

Precedents and prospects for incorporating natural law in Protestant ethics

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Abstract

I offer three reasons for revising what was, until recently, a fairly widespread assumption about a limitation on Protestant ethical theory. First, I identify a broad and diverse array of contemporary Protestants who are rehabilitating natural law theories or facets thereof. Second, I consider and attempt to rebut two principal objections to the theological coherence of a distinctively Protestant theory of the natural law. With special reference to the theology of John Calvin, I argue that a Protestant account of the natural law need not deny that either (1) sin has dramatically hindered the cognitive faculties of humans or (2) God is somehow subjected to the natural law. Third, I illustrate the ecumenical implications that may result from Protestants' explicit affirmation of the natural law. I conclude that the Protestant tradition affords both historical examples and conceptual space to accommodate some form of natural law theory.

Keywords: Barth, Calvin, divine sovereignty, ecumenism, natural law, Protestantism

Introduction

The supposition that a theory of the natural law is incompatible with the Protestant tradition was widespread among Christian theologians during the mid- to late twentieth century.¹ Nevertheless, since the turn of the century, this predominant outlook has been subjected to widespread challenge. Diverse scholars have recently been undercutting the supposition of inherent incompatibility by bringing forward numerous counter-examples of Protestant advocates of the natural law. In a recent article in this journal, Jennifer Herdt claims, 'The jury is in: Reformed theologians took a natural-law framework for ethical reflection for granted well into the nineteenth century.'² In a recent issue of *Studies in Christian Ethics*,

¹ Significant exceptions to this generalisation include Emil Brunner, Paul Ramsey and James Gustafson, each of whom advocates a positive role for the natural law in Protestant ethical theory.

² Jennifer Herdt, 'Calvin's Legacy for Contemporary Reformed Natural Law', *Scottish Journal of Theology* 67/4 (2014), p. 415.

Philip Ziegler expresses a similar judgment about the present day. He affirms that contemporary Reformed theological ethics can offer ‘distinctive contributions’ to longstanding debates over – among other matters – natural law.³ I invite theologians to consider the appropriateness of such claims for not just Reformed but also Protestant theology more broadly. Inquiry along these lines may help put to bed the mistaken notion that natural law theory is necessarily foreign to the Protestant tradition.

I offer three reasons for revising what was, until recently, a fairly widespread assumption about a limitation on Protestant ethical theory. First, I identify a broad and diverse array of contemporary Protestants who are rehabilitating natural law theories or facets thereof. Second, I consider and attempt to rebut two principal objections to the theological coherence of a Protestant theory of the natural law. Third, I illustrate the ecumenical implications that may result from Protestants’ explicit affirmation of the natural law.

Recent Protestant interest in the natural law

I begin with a survey of the emerging interest in the natural law among Protestants. Such a development is particularly noteworthy, given the impact of Karl Barth’s thunderous ‘Nein!’ issued in 1934 in response to Emil Brunner’s proposal for a Reformed natural theology.⁴ Barth demands that Protestants confront a stark dilemma: ‘Jesus Christ or Natural Law?’⁵ Though many Protestants in the twentieth century elected to side with Jesus at the expense of affirming the natural law, several theologians have recently argued or illustrated that this choice is unnecessarily forced. I will recount four lines of evidence that show how theologians are seeking to split the horns of Barth’s dilemma.

First, several theological ethicists are reinterpreting Barth in ways that qualify his opposition to natural law theory. Eugene Rogers, Nigel Biggar, Kirk Nolan, Jesse Couenhoven, and John Bowlin each argue that Barth’s objections pertain to some but not all forms of natural law theory.⁶ These scholars

³ Philip G. Ziegler, ‘Guest Editorial’, *Studies in Christian Ethics* 28/2 (2015), p. 131.

⁴ Karl Barth, *No! Answer to Emil Brunner*, trans. John Baillie, in Peter Frankel (ed.), *Natural Theology* (London: Centenary, 1946; orig. publ. 1934), pp. 66–128.

⁵ Barth, *A Letter to Great Britain from Switzerland*, trans. E. H. Gordon and George Hill (New York: Macmillan, 1941), p. 18.

⁶ Eugene F. Rogers, *Thomas Aquinas and Karl Barth: Sacred Doctrine and the Natural Knowledge of God* (Notre Dame, IN: University of Notre Dame, 1995); Nigel Biggar, ‘Karl Barth and Germain Grisez on the Human Good: An Ecumenical *Rapprochement*’, in Nigel Biggar and Rufus Black (eds), *The Revival of Natural Law: Philosophical, Theological and Ethical Responses to the Finnis-Grisez School*, (Burlington, VT: Ashgate, 2000), pp. 164–83; Kirk J. Nolan, *Reformed Virtue After Barth: Developing Moral Virtue Ethics in the Reformed Tradition* (Louisville,

seek to show that Barth's fundamental commitments can be conciliated with non-rationalistic and theocentric theories of the natural law. For example, Bowlin suggests that 'Barth might be an exemplary representative of the Reformed natural law tradition interpreted in covenantal terms'.⁷ Even Stanley Hauerwas, a renowned critic of natural law theory,⁸ concedes that his opposition to the natural law is not categorical. He endorses Bowlin's constructive outline for a covenantal natural law consistent with Barthian sensibilities.⁹ With what I take to be understated reserve, Eric Gregory regards such pro-natural law shifts among Barthians as 'one of the more interesting developments in recent theological ethics'.¹⁰ For some Protestant communities, these changes are nothing less than tectonic.

Second, some philosophical theologians are turning to natural law theory to handle the objection that the typical Protestant approach to ethics – some form of divine command theory – makes morality arbitrary. According to standard divine command theory, it is God's prescribing humans to act in a discrete manner that constitutes the rightness of the behaviour enjoined. Critics of this theory, who are often advocates of a natural law alternative, object that God's commands bear no necessary connection to the wellbeing of humans. Alasdair MacIntyre, for example, claims that the divine command theory of Martin Luther and John Calvin reduces morality to 'the arbitrary fiats of a cosmic despot'.¹¹ In response to objections along these lines, Nicholas Wolterstorff, Oliver O'Donovan, Alister McGrath, Robert Adams, Steven Evans, Richard Mouw and John Hare each proposes an account of natural moral goods that provides a criterion according to which humans

KY: Westminster John Knox, 2014); Jesse Couenhoven, 'Karl Barth's Eschatological (Rejection of) Natural Law', in Jesse Covington, Bryan McGraw and Micah Watson (eds), *Natural Law and Evangelical Political Thought* (Lanham, MD: Lexington, 2013), pp. 35–56; and John Bowlin, 'Contemporary Protestant Thomism', in Paul van Geest, Harm Goris and Carlo Leget (eds), *Aquinas as Authority* (Leuven: Peeters, 2002), pp. 235–51.

⁷ John Bowlin, 'Notes on Natural Law and Covenant', *Studies in Christian Ethics* 28/2 (2015), p. 149.

⁸ Stanley Hauerwas, 'On Beginning in the Middle: Nature, Reason, and the Task of Theological Ethics', in *The Peaceable Kingdom: A Primer in Christian Ethics* (Notre Dame, IN: University of Notre Dame, 1983), pp. 50–71.

⁹ At the 2015 Annual Meeting of the Society of Christian Ethics, Hauerwas and Bowlin participated in a panel session that I organised on 'Contextualizing, Evaluating, and Developing Protestant Perspectives on the Natural Law'. After Bowlin delivered remarks that would later be published as the article cited in n. 7 above, Hauerwas replied that Bowlin had provided just the kind of natural law theory that he can condone.

¹⁰ Eric Gregory, 'The Spirit and the Letter: Protestant Thomism and Nigel Biggar's "Karl Barth's Ethics Revisited"', in Daniel L. Migliore (ed.), *Commanding Grace: Studies in Karl Barth's Ethics* (Grand Rapids, MI: Eerdmans, 2010), p. 50.

¹¹ Alasdair MacIntyre, *A Short History of Ethics* (New York: Simon & Schuster, 1966), p. 123.

can ascertain the goodness promoted by obedience to divine commands.¹² Several of these figures remain allergic to the term natural law, even if they affirm something that could plausibly be labelled such. I anticipate that Evans, Mouw and Hare are pioneers of forthcoming change in their affirmation that Protestant divine command theorists need not shy away from explicitly endorsing some form of natural law theory.

Third, several systematic theologians are emphasising the role of human flourishing in the moral life, thereby bringing Protestant ethical thought in line with teleologically inflected natural law theories often advocated by Roman Catholics. For example, Ellen Charry proposes to recover 'the pastoral function of Christian doctrine', which should lead humans simultaneously to holiness and personal wellbeing.¹³ Similarly, Miroslav Volf portrays Christianity as a 'life worth living' because discipleship to Christ results in spiritual, physical, social, economic and ecological flourishing.¹⁴ Lastly, Neil Messer deploys the notion of human flourishing as a criterion by which to make judgements about various bioethical issues.¹⁵ Now these three scholars do not frame their work as promoting a distinctively Protestant form of natural law theory. Nevertheless, their emphasis on human wellbeing as the teleological aim of theology, ethics and discipleship steers Protestant reflection near to eudaimonistic natural law theories. Eudaimonism is highly contested within Protestantism, so it is noteworthy that theological

¹² Nicholas Wolterstorff, Foreword to Jean Porter, *Natural and Divine Law: Reclaiming the Tradition for Christian Ethics* (Grand Rapids, MI: Eerdmans, 1999), pp. 11–13; Oliver O'Donovan, 'Created Order' and 'Authority', in *Resurrection and Moral Order: An Outline for an Evangelical Ethics* (Grand Rapids, MI: Eerdmans, 1986), pp. 31–52 and 121–39; Alister E. McGrath, 'Natural Theology and Goodness', in *The Open Secret: A New Vision for Natural Theology* (Malden, MA: Blackwell, 2008), pp. 291–313; Robert Merrihew Adams, 'Divine Commands', in *Finite and Infinite Goods: A Framework for Ethics* (New York: OUP, 1999), pp. 249–76; C. Stephen Evans, 'The Relation of Divine Command Theory to Natural Law and Virtue Ethics', in *God and Moral Obligation* (New York: OUP, 2013), pp. 53–87; Richard J. Mouw, 'Narrative, Character, and Commands', in *The God Who Commands* (Notre Dame, IN: University of Notre Dame, 1990), pp. 116–49; and John Hare, *God's Command* (New York: OUP, 2015).

¹³ Ellen T. Charry, *By the Renewing of Your Minds: The Pastoral Function of Christian Doctrine* (New York: OUP, 1997); and Charry, *God and the Art of Happiness* (Grand Rapids, MI: Eerdmans, 2010).

¹⁴ Miroslav Volf, 'Materiality of Salvation: An Investigation in the Soteriologies of Liberation and Pentecostal Theologies', *Journal of Ecumenical Studies* 26/3 (1989), pp. 447–67; and Volf, 'Human Flourishing', in *A Public Faith: How Followers of Christ Should Serve the Common Good* (Grand Rapids, MI: Brazos, 2011), pp. 55–74.

¹⁵ Neil Messer, *Flourishing: Health, Disease, and Bioethics in Theological Perspective* (Grand Rapids, MI: Eerdmans, 2013).

ethicists like Herdt and Gregory offer forthright defences of this stance.¹⁶

Reinterpretations of Barth by theological ethicists, conciliations of divine command and natural law theories by philosophical theologians, and appropriation of human flourishing by systematic theologians are not the only manifestations of recent Protestant interest in the natural law. A fourth line of evidence is found among historical theologians who are excavating the neglected lineage of Protestant reflection on the natural law. These scholars serve the important function of demonstrating that the preceding three developments are forms of *recovering* rather than *jettisoning* traditional Protestant commitments. So influential was Barth's rejection of natural law theory that many theologians assumed that the Barthian position had prevailed throughout the entire Protestant legacy. This method of interpreting the past is understandable, if Samuel Wineburg is right in regarding 'presentism' as the default inclination of humans. Recognising the foreignness of the past by interpreting historical sources on their own terms is intellectually strenuous. Yet I think Wineburg is correct to judge that such 'historical thinking' holds the promise to surprise and humble us before the expanse of historical diversity.¹⁷

Some Protestant reconsiderations of natural law theory have been catalysed by just this kind of historical research, which has brought to light the complexity of the Protestant lineage of moral theorising. Among those whose work highlights the heritage of constructive Protestant accounts of the natural law are John McNeill, David Little, Stephen Grabill, Paul Helm, David VanDrunen, Susan Schreiner, Jennifer Herdt, Vincent Lloyd and contributors to a volume titled *Natural Law: A Lutheran Reappraisal*.¹⁸ The excavations of these

¹⁶ Gregory, 'The Spirit and the Letter', p. 54, and Herdt, 'Desire for the Common Good: A Defense of Eudaimonism', Yale Center for Faith and Culture consultation on 'Desire and Human Flourishing' (11 Dec. 2010), http://faith.yale.edu/sites/default/files/herdt_final_paper_0.pdf.

¹⁷ Samuel S. Wineburg, *Historical Thinking and Other Unnatural Acts: Charting the Future of Teaching the Past* (Philadelphia: Temple University, 2001), pp. 6, 19 and 22.

¹⁸ John T. McNeill, 'Natural Law in the Teaching of the Reformers', *Journal of Religion* 26/3 (1946), pp. 168–82, <http://www.jstor.org/stable/1197162>. David Little, 'Calvin and the Prospects for a Christian Theory of Natural Law', in Gene Outka and Paul Ramsey (eds), *Norm and Context in Christian Ethics* (New York: Charles Scribner's Sons, 1968), pp. 175–97; Stephen J. Grabill, *Rediscovering the Natural Law in Reformed Theological Ethics* (Grand Rapids, MI: Eerdmans, 2006); Paul Helm, 'Equity, Natural Law, and Common Grace', in *John Calvin's Ideas* (New York: OUP, 2004), pp. 347–88; David VanDrunen, *Natural Law and the Two Kingdoms: A Study in the Development of Reformed Social Thought* (Grand Rapids, MI: Eerdmans, 2010); Susan E. Schreiner, 'Their Conscience Also Bears Witness: Natural Law and Societal Life', in *The Theater of His Glory: Nature and the Natural Order in the Thought of John Calvin* (Durham, NC: Labyrinth, 1991), pp. 73–95; Herdt, 'Calvin's Legacy', pp.

theologians, together with the research of philosophical and intellectual historians,¹⁹ have brought to light the natural law theories affirmed by Martin Luther, Huldrych Zwingli, Philipp Melancthon, Peter Vermigli, Heinrich Bullinger, John Calvin, Richard Hooker, Johannes Althusius, William Ames, Hugo Grotius, John Cotton, John Winthrop, John Davenport, Samuel Rutherford, Roger Williams, Francis Turretin, Samuel Pufendorf, John Locke, Gershom Carmichael and Frederick Douglass, as well as several confessions from the magisterial Protestant traditions. As impressive as this list may be, there remains further historical excavation to be done on the thought of several other pre-twentieth-century Protestants who endorse some form of natural law theory: Girolamo Zanchi, Nathaniel Culverwell, Richard Cumberland, Christian Thomasius, Jean Barbeyrac, Samuel Clarke, Francis Hutcheson, Jean-Jacques Burlamaqui, Jonathan Edwards, John Wesley, Thomas Reid and William Paley. The chronological sweep of these figures suggests that while it may be fitting to say that ‘modern natural law’ is essentially ‘Protestant natural law’,²⁰ the latter is not essentially the former. Unless the modern era is stretched to include the entire post-Reformation era up through today, constructive Protestant reflection on the natural law is in no way exhausted by work produced in the modern era.

Questioning the coherence of Protestants’ affirmation of natural law

These diverse streams of scholarship – drawn largely from work produced in the last fifteen years by moral, philosophical, systematic and historical theologians – collectively challenge the supposition that Protestant theology and natural law theory are inherently incompatible. The sheer scale of these historical excavations and constructive proposals should at least provide grounds for revisiting whether Barth issues a false dilemma by forcing a choice between Jesus and the natural law. Of course, it is possible that each instance of a Protestant natural law theory is an incoherent amalgamation of theological elements. I therefore pause now to consider two prominent

414–35; Vincent Lloyd, *Black Natural Law: Beyond Secularism and Multiculturalism* (New York: OUP, 2016); and Robert C. Baker and Roland Cap Ehlke (eds), *Natural Law: A Lutheran Reappraisal* (St Louis: Concordia, 2011).

¹⁹ See especially Stephen Darwall, ‘Pufendorf on Morality, Sociability, and Moral Powers’, *Journal of the History of Philosophy* 50/2 (2012), pp. 213–38; Knud Haakonssen, ‘Protestant Natural Law Theory: A General Interpretation’, in Natalie Brender and Larry Krasnoff (eds), *New Essays on the History of Autonomy: A Collection Honoring J. B. Schneewind* (New York: CUP, 2004), pp. 92–109; T. J. Hochstrasser, *Natural Law Theories in the Early Enlightenment* (New York: CUP, 2000); and J. B. Schneewind, ‘Pufendorf’s Place in the History of Ethics’, *Synthese* 72/1 (1987), pp. 123–55.

²⁰ Herdt, ‘Calvin’s Legacy’, pp. 415, 418.

challenges to the theological coherence of any distinctively Protestant theory of the natural law.

Some theologians have held that two central commitments should prevent Protestants from affirming that the created order can serve as a reliable source of moral knowledge. First, the debilitating effects of sin on human reason seem to prevent people from gaining reliable and discrete moral knowledge through the study of nature. Second, portraying God as subject to moral truths whose authority is not itself dependent on God appears to compromise divine sovereignty in significant respects.

I contend that these concerns identify *tensions* but not necessarily *contradictions* within a Protestant theory of the natural law. I cannot defend 'Protestant natural law' against these charges because that label does not capture a necessary and sufficient set of shared premises among all who advocate it. I think that Knud Haakonssen aptly characterises Protestant natural law as a 'genre' of moral reflection.²¹ Yet a charge of inherent incompatibility is refuted by a single counter-example, so I will respond with reference to the thought of the one Protestant whose reflections on the natural law have received the most scholarly attention over the last century. If John Calvin is able to sidestep these charges of incoherence – both of which have specifically been levelled against him – then we will have not just a bare counter-example but an enormously influential one from the very headwaters of the Reformation.

Natural law and the noetic effects of sin

Barth judges that Calvin's dour account of the noetic effects of sin should prevent Calvin – and Protestant theologians more generally – from putting natural law to any 'positive use in theology'. Barth thinks that all of Calvin's teaching on the natural law is a hypothetical thought experiment that is vitiated by the counterfactual conditional 'if Adam had remained upright'. Since Adam did fall, dragging down all of humanity with him, Calvin ought to deny that 'a "natural" knowledge of the law of God is to be ascribed to us'.²²

Yet Calvin does not think that the noetic effects of sin extend so far as to make unregenerate humans categorically unable to know basic moral truths apart from the apprehension of God's special revelation. Calvin is as adamant as Thomas Aquinas that the comprehensive corruption of reason would remove a person from the species of humanity.²³ Furthermore, a

²¹ Haakonssen, 'Protestant Natural Law Theory', p. 92.

²² Barth, *No!*, pp. 108-9, citing Calvin, *Institutes*, 1.2.1.

²³ John Calvin, *Institutes of the Christian Religion*, ed. John T. McNeill, trans. Ford Lewis Battles (Philadelphia: Westminster John Knox, 1960), 2.1.11, 2.2.17 and 2.5.19.

distinctive emphasis of Calvin's moral theology is that the natural law 'deprives [humans] of the excuse of ignorance' when God holds them accountable for their disobedience to the moral law promulgated by God. Yet humans obviously would be exonerable if they were entirely ignorant of this divine demand. Thus Calvin states that it would be 'absurd' for God to punish one for failing to obey God's commands if God did not allow these demands to be known antecedent to God's judgement of one's life. Precisely because humans have an indelible moral knowledge, Calvin affirms, 'There is nothing more common than for a [human] to be sufficiently instructed in a right standard of conduct by natural law'.²⁴

Calvin's insistence that some moral knowledge is ineradicable even after the fall of humanity gives the lie to two mistaken interpretations of his thought. On the one hand, it is wrong to attribute to Calvin an affirmation of 'total' human depravity if that doctrine is rendered intensively rather than extensively. Calvin does hold that every human capacity – including reason – is tainted by sin, so the totality of capacities is *depraved*. Yet he does not think that any human capacity – least of all reason – is thoroughly corrupted, so *no single capacity is totally depraved*. Calvin makes this distinction explicit by stating, 'Since reason . . . is a natural gift, it could not be completely wiped out; but it was partly weakened and partly corrupted'.²⁵

On the other hand, it is also inadequate to interpret Calvin as excluding 'action-guiding moral knowledge' from the natural law by limiting its content to 'the moral quality of specific actions'.²⁶ When providing his most extensive definition of 'conscience' (*conscientia*), a key faculty for apprehending the natural law, Calvin endorses the etymological association of the term with 'knowledge' (*scientia*). Thus conscience 'does not allow [one] to suppress within [oneself] what [one] knows' concerning the particular sins one has committed.²⁷ Furthermore, the paradigmatic content of the natural law, according to Calvin, includes 'the very same things that are to be learned from the two Tables' of the Decalogue.²⁸ And if one looks beyond Calvin's *Institutes* to the extensive treatment of the natural law in his biblical commentaries and sermons – resources often ignored by Calvin's interpreters

²⁴ *Ibid.*, 2.2.22.

²⁵ *Ibid.*, 2.2.12 (emphasis added).

²⁶ Herdt, 'Calvin's Legacy', pp. 420, 435. Bowlin similarly asserts that a natural law theory claiming universal validity cannot be 'action-specifying' or 'determinate enough to direct us toward any particular course of action or away from any other'. According to Bowlin, such theories – among which he includes Calvin's – can only offer 'moral generalities' or 'moral platitudes' (Bowlin, 'Notes on Natural Law', pp. 144, 149).

²⁷ Calvin, *Institutes*, 3.19.15 (emphasis added).

²⁸ *Ibid.*, 2.8.1.

– then one will discover that Calvin frequently refers to specific moral norms that unregenerate humans can learn from nature.²⁹ Nature teaches all humans that one ought to honour one's parents, respect private property, keep one's promises and abstain from murder, adultery, theft, incest and polygamy.³⁰

Describing this natural knowledge of moral norms as not 'action-guiding' is tantamount to denying that knowledge of any general norm is action-guiding, since one must always ascertain whether a specific act falls under the genus-type depicted in the norm. The only action-guiding moral knowledge that would count under this stringent definition is that of the form, 'Action W undertaken by agent X under circumstances Y₁, Y₂, Y₃, etc., is of moral quality Z'. Neither Calvin's natural law nor even the divine law in scripture satisfies this criterion. Yet according to a more capacious account of what it means to be action-guiding – at least an account that lets the decalogical injunctions count as such – Calvin does present the natural law as a form of knowledge that directs humans towards or away from particular action-types. For example, Calvin's natural law prohibition on incest may not resolve certain cases: does a stepchild count as a member of one's 'family'? Yet it surely 'guides' human action by at least ruling out sexual intercourse with several specific persons.

I therefore judge that Calvin models one way in which a robust account of the noetic effects of sin can be conciliated with an affirmation that discrete moral knowledge may be ascertained by the unredeemed who lack access to God's special revelation. And if Calvin sustains a theologically coherent position, then we should expect to find yet other Protestants – especially those with a less severe account of sin's effects – who are able to avoid the charge of self-contradiction on this point.

Natural law and divine sovereignty

I will address more briefly another common objection against Protestant natural law theory. It seems to some that natural law theory necessarily subjugates God to some non-divine principle, thereby compromising the absolute sovereignty of God. I respond to this concern by first conceding that some Protestants have proposed theories of the natural law that commit

²⁹ Subsequent references to CC and TC refer, respectively, to Calvin's *Commentaries*, 45 vols, various trans. (Edinburgh: Calvin Translation Society, 1844–56) and *John Calvin's Sermons on the Ten Commandments*, ed. and trans. Benjamin Wirt Farley (Grand Rapids, MI: Baker, 1980).

³⁰ Calvin, *Comm. 1 Cor.* 7:37 at CC 39:267; *Serm. Deut.* 19:14–15 at TC, 697; *Comm. Rom.* 2:15 at CC 38:98; *Comm. Jonah* 1:13–14 at CC 28:60; *Comm. Deut.* 22:22 at CC 5:78; *Serm. Deut.* 5:19 at TC, 189; *Comm. Lev.* 18:1 and 6 at CC 5:98 and 100; and *Comm. Gen.* 4:19 at CC 1:217.

this theological error. For example, the seventeenth-century Reformed jurist Hugo Grotius states that the natural law identifies acts that are, ‘in themselves, either obligatory or not permissible, and so . . . necessarily . . . enjoined or forbidden by God’.³¹ For Grotius, the natural law is a realm over which God does not exercise sovereign jurisdiction; instead, God must heed its moral demands. Nor does Grotius shy away from the conclusion of his outlook: he explicitly concedes that the demands of the natural law would retain ‘a degree of validity’ even if God did not exist.³²

Yet Grotius does not represent the only position taken by Protestant advocates of the natural law. Protestants have portrayed the natural law theory in many forms, not all of which render God as being subject to this law. Just two generations after Grotius, Lutheran jurist Samuel Pufendorf objects that views like that of Grotius mistakenly ‘join to God some co-eternal extrinsic principle which He Himself had to follow’.³³ Rejecting Grotius’s atheistic hypothesis as ‘idiotic’, Pufendorf claims, on behalf of natural law, ‘If these dictates of reason are to have the force of laws, it is necessary to presuppose the existence of God and His providence, whereby all things are governed.’³⁴

Calvin represents yet another Protestant who upholds God’s sovereignty while also affirming the natural law. Calvin is at pains to clarify that God is not under the natural law because God does more than simply promulgate it. God also creates the natural law, so it is not characterised by aseity in the same manner as is God.³⁵ The charge of arbitrariness that MacIntyre levels against Calvin does at least rightly interpret Calvin as placing God above the natural law. Calvin himself anticipates the concern that God’s liberty with respect to the natural law may seem tantamount to amoral tyranny. Yet according to Calvin, God always acts for the ‘best’ and ‘highest’ of reasons.³⁶ The guiding end in all God’s acts – not least in promulgating the natural law – is to showcase God’s glory through the flourishing of creatures that bear the divine image.³⁷ Though above the natural law as its legislator, God

³¹ Hugo Grotius, *On the Law of War and Peace*, ed. and trans. Stephen C. Neff (New York: CUP, 2012), 1.1.10.

³² *Ibid.*, Prologue at p. 4.

³³ Samuel Pufendorf, *On the Law of Nature and Nations*, vol. 2 of *De jure naturae et gentium libri octo*, trans. C. H. Oldfather and W. A. Oldfather (Oxford: Clarendon, 1934), 1.2.10.

³⁴ *Ibid.*, 2.3.19.

³⁵ Calvin, *Comm. Exod.* 3:22 at CC 5:82 and *Comm. Deut.* 24:16 at CC 5:50.

³⁶ Calvin, *Concerning the Eternal Predestination of God*, trans. J. K. S. Reid (London: James Clarke, 1961), pp. 118, 178; *Concerning the Secret Providence of God*, ed. Paul Helm, trans. Keith Goad (Wheaton, IL: Crossway, 2010), p. 64; *Comm. Rom.* 9:15 at CC 38:356; and *Inst.* 1.17.1.

³⁷ Calvin, *Comm. Isa.* 45:18 at CC 15:419.

always acts in accord with the principal part of that law. God's concern for God's glory honours the first table of the Decalogue, which is at the head of the natural law, by loving most that which is best. God freely chose to make creatures who share the divine image and then freely chose to promulgate a natural law that would guide God's image-bearers toward their communal wellbeing. Thus in no way does Calvin's affirmation of the natural law entail an abridgment of divine sovereignty.

Ecumenical implications of Protestant natural law

I have thus far argued that natural law enjoys both historical precedent and conceptual coherence with respect to the Protestant tradition. I next identify some ecumenical opportunities that might attend a broader endorsement of these judgements among Christians. The important background here is that those who have undertaken comparative work on Catholic and Protestant approaches to ethics – James Gustafson, Roger Mehl, Thomas Derr and Servais Pinckaers – all note that the Catholic priority of natural law and the Protestant priority of scripture present the most decisive methodological difference between the two ecclesial traditions.³⁸ Thus the recent Protestant turn to natural law and the Catholic turn to scripture after the Second Vatican Council together manifest a convergence of substantial importance.³⁹

Two international ecumenical dialogues affirm that natural law can function as a shared method of moral inquiry. First, representatives from the Roman Catholic Church and the World Methodist Council jointly declare,

We agree in asserting the importance of natural law which God himself enables us to perceive . . . Moral theologies based on natural law and those that appeal more directly to an 'ethic of revelation' need not be in conflict. Consequently the moral judgments the Christian makes . . . are not in fulfillment of an imposed divine imperative alien to [one's] own well-being but are a response to the will of God to enhance and fulfill all that is genuinely human.⁴⁰

³⁸ James M. Gustafson, *Protestant and Roman Catholic Ethics: Prospects for Rapprochement* (Chicago: University of Chicago, 1978), p. 21; Roger Mehl, *Catholic Ethics and Protestant Ethics* (Philadelphia: Westminster, 1971), p. 65; Thomas Sieger Derr, 'Methodological Differences', in *Barriers to Ecumenism: The Holy See and the World Council of Churches on Social Questions* (Maryknoll, NY: Orbis, 1983), p. 9; and Servais Pinckaers, 'Catholic Moral Theology and Protestant Ethics', in *The Sources of Christian Ethics* (Washington, DC: Catholic University of America, 1995; orig. publ. 1985), pp. 287–8.

³⁹ Neil Arner, 'Ecumenical Ethics: Challenges to and Sources for a Common Moral Witness', *Journal of the Society of Christian Ethics* 36/2 (2016), pp. 152–82.

⁴⁰ Joint Commission between the Roman Catholic Church and the World Methodist Council, 'Honolulu Report, 1981', in Harding Meyer and Lukas Vischer (eds), *Growth*

Likewise, members of the second international commission of Anglicans and Roman Catholics state,

Despite the sin that has distorted human life, the Church affirms the original goodness of creation and discerns signs and contours of an order that continues to reflect the wisdom and goodness of the Creator . . . [This order is] a natural morality, sometimes interpreted in terms of . . . natural law, to which a general appeal for guidance can be made. In Jesus Christ this natural morality is not denied. Rather, it is renewed, transfigured and perfected.⁴¹

These are promising signs of convergence that could very well be followed by a Reformed-Catholic affirmation of the natural law. One international dialogue with representatives from the Roman Catholic Church and the World Alliance of Reformed Churches notes a collective ambivalence about natural law theory but agrees in affirming,

One cannot expect to find in Scripture a ready-made solution to the moral situations which human beings face today. Both communities acknowledge the contribution of human reasoning to moral and ethical discernment.⁴²

The current phase of this dialogue is returning to the natural law as a subject for mutual consideration. I regard this inquiry as salutary, especially given the increasing prominence of natural law reflection among contemporary Reformed theologians. Such investigation will test the wisdom of Gustafson's suggestion that Calvinism may be the most congenial bridge for an 'ecumenical ethics' affirmed by both Catholics and Protestants.⁴³

In addition to seeking Christian unity for the sake of obedience to Jesus' express will (John 17), Protestants might also be motivated to participate in ecumenical discussions on matters of shared concern like the natural law out of fear for the survival of their own ecclesial legacy. Bruce McCormack reflects,

in *Agreement: Reports and Agreed Statements of Ecumenical Conversations on a World Level* (Geneva: World Council of Churches, 1984), pp. 380–1.

⁴¹ Second Anglican – Roman Catholic International Commission, 'Life in Christ: Morals, Communion and the Church', *Holy See* (1994), §9, http://www.vatican.va/roman_curia/pontifical_councils/chrstuni/angl-comm-docs/rc_pc_chrstuni_doc_19930906_life-in-christ_en.html.

⁴² International Theological Dialogue between the Catholic Church and the World Alliance of Reformed Churches, 'The Church as the Community of Common Witness to the Kingdom of God: Report of the Third Phase (1998-2005)', Pontifical Council for Promoting Christian Unity *Information Service* 3/125 (2007), §140.

⁴³ Gustafson, *Protestant and Roman Catholic Ethics*, p. 19.

The situation in which Christian theology is done in the United States today is shaped most dramatically by the slow death of the Protestant churches . . . It will become more and more necessary, for the sake of the future of Christianity, to establish stronger ecumenical relations with the Catholics and the Orthodox.⁴⁴

Given both the prior and current interest in the natural law among Protestants, it would be foolish for Protestants today not to seize upon this topic as a matter for both further scholarship and ecumenical discussion.

Conclusion

In closing, I wish to clarify three claims that I have not attempted to defend in this article. First, I have not claimed that every form of natural law theory fits coherently within the Protestant tradition. There are many types of natural law and diverse Protestant theologies; surely some elements from the former set are incompatible with elements from the latter set. The more narrow claim that I have defended here is that many historical and contemporary Protestants have proposed ways of affirming some form of natural law theory, and such proposals do not necessarily betray traditional Protestant commitments.

Second, neither have I argued that a Protestant theory of the natural law will necessarily cohere with a Catholic version of the same. Such comparisons can only be handled on a case-by-case basis. There is neither a monolithic Protestant theory on offer nor an all-encompassing Catholic theory. One should be careful about generalisations here. I think that particular Catholics and particular Protestants can identify substantive common ground on the natural law – especially given some of the most recent work being done by Catholic advocates of the natural law⁴⁵ – but that territory will have to be identified by patient comparison of the work of individuals.

Lastly, I have not claimed that a Protestant natural law theory is a panacea that will resolve the moral disputes that are currently rending both civil

⁴⁴ Bruce L. McCormack, 'Karl Barth's Christology as a Resource for a Reformed Version of Kenoticism', *International Journal of Systematic Theology* 8/3 (2006), p. 251.

⁴⁵ Especially congenial to some Protestants' sympathies is the work of Jean Porter. Her account of the natural law aspires to be faithful to medieval antecedents precisely by being thoroughly scriptural and theological. The natural law reflections of Reinhard Hütter and R. J. Snell, both Protestant converts to Catholicism, are likewise sensitive to typical Protestant concerns. See Jean Porter, *Nature as Reason: A Thomistic Theory of the Natural Law* (Grand Rapids, MI: Eerdmans, 2005); Reinhard Hütter, 'Freedom and Commandment: The Twofold Center of Christian Ethics', in *Bound to Be Free: Evangelical Catholic Engagements in Ecclesiology, Ethics, and Ecumenism* (Grand Rapids, MI: Eerdmans, 2004), pp. 145–67; and R. J. Snell, 'Theory and the Protestant Prejudice', in *The Perspective of Love: Natural Law in a New Mode* (Eugene, OR: Pickwick, 2014), pp. 49–72.

society and numerous Protestant denominations. While I think that Calvin does regard the natural law as norm-governed and action-guiding in some sense, I also judge his account of the natural law to be far more modest in scope than that which is preferred by many contemporary natural lawyers – both Catholic and Protestant. Excepting a few grand systematisers, Protestants have tended to make fairly low-flying claims about the content of the natural law, the ease with which humans can apprehend it, the extent to which humans can obey it and the merit that such obedience earns before God.

In contrast to these three claims that I have not advanced, I will state positively my main assertion in this article. The Protestant tradition affords both historical examples and conceptual space to accommodate some species of natural law theory. Protestants who will sway to that moral beat may find themselves in rhythm with likeminded Catholics and thus participants in an ecumenical dance that was recently judged to be impossible.

Achieving this coordination will require a great deal of work. We Protestants ought seriously to set ourselves to the tasks of historical research, creative construction, immanent critique and ecumenical dialogue pertaining to the natural law. I concede that significant parts of the Protestant legacy of natural law reflection are inapplicable today, that the very meaning of the term ‘natural law’ deserves more careful specification and that any account of the natural law must be systematically integrated with both standard doctrinal loci and relevant research in the natural sciences. Thus, much careful scholarship remains to be done and there are signs that such work is emerging or forthcoming. Some theologians have offered constructive proposals for Protestant forms of natural law theory.⁴⁶ The Society of Christian Ethics has recently added an interest group on ‘Protestant Perspectives on the Natural Law’. And doctoral students at the universities of Chicago, Notre Dame, Yale and Princeton are presently at work on dissertations that will significantly enrich Protestants’ resources for theorising about the natural law. I take all of these evidences as salutary indications of forthcoming changes.

⁴⁶ Thomas K. Johnson, *Natural Law Ethics: An Evangelical Proposal* (Bonn: Verlag für Kultur und Wissenschaft, 2005), J. Daryl Charles, *Retrieving the Natural Law: A Return to Moral First Things* (Grand Rapids, MI: Eerdmans, 2008), David Van Drunen, *Divine Covenants and Moral Order: A Biblical Theology of Natural Law* (Grand Rapids, MI: Eerdmans, 2014), and Bowlin, ‘Notes on Natural Law,’ pp. 142–9.