

Villanova University Charles Widger School of Law

From the Selected Works of Patrick McKinley Brennan

2009

Review of Contemporary Perspectives on Natural Law (Ana Marta Gonzalez ed., Ashgate 2009) (Invited)

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GONZÁLEZ, Ana Marta. *Contemporary Perspectives on Natural Law: Natural Law as a Limiting Concept*. Hampshire, England: Ashgate, 2008. xii + 322 pp. Cloth, \$114.98.—Back when he was a mere United States Senator and overseeing the Senate confirmation hearings of now-Justice Clarence Thomas, Joseph Biden introduced the concepts of “good natural law” and “bad natural law.” The former, he explained, conferred valuable rights, while the latter restricted rights, as to abortion. Biden’s invented dilemma was as silly as it was predictable, of course. Yet, such thinking still dogs debate in the American public square, and it gives natural law a bad name. Even among the better informed, mention of natural law often conjures images of Cartesian minds under papal rule, as Russell Hittinger had observed. *Contemporary Perspectives on Natural Law* is an essay on how the natural law should be investigated. Ably edited and introduced by a distinguished philosopher, it was prepared from papers presented at the Conference on Natural Law held at the University of Navarra (Spain) in March 2006. This wide-ranging study should be especially welcome in the English-speaking context where the Grisez-Finnis theory of natural law, or “new natural law” theory, has for some become virtually synonymous with natural law. Although the volume is calibrated for specialists, González’s introduction and two fine indexes provide helpful openings, as does González’s first chapter, “Natural Law as a Limiting Concept: A Reading of Thomas Aquinas,” which alone comprises the book’s first part, “The Concept of Natural Law.” The chapter succeeds admirably in its aim to demonstrate how natural law is “a concept loaded with tensions, the understanding of which represents a true intellectual achievement” (p. 13). Especially salient is the author’s attention to Thomas’s teaching that natural law is law in the fullest sense, a claim denied by the new natural lawyers.

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Part II, “Historical Studies,” begins with Russell Hittinger’s splendid account of the implications of Thomas’ philosophy of nature and metaphysics of participation for the political dimension of human life, including why the lawmaker is bound by the *vis directiva* of the laws he makes even if he cannot be bound by the *vis coactiva* of the same. Juan Cruz Cruz goes on to argue that “[t]he authors of the Golden Age, such as Vitoria, Soto, Báñez, Molina, Suárez and Araújo . . . have unambiguously taught that, in as much as natural law is in the human being, it does not only indicate the thing in itself, but also prescribes an action as commanded or forbidden by a superior” (p. 59). Next, Knut Haakonssen presents a summary of his significant and contested work, reinterpreting much of the history of natural law theory between late scholasticism and

the arrival of Kantian autonomy. There follow chapters by Jeffrey Edwards, “Natural Law and Obligation in Kant,” and María Jesús Soto-Bruna, “Spontaneity and the Law of Nature: Leibniz and Pre-Critical Kant.” The book’s historical section concludes with “Kant’s Conception of Natural Right,” by Alejandro Vega, and “The Right of Freedom regarding Nature in Hegel’s Philosophy of Right,” by Montserrat Herrero. An important takeaway from this Part is that despite Hume’s critique, natural law theory remained at the center of moral theorizing well into the nineteenth century.

Part III takes up issues in natural law theory that modern moral philosophy has emphasized, including the relation between natural law and practical reason. Alfredo Cruz Prados asks whether Aquinas’ doctrine of the natural law is meant to solve a practical problem or a theoretical problem (the latter, according to Prados). Alejandro Llano considers “First Principles and Practical Philosophy.” Christopher Martin’s “The Relativity of Goodness” cleverly seeks to avoid moral relativism by recognizing certain senses of the relativity of goodness. Urbana Ferrer asks “Does the Naturalistic Fallacy Reach Natural Law?” Part III concludes with “Human Universality and Natural Law” by Carmelo Vigna.

Part IV addresses the conception of nature underlying natural law theory. Richard Hassing tackles “Difficulties for Natural Law Based on Modern Conceptions of Nature.” John Deely, in a chapter that can only be described as vintage Deely (Poinsett, not John of St. Thomas), considers “Evolution, Semiosis and Ethics.” Last come two important chapters on teleology. David Oderberg makes the case for organic teleology, of the sort eschewed by the “new natural law” project, by making the case for inorganic teleology. This doesn’t happen every day. Robert Spaemann has the last word: “Since the abolition of finality can only be completed at the cost of abolishing man, we cannot think about or desire its fulfillment.”

There may not be a “good natural law” and a “bad natural law,” pace the now-Vice President, but if there does exist a natural law, not all theories of it are created equal. *Contemporary Perspectives* succeeds in illuminating at a high level many of the challenges involved in making

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successful natural law arguments in today’s philosophical and scientific climates. Whether natural law arguments can succeed in today’s political context is a distinct but related question.—Patrick McKinley Brennan, Villanova University School of Law.