasoning may think they are disputing the Seventh Commandment, but they are really disputing only a common misunderstanding of it: that no one may take from another against his *will*. They stand *with* the Commandment as it is rightly understood: that no one may take from another what belongs to him against his *reasonable* will. The will may be unreasonable; for example, it is unreasonable for the owner to withhold what he has in plenty at the cost of his neighbor's life. The point here is not that some thefts are permitted, but that some takings should not be considered thefts.

The “reasonableness” proviso is not something tacked on by overly clever natural lawyers. It merely spells out the plain sense of common people—the only possible warrant for saying that it does belong to the basics of natural law. The biblical code acknowledges the same point, driving it home in a variety of ways. For example, not only were Hebrew farmers required to allow the poor to glean what they could from the harvested fields, but they were also required to make sure that there was something left for the poor to glean. The corners of the field were not to be harvested at all.

Needless to say, if theft is taking from another against his reasonable will, then there may arise cases where it is difficult to tell what is reasonable, and we will sometimes get them wrong. The natural law tradition does not deny this. Its claim is merely that everyone grasps the point of the Seventh Commandment—not that everyone applies it without error. Some are wiser at such things than others.

Another difficulty is that any point which does require interpretation opens up the possibility of making excuses. Psychologist David T. Lykken tells of a fifteen-year-old who stole a car at gunpoint. Later the boy rationalized his actions by asking,

“How else was I s’posed to get home, man?” He was claiming that it would have been *unreasonable* to expect him to wait an hour for the next bus, and therefore that he was innocent of wrong.¹¹ Although people who concoct such justifications are often said to lack conscience, the sheer fact that the boy *could* concoct the justification shows that he knew how the Seventh Commandment works. Some people lack guilty feelings—but nobody lacks basic moral knowledge.¹²

8 *Neither shall you bear false witness against your neighbor. (5:20)*

The Eighth Commandment is often misunderstood. Bearing false witness isn’t lying per se, but lying to get someone in trouble—especially in a judicial context, where one is offering evidence. A presupposition of the Eighth Commandment, then, is that some sort of provision has been made for public justice. No people in the world lives without some such customs. The chieftain of the smallest tribe is expected to hear disputes and judge justly. Like marriage and family, the office of judge would seem to be a spontaneous and natural human institution. The fundamental act of government is not legislation, but judgment.

Whether lying per se is wrong—whether it is always wrong to say, with the intent to deceive, what is contrary to what I understand to be the truth—is another question.¹³ Natural law thinkers have always conceded that this is a genuinely difficult problem, the solution to which is plainly *not* among the things we can’t not know. I must not lie to achieve injustice; that much is plain. But may I lie to prevent it? Because of the difficulty of this issue we need to spend more time on the Eighth Commandment than on the others.

The classical illustration of the quandary is whether I may tell a would-be murderer who is looking for a man that I am hiding,

“I have no information as to his whereabouts.” Some natural law thinkers have said that I may never lie, period; to the would-be murderer at the door, I should reply, “You have no right to ask such a question, and I will not answer it.” Let’s call that Opinion One. Of course such an answer exposes me to danger, but that cannot be helped; justice is never safe. The greater difficulty is that it exposes the hiding man to danger, and I have promised him my protection. Is that right? Other natural law thinkers have said that it is *not* right; they argue that I may lie only when the questioner has no right to the truth that he demands—as in the case of the would-be murderer, because he desires it solely for the purpose of committing injustice. Let’s call that Opinion Two. Still other natural law thinkers have said that although I should *never* lie, I may equivocate. For example, the sentence “I have no information” is an equivocation if I say it with the meaning “I have no information *for you*.” Let’s call that Opinion Three.

Opinion Three may seem rather sticky, but it does have a certain plausibility. After all, the meaning of words depends on shared understandings. It might be argued that when the receptionist tells callers, “The boss is not in”, she is not lying because *everyone knows* that not every caller has the right to know the whereabouts of the boss, and because, in our culture, one of the possible meanings of the receptionist’s statement is “The boss is not in *to take calls*.” She does not intend to deceive, and no one is actually deceived.

Now in the case of the receptionist the shared understanding arises from convention—she and the caller follow the same telephoning customs. What about the case of the murderer at my door? If there is a shared understanding in that case, it would have to arise from the natural law—because the murderer knows the basic moral rules as well as I do. One of the things that he and I both know is that nobody has a moral right to an answer

to a question which he has no moral right to ask, and another of the things that he and I both know is that we normally take this fact into account in interpreting the responses which people *do* give to illicit questions.

In other words, the murderer at the door knows as well as anyone else that the response to an illicit question is normally equivocal. This would seem to make his question pointless. Yet he asks it anyway—as though he had forgotten that it were illicit. Perhaps in a sense he *has* forgotten. For most people, murder is difficult, precisely because they know that it is wrong. Consequently, a man planning murder may try not to think about the evil of his intended act. So what? If he is trying not to think about the evil of the act, then he is probably trying not to think about the evil of his question either. The upshot is that the more guilty his conscience, the more naïve his expectations; an equivocal answer may catch him by surprise. There is certainly a deception—but perhaps he deceives himself.

One striking fact is that the advocates of Opinion Two and Opinion Three seem to be approving and disapproving exactly the same statements. They differ only about whether to call them lies. The former say, “*You may lie* just when the other party has no right to the truth he demands”; the latter say, “*You may never lie, but you may equivocate* just when the other party has no right to the truth he demands.” To put the matter another way, the latter do not consider every lie in the literal sense as a lie in the moral sense.

Of course there is a risk in allowing people to get out of corners by equivocating. They may concoct private definitions like “it is” for “it isn’t”, “I promise” for “I don’t promise”, and “I’m not married” for “I’m married”—just to have an excuse for treating statements which are not at all equivocal as though they were. In American politics the paramount example of

private definition comes from former president Bill Clinton, who justified a perjury in an impeachment deposition with the explanation "It all depends on what 'is' is." Another problem is that even if we agree with the advocates of Opinion Three that equivocations do not share in the intrinsic badness of lies, they certainly tend to share in at least one bad result of lies: when people are on the receiving end of an equivocation, they may feel tricked, so that the trust and confidence necessary to hearty social life are diminished.

To eliminate the first risk and ameliorate the second, the advocates of Opinion Three insist on certain restrictions: (1) private definitions are illicit; no equivocation which relies on them can ever be justified; (2) even the honest sort of equivocation should be avoided unless the risk of evil is grave; and (3) anyone who has a right to the truth has a right to receive it straight; in this case equivocation is flatly forbidden. Moreover, (4) when a justified equivocation fails to hold off a threatened evil, even then an outright lie is wrong. It is better to suffer wrong than to do it. Some will call these cautions and distinctions "splitting hairs". Why not say, "When telling the truth would produce injustice, go ahead and lie"? Perhaps because our uneasiness about lying runs deeper than the bad consequences that lying usually produces; we sense that lying is somehow wrong *in itself*, that words are ordained for truth. This is why we are so uncomfortable when people try to finesse the problem of the murderer at the door by saying that "the end justifies the means". It is too much like saying wrong is not wrong, or what must not be done may be done. A wiser counsel is that we must not do evil that good may result. The disagreement between the advocates of Opinion One and advocates of Opinions Two and Three concerns how best to honor this counsel.

9 *Neither shall you covet your neighbor's wife. (5:21a)*

Nominally the Ninth Commandment addresses only the husband—neither shall you covet your neighbor's *wife*—but it has always been taken as addressing both spouses, in the same way that the word “man”, in English, can refer to people of both sexes.

The point of the Ninth Commandment is to heighten the Sixth Commandment. Both concern the respect which is due to one's neighbor in the integrity of his family, but the Sixth regulates the outward life of our limbs, while the Ninth regulates the inward life of our desires. What's wrong with sexual desire? Nothing is wrong with it per se; the problem lies not in sexual desire but in misdirected sexual desire. And this problem is very great. Keeping my hands off my neighbor's wife is so important that I shouldn't even wish to put my hands on her.

Our own popular culture denies that we are responsible for our desires. “I can't help it that I feel that way; I just do.” It's true that we can't simply shut off unwanted longings, and it's also true that the very effort of suppressing them stirs them up. Even so, our control over our inward life is much greater than we like to admit. Although I may not be able to keep an unwanted guest from entering the house of my thoughts, or to force her outside after she has entered them, yet nothing forces me to ask her in. Nor am I compelled to sit down and admire her, to enjoy her attentions, or to invite her to play with my imagination. If I ignore her and go on about my business, she will eventually leave my mind on her own; if I pet her, say, “Don't go yet”, and tell her what a lovely thought she is, she will return another day in power, and that day she will burn down the house. Viewed this way, covetousness is not only bad because it leads to adultery, but also bad in itself.