

# Alasdair MacIntyre's Concept of Natural Law

Paweł Kaźmierczak

## Introduction

This article argues that Alasdair MacIntyre's approach to the natural law theory is not relativistic. It also focuses on MacIntyre's explanation of moral disagreement from the perspective of natural law, which makes his theory defensible according to the modern standards. Finally, it contrasts the traditional approach to natural law with new theories, preferring the former to the latter.

The question of Alasdair MacIntyre's concept of natural law has already been discussed in the subject literature. It is worth mentioning that there are some Spanish contributions to this discussion, notably an article by Margarita Mauri (2008), large portions of a book and an article by Rafael Ramis-Barceló (2012, 2013). I adopt a perspective different from both authors, some repetitions, though, are unavoidable.

## I. The alleged relativism of Alasdair MacIntyre

One of the main controversies sparked by the work of Alasdair MacIntyre concerns the question of the sources of morality, namely the question to what extent virtues and moral precepts are grounded in the human nature and to what extent they are the products of culture. This controversy made many critics of MacIntyre call him a relativist. For example, David

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Carr claims that „MacIntyre’s virtue ethics departs from Aristotle’s in holding that virtues are socially conditioned and constructed. Virtues are defined as capacities required to sustain various kinds of social practices. But such practices are also defined as relative to different and diverse ethical traditions. Thus, there are ‘rival’ traditions of virtue to the extent that what may count as a moral virtue in this location may not count as such in that one.” (CARR, 2017, 3). In David Carr’s view „these MacIntyrean themes or theses are mistaken, unhelpful and should be rejected in favour of a naturalistic Aristotelian ethics. Moral and other virtues are universal and cross cultural human excellences” (CARR, 2017, 4).

However, on MacIntyre’s account, the rival versions of moral enquiry were not put on a level ground with one other – he declared a preference for the Thomistic tradition over the Encyclopaedic view encompassing the spirit of Enlightenment, and the Genealogical approach starting with Nietzsche and leading to Post-modernism. The ground given for this preference was the ability of Thomism to solve the problems arising within the frameworks of the rival traditions, as well as its ability to produce a narrative that could encompass the rival narratives within itself. Such a superior narrative, according to MacIntyre, was Dante’s *Divine Comedy* seen as a practical illustration of the theoretical moral enquiry encapsulated in the *Summa Theologiae* and as the allegory of the Biblical history of salvation (MACINTYRE, 1990a, 145-148).

Moreover, MacIntyre was not unresponsive to his critics, and his concept evolved with time. The book *Dependent Rational Animals* testifies to this evolution. Its author embraces the idea of biological teleology – the concept of the human *telos* rooted in the human nature. The very title of the book signals three important dimensions MacIntyre ascribes to human condition or human nature, namely: dependence, rationality and animality. He claims that rationality tended to be overemphasised in the history of philosophy to the neglect of both dependence and animality. Human dependence and vulnerability make it necessary for us to live in the community with others.

MacIntyre argues that the common feature of human beings and that of the members of other animal species (like gorillas or dolphins) consists in “pursuing their respective goods in company with and in cooperation with each other” (MACINTYRE, 1999, 49, 61). These elements of human nature are its universal features, and they have their direct ethical implications.

MacIntyre quotes Thomas Aquinas, stating that a law is a precept of reason directed to a common good and promulgated by someone possessing the required authority (AQUINAS, 1920, Ia-IIae, 90, 1-4). He then follows to define natural law as “those precepts promulgated by God through reason without conformity to which human beings cannot achieve their common good” (MACINTYRE, 1999, 111), thereby establishing the connection between natural law and common good. There is also the inherent connection between natural law and virtues, as “all acts of virtue are prescribed by the natural law” (AQUINAS, 1920, Ia-IIae, 94, 3). In the text *Narrative Ethics, Virtue Ethics, and Natural Law* MacIntyre reiterates the theme of the interconnectedness between natural law, virtues and the practical syllogism, as they all constitute different aspects of one and the same practical reasoning (MACINTYRE, 1990b, 17).

The Scottish philosopher goes still further in this direction both in his essay on *Veritatis Splendor* (MACINTYRE, 1993) and in *God, Philosophy, Universities* (MACINTYRE, 2009), which mark his acceptance of the Catholic doctrine of natural law, as expressed by Thomas Aquinas and John Paul II in his encyclical. His declaration of unconditional obedience to the teaching of the encyclical has aroused criticism from some philosophers who accused him of abandoning philosophical stance and adopting a theological position (CHMIELEWSKI, 1996, XLVII-LIII). Laying aside this controversy, however, I express my conviction that the texts referred to above provide no ground for ascribing relativism or social constructivism to MacIntyre's position in the late stage of his intellectual journey.

## **II. Reconciling the theory of natural law with the facts of moral disagreement**

What I would like to focus on now is how MacIntyre strives to reconcile the thesis of universal knowledge of the precepts of natural law with the empirical fact of moral controversies. This is all the more important, as he himself claims that a satisfactory account of moral disagreement is a necessary condition of defensibility of a contemporary theory of natural law.

In an essay *Aquinas and the extent of moral disagreement* (MACINTYRE, 2006, 64-82) the Scottish author explicitly embraces and endorses the account of natural law given by Saint Thomas Aquinas and seeks to reconcile this concept of natural law with the empirical fact of moral disagreement,

as they seem to be mutually exclusive. He remarks that Thomas Aquinas could not be aware of the extent of antagonisms in the field of morals which we experience, and that is why he presumed that the precepts of natural law would meet with a widespread consent, and disagreements or moral errors would be exceptions rather than a rule (the cause for those exceptional cases being either mental defects or acting under the strong influence of desire). But, of course, our contemporary situation is very different from his. So how can one hold a natural law theory in the context of conflicting moral positions?

The first step to solve this apparent contradiction is the distinction between the primary and secondary precepts of natural law. The primary precepts of natural law are based on the first principle of practical reason: that good is to be done and pursued and evil is to be avoided. The types of goods to be thus pursued are listed in *Summa theologiae*, and they are divided into three categories: common with every being, connected with our *physical* nature, such as life and health, common with other *animals* (sex, educating and caring for children), and the other are derived from our *rational* nature, such as knowledge and social goods (AQUINAS, 1920, Ia-IIae 94, 2, MACINTYRE, 2006a, 64).

The primary precepts are the same for everyone, they are unchangeable, they are known to every human being, and they cannot be eradicated from the human heart. Secondary precepts, however, provide the specific applications of primary precepts in and to given circumstances and therefore they can vary depending on these circumstances. The above-mentioned applications are mediated through various legal, social or cultural institutions. Let's rephrase it in MacIntyre's own words: "The primary precepts of the natural law remain the same in every society and culture, but the socially and culturally embodied forms through which they receive expression do not." (MACINTYRE, 2006a, 65).

Translating the primary precepts into secondary is the task of practical wisdom, which also varies from person to person, so that not everybody knows how to apply the primary precepts. The requirements of the primary precepts can also be obscured by our temporary impulses of desire. This, then, on the MacIntyrean reading of St. Thomas's account, is how moral disagreements arise.

MacIntyre mentions five types of moral disagreement: first - whether innocent human life is always inviolable, second – whether a good end can

justify an evil means, third – whether sexual intercourse can be separated from the readiness to beget children within a marriage, fourth – whether honour and loyalty are more important than other ethical considerations, and fifth – whether economic justice (“just wage” or “just price”) means more than the mere fulfilment of the terms of contract.

The contradictory views on the abovementioned issues are usually grounded in conflicting concepts of human nature, from which first principles are derived. Sometimes there is no common standard that would help to decide which view has stronger arguments in its favour. So, the range of moral dissent seems to undermine the concept of natural law. But it is MacIntyre's ambition to demonstrate that it is just the opposite, namely, that the fact of moral disagreement demands the presupposition of the principles of natural law, which is a source of a deeper agreement. How so?

First of all, the existence of conflicting moral positions forces us to ask the question who is right. This, in turn, leads us to the need of common deliberation in view of the one-sidedness of individual enquiry. The starting point of such deliberation is usually some practical issue, but it sometimes discloses a deep theoretical rift regarding the final end of the human beings. In such case a systematic theoretical enquiry is called for. But in order for this enquiry to meet the standards of rationality it needs to be guided by certain norms, like the overriding role of truth, intellectual and moral virtues, in short, it should be guided by the first precepts of natural law. A more recent restatement of MacIntyre's position on moral disagreement in his contribution to *Intractable Disputes about the Natural Law* essentially reiterates the motives mentioned above (MACINTYRE, 2009a, 1-52).

The subject of the roots of moral error is developed by MacIntyre in his two further works: *How can we learn what Veritatis Splendor has to teach* and *God, Philosophy, Universities*. In his essay on *Veritatis Splendor* the Scottish philosopher points out that errors regarding natural law are attachments which can be compared to the young man's attachment to his property preventing him from following Jesus (MATTHEW 19, 22). He categorises them under three headings: the false concepts of freedom and autonomy of the self, consequentialist cost/benefit analysis, and relativism (MACINTYRE, 1994b, 193-195). These attachments are not only philosophical misconceptions, they also stem from practical moral vices.

The tenth chapter of *God, Philosophy, Universities* (MACINTYRE, 2009b, 87-95), entitled “Aquinas: Philosophy and the Life of Practice” is

also consistent with the line of argument developed so far. It argues that the application of the precepts of natural law to particular cases requires the exercise of virtues on the part of the agent, therefore they play an important educational role. And conversely, moral disagreements are rooted in the lack of virtue – in succumbing to “an undue and excessive love of money or power or pleasure or fame or the like” (MACINTYRE, 2009, 91), which obscures our understanding of the precepts of natural law. These vices lead also to breaking the rules of natural law by those who understand them. Thus, inordinate desires and attachments can be serious obstacles both for our reason and our will on our way to act rationally.

The conclusion of the line of argument presented above is that Aquinas’s (and MacIntyre’s) concept of natural law instead of being abolished by the fact of moral disagreement is the best premise from which to explain this phenomenon of moral life. Thus, we can contend that MacIntyre’s interpretation of the Thomistic account of the sources of moral disagreement and moral errors is well grounded and can be held rationally without undermining the theory of natural law.

### **III. MacIntyre’s position with regard to contemporary theories of natural law**

In the text *Theories of Natural Law in the Culture of Advanced Modernity* MacIntyre claims that modern theories of natural law, accommodated to the cultural modernity, do not do justice to reality, and, what is more, that they fail in proportion to this accommodation (MACINTYRE, 2000, 93).

One example of such a modern stance is legal positivism as represented by Herbert L. A. Hart. For Hart, natural law exists, but it does not allow for evaluating legal systems in terms of justice (MACINTYRE, 2000, 97). According to Lloyd Weinreb’s theory of natural law, legal obligation is based on the nature of human beings as responsible persons. For Michael S. Moore the foundation of natural law lies in moral realism, i.e. the claim that “there is one true objective account of justice” (MACINTYRE, 2000, 102).

The problem with such contemporary views is that they deprive the idea of natural law of its universal, or at least widespread, appeal to the reason of the plain persons. Thereby it can no longer serve as a shared and public standard for evaluating the systems of positive law. Of course, the same statement can be made with regard to the traditional versions of natural

law theory. Therefore, there are two necessary prerequisites for a tenable contemporary concept of natural law: first, it must offer the explanation of its failure to ensure a widespread consent, and second, it must indicate rational grounds for the acceptance of the precepts of natural law, which exist, even if they are not widely recognized.

This first condition is met by the theory put forward by Germain Grisez and John Finnis. The central concept of their theory is not the notion of human nature, but of basic human goods, which they claim to be self-evident and incommensurable. MacIntyre, however, contends that the Aristotelian-Thomistic concept of human nature is an indispensable foundation of a natural law theory. On the one hand, a Thomistic account is widely dismissed nowadays, but on the other hand, it supplies a theory of a moral and legal error, which explains the possible rejection of the precepts of natural law (MACINTYRE, 2000, 103-108).

Therefore, MacIntyre finds Jacques Maritain's elaboration of the natural law theory most compatible with his own. He follows Maritain in claiming that natural law describes normal functioning, in accord with natural inclinations, and that it directs us towards the common good (MARITAIN, 1947, 1951). He further insists that the knowledge of natural law is equivalent to the constant inquiry "What is my good? What is our common good?" and to answering these questions both practically and theoretically. Learning to recognize our individual and common goods takes place through relationships, which themselves are moulded by the precepts of natural law (MACINTYRE, 2000, 109).

The natural law theory is considered by the modern mainstream philosophers and politicians as inimical to individual liberties. But, as MacIntyre rightly points out, a negative result of the rejection of the natural law theory, presuming that plain persons have access to the knowledge of its precepts, is that people are unable to settle their disputes on their own and their conflicts must therefore be solved by the specialized lawyers (MACINTYRE, 2000, 112-114). Conversely, accepting the precepts of natural law enables the members of the community to rationally debate on the best ways of achieving their common good (MACINTYRE, 1994a, 39-40).

## Conclusion

It must be kept in mind that MacIntyre's allegiance to the theory of natural law coherent with the Catholic, Thomistic tradition starts roughly from 1990 – from *Three Rival Versions of Moral Enquiry* – and is bolstered in his subsequent writings. Therefore, his earlier philosophical output is more susceptible to the charges of relativism, which I dealt with in the first part of the article. The traditional concept of natural law is not only a steady element of Catholic doctrine, it is also a position that has solid philosophical credentials. The way MacIntyre deals with the traditional theory of natural law preserves its vital strength, and at the same time, supplies its cogent defense in the face of contemporary moral disagreements.

Paweł Kaźmierczak  
*Jesuit University Ignatianum in Krakow*  
 pawel.kazmierczak@ignatianum.edu.pl

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