

Clarifying the Relationship Between Nature and Normativity

Response to John Finnis

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It is an honour to be able to respond to John Finnis's rich and insightful lecture. My comments will focus on two aspects of Finnis's argument. First, I will outline, comment on, and raise a few questions regarding his discussion of the four types or orders of normativity, and particularly of the relationship between the normativity of the first/natural order and the normativity of the third/moral order. Second, I will add further support to Finnis's suggestion that MacIntyre's mature position regarding the identification of a set of basic goods as foundational to ethics (and thus as not inferred from a first-order understanding of human nature) is essentially the same as Finnis's own view.

I.

First, let me highlight what I take to be Finnis's key claims about the four orders of normativity. Following Aristotle and Aquinas, Finnis defines these four orders or kinds of normativity—that is, 'of directing of thought by "oughts"'—as follows (5):

- 'First there is the normativity of the laws of nature—of the natural order of things that are what they are independently of our thought. ... The natural sciences seek to track and articulate this

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normativity' (5-6).

- 'Second, there is the normativity of logical analysis: equivocation and other fallacies *must be* avoided...' (6).
- Third, there is the normativity 'pertaining to the domain of practical reasoning and deliberation towards choice and morally significant action (*praxis*)' (6).
- Fourth, there is the normativity 'pertaining to each and every kind of technique, technology, game and other means and way of mastering matter for some specified goal' (6).

A crucial difference between third-order (moral) normativity and all the other orders of normativity is that the third order is the order of *free choices*—that is, of choices in which 'nothing inside or outside the choosing person *settles*, determines, what option he or she chooses—nothing except the choosing itself' (7). By contrast, first-order normativity is 'deterministic' and second-order normativity is 'choice-annihilating' (7). Finnis does not say anything about the fourth order beyond defining it, other than to note that 'every human choice to deploy a technique *rather than to do something else* is *praxis* properly subject to the norms of the third order' (6). Within the fourth order, however, there is no free choice because all options are commensurable, but I will not elaborate on that point here.² What's relevant here is simply that free choice is distinctive to the third order, which, as Finnis explains, is one reason why only third order 'ought' propositions are *moral*. I will not say more about this except to conjecture that Finnis's emphasis on the self-evidence and indemonstrable character of the first principles of the third order (the first principles of practical reason)—and thus on their epistemic irreducibility to (non-deducibility from) knowledge in any other order—is motivated in part by the need to preserve the domain of free choice (and thus of moral normativity) in the face of modern moral theories like utilitarianism that tend to reduce moral normativity to technical (fourth-order) normativity, thus eliminating free choice.

¹ On the connection between free choice and the claim that there are multiple basic goods, each providing a sufficient, distinct, irreducible reason for action, see Joseph Boyle, 'Free Choice, Incomparably Valuable Options, and Incommensurable Categories of Good', *American Journal of Jurisprudence* 47 (2002), 123-141 at 133-41; and Finnis, *Aquinas: Moral, Political, and Legal Theory* (Oxford University Press, 1998), 70.

How, we are now in position to ask, do the first (natural) and third (moral) orders relate on Finnis's account? Or, in more colloquial language, how do 'facts' relate to 'values' and how does 'is' relate to 'ought'? (This language is imprecise because, among other things, both 'is' and 'ought' are used analogously in each order of normativity, as should be clear from what has already been said.)

One way in which the first and third orders relate to one another is epistemic: we need to have first-order knowledge that something is *possible* before we can have third-order knowledge that the thing is *good*. Finnis makes this clear in his example regarding knowledge. There is a two-step process by which, as children, we come to know that knowledge is good. First—through 'an act of simple insight into ... the range of data constituted by our experience of getting our questions answered more or less illuminatingly'—we grasp the concept of 'knowledge' and further understand that *knowledge is possible*. Second, through 'a further, logically distinct act of understanding and insight we regularly get the further, additional idea and proposition that *knowledge is ... desirable, a good*' (12). Thus, on Finnis's view the factual judgment (first order) that knowledge is possible does have epistemic priority over the value judgment (third order) that knowledge is good or desirable, but the relationship between them is not one of inference of syllogistic deduction, for both are first principles in their own order that are self-evident and indemonstrable. Rather, it might be said that just as the experience of getting our questions answered more or less illuminatingly is a prerequisite for the first-order, factual judgment that knowledge is possible, so too is that factual judgment a prerequisite for third-order value judgment that knowledge is good.

A second way in which the first and third orders relate to one another is metaphysical or ontological. For, as Finnis explains:

the goodness of all human goods ... is derived from (i.e. depends upon) the nature which, by their goodness, those goods perfect. ... For those goods ... would not perfect that nature were it other than it is. So, ought ontologically depends on—and in that sense certainly may be said to be derived from—is (18).

Thirdly, Finnis also claims that the epistemic relationship between the first and third orders is reciprocal, such that third-order knowledge

of what is valuable or good can deepen our first-order knowledge of human nature. As Finnis explains:

the reflective child who has just made this effortless transition from *knowledge of truth is possible* to *knowledge of truth is desirable* ... will regularly, I believe, make the transition *back and forth*. Going *back*, so to speak, he or she will easily and rightly think: So ... I am someone who has the capacity ... to change myself ... from ignorant to informed (12-13).

Finnis seems to imply that this activity of going ‘back and forth’ from first- to third-order knowledge and vice-versa is an illustration of the Aristotelian-Thomistic epistemological principle that we know a thing’s nature by knowing its capacities, we know a thing’s capacities by understanding its acts, and we understand a thing’s acts by understanding their objects or ends.³ Thus, epistemologically, ‘nature comes last’, although ontologically it comes first (13). Finnis adds that this epistemological principle, ‘like each of its terms, applies analogically ... to each of the main fields of human coming-to-know’ (13).

It is this last point about the epistemological principle applying in *each* of the orders that raises questions about, and perhaps problems for, Finnis’s claim about ‘going back and forth’ such that third-order knowledge of what is good can then deepen our knowledge of human nature *in the first order*. For if this epistemological principle applies in each of the orders, and if—as Finnis seems to accept—each of the orders corresponds to one dimension of our unified but complex nature, then it would seem that the objects or ends identified in one order can tell us only about our nature *in that order*. So, when the child engages in reflections of the sort Finnis describes, about being the sort of being who can naturally go from ignorant to informed, and being the sort of being inclined to do so, is this really an instance of ‘going back’ from third-order knowledge to first-order knowledge? Indeed, on the one hand it would seem that such reflections are avail-

² I say that he ‘seems to imply’ this because he does not say it explicitly, but after the paragraph talking about how the child will regularly transition back and forth between first- and third-order knowledge, the next paragraph begins: ‘So the child can have an at least inchoate ... understanding of the epistemological principle’ that I just described.

able to the child from a purely first-order perspective, once the child has had the experience of attaining knowledge and felt the inclination to do so. (Although perhaps even that claim is problematic, since, as Christopher Tollefsen points out, conscious reflexivity seems to belong to the second order.⁴) On the other hand, if what Finnis means here about going back and forth—as he indicates elsewhere⁵—is that the child, after grasping knowledge as a basic good, can then recognize that knowledge (rather than, say, sophistry or ignorance) is the object or end of her intellectual capacities *in the first order*, how does this square with the claim that the epistemological schema (of object revealing act revealing capacity revealing nature) applies analogically in each order?

I am, in short, seeking clarification about whether, and to what extent, the position Finnis outlines here and elsewhere—about third-order knowledge of human ends reflexively deepening our first-order knowledge of human nature—is compatible with the position outlined by Christopher Tollefsen in ‘Aquinas’s Four Orders, Normativity, and Human Nature’. In that article, Tollefsen draws on previous work by Grisez and Finnis to present an account of human nature in relation to the four orders. He writes:

The four orders are irreducible in the human person; the deliberating and choosing self thus in one important way is not the thinking self, the given self of the first order is not the self that is *made* as an artifact in the fourth order as a *persona*. Yet these are not four selves but one self. How can this be? For Grisez, the *self* just is the unifying principle of the four orders, without being a separate order or entity.⁶

Tollefsen then argues that this understanding of the human person implies that ‘the gap between first order investigation and third order insight is not simply epistemological.’ For instance, ‘even the good of life seems to outrun, in its open-endedness, what is possible for a

³ Christopher Tollefsen, ‘Aquinas’s Four Orders, Normativity, and Human Nature’, *Journal of Value Inquiry* 52 (2018), 243–56, at 256.

⁴ Finnis, Introduction to *Collected Essays*, Vol. 1: *Reason in Action* (Oxford University Press, 2011), 5.

⁵ Tollefsen, ‘Aquinas’s Four Orders’, 251. Finnis articulates the same position in ‘Personal Identity in Aquinas and Shakespeare’ in *Collected Essays*, vol. 2: *Intention and Identity* (Oxford University Press, 2011), 36–68.

biological organism as such. And the rest of the goods seem at best to have only a shadowy pre-existence in our given nature within the first order.⁷ He therefore thinks it is implausible to consider these goods actualizations of first-order nature. He further argues that since the ‘orders are irreducible to one another, and are unified by a self that is not a part of any of the orders’, the objects of one order could not, just as such, be the fulfilments of our nature in a different order.⁸ Tollefsen’s proposed solution is that we should apply the epistemological principle—that natures are known by capacities, which are known by their acts, which are known by their objects—*within* each order.

This is a position that, as noted above, Finnis seems to endorse in his lecture. But if Tollefsen is correct, then this position implies that third-order goods ‘are *not precisely complementary* to the potentialities’ of first-order human nature, but rather are correlative to potentialities of *third-order* human nature,⁹ and this in turn seems contrary to Finnis’s position in the lecture about how we can go ‘back and forth’ from third-order knowledge to first-order knowledge. It also might require a slight revision of the two other claims made about the relationship between the first order and third order—i.e., that first-order knowledge of what is possible is a prerequisite for third-order knowledge of what is good, and that what is good for us depends ontologically on first-order human nature. If Tollefsen is correct, then perhaps these claims need to be modified so that they speak not of the relationship between the first and third orders, but rather of the relationship between factual knowledge of third-order human nature and normative knowledge in the third order—that is, about the relationship between facts and values or is and ought or human nature and normativity *in the third order*. I am not yet sure what my own view is on these matters, but I would be very interested to hear what Finnis has to say about them.

II.

I was very pleased that Finnis engaged with the work of Alasdair MacIntyre in his lecture. The relationship between New Natural Law

⁶Tollefsen, ‘Aquinas’s Four Orders’, 256.

⁷*Ibid.*

⁸*Ibid.*

(NNL) theory and MacIntyre's work is a topic that has long been of interest to me as someone who has been deeply influenced by MacIntyre's work, which I encountered long before NNL (and which, I confess, initially predisposed me to be sceptical of the NNL account). I agree with what Finnis says regarding MacIntyre's work in relation to NNL, but I would simply like to provide further evidence to support the claim that MacIntyre's mature view is compatible with and complementary to the NNL account. What I say here will be brief, but I develop these ideas further in a forthcoming essay.

First, in addition to the quotations Finnis included in his lecture, there are a number of other passages in MacIntyre's work suggesting that, if NNL's position on the relationship between 'facts' and 'values' is correctly understood, the two positions are essentially in agreement. MacIntyre emphasizes, for instance, that the basic principles of natural law are generally known by 'plain persons', but that 'they certainly do not apprehend them by deriving them from metaphysical premises.' MacIntyre goes on to say that in explaining how the 'everyday knowledge' of natural law's basic principles is apprehended by plain persons, 'John Finnis has made the most important contribution so far, in arguing that human beings have a direct, underived knowledge of basic human goods and that it is in terms of this knowledge that our grasp of the precepts of natural law is to be understood.'¹⁰

Second, MacIntyre's emphasis on the social prerequisites for our knowledge of the natural law—including both our grasp of basic goods and our understanding of moral norms—may seem to be in tension with the NNL account, but there is no incompatibility on this point. As NNL theorists have always consistently acknowledged, and Finnis makes clear in his lecture, our grasp of basic goods is an insight into the relevant data of experience and will also depend upon our having first formed a relatively accurate concept of the good in question. Thus, a social context in which we learn language and are exposed to instances of the various goods is a prerequisite for our grasp of basic goods. MacIntyre himself, when discussing the apparent differences between his own view and Finnis's view, explicitly

⁹ MacIntyre, 'Natural Law Reconsidered' (Review of *Aquinas's Theory of Natural Law* by Anthony Lisska), *International Philosophical Quarterly* 37.1 (1997), 95-99, at 97-98.

states that his ‘account of how in everyday life the authority of the precepts of the natural law comes to be accepted ... is not inconsistent with Finnis’s view of our knowledge of what he takes to be basic goods.’¹¹

There are a number of other points of similarity between MacIntyre’s moral philosophy and NNL, including striking resonances between the moral norms MacIntyre articulates in *Ethics in the Conflicts of Modernity*—such as an overarching principle requiring that we maintain openness to all the basic goods that is quite similar to NNL’s master moral principle—but I will not say more about these points here because they fall outside the scope of Finnis’s lecture.¹²

Overall, I believe that MacIntyre’s ethics and NNL often *appear* to be at odds with one another largely because they are focused on different questions. While NNL’s primary focus has been on providing a rigorous and systematic account of the principles and norms of the natural law (and their applications to particular moral questions), MacIntyre’s work has typically been concerned with how people come to know the natural law, and what the prerequisites are for attaining this knowledge, both in terms of social conditions and in terms of a person’s internal dispositions or character. These differences do not, in my view, render the two approaches incompatible, but instead make them complementary and mutually enriching. For this reason, I hope more work will be done in the future that furthers dialogue between and combines insights from these two perspectives.

¹⁰ *Ibid.*, 99.

¹¹ MacIntyre, *Ethics in the Conflicts of Modernity* (Cambridge University Press, 2016), 229.