Chapter Nine

Aquinas, Finnis and Non-naturalism

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1. Introduction

John Finnis's work on natural law ethics (developed and refined with the help of several key collaborators, most notably Germain Grisez and Joseph Boyle), over the past three decades, has been a source of controversy (both meta-ethical and normative) in neo-Thomist circles.[1] In analytical circles too, especially in analytical jurisprudence, his work has also been a source of controversy. (I am not here alluding to populist controversies that have resulted from the use of some of his arguments in the "public square" on the topics of abortion, homosexuality, coitus, and so on, although they too are phenomena that stem from the broad reach of his discourse).

Finnis's work is oftentimes a genuinely interesting source of controversy because he is a thinker who has challenged a common key assumption of both neo-Thomism and Analytical Philosophy, namely, that a natural law ethics (at least one worthy of being called such) *must* be based on an appeal to some form of ethical naturalism – that natural law is, at bottom, an ethics that seeks to derive or infer normative "ought" type statements from descriptive "is" type statements. Coming to terms with the nature of Finnis's work has been a challenge for scholars from different philosophical traditions because his own writing has drawn from a variety of different sources and influences. He has, for example, used many insights drawn from or inspired by Aquinas to challenge some of the neo-orthodoxies of contemporary moral philosophy, especially its enduring infatuation with different forms of emotivism or subjectivism. On the other hand, Finnis's work has also been influenced by the weave of meta-ethical discourse arising out of twentieth century analytical philosophy.[2]

Because of Finnis's appropriation of influences – both Thomist and Analytic – this would seem to be more than enough to classify him as an *Analytical Thomist*, at least according to the guidelines given by John Haldane, whom in 1997 first coined the phrase to describe the crisscross of influence between Thomism and Analytical Philosophy.[3] When looking at the work of Finnis and then reflecting on the term *Analytical Thomism*, it strikes me as both noteworthy and praiseworthy that the term's frame of reference (at least as used by Haldane) is decidedly latitudinarian. There are no strict tests laid down for inclusion or exclusion. Thus when applied to a consideration of some of the major divisions being used in contemporary meta-ethical theory, the term's aegis is broad enough to include an objectivist-cognitivist
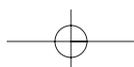
approach to meta-ethics that could be either naturalistic or non-naturalistic (I would, however, strongly doubt that the term could be further broadened to include any style of ethical theory that rejects the claim that ethics is ultimately grounded on an objectively structured moral order accessible to human reason.)

An examination of the contribution of Finnis to natural law ethics, then, is apropos for a collection of essays on Analytical Thomism because he is recognized as a jurisprud-philosopher whose mode of approaching philosophy, with its emphasis on the unaided or autonomous use of human reason, is helpful in promoting an understanding of natural law ethics across different philosophical traditions. His approach is also especially useful in the context of trying to make a natural law based ethics more accessible to people who reject the traditional allegiance of natural law with the truths of revealed theology (thus taking the sting out of the quip, once popular among secular moralists, that natural law theory was "baptized reason"). He is well-known for his clear commitment to arguing for the open accessibility of a natural law based ethics thereby defending it against the claim that it cannot function as a basis for "publicly reasonable" discourse in contemporary pluralistic society.[4] This points to an important time honored use of the term "natural" that renders intelligible Finnis's commitment to the phrase "natural law," despite being a meta-ethical non-naturalist – the contrast between the "natural" and the "supernatural." Natural law *qua* natural should not be conceptually confused with any form of supernaturally imposed extrinsicism – whether of divine reason (the eternal logos) or of the divine will (divine command theory). Finnis's work then is "ripe" for engagement is a book devoted to an exploration of different themes in Analytical Thomism.

In this chapter I seek to examine the credibility of Finnis's basic stance on Aquinas that while many neo-Thomists are meta-ethically naturalistic in their understanding of natural law theory (for example, Heinrich Rommen, Henry Veatch, Ralph McInerny, Russell Hittinger, Benedict Ashley and Anthony Lisska), Aquinas's own meta-ethical framework avoids the "pitfall" of naturalism.[5] On examination, the short of it is that I find Finnis's account (while adroit) wanting in the interpretation stakes vis-à-vis other accounts of Aquinas's meta-ethical foundationalism. I think that the neo-Thomists are basically right to argue that for Aquinas we cannot really understand objective truths about moral standards unless we derive them from our intellective knowledge of natural facts as given to us by the essential human nature that we have. (A position, I think, very close to that of Aristotelian-functionalism.)

While I find Finnis's interpretative position on Aquinas wanting, I go on to argue that his own attachment to non-naturalism is justified and should not be jettisoned. Because I think non-naturalism important to the future tenability of a viable natural law ethics (an ethics that is *both* cognitive and objectivist), I argue that Finnis should, so to speak, "beef up" his "fundamental option" for non-naturalism and more fully avail himself of certain argumentative strategies available in its defense, argumentative strategies that are inspired by the analytical philosophy of G. E. Moore.

2. Naturalism and Neo-Scholasticism

Some neo-scholastic natural law thinkers like Heinrich Rommen, Henry Veatch and Ralph McInerny, according to Finnis, invoke the authority of Aquinas in support of their own naturalistic meta-ethical reading of natural law fundamentals.[6] A common core of argumentation running through their approaches to natural law theory is that they all, ultimately, seek to derive moral norms from their interpretation of factual-descriptive propositions about human nature. According to their shared approach, practical reasoning (*ratio practica*) – reasoning about what ought-to-be-done by the agent – necessarily hinges on what is variously termed "theoretical" or "speculative" reasoning – reasoning about the "is" of human nature. They argue that we derive ethical norms from our prior factual-theoretical knowledge of what human beings are *in essentialibus*. We understand the origination of ethical norms when we understand the natural ordering of our inclinations as given to us by our ontological make-up.

For Finnis, many neo-scholastics take it as a near given that human acts in conformity with the trajectories of nature (as theoretically understood), are morally good, and acts not in conformity with nature, so understood, are morally bad. They argue that Aquinas's first principle of practical reason – "bonum est faciendum et prosequendum et malum vitandum" (good is to be done and pursued and evil avoided) – is a moral command incumbent on the agent to pursue and promote the given trajectories or functions of human nature.[7] Thus we establish what is normatively good for us by metaphysical inquiry into the structures of human nature.[8]

Regarding the metaphysical naturalism of neo-scholasticism, Finnis thinks that there is good reason to reject its tenability as a meta-ethical foundation. Post-Enlightenment philosophy has, he believes, rightly rejected the soundness of any appeal to the metaphysical facts of nature as being an adequate meta-ethical basis for warranting the inference of valid ethical norms. For Finnis, the meta-ethical approach of neo-scholasticism falls afoul of this charge because it illicitly attempts to derive (infer/deduce) moral norms from a series of factual-theoretical premises about what is.[9]

Finnis and the neo-scholastics at least agree that the *locus classicus* of the dispute over the tenability of naturalism can be traced back to a key passage in David Hume's *Treatise of Human Nature*:

> In every system of morality I have hitherto met with, I have always remark'd that the author proceeds for some time in the ordinary way of reasoning, and establishes the being of a God or makes observations concerning human affairs; when of a sudden I am surpriz'd to find, that instead of the usual copulations of propositions *is* and *is not*, I meet with no proposition that is not connected with an *ought* or *ought not*. This change is imperceptible, but is, however, of the last consequence. For as this *ought* or *ought not* expresses some new relation or affirmation, 'tis necessary that it should be observ'd and explain'd; and at the same time a reason should be given for what seems altogether inconceivable, how this new relation can be a deduction from others which are entirely different from it.[10]

Hume's central point was that if you want to give a valid argument for a normative

conclusion, you will need to start, at the very outset, with a normative premise. Finnis certainly interprets Hume as meaning something like this. From non-normative premises (about what is), we cannot derive a normative conclusion (about what ought-to-be or conversely about what ought-not-to-be).[11] Consider here what D. J. O'Connor in his *Aquinas and the Natural Law* has to say on the matter. While Finnis would reject O'Connor's charge of naturalism as directed against Aquinas, he would surely concur with the following:

> The whole discussion [deriving an "ought" from an "is"] seems to confuse two senses of 'good' as (i) what is sought after, and (ii) what ought to be sought after .... Granted that the good life for man must somehow be grounded in human nature, how do we argue from the facts of human nature to the values of morality? As Hume notoriously showed, the gap between fact and value cannot be bridged by logical argument.[12]

The key problem with naturalism, for Finnis (and O'Connor), is its attempt to perform an untenable leap between fact and value, between the descriptive and the normative. Finnis rejects any neo-scholastic approach that breaches this key post-Enlightenment meta-ethical axiom.[13]

Finnis thus faces a challenge. If this key axiom is not ill-founded, as he believes, then either Aquinas, so interpreted, is guilty of breaching it or the neo-scholastic interpretation of Aquinas must be faulty. For Finnis, O'Connor is right in his assessment of the fact/value distinction but wrong in attributing a naturalistic breach of that distinction to Aquinas.[14] O'Connor, so to speak, "sins" but once. The neo-scholastics, however, "sin" twice. They are wrong in their rejection of the central validity of the fact/value distinction and they are also wrong in their claim that Aquinas was, like them, a meta-ethical naturalist. This therefore places Finnis in the position of having to tackle head-on some deeply held "misunderstandings" about Aquinas's meta-ethical foundations. As Finnis forthrightly states in his later work *Aquinas*:

> Nor, of course, can the genuine first practical principles be 'speculative' ('theoretical', that is, non-practical) propositions about what is the case, e.g. about human nature. *Some commentators on Aquinas have imagined that they are such propositions* .... In short, the 'ought' of first practical principles is not deducible from 'is', whether from 'is willed by God' or from 'has been prescribed by me myself'.[15]

The thrust of Finnis's objection to metaphysical (anthropological, theological …) naturalism can be best illustrated here by means of an example. Imagine that you are trying to prove the status of an ethical proposition:

(a)   *I ought to do X.*
        Imagine also that you are a metaphysical naturalist.
        The premise by which you seek to derive (a) is:
(b)   *My essence tells me to pursue X.*
        (a) does not follow from (b).
        To make a valid inference an extra premise must be added:
(c)   *If my essence tells me to pursue X then I ought to pursue X.*

The problem with the leap from (b) to (a) in the eyes of Finnis and many analytical philosophers is, I think, neatly described in an older 1940s text, A. N. Prior's, *Logic and the Basis of Ethics*. A moral norm cannot be derived unless moral norms are already included as part of the premises of the argument. The conclusion of a valid syllogism cannot contain terms that do not appear in the premises. So a proposition involving an "ought" cannot be deduced from premises that are, so to speak, "ought-less."[16] Finnis would, I think, accept the thrust of this description of naturalism because it helps us see why attempts to establish ethical norms naturalistically are thought mistaken. Instead, for Finnis (if we are to avoid the pitfalls of emotivism or subjectivism), we need to begin the ethical journey via a different route – with practical reason's direct unmediated apprehension of basic human goods for us.[17] For Finnis, these goods are directly grasped via the operation of practical reason – that is, reasoning about what is to be done. Practical reason, as Finnis interprets it, furnishes its own starting points for its own operations. Normative beginnings are not supplied to it as a product generated by way of conclusion from prior speculative inquiry. When reasoning practically about what kinds of action are worthy of choice, we are able to spontaneously grasp the significance of these goods and pursue them as the intelligible starting points that underpin the pursuit of all worthwhile human action.[18]

3. Naturalism and Aquinas

Fortunately, according to Finnis, Aquinas himself was not guilty of an attempt to derive ethics from truths first established and asserted by prior theoretical inquiry. He did not attempt to derive or infer the starting points of ethical thinking from factual-theoretical premises. Normative starting points are *sui generis*. Aquinas, correctly understood, is really a defender of what might be called the "autonomy of ethics" position, a position which rejects the claim that our understanding of moral starting points can be derived from (or reduced to) a factual examination of human nature. As Finnis states:

> So [for Aquinas] the epistemic source of the first practical principles is not human nature or a prior, theoretical understanding of human nature (though a theoretical knowledge of the efficacy, as means, of certain choosable conduct is relevant to our knowledge of the first practical principles). Rather, the epistemic relationship is the reverse: any deep understanding of human nature, that is, of the capacities which will be fulfilled by action which participates in and realizes those goods, those perfections, is an understanding which has amongst its sources our primary, undemonstrated but genuine practical knowledge of those goods and purposes.[19]

Finnis acknowledges that Aquinas usually wrote as a theologian or metaphysician. Consequently it is sometimes difficult to disentangle the normative basis of his natural law ethics from his discussion of other (speculative) disciplines.[20] His discussion of practical reason, however, for Finnis, holds the key to understanding his basic ethical approach. For Aquinas, something is good, right, or just "by

nature" only to the extent that it is in accordance with the measure of reason, specifically practical reason.[21] Aquinas distinguished between two forms of human reasoning – speculative reasoning and practical reasoning. In drawing a distinction between the speculative and the practical, Aquinas was acknowledging that the intellect has two distinct modes of engagement and each mode has its own unique and non-demonstrative first principle. Finnis draws heavily upon *ST* I–II, q. 94.[22] The first principle of speculative reasoning (FPSR) is the principle of non-contradiction, "the same thing cannot be affirmed and denied at the same time." The first principle of practical reasoning (FPPR) is "good is to be done and pursued and evil is to be avoided." These two self-evident principles address different primary concerns. Speculative reasoning is concerned with "what-is." Practical reasoning is concerned with "what-is-to-be." According to Finnis, this division was adhered to by Aquinas because he understood that the ethical quest was thoroughly practical in all dimensions of its genesis and operation. Norms, for Aquinas, are not derived from theoretical inquiry but from prior norms traceable back to FPPR. As Finnis states:

> … for Aquinas, the way to discover what is morally right (virtue) and wrong (vice) is to ask, not what is in accordance with human nature, but what is reasonable. And this quest will eventually bring one back to the *underived* first principles of practical reasonableness, principles which make no reference at all to human nature, but only to human good … the 'natural' is, for the point of view of his ethics, a speculative appendage added by way of metaphysical reflection, *not* a counter with which to advance either to or from the practical *prima principia per se nota*.[23]

A key problem with neo-scholastic interpretations, for Finnis, concerns the meaning of FPPR. Finnis does not interpret this as being a moral imperative. Instead, it is a "not-yet-moral" directive for human action. In a manner analogous to FPSR, a principle presupposed in all speculative thinking, FPPR is presupposed in all acts of practical thinking (whether morally good or not). In consequence, the principle, for Finnis, cannot be interpreted as a moral command, for not all practical thinking is moral in nature. FPPR refers not to what is morally good but to all forms of what is considered intelligibly worthwhile for agents to pursue. If it were a moral principle commanding us to do moral good and avoid moral evil, Finnis thinks it would lose its credibility as a genuine self-evident principle presupposed in all acts of practical reasoning.[24]

On Finnis's interpretation of Aquinas, in-so-far as Aquinas is viewed as a philosopher (operating under the light of natural reason, and not as a theologian presupposing supernatural revelation), the good to be pursued in general (happiness; flourishing; imperfect beatitude), is really a composite of several non-reducible and basic goods that are directly (*per se nota*) apprehended and found to be intrinsically fulfilling for us – goods like human life, knowledge and friendship.[25] How then do we move from our apprehension of FPPR understood as "X (human life, friendship …) is a good to be pursued and preserved …" to the moral realm? For Finnis, Aquinas bases his understanding of morality upon the degree of full practical reasonableness instantiated in the exercise of human choice.

The exercise of human choice is key to the transition between the directive and the morally normative. We recognize the basic good of practical reasonableness itself and also its architectonic role in guiding all worthwhile human action.[26] Morally good choices are choices that openly and expansively pursue and promote the *bona humana*. Conversely bad choices are choices that unduly limit or foreclose our pursuit of these goods. In short, morally right action = practically reasonable action and morally wrong action = practically unreasonable action.

4. Aquinas the Non-Naturalist?

As I said in my introduction, Finnis's account of Aquinas's ethics is nothing if not adroit. Nor can he be accused of approaching his analysis of Aquinas without gusto or without being inspired by a deep intellectual love for his work. It is not his lack of familiarity with Aquinas's work or his lack of intellectual passion that is in question however. Instead what leads me to question and ultimately reject the credibility of his non-naturalistic interpretation of Aquinas is what I would call the "lens of bias" by which he approaches his subject matter. Finnis (spurred on, no doubt, by laudable motives of "intellectual rescue") distorts the historical Aquinas by interpreting Aquinas as if he (Finnis) were wearing an analytical pair of spectacles, enabling himself, so equipped, to "reconstruct" Aquinas as a post-Enlightenment compatible thinker.

I say this, of course, as one very sympathetic to some of the meta-ethical goals of Finnis's project. Alas, his project – of establishing and defending a non-naturalistic foundationalism – cannot be anchored in Aquinas's work. Without claiming the traditional authority of Aquinas in support, Finnis's own project must stand justified, if justified it is, upon its own free-standing merits.

The main claim I wish to challenge in Finnis's account is his assertion that practical reason and speculative reason are very different in their respective modes such that the practical, with regard to the structure of its own operations, functions autonomously and cannot be regarded as a dependent form of reason parasitical on the speculative.[27] In my understanding of Aquinas, however, speculative reasoning is heavily implicated in the structural make up of the practical intellect, for there is, *in substantialibus*, only one intellect not two.[28] Finnis formally acknowledges this unity, but time and again he treats the two as if they were *de facto* very different kinds of mental power.[29] Finnis, in his reading, I think, effectively bifurcates the substantial unity of the human intellect such that there is a near severance of the deep organic relationship that, for Aquinas, exists between the speculative and the practical.

Finnis fuels this bifurcation with his tendency to equate the speculative with the purely theoretical, especially with *scientia* – systematic theoretical inquiry into the nature of the physical constitution of the natural world, of the nature of metaphysical properties, and so on.[30] Finnis thus tends to neglect the reality, for Aquinas, that "speculation" can be about the ordinary data or facts of everyday human experience. For Aquinas, truth adequated towards action cannot be divorced
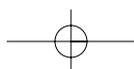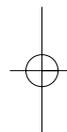
from truth adequated towards "that which is" for understanding of the former is contingent on our understanding of the latter (even if only in a very simple and unsystematic way). As Aquinas states in his *ST* I q. 79, a. 11:

> On the contrary, The speculative intellect *by extension* becomes practical … . But one power is not changed into another. Therefore the speculative and practical intellects are not distinct powers.[31]

Aquinas then answers:

> The reason of which is that … *what is accidental* to the nature of the object of a power, *does not differentiate that power*; for it is accidental to a thing …. *Now, to a thing apprehended by the intellect, it is accidental whether it be directed to operation or not …*[32]

Due to this emphasis on the grand autonomy of practical reason, Finnis effectively seeks to turn an *accidental difference* between the speculative and the practical intellect into a *substantial difference* thereby tacitly creating what amounts to a distinct "nature" for each. This interpretative move is central to Finnis's understanding of Aquinas because of his analytical concern that there must be a fundamental difference between how we come to have knowledge of facts and how we come to have knowledge of values. Now Finnis argues that what he is really doing here is simply recognizing an epistemic distinction between different modes of knowing and that he is not therefore asserting a quite different point about the two intellects having any substantially different ontological foundation.[33] As John Haldane succinctly states, however, when considering the relationship of epistemology to metaphysics in Aquinas's thought, there can be "no epistemology without ontology."[34] This "carving-off" of the epistemic as a discrete consideration, independent of any ontological fall-out, is alien to Aquinas's thought, because, for Aquinas, an epistemic division of this kind between the speculative and the practical would have deep ontological ramifications – it would *ontologically entail* a *per se difference* and not just a *per accidens* difference between the speculative and the practical intellects. Aquinas, as stated above *ST* I, q. 79, a. 11, would explicitly reject any substantial difference between the speculative and the practical. Such a difference would not be circumstantial or accidental.

Finnis's bifurcation of the speculative and practical also informs his interpretation of *ST* I–II, q. 94. In his attempt to maintain the epistemic autonomy of the practical from the speculative, Finnis passes over the structural dependency that exists in Aquinas's article between our knowledge of FPSR and our coming to know FPPR. The truth of FPSR is first understood by the intellect prior to its recognition of the truth of FPPR. Good is to be done and evil avoided, presupposes the truth of non-contradiction. A good, therefore, cannot be both good and evil in the same respect. Finnis seeks to denude Aquinas's FPPR of any *necessary* structural dependency on the recognition of prior speculative truth, but this is not Aquinas's position, for FPPR can only have a claim to be self-evident if FPSR is

presupposed in FPPR's initial apprehension and subsequent application. Without the recognition of speculative truth in the former there could be no truth as directed towards action in the latter. As Aquinas states in the body of *ST* I–II, q. 94:

> Now *a certain order* is to be found in those things *that are apprehended universally*. For that which, *before aught else*, falls under apprehension, is "being," *the notion of which is included in all things whatsoever a man apprehends*. Wherefore the first indemonstrable principle is that "the same thing cannot be affirmed and denied at the same time," which is based on the notion of "being" and "not-being": *and on this principle all others are based*, as is stated in Metaph. iv, text. 9.[35]

Finnis supposes that a claim of *per se notum* self-evidence concerning a first principle cannot entail the initial epistemic dependency of one principle on the other. Now Finnis would be right if Aquinas were speaking directly and not by analogy about the status of FPPR. Yet for Aquinas, the self-evidence of FPPR is mentioned by *analogy only* in comparison with FPSR in order to explain *how it seems* that our knowledge of FPPR *appears* so immediate and direct. Perspective here is all important, and too much reliance on the strength of this analogy is apt to mislead. When *viewed in own domain* FPPR can be said to have a *per se notum* status, but by *analogy only*, because, strictly speaking, when viewed absolutely, against the wider *dominium eminens* of reason in general, the analogy breaks down due to the structural dependency of FPPR on FPSR. Use of this analogy in *ST* I–II, q. 94, therefore, due to its relative weakness, cannot be expected to bear the weight of argument that Finnis seeks to attribute to it in his interpretation of Aquinas's meta-ethics.

Finnis's own meta-ethical commitments help explain his position that practical reason is said to apprehend, independent of speculative inquiry, what is good. Aquinas, however, was not committed to such a position. As Aquinas states in the body of *ST* I–II, q. 94:

> Since, however, good *has the nature of an end*, and evil, the nature of a contrary, *hence it is that all those things to which man has a natural inclination, are naturally apprehended by reason as being good*, and consequently as objects of pursuit, and their contraries as evil, and objects of avoidance. Wherefore according to the order of natural inclinations, is the order of the precepts of the natural law.

Here again, I think, we encounter another statement in the *Summa theologicae* that expresses the structural order of entailment that exists between the two intellects. The practical intellect is not free to regard any old good as good. It is, in its own operations, dependent upon prior conclusions reached by the operations of the speculative intellect. The aspect of the good of a thing is determined by its fittingness to a natural end (and the ordering of sub-ends to a natural end). Our speculative intellect first recognizes knowledge of our natural human ends. Only then is it possible to speak of something being good because it is fitting to a natural human end. For Aquinas, the speculative apprehends the inclinations of our nature, not in any exalted sense of grand metaphysical theory but in a more commonplace
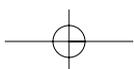
sense of grasping basic conceptual patterns about the ways in which human nature is ordered. Practical reason takes these conclusions of speculative reasoning as its own practical starting points, now viewed under the aspect of good, as directed towards action. This, is, I think, the thrust of Aquinas's thinking here, a stance that is actually thoroughly Aristotelian in shape. What underpins Aquinas's account of the ordering of the natural inclinations is basically Aristotle's *ergon* argument presented in the *Nicomachean Ethics*. For Aquinas, like Aristotle, our understanding of what is good is structurally dependent on our speculative understanding of the functions of human nature (again, not necessarily speculative in any schematic grand sense). This, of course, is hardly surprising given that Aquinas was writing a commentary on Aristotle's ethics, his *Sententia libri Ethicorum*, while he was also engaged in writing the second part of the *ST*.[36] In that text he comments with approval on many of Aristotle's meta-ethical conclusions.

Another claim that, I think, does not express Aquinas's position concerning the status of FPPR is Finnis's assertion that FPPR is a not-yet-moral principle, for not all practical thinking is moral in nature. If it were a moral principle it would lose its claim to be self-evident. Firstly, Finnis interpretation downplays Aquinas's explicit use of authoritatively commanding language in the context of his discussion on the foundations of natural law in *ST* I–II q. 94 – time and again Aquinas states that *nature law prescribes* – law is a rule or measure and to prescribe is to command. For Aquinas it would be terminologically bizarre to say that a prescription of the natural law determines the scope of all our subsequent human actions and is yet pre-moral. Finnis's focus on the grammatical "is-to-be" is really an attempt to fashion a pivotal change in meaning on the turn of a phrase that could as equally well be rendered "Do good and avoid evil" or "You ought to do good and avoid evil." Secondly, his interpretation is based on the misapprehension – that since all human action whether morally good or morally bad presupposes the use of practical reason – the FPPR cannot itself be a moral principle. This puzzle between the moral and the not-yet-moral only emerges, however, if we assert that the entire moral realm must axiomatically be equated with the exercise of human choice. This way of understanding the scope of morality, however, is not Aquinas's, and is decidedly more modernist in its pedigree. For Aquinas, simply because we cannot but help participate in a good, does not therefore entail that our participation in that good is not itself a moral act, responding to a moral command, even if it is not possible to do otherwise and yet remain human. Thus to participate by our very being in the kind of good practical reason is, is itself to be in the moral realm even if it is, ontologically speaking, a non-negotiable imposition offending against our modern notions that moral principles must presuppose freedom of choice.[37] Simply because FPPR is a moral command, this does not mean that we cannot, *de facto*, either deny its moral bindingness upon us or subsequently restrict our participation in the good of practical reason by thwarting the fullness of our subsequent participation in that good. There is no good reason, therefore, to reject the moral status of the FPPR in Aquinas's moral system.

Drawing my discussion of Finnis's interpretation of Aquinas to a close, as brief as it is, I would like to mention one final textual difficulty that emerges with

Finnis's non-naturalist interpretation of Aquinas. It concerns Aquinas's discussion, in various passages of the *Summa theologicae*, of the "*vitia contra naturam*." Aquinas, for example, states the following while discussing masturbation, sodomy, and so on in *ST* II–II q. 154, a. 11:

> [W]herever there occurs a special kind of deformity whereby the venereal act is rendered unbecoming, there is a determinate species of lust. This may occur in two ways: First, through being contrary to right reason, and this is common to all lustful vices; *secondly, because, in addition, it is contrary to the natural order of the venereal act as becoming to the human race: and this is called "the unnatural vice."*[38]

How can any plausible interpretation of this text be reconciled with a non-naturalistic interpretation of Aquinas? Finnis merely dismisses instances of such texts, trotted out to support a "perverted faculty argument," as being ridiculous.[39] Yet as Patrick Lee, a Finnisian, admits in an article of his, "His [Aquinas's] argument … seems naturalist. He seems here to hold that one's actions must not only conform to the order of reason, but also conform to the order set by nature."[40] Lee's response to the problem of reconciliation, while an improvement over Finnis, is also unsatisfactory because his response essentially amounts to discounting the significance of these passages as a series of careless and unreflective slides into naturalism, slides that "… do not cohere with what he says explicitly, and with care, about the first principles of morality and the general principles of the virtues."[41]

On the contrary, *pace* Lee, I would strongly argue that when Aquinas states that there are sins against nature he is being quite explicit and consistent with his underlying functional understanding of the *inclinationes naturales*. He is, in short, merely displaying his credentials as both a committed and a consistent naturalist. The structure of Aquinas's argument is overtly functionalist, presupposing a knowledge of the ordering of the sexual organs towards their natural given ends. The same kind of functionalist argument (albeit occurring in less sensational contexts) is used time and again elsewhere in *ST* (for example, a human being has two eyes; a human being normally has two eyes; two eyes promote better sight than one eye; ergo it is good for a human being to have two eyes). If voluntary actions involving the genitals accord with natural teleology they are judged fitting and virtuous, if not, they are judged unfitting and vicious. Grasp the natural ordering of a given function and actions that intentionally promote its natural ordering are good and actions that intentionally thwart its natural ordering are bad.

Aquinas's naturalism cannot be dismissed here as a set of distractions from his otherwise reflective commitment to non-naturalism, any more than his repeated invocations of Ulpian's "natural law is what nature has taught all animals" can, because these texts simply express, again, more crudely, Aquinas's already firmly established commitment to Aristotelian ethical naturalism.

Contra Finnis, there is therefore good reason to think that Aquinas did not support a meta-ethical position that was essentially non-naturalistic. Again, I think, it seems as if a Finnisan interpretation of Aquinas is not so much about discovering

the historical Aquinas as it is about reconstructing Aquinas's thought in the image and likeness of, well, an Analytical Thomist of the non-naturalistic variety.

5. Finnis's and Non-Naturalism

As we have seen, Finnis, due to his acceptance of the fact/value distinction, has rejected the tenability of ethical naturalism as a viable meta-ethical option. Normative statements cannot be derived or inferred from non-normative statements. The sources of normativity cannot be reduced to natural kinds or reduced to the natural properties of natural kinds. Given the significance Finnis attaches to rejecting naturalism and supporting his fundamental option for non-naturalism, there is, I think, a comparative lack of developed argumentative discourse in the Finnisian corpus that (a) defends non-naturalism against the claims that it is itself unsustainable because it is based on a dodgy metaphysics, rendering it decidedly queer to right minded meta-ethicists, and (b) spells out more fully the weaknesses inherent in Thomistic accounts of naturalism. The reiteration of the fact/value distinction, as a trump card, will not alas suffice. Both these areas of discourse, I think, need to be more fully developed if Finnis and his followers are to further advance their fundamental option for a non-naturalistic meta-ethical foundationalism, especially when confronted with a tradition of natural law inquiry that, due to the influence of Aristotle and Aquinas, has been heavily committed to ethical naturalism.

Before turning to the task of examining criticisms of non-naturalism and sketching out a defense, an important caveat on scope is needed. I cannot begin to tackle both the abovementioned areas of discourse in this chapter. I can hardly begin to do any justice to (a) let alone examine (b). Consequently I will only attempt to address a couple of key arguments that help defend the case of non-naturalism. Insofar as these arguments also serve to question the viability of Aristotelian-Thomistic naturalism, case (b) will also be touched upon. (If I had the space to elaborate on my problems with Aristotelian-Thomistic naturalism, I would focus on the tenability of the claim that we can determine a unique and characteristic "function for man" – an *ergon* – that is (i) naturalistically derived, (ii) sufficiently determinate, (iii) normatively prescriptive, and yet (iv) is not deeply question-begging.)[42]

Turning now to the task of defending non-naturalism, a misplaced criticism directed against Finnis's non-naturalism can quickly be set aside, for it amounts to arguing that since non-naturalism is currently an unfashionable trend in philosophical circles, Finnis should (on pain of being unfashionable?) change his basic meta-ethical allegiance. Finnis should be swimming with the current not against it.[43] Truth, however, is not contingent on trends. If that were not so, then, by the same token, neo-Thomists ought to have abandoned, in the face of many fashionable consequentialist waves, their own defense of material moral absolutes. Finnis, therefore, need not be too concerned with the stigma of being labeled some sort of "meta-ethical fashion victim."

Another line of criticism has more substance to it but is itself ultimately based on a mistaken impression of what a defense of the fact/value distinction must amount to in terms of the relationship between facts and values. A wall of separation is said to be built up between the two such that facts and values do not meaningfully relate to one another, ergo the fallacious nature of the naturalistic fallacy.[44] Norms, however, are related to facts but not by way of attempting to derive the former from the latter. First, facts furnish us with the data of possibility (or impossibility). As Kant said "ought implies can." With life we have the possibility of experiencing; with sight we have the possibility of viewing many different visual sensations, and so on. Without natural facts we cannot pursue health, knowledge, play, beauty, and so on. No supporter of the naturalistic fallacy, therefore, need be committed to the untenable position that facts are ethically irrelevant. If facts create the wings of possibility, they also burn away the wings of possibility. Because I am not a "little god" I do not have super-human powers. Because I cannot be in two places at the same time, I cannot simultaneously teach in class and study in the library, and so on.

Facts are also indispensable for fleshing out the demands of correctly established normative premises, for example, normative premises derived from prior normative premises (ultimately traceable back to underived normative starting points). Given that there is a normative duty not to intentionally kill another human being, it is a crucially relevant fact that X is a human being and not a rat or a pigeon. Given that there is a normative obligation to help rescue a drowning person, I am (unless there is an acceptable excuse) bound to render assistance. Here it is relevant to know (1) whether I knew that another person was drowning, and (2), that I had the physical capacity to be able to render assistance. The supporter of the naturalistic fallacy, therefore, need not be committed to the maintenance of an untenable wall of separation between facts and norms, for facts implicate norms and norms implicate facts in many vital ways.

Moving on, the criticism of Finnis's meta-ethics made by Jean Porter packs more of a punch and is illustrative of a set of ontological concerns with his project that do need to be more fully addressed.[45] She criticizes Finnis's explanation of the status of the basic human goods. She argues that Finnis's talk of basic human goods is really talk about mysterious metaphysical entities. She asserts that Finnis is unclear as to what the ontological or logical status of the basic human goods is. Just what is the relationship of these entities to the world of natural objects and properties? For Porter, Finnis speaks of basic human goods as if they were Platonic forms enjoying an independent existence of their own. She concludes that Finnis is guilty of a "hypostatization" of the basic human goods.

Two Finnisian followers, Gerard Bradley and Robert George, have sought to clarify Finnis's views on the status of the basic human goods. They reply that the basic human goods are simply underived goods, they are irreducible, they are intrinsic not extrinsic to human beings, and they are all self-evident truths grasped by the operation of practical reason.[46] I am afraid, however, this reply does not really advance discussion very far because there is *no deep* explanation provided as to what the underlying *ontological status* of these goods actually is. Bradley and George respond to the charge of "hypostatization" in the following terms:
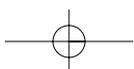
> [It is necessary to] insist on the distinction [between speculative and practical reason] because without it morality would be reduced to nature and such reductionism is bad metaphysics which blocks understanding of morality .… They [Finnis *et al.*] then defend the irreducibility of morality to nature by pointing to the logical irreducibility of moral ought to theoretical is.[47]

Now I agree with Finnis's autonomy of ethics thesis that denies the reducibility of the ethical to the non-ethical and I also agree with Finnis's claim concerning the logical distinctiveness of what "ought to be" from "that which is" (being a meta-ethical sympathizer, I am so disposed), but all this, without further detailed explication and analysis of the ontological status of the basis human goods, merely serves to sidestep the central thrust of Porter's critique, not answer it. Critics (meta-ethical opponents), will, in short, be under-whelmed by such a response. Even if, for the purpose of argument, we were to agree that X exerts a direct unmediated normative pull and that this normative pull seems to be uniquely apprehended by our practical intellect, Porter would be entitled to assert, "you haven't really answered my question. What are the ontological entailments of such moral phenomena? What exactly is the metaphysical status of this X such that is said to generate a normative click of recognition in the practical intellect?"

Although Porter's critique is specifically directed at Finnis, she is engaged in a line of criticism (in her case to support a naturalistic anthropology) that typifies a broader charge laid at the door of non-naturalism – namely, that non-naturalism, once smoked out of the closet, is metaphysically queer and cannot therefore be taken seriously as a basic meta-ethical stance. The critique advanced by Porter is actually rather similar to the thrust of criticism traditionally directed against the non-naturalism of G. E. Moore. This is hardly surprising, once we reflect on it, since Finnis and Moore, protests to the contrary notwithstanding, actually share a number of similarities in terms of their basic meta-ethical underpinnings (non-naturalism; defense of intrinsic goods; intuitionism; non-reductionism, and so on).[48] J. L. Mackie's famous charge against Moorean non-naturalism still rings loud today, a charge that is broad enough in scope to cover all forms of non-naturalism. For Mackie, non-naturalism can charitably be described as the product of a fevered philosophical imagination, an imagination that, having rejected naturalism, proceeds to posit the *ad hoc* existence of a mysterious realm of being in order to maintain an aura of objectivity when claiming to make moral judgments.[49]

6.   Attributive v. Predicative Good

Peter Geach is one of the foremost Analytical Thomists (of the naturalistic variety) who has sought to reject both the viability of non-naturalism and to defend the credibility of Aristotelian-Thomistic functionalism. Geach is particularly dismissive of the very idea that goodness can be understood in the Moorean terms as a simple, indefinable, non-natural property. Although I cannot pretend to give Geach's work on the logical status of "good" the attention here it deserves, I hope

nevertheless to say enough concerning his *Good and Evil* to outline the kind of critical approach that, I think, a Finnisian would need to take in order to counter the charge that "good" can only be used attributively and not predicatively.[50]

Geach starts by getting us to address the question, what, if anything, did "good" mean if not the natural properties of a "good X"? Geach is perplexed by non-naturalism's denial that one could not appeal to the natural features or properties of a thing in order to account for our ethical assessment of it. In short, Geach thinks it bad philosophy to speak of "good" as a non-natural property. As Geach states, "nobody has ever given a coherent and understandable account of what it is for an attribute to be non-natural."[51]

The first line of attack Geach uses is to expose the logical-grammatical errors he perceives being perpetrated by defenders of non-naturalism. The second line of response is to show how the logical status of propositions about the "good," correctly understood, are conducive to supporting an Aristotelian-Thomistic functionalism. In order to advance the first claim, he draws attention to what he identifies as a key difference between the use of good as a "predicative adjective" and the use of good as an "attributive adjective." An adjective is predicative in Geach's usage if it fits the following criterion, If X is AB, then X is A and X is B. Thus take the statement "Cedric is a red parrot." Since Cedric is a red parrot, Cedric is red and Cedric is a parrot. Further, if Cedric is a red parrot and all parrots are birds then Cedric is a red bird. For Geach, however, it is not the case that we can talk of good in such predicative ways. Thus "Cedric is a good parrot," cannot be rendered Cedric is good and Cedric is a parrot, for we are concerned with Cedric as a "good what?"

If the predicative use of good were indeed *verboten*, a Finnisian (not just a Moorean) would find it exceedingly difficult to reject the naturalistic claim that "X is good" is equivalent to "X is a good AB" where AB just are the natural properties of things we apparently evaluate all the time in everyday life. There can be no good *simpliciter*. There is no ontological space left for such an understanding of goodness, for, as Geach states, "There is no such thing as being just good or bad, there is only being a good or bad *so-and-so*."[52]

In order to respond to Geach's argument (and begin to address the aura of suspicion hanging over the status of a basic human good), a Finnisian must, I think, tackle head on Geach's claim that good cannot have appropriate predicative as well as attributive uses. While I think Geach's challenge can be overcome, the following brief remarks must, alas, suffice as indicative of the kind of line that I think a plausible counter-response to Geach's dismissal ought to take.

Consider the characteristics of a napalm bomb. Geach wants to say that we cannot claim that X is simply bad or simply good only whether X is good or bad in virtue of so and so. But what exactly is illicit in asserting both that X (a napalm bomb) can be a good or bad so and so (napalm bomb) but still ask whether X (a napalm bomb) *really is* good or bad, without further referencing any further standard of appraisal beyond a direct appeal to goodness or badness?[53] Such an example is not unintelligible, I suggest, *pace* Geach because it is both linguistically ordinary and logically valid (in some cases *at least*) to say that something X simply is good or bad.
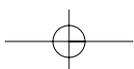
The term good and its correlates in other languages fulfill a variety of different linguistic roles. Not all roles are valid. Geach is right to point to many inconsistencies in our use of good-talk that crop up, inconsistencies that are all too ready to snare and befuddle the unsuspecting. Geach, however, is trying keep out *all* uses of the predicative good, because *some uses* are clearly not justified. Yet the reason why Geach cannot expurgate all uses of the predicative good, in my view, is that ordinary people (not just odd philosophers) in their modes of speaking, unlike Geach, are not set in opposition to the very idea of the existence of non-natural moral properties. They are, so to speak, more "metaphysically open." Because they do not find the very idea of non-natural moral properties beyond the pale, they are, in consequence, more receptive to the ontological position that goodness really is a unique and distinct kind of property.

Ordinary people are not necessarily being sloppy or inconsistent when they use good as a predicate, that sometimes, in addition to attributive usage, the directly apprehended predicative good of at least some things or objects (like Finnis's basic human goods) can make the very pursue of them intelligible – *not* because we pursue X in order to achieve Y – but simply because X really is apprehended as an end worthy of pursuit entirely for its own sake. Ordinary people, with reflective justification, can state that, far from being muddled or confused, careful predicative usage cannot be banished because Geach and others are ill-disposed towards the very idea of non-natural moral properties, for that idea alone just might (and, I think, really does) account for a very important feature that would otherwise be left out of our moral landscape.

7. Redundancy of Appeals to Non-Natural Properties

If the predicative good cannot be ruled out of bounds then the case for non-naturalism cannot be dismissed by naturalists on the ground that it necessarily rests on a conceptual mistake about our usage of the word "good." Another attempt to challenge non-naturalism is to reject its basic idea that non-natural properties are needed in order to preserve the distinctiveness of ethical claims either because (a) "X is good" means that "X is equivalent to natural property Y" or it means (b) that "goodness and Y just are one and the same natural property." Because moral properties are held to be equivalent to or the same as natural properties, the creation of additional metaphysical entities to explain the distinctiveness of our ethical language is held to be unnecessary and yet another symptom of adherence to a dodgy *ad hoc* metaphysics.

When reflecting on claims about metaphysical entities I am here reminded of Paul Grice's words of caution aimed at those who would, with undue eagerness, consign odd metaphysical entities to the dustbin of ideas:

> I am not greatly enamoured of … a concern to exclude such 'queer' or 'mysterious' entities as souls, purely mental events, purely mental properties and so forth. My taste is for keeping open house for all sorts of conditions or entities, just so long as when they
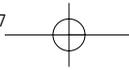
> come in they help with the housework. Provided that I see them [do explanatory] work …
> I do not find them queer or mysterious at all. … To exclude honest working entities seems
> to me like metaphysical snobbery …."[54]

Perhaps, it will be retorted, non-natural properties do not help with the housework
for they are not honest hard working entities. They simply add unnecessary
complication and clutter to any well run metaphysical household. Here I want to
present the outline of an argument for "keeping the help" of non-natural properties
that builds on insights first presented by G. E. Moore. Such a line of argument can, I
think, be a good supportive strategy to deploy in defense of Finnis's claim that the
basic human goods are irreducible and cannot be accounted for in purely
naturalistic terms.

In *Principia Ethica*, Moore launches the following salvo that he thought would
expose a central weakness in all naturalistic accounts of the good:

> Whatever definition is offered, it may always be asked, with significance, of the complex
> so defined, whether it is itself good …. It may indeed be that what we desire to desire is
> always good; perhaps even the converse may be true: but it is very doubtful that this is the
> case, and the mere fact that we understand what is meant by doubting it, shows clearly
> that we have two different notions before our minds."[55]

Today Moore's Open Question Argument (OQA), if it is invoked, is often done so
with a view to poking fun at its grand pretensions. Moore's argument, it is claimed,
is inherently question-begging. This line of criticism is advanced by William
Frankena.[56] He asks, is something we acknowledge to have natural property Y, and
is held good, always an open question? For Frankena the answer would be yes only
if the definition provided was thought to be a bad one. A question is closed if it
provides a good definition. But, crucially, for the naturalists, they do not regard
their definition as being bad. Thus OQA is seen to be question-begging because it
asserts a premise that the naturalists will simply deny, namely, that a naturalistic
definition of X cannot be a good definition of X.

I would not disagree that Frankena's argument, as presented, is justified. Moore
himself, is notoriously vague on precisely what the frame of reference ought to be
for assessing claims of "openness." Moore therefore lays himself open to the
charge that he is fallaciously accusing the naturalist of being caught in a strict
logical bind, that on pain of contradiction he or she must accept the non-
equivalence of good with any natural property. Frankena therefore usefully exposes
the myth of that interpretation. There is, however, an interpretation of Moore's
basic insight that, if not Moore's actual position, is, I think, inherently more
plausible and presents a much greater difficulty for the naturalist to contend with.

The way to understand Moore's basic insight relates to an earlier point I made
about the use of ordinary language while discussing Geach's assessment of
predicative uses of the word "good." As Stephen Ball points out, the legacy of
Moore's contribution may be that it is not so much about the openness of a question
understood in purely logical terms, as it is about the openness (irreducibility) of the
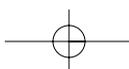
meaning of "good" to the understanding of ordinary people and how they use "good" (and its cognates) in their conceptual thinking about moral questions.[57]

Ordinary people can make sense of the possibility that analytical moral claims concerning the equivalence of "good" and natural property Y do not capture their ethical meaning and are therefore "open" in a way that differentiates them from the non-openness of other analytical questions, for example, if a man is a bachelor must he be unmarried? So understood, I think Moore's OQA, as modified, furnishes the non-naturalist with a direct referential framework that does not beg the question concerning the establishment of criteria used for assessing the *plausible openness* of a definition. I think it powerful enough to say that any form of naturalism (a) that seeks to define "X is good" as meaning that "X is equivalent to natural property Y" is going to face a well grounded objection. Henry Veatch's ontological naturalism, for example, does, I think, fall squarely under this type (a) category, for Veatch reductively seeks to define the good in terms of an analysis of natural trajectories held to be perfective of human nature. So too does Benedict Ashley's brand of naturalism fall under this type (a) category, for he equivalences the "good" of the *lex naturalis* with an anthropological account of "basic human needs."

Some naturalists, for example, Anthony Lisska, contend that OQA, if it is effective against type (a) naturalism, cannot be invoked to challenge type (b) naturalism which states that "goodness and Y just are one and the same natural property." Since good is not being defined in terms of the possession of natural properties, the charge of justifying reductionism by unwarranted definition does not apply. Lisska develops an interpretation of human "essence" as a set of dispositional properties, properties that are dynamically ordered towards the final cause of human flourishing.[58] Goodness is not defined in terms of Y for goodness and Y are indeed one and the same. Recent work in non-analytic type-identity relations is said to challenge the traditional analytic/synthetic divide. It is possible to understand propositions about the identity of natural properties like "water = H_2O" as being necessarily true without them being analytic. Given this theory of type-identity relations, it makes no sense, given current knowledge, to say that – "I know X is H_2O but is it water?" or "I know X is water but is it H_2O?" This is a closed question not an open one. Similarly, as for water = H_2O, the property that we call "good" really will turn out to be type-identical with a naturally occurring property.[59]

Perhaps then, the reach of OQA has finally been outflanked. Naturalism is non-reductionistic because there is no erroneous attempt made to reduce X to Y in the first place. X simply is Y and vice versa. There is nothing to reduce. The problem evaporates.

Is this the death nail for non-naturalism? I don't think so. The problem with this kind of approach is that like is not really being compared with like, for "good" is actually a very different kind of concept from "water." "Good" is a normative concept (unlike water) and is not at all the kind of concept that can be shown to identify the same sort of property as a natural concept.

Terence Horgan and Mark Timmons, I think, develop a penetrating critique of the ability of type-identity relations to get around the applicability of OQA to type

(b) naturalism.[60] Horgan and Timmons ask us to imagine different pairs of twin earth scenarios, a device first used by Hilary Putnam to advance the case for semantic moral naturalism. Earth _ (EA) is tied to the proposition that water and H^2O are one and the same. On Earth B (EB) they call A^4Z water. It has all the appearance of what people on EA call water but it is not H^2O. They both use the same word to co-reference different natural properties. It is just a linguistic coincidence that EA uses water to co-reference H^2O and EB uses water to co-reference A^4Z. Imagine now a second pairing. Moral Earth A (MEA) and Moral Earth B (MEB). On MEA they co-reference good and "act such that you pursue the greatest pleasure for the greatest number." On MEB they co-reference good and "act such that you pursue the inbuilt tendencies of your nature."

Is the case between the two sets of pairs really similar? No. Horgan and Timmons are right to argue that they are not. Comparing EA and EB we can say that there need be no disagreement about the different natural properties being referred to. EA people simply use water for X and EB people simply use water for Y. There is no underlying disagreement about natural properties. When EA people say "water" EB people know they are not talking about A^4Z and when EB people say "water" EA people know they are not talking about H^2O. Here there is no fundamental disagreement in conceptual understanding between EA and EB. Crucially, when EA people say that water is H^2O it may be confusing to EB people and vice versa but it *is not thought wrong*. The situation is *not the same* however when we compare the two ethical planets. In that case there is a shared understanding of what goodness is, namely, what we ought to do, but basic disagreement over the very standard of what it is that we ought to do. Disagreement is a key feature because it makes sense for us to see how it occurs here in a way that makes no sense to us when we think of the water example. If type (b) naturalism were valid then we would not expect disagreement, only confusion. Yet MEA people think that MEB people really are wrong in their "one and the same" claim and vice versa. By ignoring the distinctiveness of good-talk we would fail to see and understand the reality of moral disagreement here. The problem arises because the distinctiveness of goodness as normative cannot be explained away by claiming that it is a natural property identical with another natural property. Goodness cannot be boiled down to an analogous kind of type-identity relationship found in the water/H^2O example.

Here, OQA, at the hands of Horgan and Timmons, once again springs back into life. Ordinary MEA people will say to ordinary MEB people, "you say that X is good, but is it good?" and vice versa. The argument, of the open and distinctive nature of claims about the good, once again confronts type (b) naturalists who think that their approach to naturalism (unlike type (a) naturalism) successfully outflanks OQA. When Lisska, for example, makes use of type-identity relations to address the punch of OQA, I think he only really succeeds in buying naturalism a temporary reprieve, nothing more. How do we know that the end being realized by dispositional property Y is in itself good? or Y is dynamically ordered to the pursuit of end Z but is our pursuit of Z thus normative? These remain full-blown open questions, the product of a powerful argument that continues to haunt the precincts

of naturalism. Simply because a dispositional property is said to be dynamic and not static, and good is treated as being identical with these dynamic trajectories, *pace* Lisska, does not ultimately make it any less problematic as a naturalistic claim. As with (a) type naturalism, (b) type naturalism also fails to escape the clutches of the OQA.

8. Concluding Remarks

In the first part of this chapter I have argued against Finnis's claim that Aquinas was, like himself, a meta-ethical non-naturalist. I found his case wanting in the interpretation stakes and concluded that the neo-Thomists have the upper hand as far as interpretation goes. However, I also argued that this "victory" for the neo-Thomists is short lived because the case for naturalism is not itself ultimately sustainable. This imperils the future of natural law ethics to the extent that natural law ethics is assumed to be naturalistic through and through. Fortunately for Finnis, I found his own position, while influenced by Aquinas, quite distinct. I then moved on to argue that the distinctiveness of Finnis's own project opens up an alternative path by which to defend a credible foundation for natural law ethics – meta-ethical non-naturalism.

In the second part of the chapter, I sought to advance some defensive lines of argument that, while not actually made by Finnis, are, in my view, needed in order to tackle credibility problems with his allegiance to non-naturalism, especially, (1) a defense of the notion of predicate goodness; and (2) a defense of the reality of non-natural moral properties via a deployment of a modified form of Moore's Open Question argument. The use of these strategies, in my view, significantly advances the case for the credibility of non-naturalism as a fundamental meta-ethical alternative for the underpinning of a natural law based ethics.

Notes

1　Finnis's major monographs are his *Natural Law and Natural Rights* (*NLNR*) (Oxford: Clarendon Press, 1980); *Fundamentals of Ethics* (*FoE*) (Washington, D.C.: Georgetown University Press, 1983); *Aquinas: Moral, Political, and Legal Theory* (Oxford: Oxford University Press, 1998).

2　I am especially thinking here of the commitment of G. E. Moore to ethical intuitionism. Ethical intuitionism proposes that we have a capacity for intuition and that there are properties that we grasp via this capacity that cannot be reduced, deduced or inferred to other kinds of non-moral properties. John Haldane has alluded to some of these analytical influences on Finnis *et al.* in his "Thomistic Ethics in America," *Logos* 3:4 (2003), 151–68.

3　As Haldane states in his article entitled "Analytical Thomism: A Brief Introduction," "Analytical Thomism is not concerned to appropriate St. Thomas for the advancement of any particular set of doctrines. Equally, it is not a movement of pious exegesis. Instead, it seeks to deploy the methods and ideas of twentieth-century philosophy – of

the sort dominant within the English-speaking world – in connection with the broad framework of ideas introduced and developed by Aquinas." *Monist* 80:4 (1997), 485–86. See also his "Analytical Philosophy and the Future of Thomism," *Cogito* 13:1 (1999), 45–48.

4   On the use of public reason see *Natural Law and Public Reason*, Robert P. George and Christopher Wolfe, eds. (Washington D.C.: Georgetown University Press, 2000).

5   Heinrich Rommen, *The Natural Law* (St. Louis, Mo.: Herder, 1947); Henry Veatch, *For and Ontology of Morals* (Ivanston, Ill.: Northwestern University Press, 1971); Henry Veatch, *Rational Man: A Modern Interpretation of Aristotelian Ethics* (Bloomington, Ind.: Indiana University Press, 1962); *Swimming Against the Current in Contemporary Philosophy* (Washington, D.C.: Catholic University of America Press, 1990); Ralph McInerny, *Ethica Thomistica,* Rev. ed. (Washington, D.C.: Catholic University of America Press, 1997); *Aquinas on Human Action* (Washington, D.C.: Catholic University of America Press, 1992); Russell Hittinger, *A Critique of the New Natural Law Theory* (Notre Dame, Ind.: University of Notre Dame Press, 1987); Benedict M. Ashley, *Living the Truth in Love* (New York, N.Y.: Alba House, 1996); Anthony J. Lisska, *Aquinas's Theory of Natural Law* (Oxford: Clarendon Press, 1996).

6   See, for example, John Finnis, "Natural Law and the "Is –"Ought" Question: An Invitation to Professor Veatch," *Catholic Lawyer* 26 (1981), 266–77; *FoE*, 10–23; John Finnis and Germain Grisez, "The Basic Principles of Natural Law: A Reply to Ralph McInerny," in *Readings in Moral Theology no. 7*, Charles E. Curran and Richard A. McCormick, eds. (Mahwah, N.J.: Paulist Press, 1991), 157–70.

7   *ST* I–II, q. 94, a. 2; see Finnis, "Natural Law and the Is –Ought," 266–73.

8   Anthony Lisska, for example, in his *Aquinas's Theory of Natural Law*, invokes the authority of two well-known Thomists in support of his own brand of naturalistic essentialism: "In his *The Tradition of Natural Law,* Yves Simon suggested that a theory of universals, or essences, is a necessary condition for an elucidation of the concept of natural law …. In *Man and the State*, Maritain argues explicitly for the concept of essence as a necessary condition for understanding Aquinas on natural law. He writes: 'What I am emphasizing is the first basic element to be recognized in natural law, namely the *ontological* element; I mean the *normality of functioning* which is grounded in the essence of that being: man …." See also Ralph McInerny, "The Principles of Natural Law," *Readings in Moral Theology no. 7*, Curran and McCormick, eds., 139–56.

9   Finnis, *NLNR*, 33–42.

10   III, 1, i.

11   Finnis, *NLNR*, 36–42.

12   O'Connor, *Aquinas and Natural Law* (London: MacMillan, 1967), 23–24.

13   Finnis, *NLNR*, 33–36.

14   Finnis, *NLNR*, 33–36.

15   Finnis, *Aquinas*, 90 (my emphasis).

16   A. N. Prior, *Logic and the Basics of Ethics* (Oxford: Clarendon Press, 1949).

17   Finnis, *NLNR*, 30–32, 81–97; *FoE*, 1–23.

18   Germain Grisez, Joseph Boyle and John Finnis, "Practical Principles, Moral Truths, and Ultimate Ends," *American Journal of Jurisprudence* 32 (1987), 99–151.

19   Finnis, *Aquinas*, 91.

20   Finnis, *NLNR*, 35.

21   Finnis, *Aquinas*, 86–94.

22   This interpretative approach was first proposed by Germain Grisez in the 1960s. See his "The First Principle of Practical Reason" in *Aquinas: A Collection of Critical Essays*,

Anthony Kenny, ed. (Notre Dame, Ind.: University of Notre Dame Press, 1976), 340–82.

23   Finnis, *NLNR*, 36.

24   Grisez, Boyle and Finnis, "Practical Principles," 126–28.

25   Finnis, *Aquinas*, 103–29.

26   Finnis, *Aquinas*, 103–29; Grisez, Boyle and Finnis, "Practical Principles," 119–29.

27   Finnis, *NLNR*, 17–19, 36; *FoE*, 10–17; *Aquinas*, 83–102.

28   *ST* I q. 79, a. 11.

29   Finnis, *FoE*, 10–7.

30   Finnis, *Aquinas*, 89.

31   *Summa Theologica*, Fathers of the English Dominican Province, trans. (New York, N.Y.: Benziger Bros., 1947) (my emphasis).

32   (My emphasis).

33   Finnis, *Aquinas*, 90–92; *FoE*, 10–7.

34   John Haldane, "A Return to Form in the Philosophy of Mind," in *Form and Matter: Themes in Contemporary Metaphysics*, David S. Oderberg, ed. (Oxford: Blackwell, 1999), 54.

35   (My emphasis).

36   Simon Tugwell, *Albert and Thomas: Selected Writings* (New York, N.Y.: Paulist Press, 1988), 256.

37   See Benedict Ashley "What is the End of the Person? The Vision of God and Integral Human Fulfillment," in *Moral Truth and Moral Tradition*, Luke Gormally, ed. (Dublin: Four Courts, 1994), 68–96.

38   (My emphasis).

39   *NLNR*, 48.

40   His "Is Thomas's Natural Law Theory Naturalist?" *American Catholic Philosophical Quarterly* 71 (1998), 567–87, 586.

41   Lee, Thomas's," 586.

42   This line of critique, of course, is not new and is directly influenced by my reading of Bernard Williams, among others. While I do not share Williams's views on several major meta-ethical topics, here I think he is right in the central thrust of his analysis. See his *Morality: An Introduction to Ethics* (Cambridge: Cambridge University Press, 1972), 62–76. Williams presents us with an interesting case of accepting Peter Geach's conclusions with regard to predicative and attributive goodness (*Morality*, 52–61, see the discussion of this topic later in the chapter) and yet he rejects the possibility of Geach's attempt to determine an *ergon* for man as a way of grounding the moral enterprise. Even if the case against predicative goodness were conceded, therefore, it need not entail the success of Geach's second leg. See further Williams's *Ethics and the Limits of Philosophy* (Cambridge, Mass.: Harvard University Press, 1985), 30–53.

43   Such a criticism "of being unfashionable" is not uncommonly mentioned by some "Thomheads" (an affectionate colloquialism) whenever the work of Finnis (and collaborators) is being discussed, especially during conference discussions or in informal talks.

44   See, for example, Vernon J. Bourke, "Review of John Finnis' 'Natural Law and Natural Rights'," *American Journal of Jurisprudence* 24 (1981), 243–47; McInerny, *Ethica Thomistica*, 12–34.

45   Jean Porter, "Basic Goods and the Human Good," *Thomist* 47 (1993), 27–49. See also Hittinger, *Critique of the New Natural Law Theory*, 187.

46 Gerard V. Bradley and Robert P. George, "The New Natural Law Theory: A Reply to Jean Porter," *American Journal of Jurisprudence* 39 (1994), 303–15.

47 Bradley and George, "New Natural Law Theory," 310.

48 I am well aware that there are crucial differences in their respective ethical systems, especially about what should be classified as an intrinsic good, and how, if at all, goods can be said to be commensurable with one another. My point is simply that in stressing differences we all too readily deflect attention from the identification of fruitful ideational similarities, similarities that, I think, ought not to be neglected if we are to deepen our meta-ethical understanding of the case for a well grounded non-naturalistic natural law ethics.

49 J. L. Mackie, *Ethics: Inventing Right and Wrong* (Harmondsworth: Penguin Books, 1977), 95: "If there were objective values … then they would be entities or qualities or relations of a very strange sort, utterly different from anything else in the universe." Mackie, contra Porter (and Geach below), is not concerned to defend naturalism. Mackie's basic claim is that the non-naturalist is right about the semantics (moral predicates do purport to refer to non-natural properties) for what it is worth, but quite wrong to suppose that moral predicates actually refer to anything.

50 Peter T. Geach, "Good and Evil." *Analysis* 17 (1956), 33–42, reprinted in *Theories of Ethics*, Philippa Foot, ed. (Oxford: Oxford University Press, 1967), 64–73.

51 Geach, "Good and Evil," 66.

52 Geach, "Good and Evil," 65 (my emphasis).

53 An example cannibalized from a more complex example discussed by Charles Pidgen in his excellent article "Geach on 'Good'," *The Philosophical Quarterly* 40 (1990), 129–54, 131–32.

54 Paul Grice, "Method in Philosophical Psychology (From the Banal to the Bizarre)," *Proceedings of the American Philosophical Association* 48 (1975), 23–53, 30–31.

55 G. E. Moore, *Principia Ethica* (Cambridge: Cambridge University Press, 1903), 57.

56 William K. Frankena, "The Naturalistic Fallacy," *Mind* 48 (1939), 464–77, reprinted in *Theories of Ethics*, Foot, ed., 50–63.

57 Stephen W. Ball "Reductionism in Ethics and Science: A Contemporary Look at G. E. Moore's Open Question Argument," *American Philosophical Quarterly* 25 (1988), 197–213.

58 Lisska, *Aquinas's Theory*, 195–201.

59 Hilary Putnam was the first to propose such a strategy. See his "The Meaning of 'Meaning' ," in Putnam*, Mind, Language, and Reality* (Cambridge: Cambridge University Press, 1975), 244. Other philosophers who have been working on developing a relationship between the semantic functions of moral terms and the functions of natural-kind terms are David Brink, Richard Boyd and Peter Railton. In their differing ways they each defend a semantic account of naturalistic moral realism.

60 What I present here is both a modified and a simplified account of their more complex argument (further evidence of my "cannibalistic tendencies"). See Terence Horgan and Mark Timmons, "Troubles for New Wave Moral Semantics: The Open Question Argument Revived," *Philosophical Papers* 21 (1992), 153–75; "New Wave Moral Realism Meets Moral Twin Earth," *Journal of Philosophical Research* 16 (1990–91), 447–65.