

DOING WHAT COMES NATURALLY AND NOT KNOWING IT: A REFLECTION ON J. BUDZISZEWSKI'S WORK

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This essay is a brief commentary on J. Budziszewski's work on natural law. The author first offers a personal narrative on how Budziszewski's notion of what we can't not know is cashed out in concrete experience. The author then critiques two different types of challenges to Budziszewski's work: (1) the Darwinian conservative challenge, and (2) the Protestant-Evangelical challenge.

It is indeed an honor to offer comments on Professor J. Budziszewski's work. There is so much that he covers in his paper, I cannot possibly address it all. Moreover, I find myself in agreement with the paper's thesis as well as the comments he makes about natural law and its relationship to philosophical anthropology, moral philosophy, political theory, and philosophical theology. So, what I would like to do in the few pages given me is to take some of his points and to cash them out in ways that both support his thesis and respond to two different types of critics. I will begin with a brief story.

Several years ago when I was on the philosophy department faculty at the University of Nevada, Las Vegas, when the school sported a very good basketball team, one of my students, obviously frustrated with the points I was making in class, blurted out the question, "Why is the truth important?" I distinctly remember the befuddled look on her face seconds after I offered the reply, "Do you want the true answer or the false one?"

A few days later, in the same class, another student, taking up the cause of his befuddled peer, claimed, with great confidence, that there are no objective moral norms and that there was no way that anyone, including his professor, could possibly show him otherwise. At that point, I looked at him squarely in the eye, with as stern a facial expression I could muster, and told him, "Please sit down and shut up. I am right and you are wrong. And that's that." He was, as one would guess, visibly shaken. There was dead silence in the classroom. His peers, who were obviously displeased with the treatment he received, were not about to come to his defense. They were, rightfully, upset with their professor. But they remained mute. So, I let the moment sink in, for about 15 seconds, though it seemed like an eternity.

I then broke the silence, and asked the shaken student, “Are you upset about something?” “Yes,” he answered, “you treated me rudely.” I replied, “I do not disagree. Am I wrong in thinking that you had a justified expectation that I should have dialogued with you in a way that was respectful?” “No, you are not wrong,” he said, “That is exactly what I expected.” I continued, “It seems to me that your expectation is perfectly justified, and that I was wrong in treating you in the fashion I did. But that expectation relies on the veracity of a deeper truth, that you are the sort of being that is entitled to reasons when matters of moral concern are brought to your attention. I did not give you reasons. I merely asserted my power. What you realized at the moment of offense was the moral truth you have always known: might does not make right.” I paused and again let the silence do its work. For the student knew where the conversation was going. He knew that he had been relying, unwittingly, on the resources of the natural law in order to reject as illegitimate the treatment he had received at the hands of his mean professor. We were like two men at a restaurant sharing a meal while debating the existence of the chef, and one of the men was talking with his mouth full.

This story, I believe, is illustrative of the problems and issues raised in J. Budziszewski’s work on the natural law. As he has aptly pointed out, we live in an age in which many of our fellow citizens, including many of our cerebral and learned colleagues, do not believe there is such a thing as moral knowledge. Yes, they believe there are social norms, even laws, but these rules do not have their source, let alone their justification, in anything outside the flux of unguided nature, historical epochs, and/or social institutions. And yet, these critics of natural law, like my UNLV students, unreflectively rely on a moral law not reducible to unguided nature, historical epochs, and/or social institutions in order to issue moral judgments for the purpose of securing fundamental rights that they believe ought to be incorporated into our social fabric so that justice is increased and past wrongs remedied.

There are two types of challenges to Jay’s work to which I believe this sort of analysis may be applied: (1) the Darwinian conservative challenge, and (2) the Protestant-Evangelical challenge.

God, Darwinian Conservatism, and the Natural Law¹

The term *Darwinian Conservatism* was coined by Larry Arnhart,² a Northern Illinois University political scientist. What he means by the term is a political philosophy that is grounded in a human

nature that gives rise to a spontaneous order that results in customs, habits, and social institutions and arrangements that best lead to human flourishing. Relying on the work of Friederich Hayek, Arnhart offers a defense of natural law that Arnhart claims does not depend on the natural teleology that many of its supporters, like J. Budziszewski and I, believe is a necessary condition for the natural law. For example, Thomas Aquinas, like Aristotle and other metaphysical realists, argued that human beings have a certain end or purpose (or good) that is intrinsic to their nature. And inhibiting the achievement of that end, whether by accident or by intent, is a wrong. But this judgment is only possible because we have knowledge of certain first principles and moral precepts that we call the natural law. But “law” implies a lawgiver, and designed natures imply a designer. Therefore, the natural law and our human nature have their source in Mind

But according to the Darwinian understanding, Mind is not a necessary condition to account for the diversity of “natures” of the living beings that arise out of the vast eons in which natural selection cooperates with random genetic mutations and perhaps other evolutionary forces. Consequently, living beings do not possess the stable realist natures that Aquinas and Aristotle believed exist. Rather, for the Darwinian, the natures we ascribe to living beings are merely names (or “nominal essences”) that are shorthand ways to label beings that have roughly similar characteristics. So, we may say that resulting from “human nature” are those practices, habits, and institutions of the tool-using, language-employing, upright bipeds that have DNA similar to our own. But this “human nature” tells us nothing normative. It merely describes what is statistically ordinary and generally species-preserving. Arnhart thinks that is all way we need to ground natural law.

Although Arnhart’s case will no doubt be attractive to many conservatives who have made their peace with the Darwinian paradigm, I believe there are at least two problems with Arnhart’s case that have to be resolved before natural lawyers will agree to the truce.

(1) It seems to me that Arnhart is correct that certain sentiments (e.g., love of family, children) are consistent with a conservative understanding of community. But these sentiments themselves seem inadequate to ground moral action or to account for certain wrongs. For example, Tony Soprano’s “love of kin” nurtures sentiments that lead to clear injustices, e.g., “rubbing out” enemies, about which Tony and family do not seem particularly troubled. In that case, the wrongness of the act cannot be located in the sentiments of its perpetrators (or even its victims, if the victims, for some reason, were convinced that they deserved to be rubbed out), but in a judgment informed by moral norms

that stand above, and are employed by free agents to assess, acts and actors apart from their sentiments.

(2) As I have already noted, Arnhart's account of morality is at best descriptive. For it does not provide within itself the reason why anyone ought to follow it. Granted, it may very well provide us with an accurate description of what behaviors in general were instrumental in helping the human species survive. And for that reason, it may very well explain why each of us may have certain moral feelings on occasion. But it cannot say why citizen X ought to perform (or not perform) act Y in circumstance Z. For example, it may be that the traditional family, as Arnhart argues, best protects and preserves the human species if it is widely practiced. But what do we say to the 80 year-old Hugh Hefner, who would rather shack up with five 20-something buxom blondes with which he engages in carnal delights with the assistance of state-of-the-art pharmaceuticals? Mr. Hefner is no doubt grateful that his ancestors engaged in practices (e.g., the traditional family) that made his existence and lifestyle possible. But why should he emulate only those practices that many people today, like and Arnhart and I, say are "good?" After all, some of our ancestors were Hefnerian in their sensibilities, taking on a concubine or two and running off with one of them every once in a while. Perhaps this practice was just as necessary for Mr. Hefner's existence and the preservation of the species as were the "good" behaviors practiced by history's "squares." Because we have always had in our population Hugh Hefners of one sort or another, it is not clear to me how Arnhart can distinguish between "good" and "bad" practices if both sorts may have played a part in the survival of the human race, *unless there is a morality by which we assess the "morality" of evolution*. But this would seem to lead us back to the old natural law, the one that has its source in Mind and that is not subject to the unstable flux of Darwinian naturalism.

The Protestant-Evangelical Objection to Natural Law

Although there are many Evangelical and Protestant defenders of natural law,³ there are also critics, virtually all of whom come out of the Reformed or Calvinist tradition. They offer many arguments, though I will only briefly respond to two here.

The first argument is that it is not possible to know the moral law apart from Scripture and the doctrines derived from it.⁴ This is a weak argument, since Scripture itself teaches, and in many cases, assumes the truth of the natural law.⁵ One example will suffice, though there are many others I can offer.

In the book of II Samuel (chapter 11) in the Jewish Tanuch (the Christian Old Testament) one finds the story of King David's encounter with Nathan after the King had taken himself a wife, Bathsheba, a woman whom he had first encountered one evening while he strolled on the palace roof. He noticed, from a distance, Bathsheba bathing. Overwhelmed by her beauty, he sent his messengers to fetch her, and he quickly came to know her (in the Biblical sense). That union, however, resulted in a pregnancy. But there was a problem, for Bathsheba, as David knew, was married to Uriah the Hittite. So, the King assigned Uriah, a member of the army, to the front lines where the fighting is the most ferocious, and instructed Joab, the leader of the Israelite army, to leave Uriah there unprotected so that he would surely be killed. David married Bathsheba soon after Uriah died on the battlefield.

But David did not live happily ever after, for first among the punishments that followed was Nathan's rebuke, which Nathan introduced with an elegant form of moral reasoning that forced the King to confront the gravity of his offense:

When [Nathan] came to [David], he said, "There were two men in a certain town, one rich and the other poor. The rich man had a very large number of sheep and cattle, but the poor man had nothing except one little ewe lamb he had bought. He raised it, and it grew up with him and his children. It shared his food, drank from his cup and even slept in his arms. It was like a daughter to him.

"Now a traveler came to the rich man, but the rich man refrained from taking one of his own sheep or cattle to prepare a meal for the traveler who had come to him. Instead, he took the ewe lamb that belonged to the poor man and prepared it for the one who had come to him."

David burned with anger against the man and said to Nathan, "As surely as the LORD lives, the man who did this deserves to die! He must pay for the lamb four times over, because he did such a thing and had no pity."

Then Nathan said to David, "You are the man!" (II Sam. 12:1b-7a).

David fully grasped the moral principles by which we judge that the rich man's behavior was wicked and that it should result in severe punishment against him. But those very same moral principles, and the punishments that follow from violating them, apply to David as well. As should be obvious, Nathan was not appealing to the Bible, since

there was no Bible as we know it today. What one takes away from this story is the wisdom of Nathan's judgment, the aptness of his analogy, and the clarity that one acquires when grasping a scintillating instance of moral reasoning. This is natural law reasoning at its best. And it is biblical.

The second Protestant-Evangelical argument goes like this: the Scriptural passages most often cited in defense of natural law (e.g. Romans 1 and 2, especially 2:15, which speaks of the law "written on our hearts") do not teach what natural law thinkers think it teaches, namely, that there are moral truths accessible to those with no direct contact with special revelation. For example, Evangelical theologian Carl F. H. Henry writes:

The dual reference to law of nature and law of God presumably arose from the Apostle Paul's teaching in Romans 1 and 2. John Murray in his volume on Paul's epistle to the Romans in *The New International Commentary* series argues that the term 'law of nature' is a Christian concept rooted in Scripture, not a secular concept to be grasped independently of a revelatory epistemology. To interpret Romans 1 and 2 in deistic terms of natural religion is unjustifiable.⁶

Although this is not the place to assess Henry's exegesis, it seems to me that his Scriptural citation is not based on a careful reading or understanding of natural law. For if he had truly grasped the tradition he critiques he would understand that his own point of view—the alleged biblical rejection of natural law theory—is itself dependent on moral notions not derived from special revelation. That is, Henry is affirming and defending a self-refuting position. Let me explain. By claiming that natural law thinkers have incorrectly interpreted the book of Romans, Henry is presupposing a moral notion that is logically prior to his exegesis of scripture: texts should be interpreted accurately.⁷ This, of course, is grounded in more primitive moral notions: to accurately interpret a text one should do so fairly and honestly, and one should pursue the truth while interpreting texts. Both these moral commands are logically prior to, and thus not derived from, scripture itself, for in order to extract truth from scripture, obedience to these moral commands is a necessary condition. This means that Henry, ironically, must rely on a moral law known apart from scripture in exegeting the scripture that he claims does not affirm the knowledge of the moral law apart from Scripture.

Conclusion

I have learned much from J. Budziszewski's work on natural law. His article is a wonderful summary of his wider body of work including his most recent book on the matter, *What We Can't Not Know: A Guide*.⁸ I hope that my comments help to contribute to the reader's understanding of Jay's work and its importance to both the Church and the body politic. I look forward to reading more of his insights in the years to come.

Notes

1. This section is adapted from my review of Larry Arnhart's book, *Darwinian Conservatism*: Francis J. Beckwith, "Natural Law Without a Lawgiver?," *Review of Politics* 68.4 (Fall 2006): 680-682.
2. Larry Arnhart, *Darwinian Conservatism* (Charlottesville, VA: Imprint Academic, 2005).
3. See, for example, C. S. Lewis, *The Abolition of Man* (London: Oxford University Press, 1943); Norman L. Geisler, *Thomas Aquinas: An Evangelical Assessment* (Grand Rapids, MI: Baker, 1991), 163-175; J. Daryl Charles, "Protestants and Natural Law," *First Things* 168 (December 2006): 33-38; Michael Bauman, *Pilgrim Theology: Taking the Path of Theological Discovery* (Grand Rapids, MI: Zondervan, 1992), 203-208; and Francis J. Beckwith and Gregory P. Koukl, *Relativism: Feet Firmly Planted in Mid-Air* (Grand Rapids, MI: Baker Book House, 1998).
4. See, for example, Alister E. McGrath, "Doctrine and Ethics," *Journal of the Evangelical Theological Society* 34.2 (June 1991): 145-56.
5. See, for example, David VanDrunen, *A Biblical Case for Natural Law* (Grand Rapids, MI: The Acton Institute, 2006); Alan F. Johnson, "Is There Biblical Warrant for Natural Law Theory?," *Journal of the Evangelical Theological Society* 25.2 (June 1982): 185-199.
6. Carl F. H. Henry, "Natural Law and a Nihilistic Culture," *First Things* 49 (Jan. 1995): 58.

7. Someone could argue that I am offering a hermeneutical principle rather than a moral one. But I do not think that is right. For these are not mutually exclusive, if one thinks that a proper approach to texts is part of what it means to be a virtuous person. After all, if we discovered that an interpreter of Scripture had been negligent, uncharitable, or dishonest in his biblical exegesis, we would not only suspect error in his interpretation, but we would also attribute to him a lack of personal virtue. This judgment would be at its root, moral.

8. Dallas, TX: Spence Publishing, 2003