

The Situation of Natural Law in Catholic Theology

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IN Catholic theology, discussion of natural law can lean in one of two different directions. When natural law is used as one of the resources for inquiry about practical matters, inquiry moves toward particular actions, cases, and classes of actions. This is moral theology in its fully practical office. When we ask how natural law stands within the economies of creation and redemption our inquiry points toward the foundations of theology. The question “Is divorce licit under the natural law?” corresponds to the first; the question “Does the sacrament of marriage include natural law requirements of marriage?” corresponds to the second. Debates about natural law can arise either way. Not infrequently debates begin in one line only to jump into the other. The sexual questions which have captivated moral theologians for the past half century alternated between issues of precepts and deeper issues of anthropology. This is exactly what we ought to expect for any tradition that takes natural law seriously.

The two documents I shall consider in this essay lean more toward the sources than toward practical argument. Neither intends to solve a particular moral question. *Veritatis Splendor* (1993) is the first papal encyclical devoted exclusively to moral theology. As its subtitle indicates, the encyclical treats foundational issues—one of which is the natural law component of moral theology.¹ The International Theological Commission’s study, *The Search for a Universal Ethics: A New Look at the Natural Law*, considers natural law as a common component of the great “wisdom traditions.” The exposition is heavily weighted toward perennial anthropological and metaphysical themes. *Veritatis* is in every respect the stronger account because it looks

¹ *De Quibusdam Quaestionibus Fundamentalibus Doctrinae Moralis Ecclesiae*, On Certain Fundamental Questions Concerning the Church’s Moral Teachings.

ad intra to the coherence of moral theology. *The Search* aims at dialogue with extra-ecclesial parties for purposes, and under terms of dialogue, that are not always clear. But the two documents—one pontifical, the other a curial paper—give us an interesting picture of how natural law is situated in Catholic theology at the half-century mark from Vatican Council II.

First, I want to put the two documents in a specific historical and political context. After the collapse of political christendom—marked in the Catholic world at 1870, when the Roman communion ceased being a *de facto* arrangement of national churches superintended in many ways by temporal sovereigns—the magisterium had to develop a Catholic position on a wide array of moral issues and social problems: economic justice, associational liberties, church-state relations, and of course, marriage, which from the beginning was the most intense skirmish line along which Catholic moral teachings conflicted with the laws and public policies of the secular regimes. Addressing these broad issues, encyclicals went beyond the more narrowly tailored decrees about moral conduct in canonical and confessional cases. The older division of labor in Catholic christendom that informally distinguished between authority in public policy and authority in ecclesiastical order, corresponding to the competence of royal courts on the one hand and ecclesial tribunals on the other, had become defunct.

Rome now had to speak about the moral dimensions of public policy across the board. Leo XIII used natural law as an appeal (and sometimes as an argument) to resituate the problems of society and authority. His use of natural law was elegantly neo-Thomist, and it won the admiration of the Catholic world because Leo succeeded in balancing the disputed moral or political question with the deeper questions about the nature and end of man and the origin of authority. In the twentieth century, however, the list of disputed issues treated at least partially in terms of natural law multiplied, and came to include the “life” issues such as war and peace, abortion, contraception, and sexual conduct generally, as well as the ever-burgeoning sector of problems that spun out of the post-war human rights project (1948). John XXIII’s *Pacem in Terris* (1963) enumerated some two dozen human rights grounded in natural law. To accommodate the expanding field of social doctrine, the revised *Code of Canon Law* (1983) states: “The Church has the right always and everywhere to proclaim moral principles, even in respect of the social order, and to make judgments about any human matter in so far as this is required by fundamental human rights or the salvation of souls.”²

² CIC (1983) can. 747, §2.

The cumulative effect of a century of teachings in the arena of moral theology and social doctrine left the subject of natural law feeling rather cluttered at the practical end of the spectrum. It was easy to lose sight of the coherence that ought to obtain between this bevy of particular moral teachings and the principal sources of moral theology. Thus, the problem of coherence needed to be reconsidered and repaired where it was found wanting. This is the context in which we should read *Veritatis Splendor*, which addressed the coherence of moral theology precisely as theology. But knowledge of this history also helps us to understand the ITC paper, which keeps in view a human rights movement that has gone awry, multiplying and changing the content of rights to such extent that only an apophatic universal remains—a “negative anthropology.”³ That is to say, we can affirm what man is not, but not what he is prior to self-defining liberty.

Veritatis turned to the question of what kind of component natural law is in moral theology, and how it relates to the other sources of doctrine: sacred scripture, christology, theological anthropology, ascetical theology, and ecclesiology. Because it addressed (according to the subtitle) “fundamental questions” rather than fully practical ones, the encyclical was free to make more explicit and to give a more nuanced account of the assumptions that govern the magisterium’s use of natural law theory (or pieces thereof). I shall make no effort to summarize this very rich encyclical. Instead, I call attention to one of the assumptions that *Veritatis* was at pains to clarify. Namely, that natural law forms an organic part of moral theology.

Why shouldn’t the Church concern itself only with the habits and actions immediately ordained to salvation—for example, the theological virtues, the gifts of the Spirit, the Beatitudes, the works of mercy, and sacramental actions? Some theologians raised the question from a slightly different angle. Why shouldn’t the things belonging proximately to the natural law fall within the magisterium of scholars and experts whose expertise pertains to temporal matters? In effect, the two concerns held together rather tersely in the *Code of Canon Law* (“in so far as this is required by fundamental human rights or the salvation of souls”) were being pulled from either end, philosophical and pastoral. The encyclical notes:

In their desire, however, to keep the moral life in a Christian context, certain moral theologians have introduced a sharp distinction, contrary to Catholic doctrine, between an “ethical order” which would be human in origin and of value for “this world” alone, and an “order of salvation” for which only certain intentions and interior attitudes

³ The term “negative anthropology” is taken from Rocco Buttiglione, *Karol Wojtyła* (Grand Rapids, MI: William B. Eerdmans, 1997), 53.

regarding God and neighbor would be significant. This has then led to an actual denial that there exists, in Divine Revelation, a specific and determined moral content, universally valid and permanent. (§37)

The encyclical explains that moral truths—in principle accessible to human reason (§29)—not only constitute a “preparation for the Gospel,” but are also situated within it (§3). The moral law, thus understood, is presupposed in two ways by moral theology: first, as principles of moral order are derived from human nature; second, as those very same principles are clarified and integrated in the teachings of Christ. “[T]he Magisterium does not bring to the Christian conscience truths which are extraneous to it; rather it brings to light the truths which it ought already to possess, developing them from the starting point of the primordial act of faith” (§64).

Thus, the encyclical’s lengthy exegesis of Matthew 19 on the query of the rich young man. Jesus’s exhortation to discipleship explicitly presupposes knowledge of moral law. Keeping the commandments, beginning with the negative precepts, is a “basic condition” for justice, love of neighbor, and for moral maturity and freedom. This module of morality is not unique to either Jewish law or Christian doctrine. As St. Paul contends in Romans 2:14–16, the “conflicting thoughts of the gentiles” give witness to the law as the norm of conscience, according to which “God will judge the secrets of men” (§59). This same law is also explicitly presupposed by Christ when he teaches what is necessary to live a life ordered to the kingdom. From this latter perspective, the moral law is incorporated within another starting point—the life of faith. According to the encyclical, the moral theologian cannot leave behind the natural law component for the purpose of a morality of “salvation” without subverting Scripture and “the living tradition.”

To be clear, this is not a fideist position. The encyclical is *not* saying that there is a “universally valid and permanent” body of moral truths *because*, according to Matthew 19, Jesus says so or *because* the Church says so. Nor does it suggest that our only access to moral truth is Scripture or tradition (§3). Rather, the encyclical contends that the moral law, as something proportionate to human reason, forms an organic part of Jesus’ teaching, and therefore it is already internal to moral action in the light of faith.

Alasdair MacIntyre has astutely noticed the importance of at least one prong of this position:

It is not just that the natural law can be known by the exercise of the powers of reason, independently of revelation, but also that the knowledge of divine law afforded by revelation presupposes a prior knowledge of the precepts of the natural law. It is a revealed truth, that is to say, that

the truths of the natural law can be known prior to and independently of any revealed truths, including this particular revealed truth.⁴

MacIntyre assures the reader, “that in holding this I am not being theologically eccentric.” He is not at all.⁵ MacIntyre, however, is more immediately interested in the purely philosophical aspects of debate over natural law, and therefore he does not draw out all of the implications for moral theology. One of these would surely be the following. Even if the institutions of a given culture—universities, courts, the media, other churches and religions—had no further use of natural law either as a supposition or as an explanatory framework, the Church nevertheless would be bound to teach and affirm the natural law.

Furthermore, it would need to affirm it precisely as the natural, created measure of human acts; that is to say, as truths that conscience “ought already to possess.” When we hear the words of Matthew 19:8 “From the beginning . . .” we can grasp both prongs of the commitment to natural law. For the natural sign of the sacrament of marriage is nothing other than marriage “from the beginning.” With respect to this sacrament at least, to erase the natural law would erase the sacrament of the New Covenant. The double commitment therefore is embedded in Catholic theology at levels deeper than what come under the concerns of moral theology or philosophy. Indeed, the theological affirmation of natural law in *Veritatis* makes the moral theologian *more* responsible to the natural law than the moral philosopher, and by extension makes the systematic (sacramental) theologian more responsible than the moral theologian.

Admittedly, this does not make the work of moral theology easier. Interestingly, according to the Scripture, the rich young man hesitates but does not offer a serious objection to the proposition that moral rectitude is a necessary condition for pursuing eternal life. He declines radical discipleship. *Veritatis*, on the other hand, deals with the situation in which

⁴ Alasdair MacIntyre, “From Answers to Questions,” in *Intractable Disputes about the Natural Law: Alasdair MacIntyre and Critics*, ed. Lawrence S. Cunningham (Notre Dame, IN: University of Notre Dame Press, 2009), 341.

⁵ Indeed, his brief treatment of Romans 2:14–15 is virtually the same as that of *Veritatis Splendor* (§59). “It is also a revealed truth that we human beings all of us stand accused before God of our violations of and rebellion against his law. But we could not be rightly held responsible for those violations and that rebellion if we were not aware of God’s law, simply *qua* human beings, and not only aware of the precepts that comprise God’s law, but aware of the compelling character of their authority.” *Ibid.*, 344. Put in this way, MacIntyre is suggesting that some precepts are not only known but also known in their compelling authority. This puts the issue in the foyer of law, if not higher law.

the moral prerequisites are the stumbling block “for the Christian conscience.” Put in this way, the moral of the story has been transposed. What was the easy matter now appears difficult and controversial. This surprising transposition is implied but is not made explicit in the encyclical. Nevertheless, it is an important symptom that needs to be carefully discerned by moral theologians. The proposal that there exist moral norms prior to human construction, consent, and choice is a rather alarming message in our culture. In proof of which, we only need to consider the fact that questions of human nature and moral conduct are much more likely to be church-dividing issues than questions concerning justification, predestination, and the function of sacraments. From one point of view, the “natural” morality presupposed by the Gospel is the easier thing, objectively speaking; from another point of view, it is just the opposite.

The double commitment also makes it necessary for moral theologians to reckon more seriously with philosophy than what they have been prepared or inclined to do over the past several decades. When it was issued, *Veritatis* was received in some parts of the Catholic world as a rebuke of progressive-leaning moral theologians. Not very much imagination is required to see that it also cuts the other way—moderating quasi-Barthian currents in Catholic theology that would have nature disappear into grace. If the natural law component is not sustainable without philosophy, it is a daunting responsibility for theologians. For in the institutions of late modernity (not only universities but also in the far greater domain of political, jurisprudential, and corporate life), the major schools of ethics do not explicitly share the same starting points or explanatory framework; indeed, none can be put in any useful way into the category of natural law.⁶ Therefore, either theologians need to leave the natural law component without philosophical articulation or they will have to do much of that work themselves. In effect, they will have to wear two hats.

Thomas Aquinas investigated natural law in his dual role as philosopher and theologian, for which there is no equivalent office or craft in our secular institutions, and increasingly less so in ecclesiastical ones. As Fergus Kerr puts it: “[Thomas] is a philosopher and a theologian, and we are never going to agree on where to put the emphasis.”⁷ But the problem of emphasis and ongoing debates about it in interpreting Thomas are set

⁶ MacIntyre, “From Answers to Questions,” 51.

⁷ See Fergus Kerr, *After Aquinas: Versions of Thomism* (Oxford: Blackwell, 2002), chap. 6, “Natural Law: Incommensurable Readings.”

within, and can arise only within, a tradition that is doubly articulate. *Veritatis* requires the natural law component to be treated in just that fashion.⁸

The Search for a Universal Ethics: A New Look at Natural Law (2009) differs from *Veritatis* not only in its curial pedigree and magisterial weight (a study paper allowed to be published by the Cardinal Prefect of the Congregation for the Doctrine of the Faith (hereafter CDF), but more relevantly, for our purposes, in the questions as well as the audience it addresses. *The Search* aims to orient and enrich a dialogue outside of the immediate environs of moral theology: “[I]n this document we intend to invite all who ask themselves about the ultimate foundations of ethics and of the juridical and political order, to consider the resources that a renewed presentation of the teaching of the natural law contains” (§9). However, in shifting from sources of moral theology to the resources for dialogue, ITC moves to even more difficult terrain than the one occupied by *Veritatis*. Of course *Veritatis* too worries about negative anthropology and exaggerated notions of individual autonomy which disorient the natural law that theology presupposes. But it has the signal advantage of correcting and moderating claims of autonomy, as well as the array of different understandings of natural law, within the landscape of its own tradition. *The Search* appears to tackle the issues on an open field with recourse only to natural law. It claims no more authority than being one wisdom tradition among others—albeit a tradition with centuries of experience in this field of inquiry.⁹

The subtitle indicates something “new.” But in its treatment of the anthropological and cosmological assumptions, *The Search* differs very little from *Veritatis*.¹⁰ For example, the authors do not equate natural law with

⁸ One cannot ignore the fact that the encyclical is shaped by a high, neo-Thomistic rendering of both natural law and the sources of moral theology. “The Church has often made reference to the Thomistic doctrine of natural law, including it in her own teaching on morality.” *VS* §44.

⁹ *The Search* treats natural law in the light of what the Catholic tradition has cumulatively discovered and formulated over the centuries, including what it has learned from shortcomings in its own experience. On the latter score, the authors note recurring problems of emphasizing too strongly biological nature at the expense of freedom; of having in other ways emphasized too strongly reason, with the inevitable pitfall of rationalism; of having made anthropological assumptions which needed to be adjusted in view of historical and cultural contexts; of suggesting that the precepts of natural law are an already-assembled system, even down to the most proximate level of precepts governing a problem or case; and not always making sufficiently clear the processes of formation needed for a mature appropriation of the natural law (§§10, 38, 52, 56, 59, 99).

¹⁰ Including what we have termed the double commitment. Christianity treats the natural law both a preparation for faith and as a teaching within it: “The new

purely immanent laws of nature (§10); nor do they suggest that natural rights are terms of obligation without natural law (§88). They contend that the relative autonomy of moral truth, and freedom of choice regarding finite goods, already imply a transcendent, though not necessarily a supernatural, end (§§42, 63, 77). Faithful to the Thomistic tradition, they contend that the good of knowing the truth about God is not merely a theoretical, explanatory addendum to natural law, but is contained seedlike in the foundations and experience of moral truth as one of the first precepts (§50).

Apropos of Yves Simon's suggestion that natural law can be discussed in terms of three foci—reason, nature, and god¹¹—*The Search* recognizes that while reason, nature, and God each has its own salience, the price paid for hiving off one, to the exclusion of the others, will be a doctrine of natural law that is not open to reality as a whole.

The vision of the world within which the doctrine of natural law developed and still finds its meaning today, involves therefore the reasoned conviction that there exists a harmony between the three substances [sic—bad translation of *ces trois instances*] which are God, man, and nature. In this perspective, the world was perceived as an intelligible whole, united by the common reference of the beings that compose it to a divine founding principle, to a *Logos*. (§69)

The authors are surely correct that a discussion of natural law that puts reason, nature, and God into competition (§§74–75), or that refuses to give to each foci the salience that experience and reason will allow, if not demand, falls short of the Catholic tradition.

Interestingly, the ITC does not situate its presentation and its understanding of dialogue in the fashion of a model United Nations plenary session. Rather, it puts its discussion of moral universals in the context of “great wisdom traditions, both religious and philosophical.”

Offering our contribution to the search for a universal ethics, and proposing a rationally justifiable foundation, we desire to invite experts and the spokespersons of the great religious, sapiential and philosophical traditions of humanity to proceed to an analogous work, beginning from their sources, to reach a common recognition of the universal moral norms based on a rational approach to reality. (§116)

Law of the Gospel includes, takes up and brings to fulfillment the requirements of the natural law. The orientations of the natural law are not therefore external normative demands with respect to the new Law” (§112). These two are mentioned several times: §§12, 23–24, 26–27, 69–71, and 101.

¹¹ Yves R. Simon, *Tradition of Natural Law*, ed. Vukan Kuic, intro. Russell Hittinger (New York: Fordham University Press, 1992 reprint; orig. 1965), 129.

Wisdom traditions, on this view, recognize and make explicit (in different ways and in various degrees) (1) that there is a “common patrimony” of moral values, (2) that certain moral actions are required by human nature itself, and (3) that the human person stands in a “creative and harmonious manner in a cosmic or metaphysical order that surpasses it and gives meaning to his life.” (§11, 12). Wisdom traditions, in other words, are open to reality as a whole, even if their vision is partial in this or that aspect. Appeal to sapiential traditions is reminiscent of John Paul II’s encyclical *Fides et Ratio* (1998).¹² As *The Search* recalls, Catholic theology fed upon the bread of sapiential traditions as a *praeparatio evangelicae*, and once assimilated to theology, the two “form a whole” in the Catholic mind (§26).

ITC does not mean by dialogue either the Habermasian or Rawlsian methods for reaching norms mutually acceptable to the parties of the discussion (§8). It also eschews dialogue that is “a purely inductive search, on the parliamentary model, of a minimal already-existing consent.” This is a dialogue, in fact, without a “search.” As the authors remark, the dialogue has not proven adequate either to secure foundations for the post-1948 human rights project or to win support of religions and wisdom traditions, which need more than a “minimal ethic” (§6). Apparently, *The Search* envisages a dialogue rather different from what is usually meant by “public reason.” Rather than holding back one’s best considered reasons, it puts the mature line of reasons on the table, inviting others to do the same. Appropriation of the “evidences” of natural law either by the individual or by a culture is a slow process, requiring action and reflection—in a wisdom tradition, an “apprenticeship” (§53, §38).

This certainly has the aura of an inter-religious rather than a legal or political dialogue. One is reminded of C. S. Lewis’s illustrations of the *Tao* in *The Abolition of Man*, albeit with Thomistic glosses. The idea is very attractive. Let those who have non-reductive anthropologies (open to reality as a whole) put their best understanding of human good and flourishing in common view, and then let us see where they “converge.” The hope will be that this kind of discussion will achieve more than the “minimal ethic” in a very narrow and completely practical grounding, such as the one stipulated in the U.N. Declaration of 1948.¹³ Even if we are not so naïve as to believe that a dialogue of wisdom traditions could reform, much less replace, the legal and political conventions governing human rights, it would still be of

¹² Although it is not quoted or cited, see *Fides et Ratio* (1998), particularly §§81–82: “Philosophy lacks its sapiential function if it is addressed only to ‘particular and subordinate aspects of reality—function, formal or utilitarian.’”

¹³ *The Search* notes with alarm the fragmentation of the human rights project since 1948 (§§5–6, 115, and note 42).

value. A few strong convergences in the fashion of Lewis's *Tao* would speak more effectively to human conscience than the dubiously abstract and highly politicized lists of rights that are continually multiplied and revised. There is nothing more disappointing and demoralizing than false universals in what pertains to human life.

But there are two aspects of the ITC paper that I find disappointing. First, while the document affirms clearly enough, even insistently, the importance of prudence in judgments that make the natural law effective, its depiction of universal moral norms *prior* to prudence is not very clear. Second, it leaves out of the picture what kind of dialogue can be conducted with secular modernity.

Regarding universal moral norms, *The Search* is understandably reluctant to put a system of precepts in front of its proposals about human nature. For one thing, on anthropological grounds alone it rejects the notion of pure practical reason that can generate a priori such a system of norms. Quite reasonably, the authors also want to acknowledge contingencies of culture and history and the effects of sin—"ideology and insidious propaganda, generalized relativism, structures of sin, etc" (§52). Furthermore, they are at pains to emphasize that a mature understanding of moral truth is an achievement dependent upon the agent's formation in sound social institutions and acquisition of moral virtue. All of this reflects the paper's strategic decision to discuss natural law within and among time-tested wisdom traditions.

When we ask, however, what precepts of natural law are universally binding in a normative sense of the term, the document wobbles somewhat. The paper quotes St. Jerome's remark on the Golden Rule: "Who of us does not know that homicide, adultery, theft and every kind of greed is evil, since we do not want them done to ourselves. If we did not know that these things are bad, we would not ever lament if they are inflicted on us" (§51). Accordingly, there is no prudence, just as such, about whether to commit adultery. Provided that one can pick out the relevant facts (this is my neighbor's spouse), the negative precept suffices. Granting that negative precepts need to be completed within a larger moral project (§24), it is very important to emphasize that sound moral reasoning of the more complete kind depends upon what agents can know at this simpler level.

To be sure, *The Search* says strongly enough that there are "precepts and values that, at least in their general formulation, can be considered as universal, since they apply to all humanity" precisely because they are derived from anthropological constants (§52). Here, it is the anthropological constant that is immutable, for it is the ground for values and

precepts that “can be considered” universal in their “generality.” But this doesn’t quite capture what Jerome and others wanted to say about the negative precepts. We also read that we must safeguard “the fundamental data expressed by the precepts of the natural law that remain the same throughout cultural variation” (§54). It’s difficult to know exactly what the paper means, but on my reading the “data” are the anthropological constants, while the precepts seems to be a kind of sign or expression of a good or value. It is less clear that a precept is a sign of a command or obligation. At §59, the paper states:

There is here a perspective which, within a pluralist society such as our own, has an importance that cannot be underestimated without suffering significant loss. Indeed, it stems from the fact that moral science cannot furnish an agent subject with a norm that may be applied adequately and almost automatically to concrete situations; only the conscience of the subject, the judgment of his practical reason, can formulate the immediate norm of action. But at the same time it can never abandon the conscience to mere subjectivity: the subject needs to acquire the intellectual and affective dispositions that permit it to open itself to moral truth in such a way that its judgment may be adequate. Natural law cannot, therefore, be presented as an already established set of rules that impose themselves *a priori* on the moral subject, but is a source of objective inspiration for his process, eminently personal, of making a decision.

At least some readers will sense that a step is missing in this very condensed account. Assuming that the paper is correct that natural law should not be presented as an already assembled system of moral precepts, it does not necessarily follow that the natural law is only “a source of objective inspiration for his [the agent’s] process, eminently personal, of making a decision” [*mais elle est une source d’inspiration objective*] (§59). In what precise sense are the inspirations *precepts*? Are they just objective indicators en route to the discovery of adequate moral norms? These paragraphs seem to suggest the latter. “[O]nly the conscience of the subject, the judgment of his practical reason, can formulate the immediate norm of action” (§59). “Prudence” the ITC insists, “is a necessary passageway to authentic moral obligation” (§58).

The quotation taken from St. Jerome however suggests an intermediate step—a small one, and rather thin, but important nevertheless. Between our grasp of the human good (anthropological constants) and fully practical judgments perfected by prudence, there are some moral norms of the natural law upon which even prudence must rely. Precisely in this zone we might expect some initial but sturdy convergence of

moral judgment among wisdom traditions regarding the negative precepts of the moral law. Without such convergence, the dialogue is apt to remain in the anthropological sphere of “objective inspirations” that perhaps intimate, without explicitly reaching, specific precepts. If this were true, we would be agreeing about human values, so to speak, but not about morality.

Another conspicuous problem is that the secularized institutions of the West are not organized within a wisdom tradition; nor do they constitute one. Whereas a wisdom tradition is open to reality as a whole—a natural transcendence so to speak (§97)—the modern, western mind does not view nature or the “natural” as “impregnated with an immanent wisdom,” but rather, to use *The Search*’s own language, it is “deprived of immanent teleology or finality” (§72). This is only to acknowledge that prior to choice and prior to satisfying procedures of consent, “the natural” is *merely* immanent, along the lines of what Charles Taylor has called “closed world structures.”¹⁴ Purpose is assigned rather than discovered within the ordinary frame of things.

By shifting the problem of authority from an internal structure of a theological tradition to the moral authority of a “common patrimony” implicit in many wisdom traditions, *The Search* does not relieve the problem—at least not for secular interlocutors. For example, when it proposes that there are moral “messages” in the nature of things and that natural law is not imposed on creatures from without but is inscribed in their very nature (§§11–12, 63), it summons a quite different meaning of the “immanent” than what will be obvious to most agents formed in the institutions of western secular culture. For them, nature is not obviously a semiotic (a book, or a ladder) in the sense that we have inherited from Paul, Bonaventure, or Thomas. The immanent rather is a domain of freedom just for the reason that it does not require transcendent messages, much less messages that arrive so intimately with authority.¹⁵ The immanent, for all practical purposes, is nothing other than what is bereft of, or perhaps still waiting for, authority. This is why the sciences and contemporary institutions of civic formation, education, and economic activity are deemed useful, and indeed legitimate. Precisely by not requiring a sapiential philosophy or religion to interpret transcendent “messages,” freedom is protected. When the ITC expresses the “urgent” need to reach common foundations (of a natural law sort) for the human rights proj-

¹⁴ Charles Taylor, *A Secular Age* (Cambridge: Belknap Press, 2007), 551.

¹⁵ Again, Taylor (544): “The immanent order can thus slough off the transcendent. But it doesn’t necessarily do so. . . . It is something that permits closure, without demanding it.”

ect, it will have to anticipate a response that, on its view, is terribly inadequate if not irrational. Namely, the renewed claim of rights to liberty within this indeterminate “immanent” condition. These rights will be invoked against customs, positive laws, and the natural law insofar as they are norms antecedent to choice and consent.¹⁶

While the problem of liberty unseated from nature is more likely to be bridged in dialogue with wisdom traditions, it remains the tougher problem in the familiar world of secular modernity. In one place, *The Search* remarks: “In order that the notion of natural law may serve the elaboration of a universal ethics in a secularized and pluralistic society such as ours, it is therefore necessary to avoid presenting it in the rigid form that it assumed, particularly in modern rationalism” (§33). This prescription strikes me as a good way to facilitate dialogue among wisdom traditions, at least those that already regard modern rationalism as a dead end. In dialogue with Eastern Orthodox Christians, for example, keeping natural law at arm’s length from rationalism would count as a *sine qua non*. The same holds for dialogue with the great religious traditions, which tend to have a greater affinity for what we in the West would call the intellectualist rather than rationalist anthropology. It is much harder to see how the prescription has medicinal value for dialogue with a “secularized” society. Its denizens are not bothered by rationalism so much as by appeals in the public order to transcendent values—not only the supernatural, but also what ITC means by natural law (§97). Not surprisingly, C. S. Lewis’s illustrations of the *Tao* in *The Abolition of Man* include quotations from only two modern, western authors, Hooker and Locke, and only the latter is a modern in the relevant sense of the term. For its part, *The Search* makes clear enough that the Church often invokes natural law (moral truths antecedent to faith) defensively, against a belligerent secularism that dismisses a natural law foundation of moral choice and conscience as a purely confessional subversion of civic dialogue.¹⁷ The ITC authors are anything but naïve about who is their main antagonist on questions of natural law.

ITC is faithful to untutored common sense and to its own tradition in affirming that “independently of the theoretical justifications of the concept of natural law, it is possible to discover the fundamental elements of the awareness of which it wants to give an account” (§37). Some rudiments of moral truth are so close to human experience that they are available to

¹⁶ The authors touch upon, but do not adequately grapple with, the problem of natural rights at §§88–90.

¹⁷ In §35, of the “four principal contexts” in which the Catholic Church invokes natural law today, three are clearly defensive.

anyone. One can interpret and appropriate these “evidences” even against the grain of one’s inherited explanatory frameworks and the institutions which go along with them. Yet the dialogue that an individual person can conduct in what *Gaudium et Spes* calls the “sanctuary” of his own conscience is not a sufficient condition for the broader and more difficult dialogue envisaged by ITC.¹⁸ By grasping the first precepts of natural law one has already crossed the threshold into a world of social and intellectual formation, and, for good or ill, into informal and formal explanatory frameworks. We return, as we must, to the question of what to do or to say to the modern antagonist. We are speaking of an antagonist who is an apostate from the Catholic wisdom tradition. This is the issue around which *The Search* maneuvers all too carefully, and understandably, but disappointingly.

In a press conference during a recent trip to Portugal, Benedict XVI expressed hope for a dialogue between religion and modern rationality.

Today we see that this very dialectic represents an opportunity and that we need to develop a synthesis and a forward-looking and profound dialogue. In the multicultural situation in which we all find ourselves, we see that if European culture were merely rationalist, it would lack a transcendent religious dimension, and not be able to enter into dialogue with the great cultures of humanity all of which have this transcendent religious dimension—which is a dimension of man himself. So to think that there exists a pure, anti-historical reason, solely self-existent, which is “reason” itself, is a mistake; we are finding more and more that it affects only part of man, it expresses a certain historical situation but it is not reason as such. Reason as such is open to transcendence and only in the encounter between transcendent reality and faith and reason does man find himself. So I think that the precise task and mission of Europe in this situation is to create this dialogue, to integrate faith and modern rationality in a single anthropological vision which approaches the human being as a whole and thus also makes human cultures communicable. (Pope to Press, papal flight to Portugal, 11 May 2010)

Pope Benedict’s *obiter dicta* are quite good. The “single anthropological vision” entertained by the Pope requires the secular civilization either to develop a wisdom tradition or to reattach itself to the one it abandoned. The Pope surely has the latter option in mind. This hope moves the question beyond the specific problem of natural law groundings for a common morality to the prospects of what would have to be a profound intellectual, moral, and spiritual conversion. The moral precepts presupposed by the Gospel do not necessarily constitute the easiest step. The urgency of the dialogue will have to be moderated by the virtue of patience. N V

¹⁸ *Gaudium et Spes*, §16.