The idea of natural law is prominent in medieval philosophy, especially in the thought of Thomas Aquinas. While this has been ignored for some time in contemporary moral philosophy, the importance of natural law has been rediscovered in recent decades. Now there is extensive treatment of this topic by authors like Anthony Lisska and Jean Porter. In this paper, I will explain Aquinas’ theory of natural law, pose some critical questions and reflect on the significance of natural law in the context of our contemporary society.

I. Introduction: The Meaning of Natural Law

Since different people have quite diverse understandings of the meaning of natural law, we need to clarify this concept first. One of the major contexts of discussions about natural law is legal philosophy. In this context, a natural law theory is mainly defined in contrast with legal positivism (e.g., Austin’s claim that law is one thing—its merit or demerit another), and it usually means the following propositions: laws possess directive power, and this directive power is based on reason; reason ultimately directs laws for the purpose of the common good and there is a necessary connection between law and morality.

Of course, this kind of legal philosophy is hardly plausible
if one adopts moral theories like relativism, subjectivism, non-cognitivism or social constructionism. So sometimes “natural law” is taken in a broad sense to refer to all moral theories which are objectivist or cognitivist. However, this understanding is indeed too broad, and it would even include Jeremy Bentham or J. S. Mill’s utilitarianism within its scope—but Bentham’s contempt for natural rights is well-known. So I think it is more fruitful to limit natural law theories to those which would ground their ethical claims on a prior account of human nature or human goods. It will include, for example, both the traditional understanding of Aquinas’ account of natural law which emphasizes its metaphysical foundation (e.g., a teleological understanding of the human person), and the new natural law which relies on a direct grasp of the basic human goods by the practical reason. In other words, natural law is a kind of ethical naturalism which opposes ethical non-naturalism like divine command ethics (in its pure form) or G. E. Moore’s view that the good is just a simple non-natural property.

In the realm of social or political ethics, natural law typically embraces a thick theory of good, in contrast to those modern liberals who can accept at most a thin theory of good (if not a relativist). For example, Ronald Dworkin argues that political decisions should be made independent of any particular conception of the good life, or of what gives value to life. The government has to treat citizens with different conceptions of good life as equals, and its only role is to protect their rights to pursue a life in accordance with their respective conceptions of good life. This is often called the priority of the right over the good thesis. Dworkin is reluctant to posit any ontological foundation for moral judgments (or even rights claims). As Lisska puts it:

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1 Ronald Dworkin, “Liberal Community,” in Communitarianism and Individualism, ed. Shlomo Avineri and Avner de-Shalit (Oxford: OUP, 1992),
The process of mature reflection, not an ontological theory, is sufficient in determining the goods to be obtained. This is often called a ‘thin’ theory of good. ... Even though Dworkin considers the moral principles of a society as basic to the justification of a legal theory, the moral principles themselves are not justified by a further appeal to anything beyond consistency.  

In contrast, the natural law position argues that some content is necessary for making moral judgments. A natural law meta-ethics proposes some version of a ‘thick theory’ of human goodness based on the concept of a human person. While the society should respect the equal dignity of all citizens as persons (this is part of the natural law), not all life-styles or life pursuits are equally good in terms of their contribution to human fulfillment or realization of substantial human goods. This does not mean that the society has to be unduly repressive (Aquinas himself does not support the suppression of all vices) but it does follow that we at least need to make some discriminations in light of our understanding of the human person.

To sum up, while natural law theory does not entail a unique set of normative claims or a determinate method for making laws, it is an ethical framework which argues that it is the ontological foundation in human nature which explains the possibility of both a moral theory and of lawmaking.

II. The Decline and Revival of Natural Law

Natural law has an ancient pedigree and also a golden age but it started to decline after the modern era:

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Natural law has been with us since the times of the Greeks, Aristotle in particular. Natural law was made universal by the Stoics, incorporated into the law by the Romans, allied with Christianity, and finally raised to its highest exposition by Aquinas in his scholastic philosophy ... Classical philosophy and Christian doctrine allied in a powerful synthesis, but that synthesis was shattered in the Reformation and with the development of independent scientific inquiry. Protestant theologians found the good solely through the will of God as revealed in His Word, while rationalists forsook natural law thinking as being too close to religion.³

David Forte’s comment above points out the natural law theorist’s impasse: he is often attacked on both sides. On the one hand, his prominent foes include secularists whose thinking is steeped in the frameworks of metaphysical naturalism and scientism, in which value-neutral, non-teleological facts and mechanisms reign. In this context, H. J. McCloskey’s complaint is understandable:

Difficulties arise for such a theory [i.e., Thomistic theory of natural law] in respect of its theses that there are ends or purposes inherent in human nature, that they are based on inbuilt ‘inclinations or appetites’ that we have, by virtue of our nature as substances, animals, rational beings, and that we have a self-evident right, by virtue of our right to be good as human beings, to align ourselves with these inherent natural ends to attain our natural end and be good as human beings.⁴


The development of ethics in the twentieth century does not help either. G. E. Moore’s theory has a big influence in the early part of the twentieth century.\(^5\) While he is an ethical cognitivist, he insists that goodness is an indefinable, simple, and non-natural property known through ‘intuition’. It follows that ‘good’ is incapable of being defined in terms of facts about human nature, and indeed all other kinds of fact. The attempt to derive moral knowledge from the latter is dubbed the naturalistic fallacy. (Moore thinks this can be demonstrated by his open question argument. This problem also has affinity to the ideas of fact/value dichotomy and is/ought gap.) So Aquinas’s natural law is widely regarded as a kind of aberration founding on the mistakes of an outmoded Aristotelian metaphysical biology and the naturalistic fallacy.

With the ascendance of the logical positivists and their verification theory of meaning, claims about non-natural properties were rendered meaningless and Moore’s position became discredited. Together with the widely held belief that moral propositions cannot be reduced to factual propositions, it resulted in various kinds of non-cognitivism which dominated the discussions in analytic ethical theory during the middle part of the twentieth century. Naturally, Aristotelian and Thomistic ethical analysis were simply dismissed in most secular contexts.

On the other hand, the theory of natural law was not treated favorably in many religious contexts either, with some Catholic institutions being the exception. The association of natural law with the traditional Catholic sexual ethics (e.g., the prohibition of the most common contraceptive measures), however, had generated fierce controversy. As some of these demands became increasingly problematic to the laity as well as theologians, the natural law reasoning undergirding them was likewise called into

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question. Protestant theologians are also more likely than not to be critics of natural law. Some of them

question whether a natural law ethic, with its emphasis on universally known moral truths, can allow for the pervasive effects of human sinfulness or do justice to the properly theological character of Christian morality. ⁶

Those influenced by the Calvinist tradition or Karl Barth may even go further to accuse the doctrine of the natural law as an expression of human pride, and an effort of the autonomous man to establish his own righteousness apart from divine grace. As Stephen J. Grabill points out,

While the Protestant Reformers inherited the natural-law tradition from their later medieval predecessors without serious question, their later heirs have, more often than not, assumed a critical stance of discontinuity in relation to natural law ... a primary reason contributing to the unfavorable assessment of natural law has been the influence of Karl Barth’s epistemological criticism of natural theology. ⁷

While the natural law tradition might seem to be forever doomed, history took unexpected turns.

It was not until the aftermath of World War II, in confronting the Holocaust, that the natural law stirred again in the conscience of the philosopher and the judge. If the Holocaust

was evil, pure and simple, then there must be a good, pure and simple. If we shrink from thinking that the Final Solution could ever have been a valid human law because its purpose was so utterly perverse, there must be a purposive standard by which we can know which laws are indeed legitimate and which are not.  

Exactly during this crisis of civilization, Jacques Maritain argued that human rights can be derived from the natural law. He led the way in the revival of neo-Scholasticism and demonstrated the continuing relevance of Aquinas’ idea of natural law. Maritain’s influence on the Anglo-Saxon philosophy was limited, but more and more analytic philosophers independently came to the conclusion that modern ethical theories needed to be radically reassessed, and this made possible the reconsideration of the thought of Aristotle and Aquinas:

In *After Virtue*, MacIntyre argues that contemporary ethical theories have reached an intellectual impasse. Moreover, ethical debate had, so he suggests, become ‘interminable’. MacIntyre further argues that moral philosophy reached this impasse in the twentieth century because of the Enlightenment’s decisive break with Aristotelian teleology ... Virtues emphasize a set of character traits to be acquired. The traits are connected with the well-being of the person. Moral questions directed towards the development of the person and the attainment of well-being were neglected if not avoided in the post-Enlightenment attempt to justify moral rules. Only a recovery of Aristotelian teleology and virtue ethics will rescue

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Alasdair MacIntyre’s critique is instrumental in the recovery of the tradition of virtue ethics, and now this topic is regularly included in most ethics textbooks. While MacIntyre is influenced by Thomism and also gestures towards it, some secular theorists like Martha Nussbaum also put forward an account of ethics which centres on human goods and virtues. While virtue ethics is not necessarily friendly to the idea of natural law, they at least speak in similar terms and provide similar analysis of the moral life, and they are both indebted to the Aristotelian moral theory.

The influence of natural law in the field of jurisprudence has also been revived. I think it is partly due to the growing dissatisfaction with the mainstream liberal theory of jurisprudence. As critics point out, for the liberals, opera cannot be distinguished from dog-racing or other forms of gambling from the perspective of the government. Moreover,

if Rawls’s restrictions apply to Dworkin’s theory then they will both agree that Dworkin’s beer-drinking TV addict or Rawls’s man who has a passion for counting blades of grass in city squares may each be living the good life, provided that they have chosen these as their most important ends after mature reflection and provided that they are morally decent people.\(^\text{11}\)

These consequences are rather counterintuitive.

However, major credit has to be given to the new natural law school which has found at least three able defenders: John Finnis,

\(^{10}\) Lisska, *Aquinas’s Theory of Natural Law*, 47.

Germain Grisez, and Robert George. Grisez and Finnis have developed a revisionist account of Aquinas which, they argue, can overcome the is/ought gap and the naturalistic fallacy. Their account is sophisticated and sensitive to the common objections to natural law in contemporary philosophy.

The exact relationship between the Finnis-Grisez school and Aquinas is debatable. Defenders of a traditional interpretation of Aquinas think that they have not been true to Aquinas (e.g., McInery). Henry Veatch, the former president of both the American Philosophical Association (Western Division) and the American Catholic Philosophical Association, is also critical of Finnis’ revisionist account of Aquinas. In his two critiques of contemporary ethics and jurisprudence, *For an Ontology of Morals* (1971) and *Human Rights: Fact or Fancy?* (1985), Veatch is concerned about the lack of foundations for contemporary moral theory, and also for Finnis’ account. He vigorously puts forward a defense of natural law in accordance with Aristotelian and Thomistic philosophy.

The debates among natural law theorists are normal and healthy. It witnesses the rebirth of natural law as a philosophical discipline.

In the past few decades, ... a renewed voice for the study of the permanent things in life, for the fundamentals in morals, is now heard. Natural law theorists have called upon the deepest traditions of Western civilization to contest the enlightenment

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and relativistic philosophies that have long been dominant in the academy and in politics. Especially in America, young philosophers have advanced the study of natural law to the point where it is now commonplace to hear of it not only in ordinary philosophy and political science courses in colleges, but also in jurisprudence and constitutional law courses in law schools.¹⁴

Significant studies of natural law continue to appear, e.g., Porter’s *Natural and Divine Law: Reclaiming the Tradition for Christian Ethics* (1999),¹⁵ and Lisska’s *Aquinas’s Theory of Natural Law: An Analytic Reconstruction* (1996). In the Chinese context, Taiwan’s Fu-jen school is also interested in this topic, and they are trying to synthesize natural law with Chinese philosophy.¹⁶

**III. Natural Law and the Chinese Culture**

Aquinas’s theory of natural law is a grand synthesis of Greek philosophy and Christian theology, and it provides a coherent worldview which helps us comprehend the natural world, the moral world, and the social world with its mores and laws in a consistent fashion. Arguably, this has contributed to the emergence of a stable civilization in the West. Many scholars have suggested that the idea of natural law is in fact consonant with the Chinese culture in many aspects, and a fruitful dialogue between the two traditions is possible. For example, it is widely held that the core of Chinese culture

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¹⁵ Grand Rapids: Eerdmans.
¹⁶ See the special issue on natural law in *Monthly Review of Philosophy and Culture*, March 2006. (自然道德律專題，《哲學與文化》，第 33 巻，第 3 期，2006 年 3 月。)
is found in the relationship of humankind to Heaven. ... In the Classical Confucian tradition Heaven functions as a religious authority or absolute often theistic in its portrayal. In the later Neo-Confucian tradition Heaven, or the Principle of Heaven, T’ien-li, also functions as a religious authority or absolute frequently monistic in its structure.  

We should note that the concept ‘Heaven’ in T’ien-li in fact corresponds to either ‘God’ or ‘Nature’ in the West, and ‘Principle’ matches nicely with ‘law’. So T’ien-li can play the part of eternal law or natural law in Chinese culture. For example, in the Book of Odes, a poem contains a passage like this: “Heaven gave birth to the common people, and it was the source of both the material world and its principle.” This sounds pretty like divine wisdom endowing this world with order, both its matter and form (in the language of Aristotelian philosophy).

Just as Aquinas believes that human nature comes from God, the Chinese classics also says something like this: “The Mandate of Heaven becomes human nature, and the realization of this nature is the Way.” This also suggests a transcendent ground of the human potential, and makes the realization of this potential an imperative for humans. This also provides for the content of morality. In all these aspects, the Chinese culture is analogous to the Western idea of natural law. Furthermore, just as Aquinas believes in the light of reason in humanity, the Confucianist scholar Wang Yang-ming also believes in Liang-zhih (conscience) in humanity. Both imply some kind of natural knowledge of morality possessed by human beings. One Chinese scholar (黃信

18 「天生蒸民，有物有則。」(《詩・大雅》)
19 「天命之為性，率性之為道。」(《中庸》第一章)
points out a difference though: the Western concept is basically intellectual whereas the Chinese concept is intrinsically linked to moral practice. I think further comparison of Aquinas’s idea of *synderesis* or *conscientia* with Wang’s concept of *Liang-zhih* is a worthwhile project.\(^{20}\)

Around 1140, Gratian published *Decretum* which is an analytic compilation of the decrees and enactments or, in other words, the canons relevant to church practice. This book has greatly influenced the development of the natural law tradition. At its beginning, Gratian writes:

> The human race is ruled by a twofold rule, namely, natural law and custom. The natural law is that which is contained in the law and the Gospel, by which each person is commanded to do to others what he would wish to be done to himself, and forbidden to render to others that which he would not have done to himself.\(^{21}\)

This understanding of the content of natural law here closely matches Confucianism’s moral advice.\(^{22}\)

If the Chinese culture and the Western culture seem to have a concurrence here, then a natural question arises: why did the Western idea of natural law seem to have paved the way for the entrenchment of the rule of law in the West, but similar ideology failed to develop in Chinese history? This question is too big to be fully dealt with here, and it is also beyond the author’s

\(^{20}\) 黃信二：《論「王陽明道德哲學」與「自然道德律」交融之可能向度》，《哲學與文化》, 革新號第 382 期（第 33 卷第 3 期）(2006 年 3 月): 105–24。

\(^{21}\) This is the translation by Jean Porter, quoted from her *Natural and Divine Law*, 129.

\(^{22}\) 「己欲達而達人，己欲立而立人。」(《論語・雍也》)「己所不欲，勿施於人。」(《論語・衛靈公》)
competence. One possibility may be that, in Aquinas’s theory of natural law, the eternal law, the natural law and the positive law are linked together in a framework. Aquinas insists that the positive law has to be built upon the natural law. However, in the Chinese culture, although it is vaguely acknowledged that the moral and social order originates from the Heaven, the Heaven does not speak with a distinctive voice. In fact, it is said that the Heaven only sees through the eyes of the people, and hears through the ears of the people. So its transcendence is to some extent compromised. Moreover, the implications of this theory for law are not spelt out. It is ironic that the school of thought in ancient Chinese culture which emphasizes positive law mainly sees law as a deterrent rather than a concretization of the natural law in a particular society. The essence of law for the Chinese School of Law (法家) is its instrumental value for the establishment of social order through the means of reward and punishment. The connection of positive law with the ideas of reason, justice and the common good is hardly made at all. (cf. the discussion of the Chinese scholar 王志堅)

The above are just some preliminary reflections and they are nothing more than an invitation to further dialogue and deeper thinking about these important but difficult issues.

IV. Natural Law and the Is-Ought Gap

Many people believe that the fatal problem for the natural law theory is Hume’s is/ought gap. As D. J. O’Connor explains:

The whole discussion seems to confuse two senses of ‘good’ as (i) what is sought after, and (ii) what ought to be sought after.

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23 「天視自我民視，天聽自我民聽。」(《尚書・泰誓中》)
24 王志堅：〈基督宗教對自然道德律的影響〉，《哲學與文化》，革新號第382期（第33卷第3期）（2006年3月）：69–82。
What reason is there to suppose that there is any coincidence between happiness and virtue? ... 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. 26

Another common objection is that the natural law theory fails to explain why laws have the authority of obligation. Apparently, if human beings want fulfillment, they should obey the natural law or those positive laws which are derived from the natural law. However, this can only give rise to hypothetical imperatives rather than categorical imperatives which impose obligations on us.

There are several ways to deal with this problem. The new natural law school believes that the is/ought problem cannot be solved, and there is indeed no way to derive an ‘ought’ from an ‘is’. So Finnis is against any form of reductive naturalism which violates the separation of the ‘is’ from the ‘ought’. However, Finnis thinks that it does no real harm to a carefully formulated natural law theory. In any case, we know something only through its act. So knowledge of our essence is derived from our knowledge of which acts are good, and not the other way round; and knowledge of what acts are good is grounded in our direct grasp of the intelligible human goods by our practical reason.

However, critics of Finnis accuse him of intuitionism, which is notorious for its dependence on unprovable premises. Another common worry is that

such theories lack an ontological basis on which to build a moral theory of human virtue. This is, of course, the

reductivist’s principal worry with Finnis’s reconstruction of natural law theory.26

Coming to a defense of Finnis, Robert George argues that “contrary to what their critics claim; the natural law theory advanced by Grisez and his collaborators does not entail the proposition that basic human goods or moral norms have no connection to, or grounding in, human nature.” Though knowledge is underived and thus not based on human nature but nonetheless in accord with the requirements of human nature. This is what Finnis and George call the ‘epistemological’ as opposed to the ‘ontological’ mode of analysis. Human moral agents have a direct, underived (per se nota) awareness of the human goods without deriving them through a reductivist ontology.27

Lisska replies,

George appears to hold to an intuitionist position. One intuits the basic ‘goods’ and it just happens that this set of goods corresponds to human well-being. But what establishes this causal relation? What the ontological position offers over the epistemological position is that this Aristotelian aporia is, at least in principle, resolvable. The causal dilemma can be answered. The state of well-being is the ‘final cause’ based on the structure of the ‘formal cause’, which is the set of dispositional properties determining the content of the essence.

26 Lisska, Aquinas’s Theory of Natural Law, 158.
What George fails to do is to provide a justification for the connection between the human goods and the human person. According to Finnis/Grisez and George, this just ‘happens’.28

He further points out that the consideration of the use of a method alone does not exclude the need for an ontological foundation. I think Lisska has a point here.

V. Has Lisska Overcome the Is-Ought Gap?

However, Lisska still needs to provide an answer for the is-ought gap problem. He has indeed attempted an answer by appealing to the concepts of essence and disposition.

The ‘value’ as end is not added on to the essence like paint to a bench ... The concept of end is built into the very concept of the disposition. This is the significance of Aquinas’s often-used passage that ‘the good is an end’ ... Theoretical reason determines the content of human nature ... The ends—the human telos—are not arbitrary but rather determined by the dispositional properties which make up a human nature. These ends are, therefore, objective goods. These goods are desirable in themselves. They are not good only because they happen to be desired or serve as objects of interest here and now.29

Yet, if one takes seriously what can follow from a dispositional view of essence, one has a way around the naturalistic fallacy. With a static view of essence, a value necessarily is added to a fact. The fact is the set of defining properties. The value is added as an additional component to the fact ... With a dispositional view of essence, however, the value is the

29 Ibid, 108.
terminus of the development of the dispositional properties.\textsuperscript{30}

Since “the value is built right into the fact as end or perfection to the disposition or potency ... a dispositional view of essence with the \textit{telos} being the actualization of the dispositional properties renders the naturalistic fallacy inapplicable and irrelevant.”\textsuperscript{31}

Moreover,

the ontology of complex dispositional properties side-steps structurally the force of the open question argument. It is incoherent to ask about an end, as an actualized disposition, whether or not it is good. It is good analytically, because that is the definition of the concept of ‘good’ as analyzed in terms of the Aristotelian act/potency distinction.\textsuperscript{32}

While this account of value does possess some merits and may help to promote the coherence between facts and values, I am doubtful that the teleological account alone can solve the problem of the is-ought gap. Suppose there exists a person called Essential Sadist, and his essence disposes him relentlessly to commit sadistic acts against non-consenting people.\textsuperscript{33} His life indeed has sadism as its overarching end, but is this a good life? For Essential Sadist, his end—his \textit{telos}—is indeed not arbitrary but rather determined by the dispositional properties which make up his nature. However, it does not follow that this end is an objective good, and desirable in

\begin{itemize}
  \item \textsuperscript{30} Ibid, 162.
  \item \textsuperscript{31} Ibid, 163.
  \item \textsuperscript{32} Ibid, 199.
  \item \textsuperscript{33} While this may seems inconceivable to us, yet the facts of life often outrun our imagination. Several years ago, a man A in Germany found another man B through the web to help him with one task: to kill him. Before the execution of A, B first cut off A’s reproductive organ, fried it, and then the two ate it together! B was in fact chosen from five volunteers.
\end{itemize}
itself.

We can easily construct similar cases for persons like Essential Robber, Essential Rapist and so on. We can also imagine less dramatic cases of people who are naturally disposed to scratch their ears, to count everything within their sight, and so on. We can also consider the natural disposition of animals like lions which prey on humans. I do not think that the realization of that disposition is particularly worthwhile. O’Connor’s question still remains unanswered: the existence of an end (in the sense of being something naturally sought) does not guarantee goodness, despite Aquinas’s assertion to the opposite. Lisska’s argument is flawed. Of course, for Aquinas, the above cases can be discounted because his system already presupposes an essentially good God who is the Source of our basic dispositions. However, since Lisska wants to claim that his teleology is valid independent of any theology, the problem is more acute for him.

However, we still need to assess Lisska’s second argument:

In so far as an immoral action in Aquinas’s moral theory is what it is because it strikes against the developmental properties of a human person, it prevents that person from reaching a state of ‘functioning well’ or ‘flourishing’ ... Aquinas is not offering a hypothetical imperative for moral obligation ... Aquinas thought he had grounded morality in human nature alone—i.e. not only in reason, but also in the sensitive and living dispositional properties ... To undertake an action against the dispositions is to undertake an action against reason. To fail to undertake actions which develop the basic dispositional properties is to engage in a self-defeating activity. This strikes at the foundation of human nature ... It is categorically necessary that the practical reason undertake those actions which lead to eudaimonia. One is not free to decide on the nature of the good, just as, for Kant, one cannot
determine arbitrarily the structure of a contradiction.\textsuperscript{34}

If the above argument is really successful, it may show the way around both the naturalistic fallacy and the is/ought distinction, and provide the ground of obligations. However, I am far from convinced that it is. Indeed, it is in some sense irrational to act against the dispositions central to the essence of the human person. However, during hard moral choices, the moral demand is often opposed to one’s basic disposition towards survival and the concern for one’s family (for example, consider the young man who asked Sartre whether he should join the Underground Resistance Movement against the Nazis or go home to take care of his aging mother). Conflicts of interests are very common. Isn’t it eminently rational to ignore others’ good in order to pursue one’s good, if we just consider our natural dispositions? It might be replied that others’ good and one’s good are always inextricably intertwined. This claim has some plausibility if we look at the human scene as a whole. But if we consider individual cases, situations do come up when it is not clear that promoting others’ good at the expense of one’s good is in fact the most natural course of action. In any case, I think the above reason would be too weak to ground a universal moral command.

Philosophers have discussed many scenarios when the question “why be moral?” comes up naturally. The basic idea is that the natural disposition to pursue one’s interest and happiness does not always sit well with our moral obligations.\textsuperscript{35} Moreover, it seems that human nature contains a diverse set of dispositions

\textsuperscript{34} \textit{Lisska, Aquinas’ s Theory of Natural Law}, 204.

which pull us in different directions. So we often need to judge which aspects of human nature are more valuable or desirable than others. In other words, we need a principle to produce a selective interpretation of human nature, in accordance with which certain aspects are given primary moral significance and others are given lesser weight. This principle cannot be read off from our human nature.

For example, the scholastics take the Golden Rule as spelt out through the Decalogue to be the paradigmatic expression of the natural law, and place non-maleficence at the center of their ethics. In general, “the scholastics privilege basic human inclinations to care and reciprocity while giving a secondary place to other pervasive human tendencies, such as pride, anger, and self-assertion.” 36 They also give the greatest weight to those aspects of human personality that are most directly connected to rationality and freedom. However, as Porter argues,

there is nothing obvious about the claim that our basic tendencies to care, reciprocity, and non-maleficence should be given moral priority over other standing tendencies, or that our capacities for rationality and responsible freedom are morally the most significant aspect of our nature. 37

If we just look at the empirical data, it is reasonable to say human beings are

also naturally inclined to form hierarchically arranged social groups, to compete with one another for material necessities and social status, to vent aggression, and to seek sensual and sexual gratification even at others’ expense. These tendencies

36 Porter, Natural and Divine Law, 142.
37 Ibid.
may be expressed in ways that are destructive and repugnant, but they can also take forms that are striking, attractive, even praiseworthy, and it is possible to envision a moral system that gives them priority over inclinations toward care and reciprocity.\textsuperscript{38}

Given the moral ambivalence of human nature, is it really possible to decide, on the basis of our natural inclinations alone, which tendencies ought to be regarded as our obligational ends, and hence ought to be developed? Despite Lisska’s argument, the question is still there: whether Lisska is reducing ethics to a theory of value in such a way that it becomes very hard to justify universal and sometimes demanding moral obligations.

\section*{VI. The Significance of Human Nature for Moral Philosophy}

Suppose there is no logical way to traverse the Is-Ought Gap, so what? Does it mean the annihilation of ethics? Not at all! Another natural law theorist, J. Budziszewski, responds in this way,

But ethical naturalism does not involve the claim that moral facts can be deduced from nonmoral facts. It involves only the claim that there are such things as moral facts ... That human beings are subject to passions—this is a nonmoral fact, neither good nor bad; it figures in a great deal of moral reasoning but only in conjunction with moral facts rather than by itself. That the rule of human life is to seek the comprehensive good, that the measure of this good is the rational activity by which we understand ourselves and order our lives according to

\textsuperscript{38} Ibid., 143.
purposes—these, by contrast, are moral facts, the first moral facts, from which all others flow.  

Budziszewski contends that the natural law theorist,  

instead of deriving his conclusions by means of his dubious procedure, ... should have stated them as an undemonstrable first principle—more precisely, as a principle that can be vindicated, but only by mature self-examination and not by pure logic: that the good of the soul is found in the rational activity by which we understand ourselves and order our lives according to purposes. This is our “natural” good simply in this sense: in no other understanding of our full and appropriate development can souls so constituted as we are come to rest. They cannot rest in pleasure, honor, or any of the other candidates.  

My general epistemological approach is akin to William Alston’s doxastic practice approach which claims that all basic doxastic practices deserve prima facie trust. Morality is certainly a basic doxastic practice. This may still look unsatisfactory, but Alston’s contention is that this is already the best we can do. I have defended this epistemological approach in a recent book. As Budziszewski explains,  

no matter how many suspicions I address, there are no

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40 Ibid., 39.  
arguments that will persuade everybody. If Norman O. Brown, for instance, should continue to sing paeans to “polymorphous perversity,” one should greatly suspect that we would have nothing to say to one another. This is an ineradicable inconvenience of ethics (and not only naturalistic ethics). But that is no objection at all, because it is also an ineradicable inconvenience of every field of knowledge. To the dismay of foundationalists, geometry teachers do run into students who just can’t see why, on flat surfaces, parallel lines never meet.\textsuperscript{43}

Moreover, despite my criticisms of Lisska, I in fact believe that it is good for a moral theory to harmonize with the human nature. While I argue that facts of human nature on their own cannot ground moral claims, it does not follow that the coherence of a moral theory with facts about human nature or reflexive experience of humanity is not important. Among the numerous propositions which constitute our noetic structure, most of them are not connected by relations of logical entailment or contradiction. However, they can still stand in a kind of mutual support relation. The situation is the same even in a scientific theory, which is usually under-determined by our observations.

Similarly, while the realities of human nature may put constraints on what we can count as an acceptable morality, they do not determine one and only one adequate “natural” ethic. In other words, morality is under-determined by human nature. As Porter says,

the exigencies of human nature place constraints on acceptable moralities, and its pervasive tendencies may give rise to particular elements of our moral codes, but there is no one moral system that can plausibly be presented as the morality

\textsuperscript{43} Budziszewski, \textit{Resurrection of Nature}, 41.
that best accords with human nature.\textsuperscript{44}

As I have explained, Hume’s and Moore’s arguments notwithstanding, this does not debar us from arguing for the moral significance of human nature. If we are putting a prima facie trust on our moral experience, we will discover that, in our experience, fact and value are indeed inextricably mixed. In particular, our conceptions of human nature are evaluative through and through. It is simply a given of our moral experience that morality is centrally concerned with human well-being and flourishing. It then follows that moral theories need to take into account questions about human nature such as: what things are likely to cause well-being or harm for human beings; what capacities or tendencies are deeply grounded in our nature, and so on.

\section*{VII. Application of Natural Law Reasoning to Moral Controversies in Modern Society}

I illustrate the above approach by explaining how we can apply natural law reasoning to the controversial moral status of the homosexual act. Traditional thinking argues against homosexual act by pointing out that homosexual acts can never result in procreation due to the natural facts about the human body. However, this piece of natural law reasoning cannot convince many people because they may also point out that even some heterosexual acts would not result in procreation, e.g., those between an infertile couple. So it seems difficult to use natural law reasoning alone to establish categorically the immorality of the homosexual act. From my experience, this piece of reasoning cannot even convince sophisticated university students.

\textsuperscript{44} Porter, \textit{Natural and Divine Law}, 141.
For Christians, we need to acknowledge the fact of pluralistic moral frameworks in modern society. We do not need to be ashamed of using the theological framework to explain our opposition to homosexuality. However, to enhance communication with people from different backgrounds, an appropriate use of natural law thinking may help to some extent. For example, although I admit that I cannot prove homosexuality to be immoral from neutral grounds alone, I will go on to argue that neither can we prove homosexuality to be morally unproblematic from neutral grounds alone. Popular arguments supporting homosexuality usually assume some kind of liberalism or (extended) harm principle, which are also controversial. When fully unpacked, those arguments would also lead to radical consequences like acceptance of incest, necrophilia, swinging and so on. These consequences are, to put it mildly, counterintuitive. At this moment, I will return to the facts which show the homosexual act to be unnatural:

(1) The homosexual act can never result in procreation, and this means that a comprehensive union of the partners (which includes the union of their sexually differentiated reproductive functions) is not realized in the homosexual act. So there is an intrinsic difference between the homosexual act and the heterosexual act. This fact is especially important for establishing the difference between heterosexual marriage and gay marriage.

(2) Since the body is not designed for the homosexual act, this kind of unnatural sex act, especially in the case of male homosexuals, is not conducive to a healthy life, both psychologically and physiologically. There are a lot of medical data, but I cannot rehearse in the limited space here. I just give some recent data. According to the US Centre for Disease Control (CDC), the risks for male homosexuals to be infected with AIDS and syphilis are much higher than those of male heterosexuals (44
and 46 times respectively).\(^{45}\) The CDC report clearly states that receptive anal sex is especially dangerous.\(^{46}\)

Although the above facts cannot prove the immorality of the homosexual acts categorically, they do throw doubts on the politically correct claim that the homosexual act is entirely normal and unproblematic. It is difficult to see how such a risky lifestyle can contribute to human flourishing. Such observation is at least coherent with the Christian claim that homosexuality is not part of the creation order. Of course, to increase the persuasiveness of this argument, many details and further arguments need to be provided.\(^{47}\) The above example is meant only to show that although natural law reasoning alone may not be sufficient, especially in difficult cases, it can be interwoven with multiple considerations and arguments to make an intelligent case for the Christian position. Similar strategies can also be employed in the controversies surrounding transgendered marriage.\(^{48}\)

**VIII. Conclusion: Natural Law and the Modern Spirit**

According to Forte,

natural law finds the freedom of the human individual as

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\(^{46}\) There are medical reasons for this fact. See John J. Medina, *Uncovering the Mystery of Aids* (Nashville: Thomas Nelson, 1993), 52.


\(^{48}\) There is a helpful book which explains how natural law reasoning can be applied to legal issues: J. Budziszewski, *Natural Law for Lawyers* (Nashville, TN: ACW Press, 2006).
rooted in the good, and political authority as contingent upon that human freedom. Natural law not only judges what human laws ought not to be passed, but it also illuminates the benign face of the law; it looks to those laws that ought to be enacted to assist human persons in the flourishing of their free individual personalities. Natural law is not only imperative, it is aspirational. Finally, natural law speaks to the person as a whole, not divided between mind and body, or engaging in action without purpose. It seeks to locate the good of every person not in the comfort of the senses, but in the flourishing of all one’s faculties. And it asserts that an individual can only truly flourish when individuality is realized through moral action.49

While this vision is attractive to some, it is also antithetical to the typical spirit of modernity, which is infatuated with the idea that we can remake ourselves indefinitely, without reference to natural boundaries. Restriction of our freedom in the name of natural law or morality seems an affront to our creativity for many people. Yet it also seems that we are not able to do without some minimal concept of what is natural. So the fortune of natural law in contemporary secular society is always hanging in the balance.

Yet Forte is hopeful:

But when order threatens to break down altogether, then the mind reaches back to the stability of principle. Humanity cannot abide error for too long, for error produces a disintegration, a disorder of the soul, and a disorder of society. We can live a complex life; we can live a life of contradictions; but we cannot live an absurd life. That is our nature. And that is why a modern natural law moment is needed. Whenever the

choice of subjective relativism and objective truth have come into contest, whenever the choice is one or the other, man will ultimately opt for the truth, no matter how discomfiting it may be.\textsuperscript{50}

Whether Forte is unduly optimistic, only time can tell. For the time being, I think Chinese theologians and Christian ethicists need to learn to use natural law wisely and effectively in our context.

\textsuperscript{50} Ibid., 8.