
Natural Law and Natural Rights and the Negation of the Objective Priority of Speculative Truth

Ley Natural y Derechos Naturales y la negación de la prioridad objetiva de la verdad especulativa

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Abstract: This essay explores the nature and implications of John Finnis's express negation in his work *Natural Law and Natural Rights* of the objective primacy of speculative truth with respect to the derivation of practical reason and agency. The essay observes two senses of the speculative/practical distinction. One sense concerns whether the *object known* is a contingent matter ordered to an end or whether it concerns a universal, necessary, or eternal truth. The other sense concerns the *mode* of the knowledge itself: whether its end is simply knowledge, or whether the end is the good of an operation. Because prior to desire and intention all knowledge is speculative in its mode, and this knowledge is absolutely necessary for knowledge that is practical in its mode; and because knowledge that is practical in its mode is absolutely prior to knowledge that is practical merely in that it concerns a practical *object* – because without knowledge practical in its mode there will never *be* such knowledge that is practical in its object – it follows that practical reasoning is derivative of knowledge that is speculative in its mode. Implications of Finnis's error – about teleology, common good, and God – are considered.

Keywords: unified normative teleology, speculative reason, practical reason, incommensurability.

Resumen: En este ensayo se estudia la naturaleza e implicaciones de la negación de la primacía objetiva de la verdad especulativa sobre la razón práctica del agente, que John Finnis recoge expresamente en su obra *Ley Natural y Derechos Naturales*. El trabajo considera dos planos de la distinción entre razón especulativa y razón práctica. Desde uno de ellos se observa si el *objeto conocido* por la razón es una materia contingente ordenada a un fin o, si, por el contrario, se trata de una verdad universal, necesaria o eterna. Desde el segundo sentido se atiende al *modo* operativo del razonamiento mismo: ya sea su fin el conocimiento en sí o el bien de una acción. Precisamente porque todo conocimiento previo al deseo y a la intención es, modalmente, especulativo, siendo éste absolutamente necesario para el conocimiento práctico, y porque el conocimiento práctico es absolutamente anterior al conocimiento práctico referido a un *objeto* práctico –porque sin el conocimiento práctico no podría *haber* conocimiento práctico referido a un objeto–, se sigue que el razonamiento práctico deriva del modalmente especulativo. Se analizan las consecuencias del error de planteamiento en Finnis sobre la teleología, el bien común y Dios.

Palabras clave: teleología normativa unificada, razón especulativa, razón práctica, incommensurabilidad.

I. INTRODUCTION

There is a very intriguing question as to which, of the *differentiae* distinguishing John Finnis's famed work *Natural Law and Natural Rights*¹ from the classical natural law teaching of Aquinas, constitutes the most pivotal. Several claimants to the throne exist. For example: the loss of unified

¹ FINNIS, J., *Natural Law and Natural Rights*, Clarendon Press, Oxford, 1980.

normative natural teleology constituted by the doctrine of the alleged incommensurability of goods denominated as basic; the putative «pre-moral» rather than moral character of the *primum principis legis* of law grasped by the innate natural *habitus* of synderesis; the negation of the transcendence of the common good; the insistence that «natural law can be understood, assented to, applied, and reflectively analyzed without advertence to the existence of God» and negation of the theonomic character of natural law as essential to natural law; and the hazards of intentionalist construction of moral agency, might each be thought to constitute architectonic points of critical divergence². Each has catalyzed significant scholarly conversation and criticism since the initial publication of his work. Yet each of these seems in some measure to derive from the prior foundational judgment regarding the precepts of the natural law that:

«They are not inferred from speculative principles. They are not inferred from facts. They are not inferred from metaphysical propositions about human nature, or about the nature of good and evil, or about ‘the function of a human being,’ nor are they inferred from a teleological conception of human nature or any other conception of nature. They are not inferred or derived from anything. They are underived (though not innate)»³.

The practical on this account is in no way derived from the speculative. In *Natural Law and Natural Rights*, the nature of speculative and practical knowledge and their relation is regarded as, *simpliciter*, the distinction between «fact» and «norm» or between «is» and «ought»⁴.

² To name only a few works engaging various of these considerations see, for example, HITTINGER, R., *A Critique of the New Natural Law Theory*, University of Notre Dame Press, Notre Dame, Indiana, 1987; MCINERNEY, R., *Ethica Thomistica: The Moral Philosophy of Thomas Aquinas*, Catholic University of America Press, Washington, D.C., 1982; VEATCH, H., *Swimming Against the Current in Contemporary Philosophy: Occasional Essays and Papers*, Catholic University of America Press, Washington D.C., 1990, especially the last two chapters, «Can John Finnis Bring Off a Revival of Natural Law» and «Natural Law and the ‘Is’-‘Ought’ Question: Queries to Finnis and Grisez»; and LONG, S., «St. Thomas Aquinas Through the Analytic Looking-Glass», *The Thomist*, vol. 65, 2001, pp. 259-300; or «Natural Law or Autonomous Practical Reason: Problems for the New Natural Law Theory», pp. 165-196, ch. 6 of *St. Thomas Aquinas and the Natural Law Tradition*, Goyette, J. & Latkovic, M. (eds.), Catholic University of America Press, Washington, D.C., 2004, pp. 165-193; «Critiques of the New Natural Law Theory», *National Catholic Bioethics Quarterly*, vol. 13, n. 1, Spring 2013, containing works by Fulvio di Blasi, Matthew B. O’Brien, Michael Pakaluk, Edward Feser, Kevin L. Flannery, S.J., Steven A. Long, and John Goyette.

³ FINNIS, J., *Natural Law and Natural Rights*, *op. cit.*, p. 33.

⁴ *Ibid.*, p. 36: «Since Aquinas’s Aristotelian distinction between ‘speculative’ and practical reason corresponds so neatly with the modern (but not only modern!) distinction which we (roughly!)

If we stress only the «not inferred» and construe this as a purely logical connection prescinding in its content from the unified teleological ordering of human nature, then of course there is clearly a sense in which the principles of the natural law are not inferred. Yet, there *are* ends, and if we acknowledge this, we do not deny that practical implications may ensue from originatively speculative knowledge, *e.g.*, the knowledge that good is to be done and pursued, and evil avoided, is as the first principle of law something that follows upon the teleologically effective ordering of human nature as such and is grasped *per se nota* by the mind. Yet *per se nota* does not simply mean «underrived» – *i.e.*, it is grasped *per se nota* by the mind *given* prior natural knowledge which human beings possess which is prior to and the condition of practical knowledge and agency – and the insight that this is so requires understanding what differentiates *acts of the mind* as such. The immediacy in question presupposes a knowledge prior to practical action, prior to intention, and prior to desire, and so is rightly said to be «derived» from such prior knowledge, to flow from it, by reason of an innate natural *habitus* of synderesis.

One may sympathize with any author who must engage the difficulties that beset the relation of the speculative to the practical. In a sense, influential Thomistic authors of the twentieth century who might not have assented to Finnis's formulation found themselves in a comparable difficulty in coping with the relation of prudence to *synderesis*, at times verging on asserting the priority of the former over the latter in ways that call into question the genuine role of moral *principle* in moving and directing prudence itself⁵. Such con-

indicate by contrasting 'fact' and 'norm' or 'is' and 'ought', it will be helpful to consider in greater depth the historical process by which the theory of natural law has come to be associated with a fundamental disregard of this distinction». Also p. 42, where he states that «the principle that ought is not inferable from is retains its validity».

⁵ AQUINAS, ST. THOMAS, *Summa Theologiae*, II-II, q. 47, a. 6, ad. 3. Latin of all citations from Thomas derived here and hereinafter from the *Corpus Thomisticum*, *S.Thomae de Aquino opera omnia*, made available online by the University of Navarre at www.unav.es/filosofia/alarcon/amicis/ctopera.html#OM: «synderesis movet prudentiam». One significant Thomistic author of great merit whose inflections seem to me somewhat to minimize the role of principle *vis-à-vis* prudence is Yves Simon. SIMON, Y., *The Tradition of Natural Law* Fordham University Press, New York, 1992, pp. 155-156, that «in regard to innumerable questions about the right and the wrong, the answer is not obtained by logical connection with principles» because the connection between «particular determinations» and universal norms «is not logical, it is prudential». Had he said: «the connection» is «not *merely* logical, but *also* prudential» this proposition arguably would be closer to the mark. For consideration of the loss of the causality of synderesis *vis-à-vis* prudence, see forthcoming from Emmaus Press: BRADY, R., *Conforming to Right Reason: On the Ends of the Moral Virtues and the Roles of Prudence and Synderesis*, in particular its third chapter.

siderations clearly reflect a diverse but real mode of at least partial deflection of the speculative foundations for practical reason that may be compared with the more universal and systematic negation found in *Natural Law and Natural Rights*. Yet while in Finnis's work this negation is systematic, it insists upon the objectivity of moral truth, and a clearly stated intention to affirm speculative truths about nature and being (but only as something from which the practical is in no way derived)⁶.

The denial that practical precepts are «derivable» from speculative truth – the view that to be *per se nota* indeed *means* to be *underivable and underived* – casts a long shadow over the ensuing development of Finnis's account of the natural law, generating implications not found in the accounts even of those earlier Thomists who arguably inflected their account toward the concession of too great an independence of prudence from *synderesis*. In *Natural Law and Natural Rights* the totality of the negative judgment regarding «nonderivability» is pressed with genuine intellectual rigor, and so there is a «purely practical reason» lacking epistemic foundation in speculative truth which to some authors has called to mind the work of Kant. However, one must observe that unlike Kant, in Finnis's analysis there is a species of «nonunified» teleology, charmingly described by Russell Hittinger, in responding to Germain Grisez in regard to the same issue of putatively incommensurable goods, as «nature speaks with a forked tongue»⁷ (although the analysis of incommensurability

⁶ Thus, Finnis claims in *Natural Law and Natural Rights*, *op. cit.*, p. 49, that natural law can be «understood, applied, or reflectively analyzed without adverting to the question of the existence of God» – which whatever one may say about it, is decidedly not the teaching of Aquinas, for whom there are natural law duties to God under the virtue of religion, for whom both the definition of the law requires reference to the eternal law, and from whom the reality of the law requires divine promulgation. Yet he also asserts that this superfluity of God to his conception of natural law «does not entail either that (i) no further explanation is required for the fact that there are objective standards of good and bad and principles of reasonableness (right and wrong), or (ii) that no such explanation is available, or (iii) that the existence and nature of God is not that explanation». He does not deny the reality of such a theistic account, but its essential role both formally and materially for natural law and for human practical reasoning and agency. The construction of his moral account is downstream from the epistemic negation of the foundational role of speculative truth in the inception of practical reasoning.

⁷ HITTINGER, R., *A Critique of the New Natural Law Theory*, *op. cit.*, – the first and still in many respects the best of the critiques of what has become known as the New Natural Law Theory. See the comments on the Aztec human sacrifice and the putatively incommensurable goods of life and religion, pp. 111-112. He is here responding to Germain Grisez rather than Finnis but arguing similar points about the pertinence of speculative truth to the good of religion and arguing contrary to the hypothesis that goods denominated as basic are incommensurable. He ar-

contains a certain combination of deontological form with a nonunified teleology of natural goods to which Kant could not have ascribed). Hittinger's remark strikes home, in that this doctrine cannot help implying a certain eclipse of the wider normativity of the unified teleological order impressed on things from creation such that in this respect Finnis's analysis is in a narrow but decisive zone comparable with the Kantian account. Nonetheless, by reason of the role of essentially *disunified* natural teleology⁸, Finnis's account of natural law is a work of moral theory new under the heavens, embracing aspects of natural good that Kant – perhaps more consistently, but to the impoverishment of the content of his moral account – abjured.

Adding to the difficulties besetting this aspect of the analysis found in *Natural Law and Natural Rights* is the fact that Thomas's text, founded on Aristotle's prior account, is far more complex than is customarily recognized. And this complexity is necessary; that is, it is required for an adequate account of the diverse *senses* of «practical» and «speculative» which terms apply differently when taken to refer to *what our knowledge is about* as distinct from referring to *the character or mode of our intellectual activity itself*.

I will first address the fundamentality of the distinction between the speculative and the practical, and their relation, as articulated in Thomas's teaching – not of course for mere historical or pious motives, but because of its essential importance in clarifying the matter. I will attempt to explain at length the precise sense in which practical precepts are «derived» from prior speculative apprehensions and at times even «inferred» from them. In doing this, I will advert to the insights of Fr. Serge-Tomas Bonino, who makes observations that seem to me to crystallize a problem whose correct understanding makes proper analysis of this distinction clear (although I differ with his

gues that the Aztec religious practices of human sacrifice do not, given the incommensurability of life and religion, and on the account of incommensurable goods wherein the speculative truth of religion is held not to be pertinent to its being good, imply that these are not religious. Thus, he writes that it might be said that Grisez «has reserved moral grounds for objecting to such religious practices. For example, he might argue that these practices violate some other human good, such as life; but this moral judgment does not disqualify the rituals as the good of religion; it only indicates that this particular religious observance violates the good of morality by failing to respect other basic goods. In other words, the Aztecs, according to nature, participate in the good of religion, for they find their religious practices attractive and gratifying; yet the practices, according to natural moral norms, violate the eighth mode of responsibility. Nature appears to speak with a forked tongue».

⁸ Finnis famously argues that *prior to choice* there is no morally significant order among basic goods (*Natural Law and Natural Rights*, *op. cit.*, pp. 92-95).

immediate resolution) and which seems to me to supply a sense for Finnis's concerns that enriches the discussion⁹. Secondly, I will try briefly to suggest how Finnis's account of the relation between the speculative and the practical cascades into the further critically controversial aspects of his theory, indicating the strategic implications of Finnis's view of the nonderivability of the practical from the speculative in engendering certain further problems regarding some of the points mentioned in my first paragraph above (*i.e.*, regarding: the role of natural teleology; the genuinely moral character of the first precept of law; the transcendence of the common good; and the essential role of God in the natural law, *i.e.*, its theonomic character). Finally, and in conclusion, I will offer a brief suggestion regarding how Finnis's work should be understood in relation to the natural law tradition, and its importance in signaling the difficulties, profundity, and importance of natural law reasoning. It is my hope that this analysis will make clear that in reasoning so rigorously from his composite premises Finnis has provided the occasion for many minds to encounter some of the most difficult questions at the font of natural law, while yet the systemic difficulties implied by his account of the nonderivability of the practical from the speculative manifests the critical limitations of the thought experiment he has undertaken in its regard.

II. THE SPECULATIVE AND THE PRACTICAL

As noted above, Finnis in *Natural Law and Natural Rights* (and other works)¹⁰ holds that propositions about the «primary goods» are not derived «from any... propositions of speculative reason»¹¹. Indeed, speculative knowledge of nature is viewed as wholly disjunct from practical reason. As Finnis puts it:

«From end to end of his ethical discourses, the primary categories for Aquinas are the 'good' and the 'reasonable'; the 'natural' is, from the point

⁹ I make no claim that Fr. Bonino concurs with my analysis, and indeed his conclusion appears to be different. Yet his remarks seem to me to make clear the decisive problem whose solution alone gives the right reading both of Thomas's text, and of the essential difficulty of the matter. Hence, I am greatly indebted to his work on this subject.

¹⁰ FINNIS, J., *Aquinas: Moral, Political, and Legal Theory*, Oxford University Press, Oxford, 1998.

¹¹ FINNIS, J., *Natural Law and Natural Rights*, *op. cit.*, p. 46.

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*»¹².

We have already seen, above, Finnis's insistence moral precepts «*are not inferred or derived from anything. They are underived (though not innate)*»¹³. Applying this judgment to Thomas's account of the threefold ordering of precepts following the order of inclinations (which implies the *order* of ends)¹⁴, Finnis writes in *Natural Law and Natural Rights*:

«Are not speculative considerations intruding into a reconstruction of principles that are practical and that, being primary, indemonstrable, and self-evident, are not derivable (nor sought by Aquinas to be derived) from any speculative considerations?»¹⁵.

Yet one may doubt that the terminology of «natural» law is added only as a speculative appendage¹⁶. Thomas does not unilaterally equate the speculative exclusively with the «theoretical», nor identify some class of propositions in which the primacy of speculative adequation of mind to being is not precisely foundational in knowledge of the good. He teaches consistently that there are *not* two intellectual powers – one speculative, one practical – and that the difference between the speculative and practical intellect is accidental and hence does not alter the adequation to reality that attends knowledge as such. Thus St. Thomas in the following two quotations from the same article of the *Summa Theologiae* articulates, with precision, both the nature of, and the distinction between, the speculative and the practical:

¹² FINNIS, J., *Natural Law and Natural Rights*, *op. cit.*, p. 36.

¹³ *Ibid.*, p. 33.

¹⁴ AQUINAS, ST. THOMAS, *Summa Theologiae*, I-II, q. 94, a. 2, «Secundum igitur ordinem inclinationum naturalium, est ordo praeceptorum legis naturae». – «Thus according to the order of natural inclinations is the order of the precepts of the natural law».

¹⁵ FINNIS, J., *Natural Law and Natural Rights*, *op. cit.*, p. 94.

¹⁶ There are also questions as to whether, in *Natural Law and Natural Rights*, the *legal* character of natural law is sufficiently treated, as the issue of promulgation, and of the character of the natural law as *law*, seems to be set aside as something inessential to natural law. Yet, of course, for Thomas, law is promulgated; and the one who promulgates the natural law which is (as is said in *Summa Theologiae*, I-II, *op. cit.*, q. 91, a. 2, «nothing other than the rational participation of the eternal law» – meaning, if there is no eternal law, there *is* no natural law) God (*Summa Theologiae*, I-II, *op. cit.*, q. 90, a. 4, ad. 1).

«Now, to a thing apprehended by the intellect, it is accidental whether it be directed to operation or not, and according to this the speculative and practical intellects differ. For it is the speculative intellect which directs what it apprehends, not to operation, but solely to the consideration of truth; while the practical intellect is that which directs what it apprehends to operation¹⁷.

The object of the practical intellect is good directed to operation, and under the aspect of truth. For the practical intellect knows truth, just as the speculative, but it directs the known truth to operation»¹⁸.

While the speculative intellect is ordered simply to the consideration of truth, *practical* knowledge *adds a further ordination toward operation*. Inasmuch as the practical intellect knows truth «just as the speculative» but is distinct from the speculative only in «directing the known truth to operation», it would appear that the notion of a truth foundationally separated from prior speculative *adequatio* is alien to the thought of Aquinas: a contradiction in terms. Moreover, it is exclusively the rational intent to direct the known truth to operation that causes the accident (*vis-à-vis truth* as such) of some knowledge being practical. One notes on this score –ensconced in a treatment of art–, Thomas’s cognate observation in *De veritate* q. 2, a. 8, ..., r.:

«But the knowledge that an artist has about something that can be made is of two kinds: speculative and practical. He has speculative or theoretical knowledge when he knows the intimate nature of a work but does not have the intention of applying the principles to the production of the work. His knowledge is practical, properly speaking, when by his intention he ordains the principles of the work to operation as an end. In this way, as Avicenna says, medicine is divided into theoretical and practical. *It is clear that the practical knowledge of an artist follows his speculative knowledge, since it is made practical by applying the speculative to a work. But when the practical is absent, the speculative remains* [emphasis added]»¹⁹.

¹⁷ AQUINAS, ST. THOMAS, *Summa Theologiae*, I, *op. cit.*, q. 79, a. 11: «Accidit autem alicui apprehensio per intellectum, quod ordinetur ad opus, vel non ordinetur. Secundum hoc autem differunt intellectus speculativus et practicus. Nam intellectus speculativus est, qui quod apprehendit, non ordinat ad opus, sed ad solam veritatis considerationem: practicus vero intellectus dicitur, qui hoc quod apprehendit, ordinat ad opus».

¹⁸ *Ibid.*, ad. 2: «ita obiectum intellectus practici est bonum ordinabile ad opus, sub ratione veri. Intellectus enim practicus veritatem cognoscit sicut speculativus; sed veritatem cognitam ordinat ad opus».

¹⁹ AQUINAS, ST. THOMAS, *De veritate*, Leonino 1970 edito ex plagulis de prelo emendatum ac translatum a Roberto Busa SJ in taenias magneticas denuo recognovit Enrique Alarcón atque instruxit, *Corpus Thomisticum*, <https://www.corpusthomicum.org/qdv02.html#52023>, q. 2, a. 8, ... r.:

These remarks manifest St. Thomas's judgment that practical knowledge always presupposes this underlying speculative element and follows from it: precisely the point at issue with respect to Finnis's construction of the distinction between the speculative and the practical.

There is a danger of forgetting that the capacity of a rational consideration to bear essentially upon action and the ordination of contingent means to ends – its objectively practical nature – presupposes a prior speculative knowledge whose extension to action is necessary and constitutive for the formation of practical knowledge²⁰. That a certain proposition refer essentially to operation simply concerns the content of the proposition: but that it be able to refer essentially to operation depends on prior *adequatio* regarding the nature of the end that is prior to appetite and intention. It is here that I am indebted to the writing of Fr. Serge-Tomas Bonino, a Dominican philosopher whose work I highly regard. While the conclusions in his remarks vary from my own, his formulation has made even more acutely visible to me the multifaceted difficulty that resides in this crucial consideration. I would add that it is my sense that Bonino's articulates in more express Thomistic terms the nature of the difficulty that moves Finnis to his analysis, and which he has articulated both in *Natural Law and Natural Rights* and in other work expanding upon his original analysis. Hence I will introduce Bonino's formulation, move back to Finnis, and offer response. In footnote #21 in his essay «Charisms, Forms and States of Life» in the volume *The Ethics of Aquinas* edited by Stephen Pope²¹ Fr. Bonino writes:

«Sed sciendum, quod artifex de operabili habet duplicem cognitionem: scilicet speculativam et practicam. Speculativam quidem, sive theoricam cognitionem habet, cum rationes operis cognoscit sine hoc quod ad operandum per intentionem applicet; sed tunc proprie habet practicam cognitionem quando extendit per intentionem rationes operis ad operationis finem; et secundum hoc medicina dividitur in theoricam et practicam, ut Avicenna dicit. Ex quo patet quod cognitio artificis practica sequitur cognitionem eius speculativam, cum practica efficiatur per extensionem speculativae ad opus. Remoto autem posteriori remanet prius».

²⁰ DEWAN, L., «St. Thomas, Our Natural Lights, and the Moral Order», *Angelicum*, vol. 67, 1990, pp. 283-307. As he puts it: «Can there be any doubt that for St. Thomas the knowledge of the one ('the good') derives from the knowledge of the other ('a being')? St. Thomas teaches, in *Summa Theologiae*, *op. cit.*, I-II, q. 9, art. 1, that the practical intellect has its priority with respect to the will, as mover of the will, precisely inasmuch as its (the intellect's) vision of 'the good' flows from its vision of 'a being' and 'the true'. The practical intellect views goodness under the aspect of being and truth, sees *what* goodness *is*. If goodness were not being viewed under the aspect of being, it would not be being 'understood' at all».

²¹ BONINO, S-T., «Charisms, Forms, and States of Life», tr. Noble, M.T., O.P., pp. 340-352, *The Ethics of Aquinas*, Pope, S.J. (ed.), Georgetown University Press, Washington D.C., 2002, footnote #21, p. 350.

«Speculative and practical knowledge are distinguished by their ends. But it is important to understand clearly that practical knowledge is not, as is often imagined, an initially speculative knowledge that has become practical because a person wants to apply it, of his free choice, to action. People imagine that there is some kind of undifferentiated knowledge which, at the person's choice, remains speculative or becomes practical. In this case, when it is affirmed that practical and speculative knowledge are distinguished according to their ends, it is a question of a finality extrinsic to knowledge: the *finis operantis*, that is, the end sought by the person in his or her knowing. But this is not the case. Speculative and practical knowledge are in reality distinguished by the *finis operis*, that is, the finality intrinsic to the knowledge. It is as the knowledge stands in itself, and not in virtue of some superadded intention, that practical knowledge differs from speculative knowledge. The speculative knowledge of a house (which consists in knowing the quiddity of the house, its essence) is, therefore, not the same thing as the practical knowledge of the house (which consists in knowing the house as something that is to be built). The principle of this practical knowledge is not the essence of the house, but the end of the house, and a person reasons in order to know by what means and through what steps this end may be attained concretely. On this question, *vid.*, Marie-Michel Labourdette, 'note sur les diversifications du savoir: connaissance spéculative et connaissance pratique' (*Revue Thomiste* 44, 1938, 564-68)».

These remarks are, to me, of remarkable interest and richness, and while not denying the distinction in terms of mode, argues for the greater fundamentality of the distinction predicated on the «what» that is known. However, I wish to suggest difficulties. First, his remarks acknowledge that there is indeed a consideration of speculative and practical according to the end for the sake of which the knowledge occurs. That is, as Thomas clearly writes in *Summa Theologiae*²², one may know either for the sake simply of knowing – a speculative mode of knowing – or for the sake of the good of an operation – practical knowledge. This sense of the distinction between speculative and practical is focused on the *mode* of the knowing as such, and *not* simply on the nature of that which is known: because one may know truths about contingent matters ordered to some good end without intending any operation or seeking to know what one knows precisely for the good of an operation (even when what is known by its nature may indeed bear directly on the good of opera-

²² AQUINAS, ST. THOMAS, *Summa Theologiae*, *op. cit.*, I-I, q. 79, a. 11.

tion). Thus, one might study ethics simply to contemplate the structure of the good for man, something of practical concern but which one might consider apart from any particular desire or intention to act. Similarly, someone doing publicity for the local math club might need to learn enough about «Pi» to understand why it was being celebrated by the math club and to publicize it intelligently: knowing a truth of its nature speculative (about the nature of Pi) for the sake of the good of an operation (publicizing the celebration of Pi by the local math club), a practical mode of knowing.

But it is here that Fr. Bonino enjoins against the idea of «some kind of undifferentiated knowledge, which, at the person's choice, remains speculative or becomes practical». This would be, he argues, a finality «extrinsic to knowledge: the *finis operantis*, that is, the end sought by the person in his or her knowing» rather than the *finis operis* that formally concerns the nature of the object known. But he states that this specification of the practical by something extrinsic to knowledge «is not the case». Rather, he argues, speculative and practical knowledge are in reality distinguished by the *finis operis*, that is, the finality intrinsic to the knowledge». He continues: «It is as the knowledge stands in itself, and not in virtue of some superadded intention, that practical knowledge differs from speculative knowledge».

In an argument that calls to mind Bonino's comparison of the diverse senses of the speculative/practical distinction, further amplifying the analysis of *Natural Law and Natural Rights* in his work *Aquinas*, Finnis writes:

«Some commentators on Aquinas have imagined that they are such propositions, on which a 'practical', *i.e.*, directive, character is conferred by the intervention of some act of will. Such a view not only contradicts Aquinas' conception of the first practical principles as 'founded on' an absolutely first practical principle whose form – the form which makes every practical principle and proposition *practical* – is neither indicative nor imperative, but gerundive and directive. It also hopelessly contradicts his basic and pervasive understanding of will – that it is response to reasons. Practical intelligence is not slave to the will any more than it is the slave of the passions»²³.

It is here that the crux of the difficulty resides. As already observed, the distinction between speculative and practical can be made in two distinct but interrelated senses. One sense concerns *the nature of the «what» that is*

²³ FINNIS, J., *Aquinas: Moral, Political, and Legal Theory*, *Aquinas*, *op. cit.*, pp. 89-90.

known, and the other concerns *that for the sake of which the knowledge occurs*, the end of the knowing as specifying the act of the intellect itself. The first is simple, in that *what is known* either is necessary and perhaps eternal, or is *a contingent matter ordered or orderable for the sake of the good of an operation and the attainment of some end*. Yet (as here listed) the second sense of the distinction regards *the intellectual mode* in which what is known is known, and it pertains to the knowledge *qua* knowledge rather than directly to that which the knowledge is about (since what is practical in the first sense may be speculative in the second). This second sense concerns whether the agent seeks simply *to know* – speculative knowledge – or whether instead the agent *orders the knowledge precisely for the sake of the good of an operation he intends to perform* – practical knowledge. Knowledge of something essentially practical in the earlier and first sense articulated above – knowledge of contingent means in relation to an end – may be pursued by someone who does not seek this knowledge for the sake of acting, but simply to perfect his understanding. In this case the thing known is practical, but the nature of the agent's knowing most surely is not, because this act of knowing precisely as an act of knowing is not undertaken for any practical purpose but only to perfect the understanding.

Fr. Bonino does not deny that the distinction of mode is a significant distinction, but with great penetration observes that it concerns the *finis operantis* rather than the *finis operis*. He writes that «Speculative and practical knowledge are in reality distinguished by the *finis operis*». I take Finnis to mean something akin to this, in his above-cited view that were speculative and practical distinguished by their ends²⁴, practical intelligence would lose its distinctive character and become a mere «slave of the passions» – although, unlike Bonino²⁵. I am unaware of any express acknowledgement on his part that Thomas's observations in *Summa Theologiae* (*op. cit.*, I-I, q. 79, a. 11) have implications for the genesis of our moral knowledge. Finnis does articulate something that bears some similarity to Thomas's teaching of the two senses of the speculative/practical distinction, but it is significantly differently expressed and makes no reference to Thomas's express teaching or any implica-

²⁴ As St. Thomas Aquinas argues in *Summa Theologiae*, *op. cit.*, I-I, q. 79, art. 11.

²⁵ Thus, while Bonino's immediate resolution of the question seems to me in need of revision, his account need not embrace the wider negation of the *pertinence* of the speculative as informing the practical, arguably precisely because he does not wish to negate the validity of *Summa Theologiae*, *op. cit.*, I-I, q. 79, a. 11.

tions of that teaching for the genesis of moral action²⁶. If by «speculative» and «practical» we refer to the *what* that is known, it is incontrovertible that this is a function of the *finis operis*. But if one is speaking of *the mode of the knowing as such*, this formulation is difficult to affirm.

Why is the mode of knowing important? The mode of the knowing is important because, prior to any *intention* to act, *there is not a practical mode of knowing, there is simply speculative knowledge*. We may know *what* is practical in the sense of being concerned with the order of contingent means to objects of desire and intention, but prior to desire and intention our knowledge *as knowledge* is not yet practically determined. Desire is prior to practical *intention*, and before there can be desire or intention there must be *knowledge*. Accordingly, precisely as knowledge, irrespective its object, this knowledge is necessarily speculative in its mode. It is also for this reason that *synderesis*, which of itself does not entirely commit to a particular action absent further considerations, is speculative knowledge which *principiates*, serves as the moving principle for, practical considerations. It is thus teleologically practical by its nature, but viewed precisely and in terms of the mode of the knowledge, it is originatively speculative.

Which is the more fundamental sense of the speculative/practical distinction? Without intention to act, there would never exist any «practical» objects or subject matter: if human persons have or can have no desire or intention, then there can be no «what» which is the nature of the human practical act (for on

²⁶ There is a consideration in *Natural Law and Natural Rights* that approaches Thomas's distinction of the speculative from the practical mode of knowing, but it makes no reference to Thomas's teaching, and speaks of what would need to be seen as the «practical» mode of knowing as being «instrumental» – which indeed, it truly *is*, but of course, not in any way that suggests reducing the moral good to mere instrumentality which the language might suggest (hence Finnis's comment in his later work, *Aquinas*, that seems to treat the modal distinction as equivalent to practical intelligence being «slave to the will»). For Thomas the practical intellect knows truth just as the speculative, but ordains the known truth to the *good* of an operation. Not to the (mere?) good of «instrumentality» but to the good of an operation. Similarly, the desire for truth as such ought not be reduced to the effect of «curiosity» – something that is plausibly thought of in certain contexts as a vice, but which even when not a vice is not something to which all knowledge speculative in its mode is inextricably connected. Here are the lines, from p. 60: «... the distinction I am drawing is not between one set of propositions and another. It is not a distinction between fields of knowledge. Any proposition, whatever its subject-matter, can be inquired into (with a view to affirming or denying it) in either of two distinct ways, (i) instrumentally, or (2) out of curiosity, the pure desire to know, to find out the truth about it simply out of an interest in or concern for truth and a desire to avoid ignorance or error as such». There is no express engagement with Thomas's teaching from *Summa Theologiae*, I, *op. cit.*, q. 79, a. 11.

that supposition there will be no human practical act, nor any human practical reasoning). Because prior to knowledge that is speculative in its mode the knowledge that is practical in its mode is objectively *impossible* – and because knowledge *practical in its mode* is absolutely required if there is even to exist any human practical knowledge in the sense of the knowledge specified by the practical nature of that which is known, of the «what» to be known; it follows that the *modality* of knowledge is the more foundational sense of the distinction.

Knowledge speculative in its mode does not necessarily presuppose knowledge practical in its mode, but rather the reverse, and knowledge practical in its object is derived from knowledge practical in its mode. If no knowledge practical in its mode exists, no practical human agency is possible since such agency requires voluntariness, and the result would be the nonexistence of the practical object in terms of the finis operis. In the absence of practical human agency, there will be no essentially practical object. It follows that a practical object underived from prior speculative cognition is an impossibility. This conclusion involves no derogation of the distinctive field of intellectual operation constituted by deliberation and reasoning about contingent means in relation to ends. Knowledge further ordained to operation is practical, and study of that which concerns ordination to operation is study of *what is practical by its nature*. But that which is practical by its nature implies the possibility of knowledge practical in its mode, which absolutely requires prior speculative knowledge and is derived from it precisely because it is something first known (prior to appetite of it) that moves the will. As I have argued elsewhere (*cfr.* note #31 below), speculative knowledge of the end *that ordains* is objectively prior to knowledge of the end *as ordaining* (and this is true even when the first is simultaneous with the second, because the first is objectively the *sine qua non* of the second).

But is not speculative knowledge then merely «modally» but *not* objectively prior to the practical? Since all objects are originatively speculative in the most foundational sense of the distinction between the speculative and the practical, the answer is that the «what» to be known – no matter its character – is always and necessarily first speculatively known. Speculative knowing precedes appetite and intention; practical knowing for the sake of the good of an operation presupposes such speculative knowledge, and practical human agency absolutely presupposes practical knowing for the sake of the good of an operation (a knowledge *which can never exist* apart from prior speculative knowledge). The entire realm of practical cognition and agency (and every instance of these) is thus necessarily derived from prior speculative knowledge.

This constitutes an absolute objective priority of speculative truth *vis-à-vis* practical reason. *Contrary to the assertion that the practical is underived from speculative truth, the entire practical realm – every practical knowledge, and every practical human agency – can only exist as derived from prior speculative knowledge.*

It follows that the foundational sense of the distinction of speculative and practical is that in terms of the teleology of knowing. Speculative and practical knowledge are distinguished by their ends. In this light, to say that *what by its nature is something practical cannot be known speculatively* appears similar to the view according to which it is impossible to know material things through an immaterial act of knowledge in an abstracted concept, a judgment that expects what characterizes *the mode of knowledge* necessarily to be *what characterizes that which the knowledge is about*. It belongs to the nature of the intellect to possess in an immaterial way the cognition of quiddity in corporeal matter²⁷. Likewise it belongs to the intellect to possess speculative knowledge even of practical things insofar as these are known not (or certainly not initially and also not exclusively) for the purpose of guiding action, but either as initiating our contact with potentially appetible objects or for the purpose of understanding the nature of moral action or the structure of the created natural good. If we refer

²⁷ AQUINAS, ST. THOMAS, *Summa Theologiae*, I, *op. cit.*, q. 84, a. 7, c: «intellectus autem humani, qui est coniunctus corpori, proprium obiectum est quidditas sive natura in materia corporali existens». And from the commentary on Boethius's *De trinitate*, Bruno Decker Lugduni Bataurorum 1959 editum ac automato translutum a Roberto Busa SJ in taenias magneticas denuo recognovit Enrique Alarcón atque instruxit, made available online by the University of Navarre, <https://www.corpusthomicum.org/iopera.html>, q. 5, a. 2, c: «Et ideo formae et rationes rerum quavis in motu existentium, prout in se considerantur, absque motu sunt. Et sic de eis sunt scientiae et diffinitiones... Possunt ergo huiusmodi rationes sic abstractae considerari dupliciter. Uno modo secundum se, et sic considerantur sine motu et materia signata, et hoc non invenitur in eis nisi secundum esse quod habent in intellectu. Alio modo secundum quod comparantur ad res, quarum sunt rationes; quae quidem res sunt in materia et motu. Et sic sunt principia cognoscendi illa, quia omnis res cognoscitur per suam formam. Et ita per huiusmodi rationes immobiles et sine materia particulari consideratas habetur cognitio in scientia naturali de rebus mobilibus et materialibus extra animam existentibus». – «... forms and natures, though belonging to things existing in motion, are without motion when they are considered in themselves; and so they can be the objects of sciences and of definitions... Natures of this sort, thus abstracted, can be considered in two ways. First, in themselves; and then they are thought of without motion and determinate matter. This happens to them only by reason of the being they have in the intellect. Second, they can be viewed in relation to the things of which they are the natures; and these things exist with matter and motion. Thus they are principles by which we know these things, for everything is known through its form. Consequently, in natural science we know mutable and material things existing outside the soul through natures of this kind; that is to say, natures that are immobile and considered without particular matter».

to the study of a subject it is specified by that subject; if we refer to the way a subject is known, it is specified by the mode of knowing.

It is accidental to the good that is known that I am ordered or orderable to it: something most clear in the case of God, but true of ends as such. The perfectible is for the sake of the perfect: not the other way around. God does not exist *for me*, but I am *ordered to God*. It is not essential to the very perfection itself *to which* I am ordered that *I am ordered to it*. Wisdom does not pine for me, water does not wait expectantly upon my thirst, patience does not calmly but expectantly await me²⁸. This does not make the human ordering to the good arbitrary, however, because it is not accidental but essential to the nature of the human person to be ordered to certain goods, as potency is ordered to act, and as the perfectible is ordered to the perfect. While it may be accidental to what is known that it incite desire, it is not accidental to human nature that knowing the nature of certain perfections the agent is naturally ordered to be perfected in seeking and attaining them and can see the perfective character of the end known²⁹. Do we first reason to the ordination of intellect to its end

²⁸ Granted that something is understood to be good insofar as something flows from it, this does not mean either that the good necessarily flows from something else or that it *must* communicate externally: both flowing from something else, and necessary real relation to what is external, signify limitations of potency, and the ratio of good may but need not imply potency. Hence the *Summa Theologiae*, *op. cit.*, I-II, q. 1, a. 4, ad. 1: «Ad primum ergo dicendum quod de ratione boni est quod aliquid ab ipso effluat, non tamen quod ipsum ab alio procedat»: «the very nature of good is that something flows from it, but not that it flows from something else». But *Summa Theologiae*, *op. cit.*, I-II, q. 5, a. 4, ad. 2, states: «Ad secundum dicendum quod bonum dicitur diffusivum sui esse, eo modo quo finis dicitur movere»: «goodness is described as self-diffusive in the sense that an end is said to move». To move, not to be moved, the former implying no potency insofar as what is in question is perfection (and to the degree something lacks perfection, it is just so far, an inferior end).

²⁹ Dietrich von Hildebrand holds a similar rejection of the transcendence and perfective character of Aristotelian and Thomistic accounts of normative unified teleology in the moral life, although Finnis's reasons are epistemic whereas von Hildebrand seems to suggest that teleology is simply an appetitive solipsism un-normed by any perfective good. Von Hildebrand's *Christian Ethics*, David McKay Company, New York, 1953, pp. 95 and 186, and Finnis, *Natural Law and Natural Rights*, *op. cit.*, pp. 33-34. Unlike Finnis, Hildebrand's rejection of teleological ethics rests upon a psychologization and immanentization of teleology (*Christian Ethics*, pp. 95-100; pp. 186-190). He argues that in teleological ethics the character of the end as good means «nothing more than the fact that this act is suitable for the unfolding of the entelechy of the man» who performs the good act. So, von Hildebrand failed to discern the transcendent aspect of natural finality within teleological ethics as that for the sake of which a thing is and acts. Compare this with St. Thomas's view of teleology (*Summa Theologiae*, I-II, *op. cit.*, q. 2, a. 5): «... man is ordained to something as his end: since man is not the supreme good. Therefore, the last end of man's reason and will cannot be the preservation of man's being». Thomistic teleology stress-

– truth – or do we first *know* something because the intellect *is ordered to truth* and thereafter derive the befitting judgment regarding its end? We may later make the quest for truth thematic in our lives, but this presupposes the prior teleological ordering of mind to the true which is indeed a natural teleological ordering: nature is never, teleologically speaking, in «neutral gear».

There is here, in the relation of *finis operantis* to the *finis operis* a distinction of great importance. One does not deny the *nature* of the *finis operis* – of the nature of the *what* that is known – in observing that the end for the sake of which the agent knows will determine whether the agent is knowing to act, or is simply knowing. Prior to any knowledge that is practical in the sense of being achieved for the sake of acting there is knowing *for the sake of knowing*, because acting is governed by knowing, and indeed, desire and intention presuppose prior knowledge that transcends the practical order while yet it is the principle of it³⁰.

At the very basis of the practical there is thus necessarily a «derivation» of intention from a knowledge prior to desire and prior to intention. *Every*

es the transcendent good and the ordering character of the end, while nonetheless insisting that precisely as the good for the sake of which man is, man is immanently ordered to God. Indeed, were man not ordered to his end, it is unclear what it would mean to assert that this end was that for the sake of which he is and acts. Nor, *contra* Hildebrand, is this «selfish» – precisely because the human person is ordained to *common goods*, and ultimately to the supreme extrinsic common good of the universe, God, who is not merely a «private» good. Human teleology is not, as Hildebrand accuses Aristotle and others of holding, merely akin to the homeostasis of the animal eating and drinking to satiation. But then, post-enlightenment thought can only think of goods as lower goods, and so must contrast this with a «pure duty» somehow untethered from nobler ends. But duty unjustified by the nobility of the end and the order to it seems to this author to constitute the loss of the transcendence of the good: deontology designates at its best a *minima natura* required for motion toward the good rather than the full glory of perfection.

³⁰ The sense of the distinction between speculative and practical identified with the *finis operis* concerns, I have argued, the *nature* of the *what* that one is knowing. The second sense concerns the *end* for the sake of which one is knowing. We have here, once again, the relation of *object to end* that arises also with respect to the understanding of the analysis of human action. And the end specifies actions, and indeed, without a *finis operantis* there is no *finis operis* because on that supposition there will never be a cognitive operation. Every practical object ordained to operation of its very nature is (in the modal sense of the distinction of the speculative and the practical articulated by Thomas in *Summa Theologiae*, I, *op. cit.*, q. 79, a. 11) *known first speculatively*, because what is sought as a good *must first somehow be known* if there is to be desire and intention. Moreover, one may act practically in behalf of all kinds of things, including things that are not properly operables. The dead are not «operables», but one may make the life of an ancestor a model for one's own practical imitation. God is not an «operable» but one may order one's actions entirely for the sake of achieving natural wisdom regarding God or, further, the beatific vision, both of which seem to be – as Aquinas teaches – speculative and contemplative.

practical knowing presupposes such foundationally *speculative* knowing. Indeed, the convertibility of being, true, and good *guarantee* that anything that is known *could be such as to orchestrate practical intentions*. What guarantees the integrity of the practical in the first sense – the practical «by nature» as something ordered or orderable to an end – is the actual teleological *order* whereby human nature is ordained to certain perfections as potency is ordained to act, and as the perfectible is ordained to the perfect. It is not that these perfections are themselves somehow simply «practical». Food, water, friendship, wisdom, holiness, all can be objects of either speculative or practical *cognition*, but the ordering of contingent means to them is practical by nature even when known in a merely speculative manner. There is no question of denying that nature is ordered to perfections, *but only of realizing that the perfections are not in and of themselves ordered to our nature but rather the converse*. The *pros hen* structure of the practical life presupposes speculative *adequatio*. If an agent knows nothing, the nonexistent knowledge cannot elicit desire and intention ordaining the agent *to anything*, and the needed cognition is prior to practical orchestrations³¹. How then does practical operation occur? There truly are *ends*,

³¹ Pertinent here is my extensive footnote #7 in «Teleology, Divine Governance, and the Common Good – Reflections on the ITC's *The Search for Universal Ethics: A New Look at Natural Law*», *Nova et Vetera*, English Edition, vol. 9, n. 3, 2011, pp. 775–789. I quote: «On this score, one must observe that even reason is teleologically ordained to its end *prior* to any act of reason: teleological order is the formal *precondition* of efficiency. There can be a tendency to suppose that, because man moves toward his end as specified by reason, that therefore his inclinational ordering is a pure function of understanding. Whereas, reason itself is ordained to the true *prior* to the understanding that reason is ordained to the true; and, further and more specifically, that understanding inform, incite, and specify volition is a function of the teleological ordering of human nature as a whole (granted, under the form of reason). One understands that water is good for one, but knowledge of one's own thirst plays a role in this understanding. This does not mean that lower inclination trumps reason, but that reason discriminates the ordering in lower inclinations and so moves us to a genuinely rational appetite with respect to their objects, placing these in relation to the whole universe of good. Yet *that I am such a being* as, ensuing upon knowledge of a good, to be incited to desire for it, is a function of my entire nature and its teleology, and not merely of reason: granted that there must be rational apprehension of the good in order for one's will to be moved by it and toward it (which involves also the rational grasp of one's own subrational appetites and their objects in relation to the order of ends). For example, to say no more, such volition presupposes the general natural rational volition of the end – of the good in general, happiness – which is prior to further specification of the desire for happiness. Act is prior to potency, absolutely speaking. And to know the good precisely as object *of desire* – under that *ratio* – one must first know the good, and be moved to desire it. Hence our understanding of the objective good *that ordains* is distinct from our understanding of the objective good *precisely as ordaining*, for the first is prior to the motion of the will, while the latter is subsequent. The knowledge of the good *for man* precisely as such includes reference to

reasons for action, to which human nature as such is naturally ordered, and this teleological ordering is real and effectual, although its full unfolding and implications are susceptible «downstream» to human defect. The ordering of human nature as specified by the order of ends is not defective, but human intention and choice may be. The foundational role of the speculative in relation to the engendering of the realm of practical agency *tout court* is mirrored in Thomas's explanation highlighting both the similarity of *end* to *circumstance*, and the difference. In a sense the end is like a circumstance, because it is extrinsic to the act. Yet, as Thomas explains, «to the second it should be said that while the end is an extrinsic cause, still due proportion to the end and relation

the motion of the will, because the good for man implies the ordering of man to something as an end, and potency is known only in relation to act: this is to say that the perfection of the end is thus known as terminating a *motio*, as activating a potency, even though in relation to *act* as such potency is accidental, because potency is *for the sake of* act and is defined by it. Although action is essentially ordained to end, it is accidental simply to the perfection specified by «end» that it be terminus of the act: the end is an extrinsic cause, as Thomas teaches (*Summa Theologiae*, I-II, *op. cit.*, q. 7, a. 3, r.; also q. 7, a. 4, ad. 2), even while it is «the most important cause of the act insofar as it moves the agent to act» (*ibid.*, a. 4, ad. 2: «Ad secundum dicendum quod finis, etsi non sit de substantia actus, est tamen causa actus principalissima, in quantum movet ad agendum. Unde et maxime actus moralis speciem habet ex fine»). The notion of the good for man includes the attainment of that good through the motion of the will – this is the very reason why Thomas distinguishes our attainment of happiness and the reality in which happiness consists as both pertaining to beatitude. *Yet it is potency that is ordered to act and not the converse, and so our knowledge of some perfection can rationally direct the will* – we judge something worthy of desire; *whereas it is only following upon actual inclination that reflexive knowledge of the good as perfecting appetite occurs*. In a way similar to that in which, because one knows, one knows oneself to be a knower, so likewise because one is volitionally moved by rational apprehension of the nature of the good, one knows oneself to be ordered to the good. Even if it be said that the knowledge of the good for man requires only the knowledge of something as *potentially* moving the will, the understanding of this potential motion can occur only on the basis of prior knowledge of *act*, because potency is knowable only in relation to act. To know the will as potentially moveable relative to a judgment of reason about being as perfective seems to require prior knowledge of the will as actually moveable, which is to say of the good as actually moving the will; and for that prior knowledge to occur, we must have known something about being, some objective aspect of a thing that actually incited appetite: the will must have been moved. Hence in our knowledge of the good, there is a first utterly speculative moment wherein our knowledge/judgment of being forms, specifies, defines, and attracts the motion of the will – *the known object ordains such motion*, as it were. Thereupon we reflexively know the rationally apprehended reality precisely under the formality of its attraction of the will's motion – not merely *the good (that ordains)*, but precisely *the good as ordaining*. Because of the universal extension of teleology as the very condition of all efficiency, it is important not to overstate the efficiency of reason with respect to the motion of the will: the reason *informs* and *specifies* the will, but it is of the nature of man that the teleological ordering of his nature be such that certain known goods rationally attract».

to it are inherent to the action»³². The first knowledge of the end prior to desire, intention, and agency is clearly the font of desire, intention, and agency. And the due proportion and relation of practical agency to the speculative knowing of that to which human nature is ordained is the *conditio sine qua non* of desire, intention, and agency to which such desire and intention always and intrinsically maintain a due proportion and relation.

Because the human person is *homo sapiens*, our knowledge of that which exists is always prior to, and the condition for, any practical knowledge or reasoning and from which these derive. There is a prior *speculum* from which any and every practical intention is teleologically derivative. It is accidental to the grain of sand around which the pearl forms that the pearl forms around it, but it is not accidental to the pearl that it should form around the sand. Similarly, it is accidental to the speculative knowledge prior to desire and intention that these be elicited and ordered with respect to it: but it is not accidental to human nature to be so ordered. Teleological ordering is the *conditio sine qua non* of operation as such. This ought to surprise no one.

III. CASCADING IMPLICATIONS

The immediate effect of the negation of the formal and objective primacy of the speculative in *Natural Law and Natural Rights* is the negation of unified natural teleology as definitive for the practical life. Separating practical reason from the primary teleological ordering of the human mind to speculative truth, it will prove difficult to restore the principle at a subordinate level. It is not simply that Finnis with commendably consistent systematic rigor discerns and holds this implication, as he does, but rather (as he sees) that it is an inescapable entailment of his analysis. On the account of *Natural Law and Natural Rights*, natural teleology may be understood in metaphysics or philosophy of nature as unified and permeating, but properly speaking his analysis requires that practical agen-

³² AQUINAS, ST. THOMAS, *Summa Theologiae*, I-II, *op. cit.*, q. 18, a. 4, ad. 2: «Ad secundum dicendum quod, quamvis finis sit causa extrinseca, tamen debita proportio ad finem et relatio in ipsum, inhaeret actioni». *Vid., ibid.*, q. 1, art. 3, ad. 1: «Ad primum ergo dicendum quod finis non est omnino aliquid extrinsecum ab actu, quia comparatur ad actum ut principium vel terminus; et hoc ipsum est de ratione actus, ut scilicet sit ab aliquo, quantum ad actionem, et ut sit ad aliquid, quantum ad passionem». – «The end is not wholly extrinsic to the act, because it is related to the act as principle or terminus; and thus it is just this that is the nature of act, namely to proceed from something, considered as action, and to proceed towards something, considered as passion».

cy not only can, but must, prescind from the knowledge of unified teleological order, perhaps to be reunited with it later in a purely theoretic treatment of the matter. But to the contrary teleology is both speculative and practical even in the sense of «what the knowledge is about» – knowledge of that which by nature is perfective, to which our nature is in reality ordered, is a necessary condition of right action with respect to it³³: and that which is naturally perfective constitutes a teleologically ordered whole that specifies wisdom regarding a good life. Further, some realities only naturally knowable through reasoning – God, the common good – play a central and very formal role in the moral life.

It illustrates this truth that certain ends to which we are in fact ordered – e.g., speculative natural wisdom regarding God – are only accessible through natural reasoning that is wholly speculative in both senses (both *finis operantis* and *finis operis*). This does not mean that such knowledge is the exclusive venue of theorists, because natural reasoning regarding God arises apart from the full theoretic development of philosophic proofs, just as natural logic is the condition for the development of logic in the fuller and formal sense of the term. But such knowledge impacts our immediate consideration with practical moral reasoning, because under the virtue of justice there are duties to God (religious duties). Clearly this can have no place in the zone bounded by the principles of *Natural Law and Natural Rights*, wherein an apprehension of theoretic reason cannot found a moral duty (but religion as a natural virtue presupposes natural knowledge of God)³⁴.

Finnis treats the foundational moral concern of unified natural teleology for practical life as merely a higher order theoretic observation from which

³³ AQUINAS, ST. THOMAS, *Summa Theologiae*, I, *op. cit.*, q. 19, a. 4, ad. 4: «In his autem quae sunt ad finem, rectitudo rationis consistit in conformitate ad appetitum finis debiti. Sed tamen et ipse appetitus finis debiti praesupponit rectam apprehensionem de fine, quae est per rationem». – «Now in regard to the means, the rectitude of the reason depends on its conformity with the desire of a due end: nevertheless the very desire of the due end presupposes on the part of reason a right apprehension of the end».

³⁴ *Ibid.*, q. 81, a. 2 ad 3: «Ad tertium dicendum quod de dictamine rationis naturalis est quod homo aliqua faciat ad reverentiam divinam, sed quod haec determinate faciat vel illa, istud non est de dictamine rationis naturalis, sed de institutione iuris divini vel humani». – «To the third it should be said that it belongs to the dictate of natural reason that man should do something through reverence for God. But that he should do this or that determinate thing does not belong to the dictate of natural reason, but is established by Divine or human law». See also in the same question, a. 5, ad. 3: «Ad tertium dicendum quod religio non est virtus theologica neque intellectualis, sed moralis, cum sit pars iustitiae»: «to the third it should be said that religion is not a theological nor an intellectual but a moral virtue, since it is a part of justice».

no directive conclusion of moral agency derives. In *Natural Law and Natural Rights*, in a section titled «All Equally Fundamental», Finnis articulates the doctrine of the incommensurability/objective lack of «co-measurability» of goods denominated as basic: «each is fundamental. None is more fundamental than any of the others, for each can reasonably be focused upon, and each, when focused upon, claims a priority of value. Hence there is no objective priority amongst them»³⁵. One notes Finnis's observation about these goods that «they are incommensurable» and his denial that there is any morally significant hierarchy of «basic» goods prior to choice. His evinced principal concern to avoid the utilitarian or consequentialist «calculative summing» of goods – from Benthamite hedon-counting to proportionalism – is of course sound³⁶. But the objective natural teleological commensuration of goods, their co-measuring as diverse *rationes* of the good closer to, or further from, the *finis ultimus*, is simply not considered. For Thomas this is impossible, for anything that is not desired as the *finis ultimus* is necessarily desired as ordered to it³⁷. Whether we speak simply of the good in general and happiness, or of that which constitutes the proportionate natural end (or even further of the last and supernatural end of beatitude, ordering nature through grace to the vision of God), unified teleology is not a mere speculative icing added to the cake of morally disunified human ends, but constitutes it as the universe of good that it is³⁸.

As Finnis argues in *Natural Law and Natural Rights*:

«And thirdly, Aquinas himself was a writer not on ethics alone, but on the whole of theology. He was keen to show the relationship between his ethics of natural law and his general theory of metaphysics and the world-

³⁵ FINNIS, J., *Natural Law and Natural Rights*, *op. cit.*, p. 93.

³⁶ *Ibid.*, pp. 112-118, especially p. 112 where speaking of goods denominated as basic, he writes «each of the basic aspects of human well-being is equally basic, that none is objectively more important than any of the others, and thus that none can provide a common denominator or single yardstick for assessing the utility of all projects: they are incommensurable, and any calculus of consequences that pretends to commensurate them is irrational».

³⁷ AQUINAS, ST. THOMAS, *Summa Theologiae*, *op. cit.*, I-II, q. 1, a. 6.

³⁸ Of course, with respect to the further ordering of the person in grace, this is where the obediential potency of human nature to be so elevated enters the consideration: a further and profound consideration which, however, manifests the foundational level of the *imago dei* as chiefly found in the intellectual nature which under the divine active power is thus, by reason of its character as spirit, elevable to the beatific vision. Thus, there is both continuity – the intellectual nature – and also the transcendence of the order of grace, which last realizes infinitely more than could ever have been imagined by the creature in its general, inchoate, and imperfect natural desire for God (which last is nonetheless a sign of the fittingness of the human elevability by grace).

order. He wished to point out the analogies running through the whole order of being. Thus human virtue is ‘analogous’ to the ‘virtue’ that can be predicated of anything that is a fine specimen of things of its nature, in good shape, *bene disposita secundum convenientiam suae naturae*. So he is happy to say that human virtue, too, is in accordance with the nature of human beings, and human vice is *contra naturam*. If we stopped here, the charge against him would seem to be proved, or at least plausible (and certain later philosophical theologians would seem to have been justified in claiming his patronage). But in fact Aquinas takes good care to make his meaning, his order of explanatory priorities, quite clear. The criterion of conformity with, or contrariety to, human nature is reasonableness»³⁹.

He continues, after having quoted Thomas to the effect that «*the good of human being is being in accord with reason, and human evil is being outside the order of reasonableness*»⁴⁰ to argue that:

«In other words, 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»⁴¹.

Principles «which make no reference at all to human nature» – something which one might seriously suppose to be impossible since neither practical understanding of, nor human motion toward the good can lack all reference to human nature. Certainly Thomas did not suppose such a thing when writing: «*Secundum igitur ordinem inclinationum naturalium, est ordo praeceptorum legis naturae*»⁴². The moral significance of the proportion betwixt end and nature, and the unity of nature itself, are lost with the bracketing of unified moral teleology as a mere extrinsic theoretic addendum to the practical life. This seems to be a necessary casualty of the doctrine of the incommensurability of basic – not merely useful – human goods, that is, the doctrine that prior to

³⁹ FINNIS, J., *Natural Law and Natural Rights*, op. cit., p. 35.

⁴⁰ AQUINAS, ST. THOMAS, *Summa Theologiae*, I-II, op. cit., q. 71, a. 2, r.

⁴¹ FINNIS, J., *Natural Law and Natural Rights*, op. cit., p. 36.

⁴² AQUINAS, ST. THOMAS, *Summa Theologiae*, I-II, op. cit., q. 94, a. 2, r.: «Thus according to the order of natural inclinations is the order of the precepts of the natural law». *Order not list*: the clear suggestion is not that the order is merely logical but rather *natural*.

choice these goods/ends are not naturally ordered in any morally significant way⁴³. Reasonableness for Thomas is a function of reason; the good of reason is truth, *adequatio intellectus et rei*; and the truth in question in ethics concerns what is actually perfective (good) for human nature. Because ends are precisely perfections for human agency and human nature, the effort to dissociate the unity of human nature from what is perfective for it – from unified natural teleology – places a significant cognitive disability at the core of one's ethical consideration. Is practical reason «self-norming» or is it norming only insofar as *adequated* to the universe of what is naturally good? To say that the good of a human being is in accord with reason does not suggest that merely any act of reason is sufficient to direct one well to action. Reason must accord with the truth of the nature of the good, and so this must first be known. One recalls the observation of Thomas:

«Human reason is not, of itself, the rule of things: but the principles impressed on it by nature, are general rules and measures of all things relating to human conduct, of which the natural reason is the rule and measure, although it is not the measure of things that are from nature»⁴⁴.

Human reason is a «measured measure» – it must receive from nature the measure which it applies, it does not originate it *ex nihilo*, but through conforming to the principles impressed on it by nature it can then serve fittingly as the rule and measure of conduct (but not as the measure of things that are from nature, which rather measure reason).

Thomas's analysis in *Summa Theologiae*, remains probative:

«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

⁴³ FINNIS, J., *Natural Law and Natural Rights*, *op. cit.*, pp., 92-95.

⁴⁴ AQUINAS, ST. THOMAS, *Summa Theologiae*, I-II, *op. cit.*, q. 91, a. 3, ad. 2: «Ad secundum dicendum quod ratio humana secundum se non est regula rerum, sed principia ei naturaliter indita, sunt quaedam regulæ generales et mensuræ omnium eorum quæ sunt per hominem agenda, quorum ratio naturalis est regula et mensura, licet non sit mensura eorum quæ sunt a natura».

based, as is stated in Metaph. iv, text. 9. Now as ‘being’ is the first thing that falls under the apprehension simply, so: good is the first thing that falls under the apprehension of the practical reason, which is directed to action: since every agent acts for an end which has the nature of the good. Consequently, the first precept of practical reason is one founded on the notion of good, viz. that ‘good is that which all things seek after.’ Hence this is the first precept of law, that ‘good is to be done and pursued, and evil is to be avoided.’ All other precepts of the natural law are based upon this: so that whatever the practical reason naturally apprehends as man’s good (or evil) belongs to the precepts of the natural law as something to be done or avoided»⁴⁵.

«The first indemonstrable principle is based on the *notion* of ‘being’ and ‘not-being’: and on this principle all others are based». All others: practical principles included. Being is first in apprehension simply, so that all other principles are founded on it (ergo, separating knowledge practical in its mode from knowledge speculative in its mode would, absolutely speaking guarantee the nonexistence of the practical) but good is first in the apprehension of practical reason *which is directed to action* (i.e., which already includes intention of an end, without which no human action as distinct from an act of man occurs). Or, as Thomas says, good is first in the apprehension of practical reason because «every agent acts for an end that has the nature of the good». That is universal teleology: *every agent acts for an end that has the nature of the good*. Thus the first precept of law (*primum princeps legis*) is founded «on the notion of good» – an end – namely that good is to be done and pursued, and evil avoided. This teleological ordering to the good is universal and is the foundation for the practical life, from which the first principle is indeed derived.

⁴⁵ AQUINAS, ST. THOMAS, *Summa Theologiae*, I-II, *op. cit.*, q. 94, a. 2, r.: «In his autem quae in apprehensione omnium cadunt, quidam ordo invenitur. Nam illud quod primo cadit in apprehensione, est ens, cuius intellectus includitur in omnibus quaecumque quis apprehendit. Et ideo primum principium indemonstrabile est quod non est simul affirmare et negare, quod fundatur supra rationem entis et non entis, et super hoc principio omnia alia fundantur, ut dicitur in IV Metaphys. Sicut autem ens est primum quod cadit in apprehensione simpliciter, ita bonum est primum quod cadit in apprehensione practicae rationis, quae ordinatur ad opus, omne enim agens agit propter finem, qui habet rationem boni. Et ideo primum principium in ratione practica est quod fundatur supra rationem boni, quae est, bonum est quod omnia appetunt. Hoc est ergo primum praeceptum legis, quod bonum est faciendum et prosequendum, et malum vitandum. Et super hoc fundantur omnia alia praecepta legis naturae, ut scilicet omnia illa facienda vel vitanda pertineant ad praecepta legis naturae, quae ratio practica naturaliter apprehendit esse bona humana».

Given Thomas's manifest teaching everywhere in his corpus that inclinations are specified by their ends, his proposition (twice earlier cited above) in the same article that the *order* of precepts derives from the *order* of inclinations objectively implies that the order of inclinations *is derived from the order of ends*. It might be said that to «accord with» is not to «derive from» – but inclination requires prior knowledge that is speculative in its mode and from this knowledge derive knowledge of the end, appetite and intention (they can derive nowhere else). A certain *order* is normative here, descending from the speculative to the practical: as Thomas says: «The speculative intellect by extension becomes practical⁴⁶. The sense is not that from premises containing no reason for action, conclusions for action are drawn. Rather, the ordering of nature *contains reasons for action* – it is indeed true that there exist reasons for action, ends, to which human nature is ordained – and knowing these ends and their right order is essential to human flourishing.

Natural knowledge of God clearly is not purely practical, yet precepts pertaining to it form part of the natural law⁴⁷. God is not an operable, nor is God an a priori object of the will. Clearly speculative truth in this critical instance affects the living of a good life. But the same is true with respect to the nature and order of the family, about the objective nobility and commands of the common good, or even about the nature of medical art as distinct from punishment or war. Before intention there is desire, and before desire, knowledge which accordingly is prior to and the font of practical life. A man's glimpse of the woman with whom he falls in love – or for that matter, of the beckoning work of a lifetime – is simply speculative vision, but from it, owing to the ordering of human nature, derives desire and intention. Knowledge and experience of this complex weave yields an awareness of order which in turn becomes a principle regulating right judgment and conduct. Thomas is very far from denying that practical reason involves very distinctive challenges and cognitive considerations. But without extending speculative truth to practical operation, there is no humanly practical operation.

One of the prime speculative truths is that agency is, as such, teleological, because it is naturally ordained to bring something about. To act is to achieve something, either simply the act itself as an end – as when one simply wishes

⁴⁶ AQUINAS, ST. THOMAS, *Summa Theologiae*, I, *op. cit.*, q. 79, a. 11, s. c.: «Sed contra est quod dicitur in III de anima, quod intellectus speculativus per extensionem fit practicus».

⁴⁷ *Ibid.*, q. 81, a. 5, ad. 3.

to leave a crowded room – or some further end (as when one wishes to leave the crowded room for the sake of going to the store). Action as such is indistinguishable from non-action save on the supposition of that which specifies it as the action it is, which is its end. Were goods not to be teleologically commensurated, it would be questionable why they should be denominated *good*, or how one could escape Thomas's observation that it is impossible for one mind to be ordered to diverse goods as final⁴⁸: *i.e.*, there must be a governing teleological principle, an end. Goods constitute diverse *rationes* in an order according to their proximity to the *finis ultimus* of human completion and flourishing, such that they are more or less good (not quantitatively but intensively, by reason of their formal proximity to the *finis ultimus* of human flourishing). It is not that the order of goods in itself suffices to determine what to do *hic et nunc*, but rather that without knowledge of the order of goods, it would be unclear whether one were moving toward, or away from, a good life. But the second premise of moral reasoning will always be prudential in nature, taking stock of diverse capacities and circumstances.

Finnis's proposition that goods denominated as basic rather than as useful are incommensurable, objectively noncomparable with respect to their respective *rationes* of good – such that there is no objective ordering of goods denominated basic prior to choice – seems necessary once the speculative awareness of objective natural teleology is excised from the account of practical moral reasoning itself. The apogee of this gravitational tendency appears in the necessary denial of the transcendence of the common good as an end. Prior to choice, the common good is a nobler and more rationally diffusive and perfective good – not merely the good «of many» but a good *one in number* (as an end) and *of its nature communicable and diffusive*, as justice is of its nature more communicable to many than is food which, if one eats it, another does not. This is so pronounced a teaching that for Thomas, all action to be good must be commensurated to the noblest common good which infinitely precedes and exceeds all derivative common goods, namely, God. As St. Thomas expresses this in his *Summa contra gentiles*:

«Further, a particular good is ordered to the common good as to an end; indeed, the being of a part depends on the being of the whole. So, also, the good of a nation is more godlike than the good of one man. *Now the supreme*

⁴⁸ AQUINAS, ST. THOMAS, *Summa Theologiae*, I-II, *op. cit.*, q. 1, a. 5.

good, namely God, is the common good, [my emphasis – SL] since the good of all things depends on him: and the good whereby each thing is good, is the particular good of that thing, and of those that depend thereon. Therefore, all things are directed to one good, namely, to God, as their end»⁴⁹.

And also, in the *prima secundae* of the *Summa Theologiae*:

«But a man's will is not right in willing a particular good, unless he refer it to the common good as an end: since even the natural appetite of each part is ordained to the common good of the whole. Now it is the end that supplies the formal reason, as it were, of willing whatever is directed to the end. Consequently, in order that a man will some particular good with a right will, he must will that particular good materially, and the Divine and universal good, formally. Therefore the human will is bound to be conformed to the Divine will, as to that which is willed formally, for it is bound to will the Divine and universal good»⁵⁰.

IV. THE CONTRIBUTION OF *NATURAL LAW* AND *NATURAL RIGHTS*

This paper has argued that the loss of prior speculative knowledge of the end (and the *order* of ends) from which both knowledge practical in its mode and the realm of practical agency as such derive, implies an ever widening circle of implications that endanger the realism and coherence of

⁴⁹ AQUINAS, ST. THOMAS, *Summa contra gentiles*, III, Ch. 17, *Corpus Thomisticum*, S. Thomae de Aquino opera omnia, made available online by the University of Navarre, <https://www.corpusthomicum.org/iopera.html>, 1961 (26 September 2020): «Praeterea. Bonum particulare ordinatur in bonum commune sicut in finem: esse enim partis est propter esse totius; unde et bonum gentis est divinius quam bonum unius hominis. Bonum autem summum, quod est Deus, est bonum commune, cum ex eo universorum bonum dependeat: bonum autem quo quaelibet res bona est, est bonum particulare ipsius et aliorum quae ab ipso dependent. Omnes igitur res ordinantur sicut in finem in unum bonum, quod est Deus».

⁵⁰ AQUINAS, ST. THOMAS, *Summa Theologiae*, I-II, *op. cit.*, q. 19, a. 10: «Non est autem recta voluntas alicuius hominis volentis aliquod bonum particulare, nisi referat illud in bonum commune sicut in finem, cum etiam naturalis appetitus cuiuslibet partis ordinetur in bonum commune totius. Ex fine autem sumitur quasi formalis ratio volendi illud quod ad finem ordinatur. Unde ad hoc quod aliquis recta voluntate velit aliquod particulare bonum, oportet quod illud particulare bonum sit volitum materialiter, bonum autem commune divinum sit volitum formaliter. Voluntas igitur humana tenetur conformari divinae voluntati in volito formaliter, tenetur enim velle bonum divinum et commune».

natural law reasoning. To trace these circles, or even begin to, however, requires returning to the font of the difficulty. In wrestling with this question, and unfolding with rigorous systematic clarity the implications of his initial judgments, Finnis has performed a service to all who seek to understand these matters (and a service that only a rigorous and intelligent mind could perform). It is not simply a matter of the old jest – «perhaps the meaning of your life is to be a warning to others». Rather, it is that pursuing realist objectives⁵¹ with great intensity and rational penetration will necessarily make conspicuous any error at the foundation of the edifice of one's understanding of the natural law. *Natural Law and Natural Rights* has succeeded in turning the minds of many persons eager to discover what natural law is to the project of attempting to understand it, and the account does not consist only in its deprivations or departures from Thomas's teaching. But by reason of the goal it seeks with rigorous systematic consistency, its architectonic deprivations become progressively more evident, and invite the mind to return to the sources: not merely in a historic sense (Thomas, Aristotle) but in the speculative sense of the return to what is fundamental and well articulated by these aforementioned preeminent minds. This is a contribution that is, in itself, an estimable –even basic– good⁵².

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⁵¹ By reason of acknowledging at least the material (if disordered) significance of natural teleology to the moral good, Finnis's *Natural Law and Natural Rights* is, just so far, a realist philosophic effort to explicate the moral life. By reason of the formal lack of unified teleology as normative for the moral life and the negation of the derivation of the realm of practical knowledge from prior speculative truth, it does share certain aspects of the Kantian project. But by reason of this materially essential role of natural if morally disunified teleology, it nonetheless just so far escapes the Kantian *cul-de sac*, while (discrepantly and unfortunately) remaining in it in the confined but crucial respects of negating the foundational formal role of speculative truth and unified natural teleology for practical reason.

⁵² I am greatly indebted to Prof. Kara M. Logan for the benefit of her intelligent criticism and aid –turned from engagement in a distinct and profound project– in preparing this manuscript for publication. While all infelicities of prose or argument remain my own, surely these have been at least mitigated by her assistance.

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