Is Society-Centered Moral Theory a Contemporary Version of Natural Law Theory?

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ABSTRACT: David Braybrooke argues that the core of the natural law theory of Thomas Aquinas survived in the work of Hobbes, Locke, Hume and Rousseau. Much to my surprise, Braybrooke argues as well that David Copp's society-centered moral theory is a secular version of this same natural law theory. Braybrooke makes a good case that there is an important idea about morality that is shared by the great philosophers in his group and that this idea is also found in Copp's work. The idea is captured by the Functionalist Thesis, the thesis that moral propositions are made true by facts about what, given the nature of human beings and their circumstances, enables people to live together in thriving communities. I argue that Copp can accept Braybrooke's suggestion and use it to improve his formulation of the basic idea of the society-centered theory.

RÉSUMÉ: David Braybrooke soutient que l'idée centrale de la théorie du droit naturel de Thomas d'Aquin a survécu dans les œuvres de Hobbes, Locke, Hume et Rousseau. À mon grand étonnement, Braybrooke soutient aussi que la théorie morale société-centrique de David Copp est une version séculaire de cette même théorie du droit naturel. Braybrooke argumente de

façon convaincante que les œuvres de ces grands philosophes partagent une idée centrale relative à la moralité et que cette idée se retrouve aussi chez Copp. Cette idée est la Thèse Functionaliste, c'est-à-dire la thèse selon laquelle les faits moraux sont des faits concernant ce qui rend les membres de la société capables de vivre ensemble dans des communautés florissantes, étant donné la nature des êtres humains et les circonstances de leurs vies. Je soutiens que Copp peut reprendre à son compte les arguments de Braybrooke, et ainsi améliorer la formulation de l'idée centrale de sa théorie société-centrique.

In his insightful recent book on natural law theory, David Braybrooke argues for several important and surprising theses (2003). Most interesting and important is the thesis that the core of the medieval natural law theory that was expounded classically by Thomas Aquinas survived in the work of Thomas Hobbes, John Locke, David Hume and Jean-Jacques Rousseau (2003, p 4). Braybrooke also thinks that my own society-centered moral theory is a secular version of this same natural law theory (chap. 7). When I wrote *Morality, Normativity, and Society* (Copp 1995), I saw myself as working broadly within the Humean tradition, so it is not surprising that Braybrooke sees similarities between my view and Hume's. I was surprised, however, to find that Braybrooke sees me as sustaining the core ideas in a line of thought that goes back to medieval Christian philosophy and the work of Aquinas. Braybrooke remarks, generously, that my approach to moral theory provides state-of-the-art answers to some of the challenges facing natural law theory (p. 11).

My focus, in *Morality, Normativity, and Society*, was on the problems of moral theory

rather than on the history of thought about morality. I wanted to develop a position that would address both the central issues in metaethics – issues about the metaphysics and epistemology of moral discourse and the psychology of moral thought – and the central issue in normative moral theory, which I took to be to understand the truth conditions of moral claims. I did pay some attention to historical positions that conflict with mine. I discussed views of Aristotle, Kant, and Hobbes, for example. Yet my purpose was not the scholarly purpose of an historian of philosophy. Braybrooke is correct to say that I was not interested in considering historical precedents for the society-centered theory (p. 178). I saw myself as working in the Humean tradition, but whereas my own view is a version of moral realism, Hume is standardly or at least frequently taken to be a kind of anti-realist, as Braybrooke concedes (pp. 125-6). I saw my position as importantly different from Hume's.

Braybrooke makes a good case that there is an important common idea about morality that is shared by the philosophers in his group of five – Aquinas, Hobbes, Locke, Hume, and Rousseau. This is the idea that, in Braybrooke's words, "moral judgments [are founded] on what, given the nature of human beings and ever-present circumstances, enables people to live together in thriving communities" (p. 125). Let me call this the "Functionalist Thesis." Braybrooke sees it as a core element in what he calls "natural law theory," as he makes clear in many passages (eg. pp. 3, 33-34, 47-48, 125). If Braybrooke is correct that the philosophers in his group all accept the Functionalist Thesis, this is perhaps sufficient to justify seeing them as falling into an ancestral line. I also accept something similar to the Functionalist Thesis. It is a close relative of the basic idea lying behind the society-centered view. It therefore seems plausible that I share certain key ideas about morality with the group of five. If we permit Braybrooke to use the term "natural

law" to refer to these shared ideas, we can accept his description of my view as a contemporary version of natural law theory.

The basic idea motivating my society-centered theory is very simple. It is that the *point* of morality is to make it possible for groups of people living together in societies to get along together, to cope with the difficulties they have in common, and to work together cooperatively in a way that enables them to meet their needs and to live flourishing lives. It is plausible to think that such groups *need* a shared moral code to enable their members to get along together (and so on), and if we think of such groups as societies, then the thought is that *societies* need a shared moral code to enable this. It is natural as well to think that the currency of some possible moral codes would do better than the currency of some others at serving this point, by enabling such societies to get along (and so on). Then surely a society would be rational to choose a moral code that would serve this point better than the alternatives. It is a short step from this idea to the society centered theory. The theory says basically that a moral code is justified for a society if and only the society would be rational to choose it (in preference to any other such code) to serve as the societal moral code.[1] When combined with the standard-based theory of normative judgment, which I will explain in what follows, the society-centered theory says, very roughly, that moral truths express the implications of a justified moral code. For example, if the justified moral code prohibits theft, then it is true that theft is wrong. The idea here is similar to the idea at work in Braybrooke's Functionalist Thesis, as we will see in what follows.

Braybrooke does not merely want to say, however, that the philosophers in the group of five share the Functionalist Thesis. He defines a position he calls "Aquinas's natural law theory," which does not explicitly include the Functionalist Thesis. He argues that this theory is at the core

of the theories of his five philosophers and that my society-centered theory is a secular version of this same theory. What, then, does he have in mind? He holds that "Aquinas's medieval natural law theory" makes three chief claims (p. 3):

> first, there is a set of universally applicable moral rules, with principled allowances for variations in circumstances; second (another empirical thesis), people will thrive and their societies will thrive only if these rules prevail; and third (a further empirical thesis), human beings by and large are inclined to heed the rules.

Call these the "Central Claims." There are three questions that arise right away. First, is it accurate to hold that these are the chief claims of Aquinas's natural law theory? Second, how are we to understand the claims? Third, does society-centered theory accept all three?

The major problem with Braybrooke's view that these are the chief claims of Aquinas's theory is that the three doctrines do not include any reference to God. Nor, for that matter, does Braybrooke's formulation of the Functionalist Thesis. It is difficult for me to believe that God is not central to Aquinas's theory. I am not a scholar of Aquinas, and I do not want to second-guess Braybrooke's scholarship. Let me nevertheless register my skepticism. Certain familiar features of Aquinas's views can explain my doubt.

Aquinas held that "bliss" (*beatitudo*) is "our ultimate human goal," and that bliss "consists in that intellectual activity which first unites us to [God,] our ultimate external goal by giving us knowledge of [God]." He conceded that true bliss perhaps cannot be attained until "after this life," but he said that "an imitation of bliss is possible in this life if human beings perfect themselves in the goods firstly of contemplation and secondly of practical reason." This, he said, "is the happiness Aristotle discusses in his *Ethics*."[2] Happiness, then, requires attaining

knowledge of God to the extent possible in this life. Some years after writing these passages, Aquinas connected the idea of happiness or bliss with the idea of "God's law." In *Summa Theologiae*, he wrote of the "eternal law" or "God's law" as the standard by which human action is to be evaluated (ST, 1a2ae, Q.19, A.4, pp. 366, 369-70, 371-72). This law, he said, has "the binding force proper to it as law" due to the fact that "God implants it in our minds as something to be known by nature." And he wrote that "law must first and foremost be connected" with "our ultimate goal in life," which, he says, "is happiness or bliss." He also wrote that "since each human being is part of a complete self-contained community, law must be concerned with the happiness of that community." He added that "all law is ordered to the general good" (ST, 1a2ae, Q.90, A.2, A.4, pp. 412-413, 415-416). There is a duty, Aquinas said, to conform our willing to God's willing, and "God, as the maker and manager of the whole universe, wills what he sees to be good for the whole of that community" (ST, 1a2ae. Q.19, A.9, p. 378).

It is perhaps true that Aquinas also held, as Braybrooke claims, that the eternal law is a set of rules which are such that people will thrive only if these rules prevail (p. 3). My point is that reference to God appears to be central to Aquinas's thinking about morality. There are two key ideas. First, the moral law is binding due to the fact that God has promulgated it. Second, although the currency of the moral law does serve the general good of the human community, the good for humans is ultimately a matter of achieving knowledge of God. On the surface, then, if we delete reference to God from our account of Aquinas's natural law theory, we excise the heart of the theory. I do not mean to deny that there are important ideas in Aquinas's theory that can be put on a firm footing without relying on reference to God. Aquinas has a great deal to teach secular moral philosophy. Yet the positions he entertains are often closed to secular philosophers

because they rely on God.

Braybrooke has a different view. He thinks that the "core" of Aquinas's theory can be rescued from reliance on God. For, he argues, "the content of natural law can be arrived at without invoking the existence of God" (p. 9) and reference to God is not needed to explain the "authority" of natural law (pp. 30-37). These claims may be correct even if, as I think, God plays a highly important role in Aquinas's theory. Let me therefore set aside this issue about Aquinas's views. I will return to it briefly when I discuss how, in Braybrooke's view, a secular theory can account for the "authority" of natural law. Before looking at the issue of authority, however, I will consider Braybrooke's account of the content of natural law.

The Functionalist Thesis together with the three Central Claims yield Braybrooke's account of how the content of natural law can be arrived at. To explain this – and to come to terms with Braybrooke's claim that my society-centered theory is a version of natural law theory – I need to answer the two remaining questions about the Central Claims. How are we to understand the claims? Does the society-centered theory accept all three? I begin with the first of these questions.

The first of the Central Claims is the most difficult to understand, mainly because Braybrooke does not explain what he means when he writes of a "universally applicable moral rule." He does explain what he means by a *rule* (pp. 45-46). He says that a rule is an imperative that prohibits some type of action. When fully specified, such an imperative would include or be accompanied by a specification of the population to which it applies, a specification of the circumstances in which it applies, and a specification of all (known) exceptions. For instance, if the set of universally applicable moral rules contains a rule against theft, the rule would be

addressed to a population and it would be suitably qualified as to the circumstances in which it applies and as to the exact kind of action it prohibits. It would be of the form, "To those in population P: do not take another's (qualified) property in circumstances C." In general, the rules at issue could be represented as being of the form, "To population P: do not do acts of type N in circumstances C" (p. 46). Unfortunately, Braybrooke does not say what he means by a *moral* rule nor by a *universally applicable* moral rule. But perhaps the basic idea is clear enough. I shall assume that a rule is an *applicable moral rule* in the relevant sense just in case it is morally obligatory for those in population P to comply with it – that is, it is morally obligatory that those in P not do acts of type N in circumstances C. And I shall assume that such a rule is *universally* applicable just in case the specified population P is the population of all human beings. On this reading, the first of the Central Claims is the thesis that there are certain types of action and certain circumstances such that all human beings are morally obligated not to perform actions of that type in those circumstances.

This thesis is very widely held and it is enormously plausible. Certain kinds of relativists would reject it, of course, but utilitarians accept it, as do Kantians, contractarians, and those who accept a common sense deontology. Among those who accept it are John Stuart Mill, Henry Sidgwick, G.E. Moore, W.D. Ross, and Alan Donagan. I believe that most contemporary philosophers working in the analytic tradition would accept it. Torture is morally wrong, and it is plausible that all human beings are morally obligated not to torture, at least in most circumstances. Anyone who agrees with this is committed to the first thesis of natural law theory.

The remaining two claims are also extremely plausible when they are understood as empirical generalizations. Despite the significant theoretical differences among the moral theories

and philosophers I listed in the preceding paragraph, it is arguable that the kinds of action that the theories in question say to be obligatory are kinds of action that people tend, as a matter of fact, to perform, so that the corresponding rules tend to prevail in most societies. (This may be less plausible in the case of utilitarianism than, for instance, in the case of common sense deontology.) Furthermore, it seems plausible that the ability of people and their societies to thrive depends to some extent on whether these moral rules prevail. Moreover, it is surely true as well that human beings in general are inclined to comply with them, whether reflectively or merely as a result of heeding local conventions. For instance, it is plausible that the ability of people and societies to thrive depends to some extent on torture's being a rare practice and it is plausible as well that people on the whole are reluctant to engage in torture.

It appears, then, that natural law theory, as Braybrooke formulates it in terms of the three Central Claims, is not enormously controversial. It is the conjunction of a widely accepted thesis in normative moral philosophy with two reasonably plausible claims in empirical psychology and sociology. Some would reject it, of course, but it is tempting to say that it is the default position in moral theory. It should not be surprising, then, if the society-centered theory supports it. Braybrooke points out that it is not an easy matter to determine which moral rules are universally applicable (p. 3). But the Central Claims do not include a list of universal rules. There is simply the claim that there are such rules together with two empirical claims about them.

Braybrooke views natural law theory as much more substantive and controversial than we have managed so far to make out, so it seems that his three Central Claims do not successfully capture the heart of the theory as he understands it. There are two points. First, Braybrooke views natural law theory as a kind of moral realism (pp. 11, 125), but his three Central Claims

could be accepted by an anti-realist. A non-cognitivist denies that the state of mind of a person who accepts a moral judgment is a belief, properly so called, and she denies that there are metaphysically robust moral truths.[3] Yet, although I won't go into detail to explain this point, a non-cognitivist could accept that all human beings are morally obligated never to torture. She could say, on this basis, that there is at least one "universally applicable" moral rule. And nothing prevents a non-cognitivist from accepting the two remaining Central Claims as empirical generalizations. Something therefore needs to be added to the Central Claims if natural law is to be a kind of moral realism. The second point is that the Central Claims do not entail the Functionalist Thesis that "moral judgments [are founded] on what, given the nature of human beings and ever-present circumstances, enables people to live together in thriving communities" (p. 125). The Central Claims say nothing about the "founding" of moral judgments. Hence, something also needs to be added to Braybrooke's Central Claims if natural law is to capture the Functionalist Thesis. There are therefore two gaps in the Central Claims.

Unfortunately, Braybrooke does not explain what he means by the "founding" of a moral judgment, so the Functionalist Thesis is somewhat mysterious. But his discussion of the content of natural law suggests that he understands the Functionalist Thesis as a thesis about the truth conditions of moral propositions. I shall take it to be the claim that facts about what, given the nature of human beings and ever-present circumstances, enables people to live together in thriving communities constitute the truth conditions of moral propositions. That is, such facts are the truth-makers for moral propositions. I propose adding the Functionalist Thesis, so understood, to the Central Claims. On my formulation, moreover, the Functionalist Thesis plausibly entails moral realism, so we can address both of our gaps with this one addition. I shall therefore assume that

there are four Central Claims, with the Functionalist Thesis, formulated as follows, being the fourth: Moral propositions are made true by facts about what, given the nature of human beings and ever-present circumstances, enables people to live together in thriving communities.

This interpretation seems to fit with Braybrooke's intentions. Immediately following his statement of the Central Claims, Braybrooke writes that the second and third claims are "the criteria by which the rules falling under the first are identified" (p. 3). The idea appears to be that the truth of the two empirical claims – the claim that there are rules such that people and their societies will thrive only if these rules prevail and the claim that human beings by and large are inclined to heed the rules – provides "the criteria" by which the universally applicable rules are identified. Now it is not clear whether Braybrooke has in mind an *epistemic* criterion – an indicator of what the rules are – or a *metaphysical* criterion – a truth-maker for the thesis, regarding a set of rules, that this is the set of universally applicable rules. In light of what we have been saying about the Functionalist Thesis, however, the metaphysical reading is the more plausible. Braybrooke appears to think that the truth of the two empirical claims makes it the case that the rules of which they are true are universally applicable.

On this reading, the rule against torture is universally applicable, if it is, because, first, people must respect this rule in order that they and their societies may thrive, and, second, people by and large are inclined to respect it. Imagine, then, a possible world in which the very rules that are universally applicable in the actual world as we know it are <u>not</u> such that people's thriving depends on their currency or that people are largely inclined to heed them. Braybrooke thinks that the people in that world would have to be very different from actual human beings (pp. 40-41), for he says that the second and third theses are made true by "the nature or essence of human

beings" (p. 39). Nevertheless, if the second and third of the Central Claims are "the criteria by which the rules falling under the first are identified," then presumably, in such a world, some <u>other</u> set of rules would be "universally applicable." Which set of rules? Presumably it would be a set of rules such that, in that world, people's thriving depends on their currency and people are largely inclined to heed them.

The original three Central Claims are concerned with universal moral *rules* whereas the Functionalist Thesis is concerned with the truth conditions of moral *propositions*. What, then, is the connection between the original three claims and the Functionalist Thesis? I have already implicitly made the connection in interpreting the first of the Central Claims. I assumed that a rule to the effect that the Ps are not to N in C is an *applicable moral rule* just in case it is morally obligatory that the Ps not do acts of type N in circumstances C. In making this assumption I assumed, in effect, that a moral rule to the effect that the Ps are not to N in C "founds" the truth of a proposition to the effect that it is morally obligatory that the Ps not do N in C just in case the rule has the status of being "applicable." The Functionalist Thesis can now be viewed as explicating the status that a rule can have of being applicable. The basic idea here meshes smoothly with the standard-based theory of normative propositions that I defended in Copp 1995. That theory explicates the truth conditions of moral propositions in terms of the status or standing of relevantly corresponding moral rules or standards. This is one place in which my work meshes nicely with Braybrooke's account of natural law theory. Let me explain.

The standard-based theory rests on a distinction between *moral propositions* – such as the proposition that torture is wrong – and *moral standards* or *norms* – such as the standard prohibiting torture that is expressed by the imperative, "Do not torture anyone!" On the one

hand, moral propositions, like any propositions, are potential objects of belief. They have truth

values, and they are expressed by indicative sentences, such as, in my example, the sentence,

"Torture is wrong." On the other hand, as I say in Copp 1995, "A standard is a norm or a rule,

expressible by an imperative" (p. 9). Standards are not objects of belief. Most of us presumably

subscribe to the standard that prohibits torture in that, among other things, we are inhibited from

torturing and would feel guilty if we were to be involved in torture, but it makes no sense to

suppose that someone believes a standard. Nor do standards have truth values. They are

expressed by imperatives, and imperatives do not represent the world as being one way or another

and therefore cannot intelligibly be supposed to represent accurately or inaccurately. Accordingly

they are neither true nor false. The standards referred to in my theory are presumably what

Braybrooke has in mind in speaking of "rules."

The standard-based theory proposes a schema or a pattern for giving the truth conditions

of moral propositions in terms of the relevant status of corresponding moral standards or rules.

Applied to the proposition that torture is wrong, the theory says the proposition is true just in

case the corresponding standard, the aforementioned rule that prohibits torture, has a relevantly

authoritative *status* or *standing*.[4] In Copp, 1995, I spoke of this status as the status of being

justified, but this detail is unimportant for present purposes.[5] The key idea is that there is *some*

status such that when a moral standard enjoys that status, the fact that it does underwrites the

truth of corresponding moral propositions. Call this the "truth-grounding status." It is an

important question what the relevant status might be, but we can separate it from the basic idea of

the standard-based theory since different accounts of this status can be fitted to the theory.

The schema proposed by the standard-based theory is intended to be applicable, with

appropriate modifications, to laying out the truth conditions for any kind of normative proposition in terms of a relevant truth-grounding status of corresponding standards of the appropriate type. The schema says that a (*basic* and *pure*) normative proposition of type K is true if and only if a corresponding standard of type K has the K-relevant truth-grounding status.[6] The schema can be applied to propositions of etiquette, for instance. So applied, it says that a (basic and pure) proposition of etiquette, such as the proposition that it is impolite to wear hats indoors, is true if and only if a corresponding standard of etiquette, in this case the rule that could be expressed by the imperative, "Do not wear hats indoors!" has the etiquette-relevant status. There is room for debate about what this status might be, but, in the case of etiquette, it might simply be a matter of the rule's having the familiar kind of cultural currency. One might think there is more to it than this, however. For the point of etiquette is to contribute to comfortable and pleasing social interaction. In a culture where there are conventional rules of the kind at issue, the culture will be such that compliance with these rules will make for comfortable and pleasing social interaction. There will be a widely accepted second-order standard, which we could call the "standard of politeness," that calls on people to comply with the local first-order standards of conventionally acceptable behavior, such as the rule about hats. This second-order standard is relevantly authoritative in virtue of the fact that compliance with the first-order rules helps to make for comfortable and pleasing social interaction. Elsewhere, I have called this the "social interaction theory" of politeness (Copp 2007c). Combined with the standard-based theory, the theory implies that the proposition that one ought (as a matter of etiquette) to comply with the local conventional rules is true just in case compliance with the corresponding standard, the standard of politeness, helps to make for comfortable and pleasing social interaction.

Let me return now to morality. The society-centered moral theory is a theory about the status that a moral standard must have in order that corresponding moral propositions be true. Braybrooke's natural law theory can also be viewed in this light – taking the theory to consist in the three original Central Claims plus the Functionalist Thesis. Viewed in this way, Braybrooke's theory differs from the society-centered theory in certain ways, but not, perhaps, in crucially important ways. The similarities may be more important than the differences.

According to the Functionalist Thesis, moral propositions are made true by facts about what, "given the nature of human beings and ever-present circumstances, enables people to live together in thriving communities." According to the other Central Claims, certain universal moral rules are such that their currency in societies enables those societies to thrive. In brief, then, Braybrooke's natural law theory links the truth conditions of moral propositions to the status that corresponding rules have when their currency in society enables those societies to thrive.

The society centered theory, as I originally presented it in Copp 1995, links the truth conditions of moral propositions to the status that corresponding rules have when the society would be *rational to choose* them to serve in the society as the societal moral code.[7] On the surface, this account is very different from the account proposed in Braybrooke's natural law theory. However, I understand the rationality of a society's choice to depend on whether the choice would serve the society's needs and enable it to serve its values. It is certainly plausible, moreover, that a society cannot thrive unless it can meet its needs and serve its values. Braybrooke does not provide a general account of what he had in mind in writing of a society's "thriving," but he does discuss in some detail the conditions under which, in his view, certain rules would qualify as universal natural laws, and he makes it clear that he takes this to turn on whether

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their currency would enable the members of the society to meet their basic human needs (pp. 157-62, 239-41). People clearly need to be able to meet their needs if they are to thrive, and as I have argued (Copp, 1995), societies must enable their members to meet their needs in order to meet their own needs, and so in order to thrive themselves. The accounts are therefore similar once one looks beneath the surface.

To summarize: The society centered theory links the truth conditions of moral propositions to the status that corresponding standards have when their serving in a society as the societal moral code would enable the society better to serve its needs and to further its values than would the currency of alternative sets of rules. Braybrooke's natural law theory links the truth conditions of moral propositions to the status that corresponding standards have when their serving in a society as the societal code would enable those societies to thrive. But since a society cannot thrive unless it can meet its needs and further its values, the theories are strikingly similar. It therefore seems appropriate for Braybrooke to say that my theory is a version of natural law theory as he understands it.

I need to mention one caveat, although I cannot go into detail. On my approach, and I believe also on the approach taken by Braybrooke's natural law theory, moral properties are best treated as relations. Strictly speaking, wrongness, for example, is always wrongness relative to a given society. (In a similar way, weight needs to be understood as weight relative to a given gravitational field. Something that has a certain weight on Earth would have a different weight on Mars.) An action that is wrong relative to the moral code that is justified for a given society might not be wrong relative to the moral code that is justified for a different society.[8]

Given this, it is difficult to be confident of the first of Braybrooke's Central Claims, the

thesis that there is a set of universally applicable moral rules (with principled allowances for variations in circumstances). If I am correct, to say that a rule is "universally applicable" is to say, in the language of the standard-based theory, that the rule is justified or truth-grounding relative to every society so that it is morally obligatory relative to every society that the members of the society comply with the rule. That is, as I said before, the first Central Claim is the thesis that there are certain types of action and certain circumstances such that all human beings are morally obligated not to perform actions of that type in those circumstances. Given however that societies can be in very different circumstances, it seems likely that their needs will be served by the currency of different rules. Can we be confident, given this, that there nevertheless are certain rules the currency of which best serves the needs and values of every society? Or, for that matter, employing Braybrooke's formulation, can we be confident that there are certain rules the currency of which is needed in every society to enable the society to thrive? On both views – the society-centered view and the natural law view proposed by Braybrooke – this will be an empirical matter. Braybrooke makes a plausible case for an affirmative answer (pp. 155-177).

Let me now turn to the question of how a secular natural law theory can account for the "authority" or "normativity" of morality. One might think that neither my society-centered account nor Braybrooke's similar natural law account of the truth conditions of moral propositions can account for this. According to Aquinas, as we saw, the moral law is binding due to the fact that God has promulgated it. Braybrooke contends, however, as we saw, that we can explain the authority of natural law without reference to God. The question I now want to address is how natural law theory can do this.

Braybrooke sees my society-centered account as retaining a vestige of Aquinas's view.

He sees me as "in the grip of the notion that justified rules presuppose some unique legislating authority, with social choice serving as a vestige of the Divine choice" (p. 11, see also pp. 185, 191-192). He thinks that I am "combining with a vestige of divine legislative authority a vestige of theological voluntarism" (p. 12). Hence, he asks me to clarify why I think that "a backing in social choice may be required for a standard" to qualify as justified or authoritative or as binding (p. 185). Braybrooke seems to misunderstand the society-centered theory on this point, however.

In theological voluntarism, God's *actual* commands or wishes or "promulgations" make something obligatory. But in the society centered theory, nothing needs *actually* to be chosen by anyone in order for a set of standards to qualify as justified or to have the relevant truth-grounding status. The view is that the justified moral standards for a society are those the currency of which the society *would* be rational to choose. In my view, the rationality of a choice depends on its serving the needs and values of the chooser. Moreover, all societies have the same needs. And societies are not the kinds of things that have non-moral values by and large, and in assessing whether a moral code qualifies as justified for a society, we discount the society's moral values (Copp 1995, pp. 197-198). Hence, societies that are in similar circumstances would generally be rational to choose in similar ways. Voluntaristic choice does no work in the theory. The work is done by the standards of rational choice.

The societal choice of a moral code that is alluded to in the society-centered theory is a merely *hypothetical* choice.[9] Braybrooke sees this (p. 191). The issue is what a society *would* be *rational* to choose, not what the society *has* chosen. It puzzles me, then, that Braybrooke talks as if the code that qualifies as justified for a given society, under the society-centered theory, will have been ratified with near-unanimity by the members of the society (p. 192). This idea raised

for him worries about the motivations these individuals might have in so ratifying the code (pp. 192-194). He worries that the society-centered theory places "no restrictions on the motivations of the agents taking part in the social choice of a moral code" (p. 12). As I have been saying, however, there is no reference to any actual choices in the society-centered account. Moreover, the idea is that a moral code qualifies as justified for a given society when the *society as a whole* would be rational to choose it to serve as the societal moral code, which requires that its so serving would serve well the *society's* needs and non-moral values (if any). A society's values are long-standing stable features of its culture. Neither a society's needs, nor its non-moral values (if any), are a function of the specific variable motivations of members of the society.[10]

If we think about the possibility of moral error, moreover, it will be clear that a plausible society-centered theory must allow a moral code to qualify as justified for a given society even if the society's members would reject it. A moral code that permits birth control might be the one that the society would be rational to choose, given its needs, even though its members actually subscribe to a code that prohibits birth control. They might be so firm in this that there is very little prospect in the near term of their being open to the idea of permitting birth control.

I hope it is clear, then, that I do not think, as Braybrooke suggests I might, that "justified rules presuppose some unique legislating authority." This can be seen in another way, if we consider the social interaction theory of etiquette. Nothing plays the role of a legislator in that theory. This shows that I do not think in general, with respect to standards of every kind, that the actual or hypothetical choice of a legislator, or of anything analogous to a legislator, needs to be referred to, in order to explain the truth-grounding status of standards of that kind. The social interaction theory does not ground etiquette in choice. Why, then, did I construct the society-

centered theory the way I did, giving a central role to the idea of rational choice by society?

The society-centered theory is reductionist in the sense I explained in Copp 1995 (pp. 54-56). It "reduces" the normativity of morality to the normativity of rational choice. The appeal of reductionist theories is that they put off to another day the difficult question of whether it is possible to explain normativity in a fundamental way, or whether, instead, normativity must be left as an unexplained primitive. Consider the larger picture. To yield truth conditions for a type of normative proposition, the standard-based theory needs to be combined with a theory regarding the truth-grounding status of the corresponding type of standard. This is illustrated by the combination of the standard-based theory with the social interaction theory of etiquette and by the combination of the standard-based theory with the society-centered theory of morality. Both reductionist and non-reductionist "theories of justification" aim to explain the truth-grounding status of standards of the relevant kind, but in doing so a reductionist theory invokes standards of some other kind, which are presumed to be independently justified on some basis, whereas a non-reductionist theory does not (Copp 1995, pp. 54-56). The social interaction theory of etiquette is non-reductionist. The society-centered theory is reductionist since it invokes a standard of rational choice. It is akin to other reductionist theories in ethics, for the strategy they share, as seen through the lens of the standard-based theory, is to explain the truth-grounding status of moral standards in terms of the rationality of certain choices. Contractarian theories in ethics are an example (e.g. Gauthier 1986). The key point is that reductionist theories in ethics aim to reduce moral normativity to the normativity of rational choice.

In Copp 1995, I argued that reductionist theories in ethics have an advantage over non-reductionist theories. Any theory of moral justification must somehow support its proposed

account of the truth-grounding status of moral standards. I thought that reductionist theories have the advantage that they do not need to explain moral normativity from the ground up. Their building blocks include a normative theory of rationality (Copp 1995, pp. 56-58, 117-118). I now think that I was mistaken to suppose that this is an advantage. A reductionist theory must eventually face up to the challenge of defending the theory of rational choice that it presupposes.

Moreover, I now think that the society-centered theory is best formulated as a non-reductionist theory. The basic idea that supports the society centered theory is that any society *needs* to have a societal moral code in order to enable its people to get along together (and so on), and that some possible social moral codes are such that their currency would do better at enabling this. It is because of this that, if I am correct, a society would be *rational* to choose to have a societal moral code. I would still say that it would be rationally advisable for a society to choose the societal moral code that would best enable it to meet its needs. Nevertheless, the basic idea lying behind the society-centered theory can be captured in a non-reductionist theory without alluding to the *rationality* of meeting needs. In recent work where I have applied the society-centered theory, I have emphasized the point about the societal need for a social moral code. I have been implicitly using a non-reductionist version of society-centered theory (eg. Copp 1999).

Braybrooke sees that the basic idea of society-centered theory would be preserved in a non-reductionist formulation, and he recommends, in effect, that I reformulate the theory accordingly (pp. 186-187). In brief, the reformulated view explains the truth conditions of moral propositions in terms of the status that moral standards have when their serving as the societal moral code in a given society would enable the society better to meet its needs and further its non-moral values than would alternative sets of rules. Call this "the basic society-centered view" since

it answers to the basic idea that motivated the society-centered theory.[11]

This move, from the original theory – the reductionist theory that I proposed in Copp 1995 – to the non-reductionist theory I have just stated – the basic society-centered theory – has an important theoretical advantage. Braybrooke points this out, following Richmond Campbell (pp. 188-189; Campbell, 1997). The original society-centered theory rested on a theory of rational choice that I called the "needs and values theory." On my own views, this theory presupposes that a corresponding standard of rational choice is appropriately justified, or has a relevant truth-grounding status, such that, for example, the proposition that we are rationally required to seek to meet our needs qualifies as true.[12] But then if the justification of that standard rests on some further standard, which must in turn be justified in order to secure the justification of the standard of rational choice, and so to secure the justification of the moral standards with which we began, we are on the road to a regress. I argued in the book that such a regress is not vicious. Yet the *basic* society-centered view explains the justification or truth-grounding status of moral standards without invoking a standard of rational choice. It simply holds that moral standards have the relevant truth-grounding status when their serving as the societal moral code in a given society would enable the society better to meet its needs and further its values than would alternative sets of rules. This reformulated view thereby avoids the worry about a regress of justification.

None of what I have been saying, however, answers the challenge, which is faced both by the basic society-centered theory and by any secular natural law theory, of explaining the normativity or authority of morality. Since these theories are secular, they must answer the challenge without relying on the idea that God promulgated the moral law, and since the theories

are non-reductionist, they must answer the challenge without invoking a conception of rational choice. Here, as in so many other places, I think Braybrooke and I are in agreement. According to the Functionalist Thesis, moral propositions are made true by facts about what, "given the nature of human beings and ever-present circumstances, enables people to live together in thriving communities." According to the basic society-centered view, moral propositions are made true, at root, by facts about the content of the moral code the currency of which in society would best enable people to get along together, to cope with the difficulties they have in common, and to work together cooperatively in a way that enables them to meet their needs and to live flourishing lives. On these views, this is sufficient to explain the normativity of morality, and it is a mistake to think that something more is needed. These accounts of the truth conditions of moral propositions *are* accounts of the authority of morality. On these views, morality is authoritative or normative *because* it is a system of rules the currency of which "enables people to live together in thriving communities."

This of course is a dogmatic and oversimplified statement of the position that Braybrooke and I share. One can raise further questions. One can ask whether it is rational to be moral. One can ask whether it is a necessary truth that rational persons take their beliefs about their moral reasons into account in decision-making. On the position that Braybrooke and I share, however, these questions concern the relation between two normative concerns, morality and rationality. The authority of morality does not rest on our answers to these questions any more than the authority of rationality rests on whether moral persons would necessarily be rational. This at least is the basic idea, although obviously there are subtleties that I cannot address here.[13]

Braybrooke is very generous to point out a variety of ways in which natural law theory

can be strengthened by adopting some of the ideas I used in developing the society-centered theory and the standard-based theory. I want to conclude by pointing out that there is also a variety of ways in which Braybrooke's development of natural law theory can be used by me in supporting, elaborating, or improving, my own view. I have already happily taken some of his ideas on board, such as his idea that I might replace the original society-centered view with the reformulated basic society-centered view. But there is more.

For one thing, Braybrooke discusses in some significant detail the empirical grounds for thinking that various rules, such as certain rules governing property, would be part of a justified moral code in most societies (pp. 155-177). His discussion is shaped of course by a concern with what kinds of rules are such that their currency would enable a society to thrive, whereas my concern is with meeting the needs of societies. But the two concerns boil down to largely the same thing, so his discussion is helpful to me.

For another thing, as Braybrooke points out, I say little about what features of human psychology would motivate people to subscribe to justified moral standards (p. 185). Braybrooke has helpful and important things to say in this regard about the significance of compassion and care and about the central role of moral education. A plausible candidate for a justified or authoritative moral code must be one that people can become motivated to subscribe to, given fundamental facts about human psychology, setting aside, however, their pre-existing moral attitudes, which might after all be misguided.

I was surprised and delighted to learn that Braybrooke thinks that the society-centered moral theory is a version of the secular core of natural law theory that he traces in an ancestral line stretching from Rousseau, Hume, Locke, and Hobbes back to Aquinas. Braybrooke makes a

strong case that there is an important common idea about morality that is shared by these philosophers. This is the idea that is encapsulated in the Functionalist Thesis, the thesis that moral propositions are made true by facts about what, given the nature of human beings and ever-present circumstances, enables people to live together in thriving communities. This is not exactly the view that I propose, in defending the society-centered theory, but it is a close cousin.

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1.   In sketching the theory in this paper, I simplify in various ways. For instance, I ignore the possibility that different moral codes might be equally rational for a society to choose. I have discussed this issue elsewhere (Copp 1995, pp. 198-199; 2007a, pp. 17, 243).

2.   Aquinas 1993, pp. 320-323, 325-326, 340. These passages are from the Commentary on Book 4 of Peter Lombard's Sentences, distinction 49.1, Question 1, Article 1, replies to queries 2, 3, and 4 and Article 3, reply to query 4. All other references in this paper to works of Aquinas are to Summa Theologiae, which is abbreviated in parentheses in the text as "ST," with "Q.x, A.y" abbreviating "Question x, Article y," and with pagination from Aquinas 1993.

3.   On moral realism, see Sayre-McCord 2006. On non-cognitivism, see Blackburn 2006. See also Copp 2006a.

4.   What kind of correspondence do I have in mind between a standard and a "corresponding" proposition? The example illustrates the idea. But it is difficult to generalize since we need to account for propositions about what ought to be done, about the good, about the virtues, and so on, and this might not be straightforward. I discuss this issue in Copp 1995, but more needs to be said about it.

5.   I am ignoring the distinction between "type-one" normative propositions and "type-two"

normative propositions (Copp 1995, pp. 22-24). The basic idea is that in some cases the

mere currency in an appropriate sort of group of a relevant kind of standard might make a

corresponding normative proposition true. For example, the mere currency in a culture of

a norm against wearing hats indoors might make it true that it is impolite to wear hats

indoors. This is a crude account of etiquette, but see the next paragraph.

6.   If we deleted the restriction to "basic" and "pure" normative propositions, the

biconditional would not be accurate, as is revealed by the following examples. (1)

Stealing is wrong and Smith stole Jones's car. (2) Smith was wrong to steal Jones's car.

(3) Stealing is wrong or Smith stole Jones's car. Proposition (1) entails that Smith stole

Jones's car, and (2) at least presupposes this. Hence, neither (1) nor (2) is true simply on

condition that a moral standard prohibiting stealing has the relevant truth-grounding

status. And (3) may be true even if stealing is not wrong. We can say, nevertheless, that a

"basic" and "pure" normative proposition of type K is true if and only if a corresponding

standard of type K has the K-relevant truth-grounding status. A "pure" normative

proposition of type K has no non-K-normative entailments or presuppositions (other than

those given by the standard-based theory itself). A 'basic' normative proposition of type

K ascribes a K-property to something. The proposition that stealing is wrong is both basic

and pure. Propositions (1) and (2) are impure and (3) is not basic.

7.   For an alternative approach, see below.

8.   This point is explained in some detail in Copp 1995. The book also addresses a variety of

worries about relativism (pp. 218-223; see Copp, 1997).

9.   The only reason I had for discussing actual societal choice in my book was to explain

hypothetical societal choice; if we understand modality in terms of possible worlds, then a choice that is hypothetical in this world is an actual choice in another possible world.

10. In Copp 1995, I said, "The characteristics of particular individuals that might explain their accepting a given code or that might give them non-epistemic reasons for subscribing to it would not be relevant to determining whether the code is justified" (p. 116). Whether a code is justified depends instead chiefly on issues about the society's needs.

11. For more about this, see the introduction to Copp 2007a.

12. I note this in Copp 1995 (p. 168). I provide a sketch of such a theory in Copp 2007c.

13. For a more nuanced discussion of these issues, see Copp 2007b, 2009a, and 2009b.