

The following chapter is my Afterword, “More Than a Passing Fancy? The Evangelical Engagement with Natural Law,” to Jesse Covington, Bryan T. McGraw, and Micah Watson, eds., *Natural Law and Evangelical Political Thought* (Lanham, MD: Lexington Books, 2012).

A word is necessary about why this book is needed. Although John Calvin and Martin Luther insisted on the reality of natural law, many later Protestants have viewed it with deep suspicion. For some, the mere fact that the Catholic Church affirmed it was enough to justify its rejection. Others mistakenly thought that it denied either the reality of the Fall or the need for divine grace. Yet others considered it needless: Why resort to natural law when God has so plainly revealed his moral intentions in Sacred Scripture?

Reliance on “Scripture alone” may have seemed sufficient during a time when even most Western non-Christians respected biblical moral teachings, but that world is long gone. Besides, all sorts of new moral and political questions have arisen which Scripture does not explicitly address. In the meantime, Protestant scholars of various communions have begun to recognize that rather than denying natural law, Scripture strongly affirms it.

As a result of these discoveries, a number of Lutheran, Calvinist, and now Evangelical thinkers have become interested in re-engaging the tradition of natural law (and perhaps even entering dialogue with their Catholic counterparts about it). The essays in this volume not only illustrate the movement, but strongly advance it. The Evangelical contributors to the book include J. Daryl Charles, Jesse Couenhoven, David VanDrunen, Paul R. Dehart, Vincent Bacote, and Matthew D. Wright, joined by two Catholics, myself and Robert P. George. My own contribution is a reflection on the movement’s progress, problems, and prospects.

To read more about the book, click [here](#). To read my Afterword, scroll down to the next page.

# MORE THAN A PASSING FANCY? THE EVANGELICAL ENGAGEMENT WITH NATURAL LAW

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## **Introduction: The Evangelical Engagement With Natural Law**

What a pleasure it has been to participate in this conversation. One participant remarked to me that it has been the best conference he has ever attended. Professor Bacote commented during his presentation on how surprising it is to attend a conference at which the participants actually confer.

May I try to sum all this up? I want to address the state of the Evangelical engagement with natural law, but another question comes first. When we say "Evangelical," whose engagement are we speaking of -- what makes the conversation "Evangelical"? You might consider the question a little silly. What answer could there be, but that the conversation is Evangelical if the people having it are Evangelicals? All of the speakers at the conference except, I think, the two bookends, Professor George and myself, and also Professor VanDrunen, who prefers to call himself Confessional, are Evangelicals, and even George, VanDrunen, and me are Evangelical-friendly. Ergo, it has been an Evangelical conversation.

Not so fast. What makes Evangelicals themselves Evangelical? Is Evangelicalism just a name for the collection of individuals we call Evangelicals, or do these individuals have something in common beyond the name, something to which the name refers? Professor Covington's paper suggests in passing that Evangelicals are marked by certain theological distinctives: Belief in the authority of Scripture, in the profound effects of sin, and in the centrality of right relationship with God. Professor McGraw's paper also supposes that there is something distinctive about Evangelicals. In 1997, when a Catholic friend asked me what made me an Evangelical, I gave a similar answer, referring to belief that Scripture is true and authoritative, that right

relationship with God comes through faith in Christ as sinbearer, and that consequently, the individual must consciously choose his loyalty to the Son of God. He surprised me a little when he replied that in that case, just by being Catholic, he was an Evangelical too.

I think my friend was right: The distinctives of Evangelicalism are not theological. Consider: The Evangelical participants in this conference hail from at least three different theological traditions, Lutheran, Calvinist, and Anglican. In other places I have met other kinds still. Evangelical historian Mark Noll suggests that the distinctives of Evangelicalism are not theological, but cultural.<sup>1</sup> They are the marks of the Protestant subculture that emerged from the great American revival movements called the Great Awakenings. Revivalistic religion seeks mass appeal; it tries to reach the greatest possible audience. It is direct, personal, populist, and intuitionist, suspicious of tradition and authority, interested in the greatest possible simplicity, focused on immediate results, reliant on intuition rather than systematic theology, and inclined to place final authority in a common-sense reading of the Bible, passing over the hard parts or making them easier than they are. As Professor VanDrunen remarked earlier, it is non-Confessional – emphatically so. To the present day, these are the marks of the Evangelical subculture. Because in this country Evangelicalism has become the new Protestant mainstream, it is easy to forget that originally it was a *break* with the Protestant mainstream, just as Protestantism was a break with Catholicism.

But having reached this point, we have another difficulty. Although the Evangelicals who have spoken at this conference identify with Evangelicalism, they don't seem to have any of the marks I have just mentioned. Although they are interested in reaching out, they aren't populist. Although they want to be understood, they aren't intuitionist. Although they accept the authority of Scripture, they try to read it in continuity with more ancient Christian traditions. Although they reject obscurantism, here they are, doing history, systematic theology, and political philosophy – all these fields potentially obscure. What is it that most sharply places them in tension with the Evangelical subculture? Is it their interest in a theory and tradition that Evangelicals have often viewed with suspicion? Partly, yes. But it is also the sheer fact that they are interested in theory and tradition.

If I am right, then to the degree that Evangelicals are serious about engaging the natural law tradition – to the degree that they are willing to search their memories of Christian and even pagan culture, to the degree to which they are willing to dig into the

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<sup>1</sup>Mark Noll, *The Scandal of the Evangelical Mind* (Grand Rapids, Michigan: Eerdmans, 1994).

clay of fallen man until they find the living bones of his nature -- they are not so much expressing their Evangelical distinctives, as challenging them. Complete success in their enterprise would mean abolishing all that holds them back from reintegrating their communities with ancient Christian tradition.

Yet it remains to be seen how Evangelicals will view that ancient tradition, whether in more traditionally Catholic or in more traditionally Protestant terms. One wonders. I agree with Noll that the distinctives of Evangelicalism *as such* are cultural rather than theological. On the other hand, various traditions compete for Evangelical loyalty -- Lutheran, Calvinist -- even, one might argue, Roman Catholic, for Evangelicals have shown an increasing interest in investigating the resources of Catholic tradition (even if they prefer such terms as "the consensus tradition"), for example in understanding just war. Needless to say, *these* traditions *are* marked by theologian distinctives, a fact that the papers at this conference put prominently on display.

In the meantime, how can one fail to be fascinated by such a constructively self-destructive enterprise of abolishing one's cultural distinctiveness? Especially because the most striking thing about it is that from one point of view, Evangelicals who are interested in natural law are mounting their challenge to the Evangelical distinctives in the name of Evangelicalism itself. As I suggested above, the root from which the Evangelical distinctives grew was the revivalistic desire to reach the widest possible audience. That desire was the *reason* for all of those features of the Evangelical physiognomy, such as intuitionism, immediatism, and urgent desire to simplify. Have the Evangelical thinkers at this conference lost the Evangelical interest in reaching out? Not as I read them. But what if the old revivalistic methods are no longer effective at reaching out?

To put a point on it, what if traits like immediatism have become not means of reaching the nonbelieving population, but obstacles to reaching them, a population which is already all too immediatist, albeit not in the same way? What if Americans have come to speak less like their great-great-grandparents, than like the pagan skeptics of Mars Hill in the first century after Christ? What if the Holy Scriptures have long ago ceased to be a cultural *lingua franca*? What if *all* the districts have become what the revivalists of old called "burned-over districts"? What if, as Professor Watson's paper suggests, henceforth the political and cultural outreach of Evangelicals *must* make contact with traditions like natural law theory, which lack the Evangelical feel? Then perhaps, to be true to the evangelizing impulse that gave birth to the Evangelical subculture, that subculture must change. Perhaps in a certain sense, it must gloriously abolish itself. Perhaps, if it refuses to change in the requisite manner,

it will no longer be true to the evangelizing impulse, and abolish itself anyway, but in other, less glorious ways.

In a small way, I think that such change what is underway at this conference. The engagement of Evangelicals with ancient Christian traditions like natural law is also, inevitably, an engagement with Evangelicalism as such, with all that has prevented a more serious engagement with the great tradition in years past.

This engagement is still young. How far has it come? Let us consider the papers at this conference.

### **On J. Daryl Charles, "Burying the Wrong Corpse: Protestants and the Natural Law"**

After a most careful and subtle historical summary, Professor Charles concludes that although the Reformers broke from the Catholic Church over *theology*, they remained in continuity with the tradition over *ethics*, particularly in affirming the natural law. This statement seems to be very largely true, but I wonder if it might be overstated. Certainly the Reformers did not intend to break with the tradition over ethics as sharply as they broke with it in theology. The problem is that theology and ethics are connected, so that their innovations in theology made it difficult to maintain the continuity that they intended in ethics.

Perhaps the earliest manifestation of this problem concerns sacramental theology. Catholicism holds an extremely high view of marriage. Thomas Aquinas writes that by nature, even ordinary marriage is normally indissoluble.<sup>2</sup> Dispensation may be granted only under extraordinary circumstances, in which it becomes utterly impossible for the marriage to serve the unitive and procreative good. An example is the so-called Pauline Privilege,<sup>3</sup> whereby if two nonbelievers marry, but one of them then subsequently becomes a Christian, and as a result, the other is no longer willing to live in peace, then the Christian spouse may divorce and remarry. Between two believers, however, every valid marriage is lifted to the level of a sacrament. It is not just a sign of a spiritual event, but a participation in it, an event of such potency that a man and a woman are really and permanently made one, receiving the grace to be bound with the love that binds Christ with the Church. Sacramental marriage is absolutely indissoluble.

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<sup>2</sup>Thomas Aquinas, *Summa Theologica*, Supp., Q. 67, Arts. 1, 2.

<sup>3</sup>After 1 Corinthians 7:10-15.

By contrast, Luther denied that marriage is a sacrament, even between two Christians. From this point of view, natural marriage is all there is; Christian marriage is just natural marriage between believers, and therefore divorce becomes thinkable. Once the firewall of indissolubility is breached, the conditions under which divorce may be granted become more and more relaxed. Did Luther affirm the reality of natural law? He did. But was he in continuity with the *teachings* of the natural law tradition concerning natural marriage? He was not.

According to some Protestants – we will see this issue again in Professor VanDrunen’s paper – a more profound manifestation of the difficulty of innovating in theology while maintaining continuity in ethics concerns soteriology. The Lutheran theologian Helmut Thielecke did not deny that Luther had affirmed the natural law; what Thielecke held was that these were "occasional remarks," "relics of Scholastic thinking which cannot be reconciled with his real theological intent" concerning salvation.<sup>4</sup> In a word, Thielecke believed that Luther nodded. He thinks that had Luther fully thought through the implications of his doctrine of justification, then he would have realized that it precluded the possibility of natural law. Many latter-day Calvinists seem to hold the similar views about Calvin's support for natural law. Yes, they concede, perhaps he did believe in it – but considering what he believed about sin, he shouldn't have.

What these Lutherans and Calvinists are saying is that if one does wish to remain in continuity with the Reformers' theology, then one is logically compelled to break with them over natural law. This is not just a difference in interpretation of natural law. It is a wholesale rejection.

For a Protestant supporter of natural law it would seem that only two responses are possible. One might either

1. Demonstrate that these Protestant critics are wrong; show that the theology of the Reformers concerning such matters as sin, salvation, and the sacraments was *compatible* with their support of natural law; or

2. Concede that the theology of the Reformers was incompatible with their support of natural law; in order to maintain continuity with the latter, break with the former.

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<sup>4</sup>Helmut Thielecke, *Theological Ethics*, ed. William H. Lazareth (Philadelphia: Fortress Press, 1966), pp. 162-163.

It is not hard to guess that Charles would select the first response, but I would like to see the argument developed.

### **On Bryan T. McGraw, "The Doctrine of Creation and the Possibilities of an Evangelical Natural Law"**

This conference is about the Evangelical engagement with natural law, and Professor McGraw's paper presents an interesting contrast with Professor Dehart's in what might be called its theory of engagement. Allowing for the fact that there is more than one kind of Thomism, Dehart's theory is basically Thomist. If we were to ask him whether it behoves Evangelicals to develop a distinctive Evangelical *version* of natural law theory, I think Dehart's answer would be "No." Though he is aware of the objections that Evangelicals have raised against natural law, they don't seem to worry him. His view seems to be that a sound argument makes its own case.

At least at first, it seems that McGraw's answer to the question would be "Yes." His very title refers to "Evangelical Natural Law," and he writes, "I think it is fair to say that at least among a significant slice of evangelical thinkers and writers, the possibility of a distinctively evangelical natural law theory is on the table for serious consideration." But is a distinctively Evangelical natural law theory really what he seeks? As I read his fine discussion, not exactly. A more accurate statement of his goal might be twofold.

In the first place, McGraw thinks it is crucial to have a distinctively Evangelical *test* of natural law theory. As he says at the beginning of his paper, "in considering whether evangelicals ought to or can make use of natural law arguments in deliberating about political life, they must first ensure that natural law is ... compatible with or (better) reflective of their most fundamental theological and doctrinal commitments."

In the second place, even if the results of the test are positive, McGraw thinks Evangelicals need a distinctive *point of entry* into natural law theory. He finds this point of entry in the doctrine of creation, but here we have a problem. As he explains, "reaffirming (as we ought to) the centrality of Christ to creation perhaps means we must also recognize that understanding that creation and the normative ethos that emerges from it properly requires in some sense an embrace of Christ and his authority and example. This does not mean, I think, that those outside the Church are unaware of the natural law or don't even feel its authority – the witness of Scripture and common observation are too compelling on that issue. But it does suggest that efforts to construct simply rational arguments for the natural law will likely

fail to persuade and that evangelical employment of natural law arguments, while necessary and even fruitful, must always be cast with an eye toward this kind of conceptual and rhetorical gap."

As I will explain at greater length when I come to Professor Couenhoven's paper, I think not only that this is true, but also that this problem is a great concern of Roman Catholic theological anthropology. Here, though, let me put it into a longer historical context. 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. Phase two belonged to the theologians. Christian thinkers explicitly appropriated the whole philosophical tradition, but identified the divine *logos* of the philosophers with Christ. Phase three was dominated by Enlightenment thinkers who tried to sever the connections between faith and reason. Their aim was to turn natural law theory into a body of axioms and theorems that any intelligent, informed mind would consider obvious, no matter what religion or wisdom tradition it followed. The reason we are entering a fourth phase is that the Enlightenment project collapsed. 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, but it is not a *neutral* ground. 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 stand on the common ground.

In the future, conversations about natural law will require the members of each religious communion, Christian, Jewish, Muslim, Hindu, and so on, 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. We scarcely know how to do this. But we will have to learn.

### **On Jesse Couenhoven, "Karl Barth's Eschatological (rejection of) Natural Law"**

Professor Couenhoven's argument that the Swiss Reformed theologian Karl Barth rejected not so much the idea of natural law as a *particular conception* of natural law is absorbing and surprising. I cannot help but add, however, that even so, Barth is confused.

According to Couenhoven, Barth associated the idea of natural law with the idea of "mechanism." This was offensive to him because our relationship with God is personal, a "threefold relation" with the three Divine Persons of the Trinity, the Father, Son and Holy Spirit. Moreover, Barth associated the idea of natural law with a "static" conception of human nature, which offended him because it does not account for the historical dynamism of our relationship with God. As Couenhoven explains, "The logic of creation, reconciliation and redemption are not one and the same; there is development and progress among them." The aeons of salvation history, along with their associated divine covenants, "build on one another in ways that cannot simply be predicted or inferred from the logic of the previous aeon."

Couenhoven concludes that Barth's "fundamental dissatisfaction with natural law theory as it is traditionally conceived" is not that it sees a relation between ethics and the order of creation, but that it has not thought that relation through. The traditional thinkers reason "as if natural law were always a matter of being rightly related to the past," that is, to Adam, "and not to the future," that is, to Christ. This is a profound mistake, because, in Barth's words, "Jesus Christ is the secret truth about the essential nature of man."

There is only one problem. Barth's characterization of natural law bears no resemblance to the doctrine as traditionally conceived. What Barth is really attacking is the modern rationalist conception of natural law, to which traditional Christian natural law doctrine is and has always been radically opposed. Unfortunately, Barth has so little respect for the classical doctrine that he does not bother to find out what it is. Consequently, he confuses the friend with the enemy and assaults them both.

Plainly, a few clarifications are in order. First, although classical natural law thinkers did not deny the reality of efficient causes, they insisted that nature is also a realm of purposes. It was the rationalists who denied that natural purposes can be known, and still later denied that they exist. For them, nature was a realm of blind efficient causes, of things yanked around by strings. To this way of thinking, mechanism is all that is left.

Second, where does the traditional doctrine stand on the question of the historical dynamism of our relationship with God? I have so much to say about this, and I expect it to be met with such skepticism, that I have prepared a brief handout by way of documentation. Suffice it to say that thinkers in continuity with the classical natural law tradition *insist* on the relevance of salvation history to an understanding of natural law. According to an important recent document of the International Theological Commission, which is a body of the Catholic Church, this insistence

comes down to us all the way from the Patristic era. "[I]n the Fathers," they declare, "natural law is now apprehended in the environment of a history of salvation that leads one to distinguish different states of nature (original nature, fallen nature, restored nature), in which natural law is realized in *different manners*." (Note well - not different natural laws, but different manners of realizing the one natural law.) Or one might read Thomas Aquinas, who carefully distinguishes the subtle differences between the Law of Moses and the Law of the Gospel, both of which reflect the natural law, but in different ways, reflecting the fact that as St. Paul says, the Law of Moses was a custodian, leading us to Christ.

Leading us to Christ? But that is not a backward-looking conception of natural law, which takes its purpose as the re-creation of human nature as it was before the Fall. It is a forward-looking conception of natural law, which takes its purpose as conforming us to our Incarnate Lord.

I daresay that if you like Barth's remark that "Jesus Christ is the secret truth about the essential nature of man," you may be startled by the Second Vatican Council's teaching that "it is only in the mystery of the Word made flesh that the mystery of man truly becomes clear," and you may be exhilarated by John Paul II's explanation that "Christ alone, through his humanity, reveals the totality of the mystery of man. ... 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."

My remarks about Barth have been pretty sharp. My only criticism of Couenhoven, who I think gets Barth right, is that he has not looked far enough afield. In a footnote, he sadly comments that to his knowledge, only one philosopher or theologian has developed these Barthian ideas, and that thinker has not shown any particular interest in natural law. That may be true in Protestant circles. In Catholic circles, though, these ideas have been the central focus of theological anthropology -- of the theology of human nature -- ever since the Second Vatican Council. That is perhaps easy to overlook, because the Council Fathers didn't cite Barth for these ideas; that is not where they got them.

**On Paul Dehart, "Reason and Will in Natural Law: Some Reflections on Moral Obligation"**

Professor Dehart's paper about reason and will is deep and challenging. His view is very close to mine. On some points I am not sure whether we disagree or not, and I wonder whether he thinks that anything essential is *missing* from the following statement of the matter. We are obligated to do good, and to set higher good above lower good, just because it is good. This rational necessity may seem to make God's will irrelevant and command superfluous, as some intellectualists think. However, one need not be a voluntarist to recognize at least three ways in which moral obligation is connected with God's freedom.

1. We are obligated to do good just because it is good, but it is absurd to say that we would be obligated to do what is good "even if there were no God," because if there were no God, there would be no universe, and the question of obligation would not arise. Now because God cannot do what is contrary to His own goodness, He could not have created a universe, or governed that universe, in such a way that good failed to have the last word in it. Yet He did not have to create a universe at all. So obligation depends on what God freely chose to do, in the same way that there being a universe at all depends on what He freely chose to do.

2. We are obligated to do good just because it is good. Yet finite, created goodness always falls infinitely short of God's infinite, uncreated goodness. Consequently there is an infinite number of universes God could have created compatible with His goodness, and He could have created a different one than He did. The moral obligations that we actually have depend on the kinds and relations of finite goodness in *this* universe, the one that He chose to create. So obligation depends on what God freely chose to do, in the same way that the properties of *this* universe depend on what He freely chose to do.

3. We are obligated to do good just because it is good. Yet we cannot be obligated to do what is impossible for us, and the possibilities of good attainable by each kind of creature depend on the finite powers with which it is endowed. By our own powers we can participate only in the finite goods that reflect the infinite goodness of God, not in the infinite goodness itself. Yet as we learn from the second letter of Peter, by the free act of grace God enables the elect to be become "partakers of the divine nature."<sup>5</sup> So obligation depends on what God freely chose to do, in the same way that all grace depends on what He freely chose to do.

4. Finally, *calling* depends on what God has freely chosen to do, for He could have called us into different vocations than He did. I am not sure, by the way,

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<sup>5</sup>2 Peter 1:4. This and all subsequent Scriptural quotations RSV.

whether calling is always a command, or whether sometimes it is an invitation, although failure to respond generously to a calling always results in the privation of the grace associated with the calling itself.

Now as to God's command, taken as the expression of His will. Insofar as this command is both implicit in creation and clear to our intellects, the natural law suffices. Insofar as it is implicit in creation, but *not* clear to our intellects, the divine law of Scripture is a supplement. Insofar as we are ordained to a supernatural end that *exceeds* what we could have known or attained by our natural powers, the divine law is our sole instruction.<sup>6</sup> Yet even here, as a dock is so made as to receive the ship which it cannot provide for itself, so our nature is so made as to be the dock of grace.

### **David VanDrunen, "Natural Law and Mosaic Law in the Theology of Paul: Their Relationship and its Social-Political Implications"**

This is an outstanding paper, and closely argued. Allow me to quibble, even so. I suggested earlier that because some Protestants deny that one can hold onto both natural law and Reformation soteriology, Professor Charles needs to say more about this. With Professor VanDrunen, the difficulty is reversed. He needs to say more about why one cannot hold onto the *right* view of natural law unless one *does* accept Reformation soteriology. The most distinctive element of Reformation soteriology is the view that justification is purely forensic or imputational. Now I reject this theory; I cannot see how God's declaration that we are righteous can be separated from God's grace in actually making us righteous, unless God is a liar. Yet how much in what VanDrunen says about the real but limited role of natural law really does depend on this theory? Doesn't most of it depend on other things that are not in dispute?

Take, for example, VanDrunen's interesting discussion of the Pauline passage about the law being Israel's *paigogos*, guardian, custodian until the coming of Christ. Catholic natural law thinkers love this passage too, and they are fond of quoting the Patristic writers who comment on it. Augustine says that the unrighteous man must be led "as by the schoolmaster's hand, to that grace by which alone he can fulfill what the law commands."<sup>7</sup> Gregory of Nazianzus, after remarking that "the scope of our art is to provide the soul with wings, to rescue it from the world and give it to God," adds "This

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<sup>6</sup>Thomas Aquinas, *Summa Theologica* I-II, Q. 91, Art. 4.

<sup>7</sup>Augustine, *On the Spirit and the Letter*, Chapter 16 [X].

is the wish of our schoolmaster the law, of the prophets who intervened between Christ and the law, of Christ who is the fulfiller and end of the spiritual law."<sup>8</sup> In the same context, Clement of Alexandria compares the law of Moses with sound philosophy, insofar as it testifies to God's reality and moral requirements. "Perchance, too," he says, "philosophy was given to the Greeks directly and primarily, till the Lord should call the Greeks. For this was a schoolmaster to bring the *Hellenic* mind [to Christ], as the law, the Hebrews, to Christ."<sup>9</sup> It seems that we agree about all of this. Must we revoke that disagreement because we disagree about forensic justification, or am I missing something?

Or consider VanDrunen's emphasis on the deep transformation in motive brought about by the law of Christ. This is a profound theme in Thomas Aquinas too. He says the Old Law and the New Law are distinguished in three ways. First, although the Old Law is directed primarily toward sensible and earthly good, the New Law is directed primarily toward intelligible and heavenly good. Second, the righteousness of the New Law vastly surpasses the righteousness of the Old Law because it concerns not only our outward acts but the movements of our heart. Third, although the Old Law motivates through the fear of punishment and of deprivation of blessings, the New Law motivates by love, which is poured into our hearts by Christ. "bestowed" in the New Law, but only "foreshadowed" in the Old. Again it seems that we agree about all of this. Must we disagree about this just because I see love as implicit in authentic faith, whereas VanDrunen sees it only a consequence?

So far I have been emphasizing the similarity in our views of natural law despite our disagreements about soteriology. Though I do see one significant disagreement in our views of natural law, I don't think the disagreement results from our soteriological disagreements either. VanDrunen emphasizes that although the law of the gospel prevails in the community of faith, the standard for the civil magistrate must still be the natural law. By and large, I think this is true, but there are two important exceptions.

One exception is when people are very corrupt, the civil law may have to fall temporarily beneath the level of the natural law, because people must be raised gradually rather than all at once. As Thomas Aquinas writes, quoting the Proverbs and the Gospels, "thus it is written: 'He that violently bloweth his nose, bringeth out blood'; and ... if 'new wine,' i.e. precepts of a perfect life, 'is put into old bottles,' i.e.

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<sup>8</sup>Gregory of Nazianzus, Oration 2, Section 23.

<sup>9</sup>Clement of Alexandria, *Stromata*, Chapter 5, emphasis added.

into imperfect men, 'the bottles break, and the wine runneth out,' i.e. the precepts are despised, and those men, from contempt, break into evils worse still."<sup>10</sup>

The other exception is that when the community of faith is a faithful witness, it may sometimes be possible for the civil law to encourage higher things than it commands. Consider the fact that when grace entered the world, the dignity of marriage became immeasurably greater than it had ever been. Century by century, though slowly at first, this strange upheaval gathered force. The reason this is possible is that nature was made to anticipate grace. Even after the Fall, so powerfully does it point beyond itself that the strings of the lute preserve a faint memory of lost music. When the heavenly city bears faithful witness to the earthly, it prolongs and amplifies that reverberation. Not so much by the punishment of wrong as by the praise of good, law may have some small role in that witness.<sup>11</sup>

### **On Matthew Wright, "Civic Friendship and Christian Political Engagement"**

What I find most interesting and valuable about Mr. Wright's paper is his the way he seeks to balance several insights, without allowing any of them to overwhelm the others. I wonder whether Wright would be satisfied by the following way of expressing them. I wonder whether Wright would be satisfied by the following way of expressing them. This isn't quite his own way of expressing them; I am drawing language from the doctrine of subsidiarity. Some at this conference would use a third language, from the neo-Calvinist doctrine of sphere sovereignty.

1. Christians should not be indifferent to the political community. It is not enough to say that civil law serves the narrow purpose of restraining evil. We must add that human beings are better off, their lives richer and fuller, because of the intrinsically rewarding opportunity to practice civic friendship, to cooperate for a genuinely common good. (I am greatly struck by Wright's view that although this civic friendship may be only transiently and partially actualized, on those occasions when particular groups of citizens come together to advance a civic cause, even so it persists, in potentiality, in the reservoir of good will which these transient events repeatedly replenish.)

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<sup>10</sup>Thomas Aquinas, *Summa Theologica*, Q. 96, Art. 2, ad 2, quoting Psalm 30:33 and Matthew 9:17.

<sup>11</sup>I have discussed this at greater length in the Afterword to J. Budziszewski, *The Line Through the Heart: Natural Law as Fact, Theory, and Sign of Contradiction* (Wilmington, Delaware: ISI books, 2009).

2. Nevertheless, the political good is not a comprehensive good to which all other goods are an instrument. Although the political community should be organized in a way that *respects* the complete good for man, but it *is not* the whole good for man.

3. The political community is not a primary community, like a family or the Church, but a secondary community in which primary communities cooperate. They exist prior to the political community, they are not defined in terms of the political community, and each of them is ordained to some work, to the achievement of some good -- whether natural, as in the case of the family, or supernatural, as in the case of the Church -- which the political community must seek neither to take over nor absorb.

4. It follows that the most important work of the political community is to try to protect the background conditions that allow these *non*-political communities to thrive.

5. Yet the *intrinsic* good of civic friendship *supervenes* on this instrumental activity.

It would also be most helpful to know more about the relation between Wright's way of balancing such considerations, and ways of balancing them, especially the two doctrines I mentioned, the doctrine of subsidiarity in Catholic thought, and the closely related theory of sphere sovereignty in neo-Calvinist thought.

### **On Jesse Covington. "The Grammar of Virtue: St. Augustine and the Natural Law"**

Professor Covington's fine paper points out that Evangelicals emphasize *both* the gulf between regenerate and unregenerate humanity, *and* their common ground -- for if the City of God and the City of Man had no prior commonality in nature, then it would be impossible for the gospel of grace to gain a hearing, impossible to evangelize, and therefore impossible to be an Evangelical at all. This fact gives Evangelicals good reason to engage the natural law tradition. But where is the most congenial point of entry? The answer, thinks Covington, is Augustine, whose work displays the same two themes in tension that Evangelicalism does: Both the gulf and the common ground.

I admire Covington's brilliant elucidation of just what Augustine does think about natural law. He is a bit less successful, I think, in drawing out the practical

implications. Covington's basic conclusion is that the natural law is a necessary tool for achieving a political consensus that is genuine, but also limited. So far, so good. But for reasons diagrammed in Appendix B, the attempt to compare this insight with the Rawlsian notion of "overlapping consensus" is much less convincing. I don't think Covington is wrong to compare it with *a kind* of overlapping consensus, but the theorist of overlapping consensus whom he ought to consider is not the virulently anti-natural law thinker John Rawls, but the deeply pro-natural law Catholic thinker Jacques Maritain. Maritain's thinking about natural law was the engine driving the movement that led to the U.N. Declaration of Universal Human Rights, which is the most celebrated success of the overlapping-consensus approach to natural law and political engagement. It is also the most conspicuous example of the limits of that approach, for as we have seen since then, it is one thing to adopt a least-common-denominator statement of basic principles, and quite another thing to keep it from being blurred and even hijacked by forces who oppose the natural law.

What Maritain had in mind was that the moral common ground among the various world views that we contend with might provide a pretty good first approximation of what natural law doctrine holds to be actually true. He also thought that over time, prudent statesmen and scholars could improve the quality of this approximation, because the natural law tradition provides resources that can be turned to good effect in dialogue.

Rawls, unfortunately, has something quite different in mind. The key term in his theory is "public reason," by which he means not reasoning in public, as one might think, but limitations on the kinds of reasoning allowed in public. Calling his approach to public discourse "political, not metaphysical," he forbids political appeals to what he calls "comprehensive doctrines," views of reality about which reasonable disagreement is possible. Natural law turns out to be one of the doctrines we are forbidden to refer to. The whole thing, of course, is a scam. There is no such thing as an argument that is neutral among views of reality. Therefore, the practical effect of the impossible demand for neutrality is to *selectively* forbid appeal to contestable world-views. The Rawlsian says "My world-view is not a world-view, but yours is!"

### **On Vincent Bacote, "Natural Law: Friend of Common Grace?"**

Professor Bacote investigates the relationship between natural law and common grace. This may be taken in two ways. I think Bacote means both, and both are important. Taken in one way it is about things; taken in another it is about theories. First, it may be about the relationship between natural law and common grace as such.

Second, it may be about the relationship between the traditional Christian *doctrine* of natural law and the neo-Calvinist *doctrine* of common grace, as represented by Abraham Kuyper. The former version of the question assumes that natural law and common grace are both realities. The latter version is agnostic about whether they are both realities.

To the first version of the question, Bacote considers only one possible answer: Common grace is the gratuitous, preserving of God that allows the natural law to persist despite sin. As to the question about the relationship between the *doctrine* of natural law and the *doctrine* of common grace, he seems to consider at least four answers: (1) That the doctrine of common grace is just the doctrine of natural law by another name; (2) that the doctrine of common grace is an attempt to derive a doctrine of creational ordinances from Scripture, rather than from investigation of creation as such; (3) That the doctrine of common grace is an attempt to reinvent the doctrine of natural law using only Reformed theologians as sources; and (4) that the doctrines of common grace and natural law provide "complementary perspectives" on the same creation ordinances. He seems to side with the fourth of these answers. If the two doctrines do provide complementary perspectives, though, then we need to know just what the difference in perspective is, and why they are both helpful.

At this point my remarks may seem quirky, because I want to expand on something which, in the context of Professor Bacote's paper, is really a side issue. But it is an important side issue, which leads to larger things. Bacote alludes to a disagreement about the correct interpretation of a remark by Abraham Kuyper. This disagreement brings to the surface a much older dispute concerning St. Paul's famous comment, "When Gentiles who have not the law do by nature what the law requires ... [t]hey show that what the law requires is written on their hearts."<sup>12</sup> According to many Reformed exegetes, though not the ones at this conference, the statement applies not to *all* gentiles, as most natural lawyers think, but only to *regenerate* Gentiles. The idea is that although God wrote the law on the tablets of the heart at creation, fallen man so thoroughly suppresses his knowledge of the law that it must be *rewritten* on the tablets of every heart at its conversion. It seems to me that there are several points to be made about this controversy.

1. The view that Paul is speaking only of regenerate Gentiles would be more plausible if Scripture used the analogy of writing on the heart in only one sense, but in fact it employs it a number of different senses. In one sense the *sin* of the people is written on the people's hearts; in another, God *exhorts* the people to write His law on

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<sup>12</sup>Romans 2:14-15.

their hearts; in the Messianic age, God will write His law on the hearts of his people *more perfectly*, so that they not only know but can obey it; yet in still another sense, His law is *already* written even on the hearts of those who do not have the law of Moses.<sup>13</sup>

2. Even if St. Paul were speaking only of regenerate Gentiles in this passage, the Bible is overflowing with other testimony to general moral revelation. To give but a single instance, the same apostle reproaches the Corinthians for tolerating in their midst a man who is living with his father's wife -- immorality "that is not found even among pagans."<sup>14</sup> How do the pagans know it is shameful?

3. Many critics of natural law overlook numerous Scriptural allusions to natural law because they take too narrow a view of general moral revelation. The passage about the writing on the heart concerns but one form of natural testimony, the witness of deep conscience, but there are at least three others. In the view of Scripture, we spontaneously recognize the designedness of things, hence our dependence on the designer.<sup>15</sup> This is not just an ontological but a moral witness, because we also spontaneously recognize the principle of gratitude for benefits given.<sup>16</sup> Scripture also holds us accountable for recognizing the details of the design, for example sexual complementarity.<sup>17</sup> Finally, Scripture emphasizes the natural consequences of our actions, which are readily observable.<sup>18</sup>

### **On Micah Watson, "C.S. Lewis as Natural Law Evangelist: Evangelical Political Thought and the People in the Pew"**

I am enormously impressed with Watson's lucid, well-reasoned, and keenly interesting analysis of the thought of C.S. Lewis. Like him, I love Lewis, and I have

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<sup>13</sup>Respectively, Jeremiah 17:1; Proverbs 7:3 (compare Proverbs 3:3); Romans 2:14-15; and Jeremiah 31:33, quoted in Hebrews 8:10 and 10:16.

<sup>14</sup>1 Corinthians 5:1.

<sup>15</sup>Romans 1:19-20.

<sup>16</sup>Herein lies the significance of the fact that God prefaces the Decalogue with the reminder, "I am the Lord your God, who brought you out of the land of Egypt, out of the house of bondage." Exodus 20:2, Deuteronomy 5:6.

<sup>17</sup>This is the basis for Paul's distinction between the natural and unnatural in Romans 1:26-27.

<sup>18</sup>See for example Proverbs 11:18-19 and Galatians 6:7.

learned many things about Lewis from him that I did not know before. For this I am in his debt.

Lewis receives surprising little attention from professional natural lawyers, and surprisingly great admiration from Evangelicals. Why doesn't he receive more attention from natural law thinkers? Watson thinks the problem is that Lewis's tendency to write in the vernacular makes it difficult to compare his arguments with those of the professionals. I am not convinced that this is the reason. Although Lewis writes in the vernacular, it is an elevated, purified, and clarified vernacular. This ought to make it easier to compare his arguments with those of the professionals, not harder, especially since the very purpose of natural law theory is not to shove aside the common moral sense of plain people, but to elevate, purify, and clarify it. The problem is more likely to be intellectual snobbery. The secular academic culture, of course, does not even regard apologetics as genuine intellectual work at all. Although the Christian academic concedes that it is intellectual work, it regards it as derivative and unsophisticated. The possibility that an apologetical writer may do something genuinely original, or that something that ordinary people can read may be profoundly sophisticated, is not taken seriously. That is too bad, because much of C.S. Lewis's work has both of these qualities. Consider his book, *The Abolition of Man*, which began as a series of lectures at the University of Durham. Though it makes contributions worthy of any scholar's attention, scholars punish Lewis just because his prose is accessible.

Why does Lewis receive so much praise from Evangelicals? He is not very akin to them. Though he never crossed the Tiber, he often comes across more like a Catholic than an Evangelical apologist. Unlike the vast majority of Evangelicals, he believed in purgatory, held a high view of the sacraments, made regular auricular confession, and he prayed for the dead. Perhaps this only goes to show what I suggested earlier -- that the Evangelical distinctives aren't theological but cultural. The funny thing is that Lewis isn't culturally like Evangelicals either. His style is cool and erudite. He smokes and drinks. He belongs to the Church of England.

I do want to challenge one of Watson's conclusions. He rightly emphasizes that fact is prior to theory.<sup>19</sup> He rightly points out that Lewis is more interested in proving the fact than in convincing us of a theory - in other words, Lewis is making the case that that natural law is real, rather than making the case that some theory of natural law is true. So far, I agree. But now comes a non sequitur. Upon first reading Watson's paper, I thought he was saying that Lewis *had no view* as to which theory of

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<sup>19</sup>I too have insisted on the importance of this priority in *The Line Through the Heart: Natural Law as Fact, Theory, and Sign of Contradiction*, cited above, although my view of it differs from that of Professor Watson.

natural law is correct, *was not very interested* in which theory of natural law is correct, and *did not need* such a theory just to make the case that it is real. After hearing him at this conference, I think perhaps he means that Lewis did have such theoretical commitments, but that Evangelicals just don't need to dig into them. For Watson writes, "It is altogether too easy for those of us who are evangelicals and academics to wistfully gaze over at our Catholic colleagues and their nearly eight-hundred years of working on, and from, a Thomistic understanding of natural law. Evangelicals must come around to the notion of natural law consistent with evangelical convictions first and then work out the application details."

None of this follows, and I think it is mistaken. In the first place, even though fact is prior to theory, and even though theory must humble itself before fact, there is simply no way to defend the reality of the fact *without* theorizing about it. Simply calling attention to a fact is already an act of theory. Inevitably, people will step in and deny the fact. We must then reply to their objections. The more persuasive our defense of the reality of the fact, the more pervasive our dependence on some view of how the fact actually works, not to mention some view of why people *don't* simply agree about it. All that is theory. Lewis's defense of the reality of natural law is not without theoretical commitments. It may seem to be, because he wears the theory so lightly; he doesn't wave it around and say "now I am relying on a theory." Yet fathom upon fathom of theory lies beneath everything he says about the fact. What theory of natural law does Lewis actually hold, then? What theory of natural law does Lewis actually hold, then? He draws heavily on Plato, Augustine, and Cicero, and, through Richard Hooker, on Thomas Aquinas. On page after page, in paragraph after paragraph, he shows himself their disciple. Nor would I say this is true only of Lewis's prose. It seems to me equally true of his speculative fiction.

In the second place, doesn't Watson's language suggest a false dilemma? The first horn of the dilemma: Wistfully gazing at the resources built up during hundreds of years of Catholic reflection on natural law, Evangelicals scramble to build up treasures of their own. The second horn: Reminding themselves that the important thing is not to understand the natural law but to defend its reality, Evangelicals relax. Yes, it will be good to have treasures of their own, but these will come around in their own time, and in the meantime there is no need to rush. Both horns of this dilemma rely on the same assumption – that if Evangelicals cannot develop their own resources, then they must do without. Why should this be true? The earliest Christians were willing glean what they could even from pagan philosophy, taking what was useful, rejecting what was not. This was called plundering the Egyptians, or sharpening one's knives in the tents of the Philistines. Unless one can show that Catholics even more

dangerous than Egyptians or Philistines, the view that one may look at the *Summa* but not touch seems less a way of engaging natural law theory than of not engaging it.

Now I know that this isn't what Watson believes. As he remarked at one point during the conference, "We borrow, we have to borrow, we will go on borrowing." I am hopeful that when he speaks of Evangelicals developing their own resources by and by, he does not mean that that they cannot build on the resources already present in the tradition, but only that they need their own point of entry into it.

### **Conclusion: More Than a Passing Fancy?**

The Evangelical engagement with natural law is among other things an engagement with the community beyond Evangelicalism. One thing is needed for this engagement to reach maturity. Since I am speaking as a friend, let me be a little cheeky. Evangelicals need to get out of the house more. No, I am not trying to patronize. Nothing could be further from my intention. But if Evangelical thinkers are serious about engaging natural law, then they must pay much more careful attention to what non-Protestant thinkers have said about natural law over the centuries, especially Catholics, and they must learn what Catholics say from Catholics, not from other Evangelicals. At various points during the conference, as well as in this concluding talk, I have called attention to a certain reluctance to do so, and to certain misunderstandings that persist because of this reluctance, even here at this wonderful conference devoted to breaking down barriers to engagement. If we are going to be friends, then we are going to have to become better and closer friends. Where we disagree, we must work through our disagreements, rather than ignoring them, minimizing them, or misconceiving them. In the face of the disorders and confusions of the secular world, we cannot afford to be indifferent.

Let me reassure you that I say much the same thing to Catholics. Catholics are deeply serious about natural law, about ecumenical dialogue, and about the prospects for common ground - where possible, with the nonbelieving world, but also, and especially, with their brother Protestants. Even so, they sometimes miss opportunities. Earlier I mentioned "The Search for a Universal Ethics," a report by the International Theological Commission. At a certain point in the report, the authors undertake a review of the ethical views of other traditions. Surprisingly, Protestants are not included. No, it isn't what you think. Protestants aren't omitted from the report, just from this part of the report. But why should be be omitted from this part? The problem arises not from viewing Protestants as too far away, but from viewing them as too close; in the eyes of the Church, Protestants are not exactly an independent

tradition, or even disputatious family of traditions, but a group of separated brothers. Yes, they have certain difficulties with natural law, but the ITC's diplomatic strategy seems to be to minimize these differences, as though they were all a misunderstanding which is clearing itself up. As all of us at this conference know, Protestant objections to natural law are a good deal more vexing than that.<sup>20</sup>

This is just the tip of the iceberg. If what I said a few moments ago is right -- that the Evangelical engagement with natural law is among other things an engagement with the community beyond Evangelicalism -- then Evangelicals and Catholics are not the only ones who will have to talk. Evangelicals and Catholics together will have to start talking with the communities beyond Christianity. We must speak with observant Jews about the rabbinical tradition of the seven commandments given to the sons of Noah, who include the whole human race. We must ask Muslims why the Muslim engagement with natural law ended in the middle ages, and why it cannot be resumed. We must ask the heirs of the Enlightenment, who threw out so much of the treasure of the classical tradition that at last natural law stopped being plausible, why it is better to descend into hopelessness than to go back and look for those lost treasures.

These will be difficult conversations. I think we had better start having them, and I think we must begin with each other. This conference has been a superb and enjoyable step. I thank you all for the opportunity of taking it with you. To friendship in the natural law - and to friendship in Christ.

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<sup>20</sup>For further discussion, see J. Budziszewski, "Diplomacy and Theology in the Dialogue on Universal Ethics," *Nova et Vetera*, forthcoming.

## APPENDIX A

Thomas Aquinas, *Summa Theologica*, I-II, Q. 91, Art. 5, trans. Fathers of the Dominican Province, <http://www.newadvent.org/summa/2091.htm>

... Now things may be distinguished in two ways. First, as those things that are altogether specifically different, e.g. a horse and an ox. Secondly, as perfect and imperfect in the same species, e.g. a boy and a man: and in this way the Divine law is divided into Old and New. Hence the Apostle (Galatians 3:24-25) compares the state of man under the Old Law to that of a child "under a pedagogue"; but the state under the New Law, to that of a full grown man, who is "no longer under a pedagogue."

Now the perfection and imperfection of these two laws is to be taken in connection with the three conditions pertaining to law, as stated above. For, in the first place, it belongs to law to be directed to the common good as to its end, as stated above (Question 90, Article 2). This good may be twofold. It may be a sensible and earthly good; and to this, man was directly ordained by the Old Law: wherefore, at the very outset of the law, the people were invited to the earthly kingdom of the Chanaanians (Exodus 3:8-17). Again it may be an intelligible and heavenly good: and to this, man is ordained by the New Law. Wherefore, at the very beginning of His preaching, Christ invited men to the kingdom of heaven, saying (Matthew 4:17): "Do penance, for the kingdom of heaven is at hand." Hence Augustine says (*Contra Faust.* iv) that "promises of temporal goods are contained in the Old Testament, for which reason it is called old; but the promise of eternal life belongs to the New Testament."

Secondly, it belongs to the law to direct human acts according to the order of righteousness (4): wherein also the New Law surpasses the Old Law, since it directs our internal acts, according to Matthew 5:20: "Unless your justice abound more than that of the Scribes and Pharisees, you shall not enter into the kingdom of heaven." Hence the saying that "the Old Law restrains the hand, but the New Law controls the mind." (*Sentent.* iii, D, xl).

Thirdly, it belongs to the law to induce men to observe its commandments. This the Old Law did by the fear of punishment: but the New Law, by love, which is poured into our hearts by the grace of Christ, bestowed in the New Law, but foreshadowed in the Old. Hence Augustine says (*Contra Adimant. Manich.* discip. xvii) that "there is little difference between the Law and the Gospel – fear [*timor*] and love [*amor*]."

John Paul II, *Memory and Identity: Conversations at the Dawn of a Millennium* (New York: Rizzoli International Publications, 2005), pp. 110-112:

[p110] "In reality it is only in the mystery of the Word made flesh that the mystery of man truly becomes clear." [*Gaudium et Spes*, 22.] With these words, 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 [p111] nature of the human being is, therefore, the Most Holy Trinity. ...

The constitution *Gaudium et Spes* continues to develop this theme. Christ "is the 'image of the invisible God' (Col 1:15). He is the perfect man who has restored in the children of Adam that likeness to God which had been disfigured ever since the first sin. Human nature, by the very fact that it was assumed, not

absorbed, in him, has been raised in us also to a dignity beyond compare.” ... The dignity proper to man, according to the teaching of the Council, is based not simply on human nature, but even more on the fact that, in Jesus Christ, God truly became man. ...

[p112] The mystery of the Incarnate Word helps us to understand the mystery of man, including his historical dimension. ...

**International Theological Commission, "The Search for Universal Ethics: A New Look at Natural Law" (2008), unofficial translation by Joseph Bolin, <http://www.pathsoflove.com/universal-ethics-natural-law.html>:**

From Section 26: [I]n the Fathers natural law is now apprehended in the environment of a history of salvation that leads one to distinguish different states of nature (original nature, fallen nature, restored nature), in which natural law is realized in different manners. This patristic doctrine of natural law was handed on to the Middle Ages ....

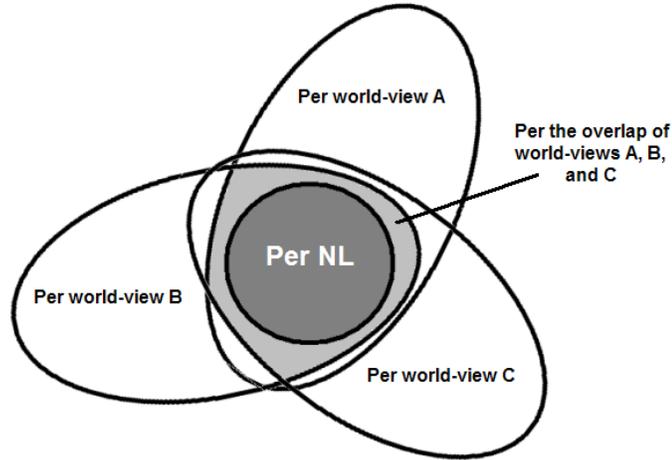
From Section 33: The modern rationalist model of natural law [which the authors of this document are *criticizing*, not approving] is characterized: (1) by the essentialist belief in an immutable and ahistorical human nature, of which reason can gather perfectly the definition and essential properties; (2) by parenthesizing the concrete situation of human persons in the history of salvation, marked by sin and by grace, which nonetheless has a decisive influence on the knowledge and practice of natural law. ...

Section 101, entire: Grace does not destroy nature but heals it, strengthens it, and leads it to its full realization. For this reason, even if the natural law is an expression of reason common to all men and can be presented in a coherent and true manner on the philosophical level, it is not external to the order of grace. Its claims are present and operating in the different theological states through which our one humanity has passed in the history of salvation.

Section 102, entire: The plan of salvation which the eternal Father has initiated is realized with the mission of the Son who gives man a new Law, the law of the Gospel, which consists principally in the grace of the Holy Spirit working in the hearts of believers to sanctify them. The new law aims above all to procure for man the participation in the trinitarian communion of the divine persons, but at the same time takes up and realizes the natural law in an eminent manner. On the one hand, it recalls clearly the requirements that can be obscured by sin or by ignorance. On the other hand, freeing him from the law of sin, which cause one to "have the desire for good, but not the ability to do it" (Rom 7:18), it gives man the effective capability of overcoming egoism by fully actualizing the humanizing demands of the natural law.

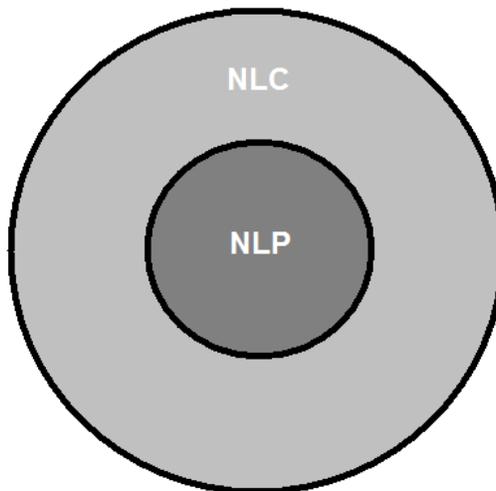
# APPENDIX B

## What I believe Professor Covington means by overlapping consensus



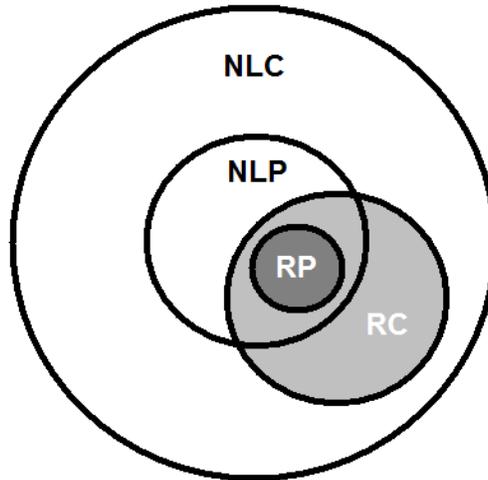
(The diagram shows the domains of acceptable behavior as per NL and various more or less mistaken world-views; assuming moderate and spherically-distributed error, the overlap of these domains approximates the NL domain. As a means of persuasion, moreover, NL helps to improve the approximation, at least among people of good will who engage in dialogue. But this is not the Rawlsian view of overlapping consensus; it is actually the view of NL thinker Jacques Maritain.)

## Publicly-allowable controversy in NL (any reasonable argument goes, but nobody has to listen)



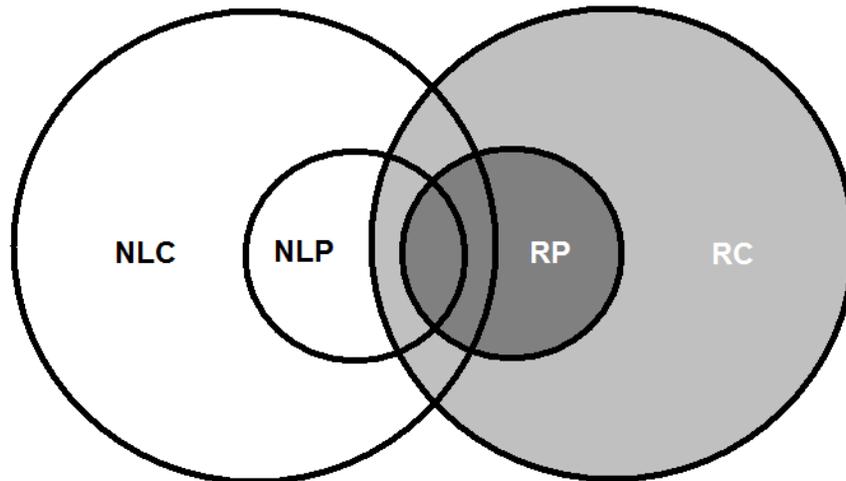
(Rawls is not actually discussing the disagreement among views of the domain of allowable behavior, but the disagreement among views of the domain of considerations that are allowable in public debate. What NL says about this domain is "Let a hundred flowers bloom." If Martin Luther King wants to quote the Bible, he may. There are no a priori restrictions on the kinds of arguments. The diagram shows not what kinds of arguments NL thinkers consider publicly allowable, but what kinds they actually make. "NLP" stands for "NL premises," "NLC" for "NL conclusions.")

**The relationship between publicly-allowable controversy  
in NL and in Rawls, as Rawls wishes it to be viewed**



(What Rawls means by "public reason" is not reasoning in public, but restrictions on the kinds of arguments that are allowed in public (or that public authority is allowed to take heed of). According to Rawls, no one may draw public arguments from world-views concerning which reasonable disagreement is possible. Thus, many arguments -- including most NL arguments -- become publicly unmentionable, or at least publicly non-cognizable. In this diagram, "RP" stands for "premises allowed by Rawls," and "RC" for their conclusions.)

**The actual relationship between publicly-allowable  
controversy in NL and in Rawls**



(In reality, no argument is neutral among views of reality. Therefore, the practical effect of the impossible demand for neutrality is to disallow appeals to all views of reality except those which liberals like Rawls do not acknowledge as views of reality.)