# CONCORDIA THEOLOGICAL QUARTERLY

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## Editors' Note

The year 2019 marks the 500th anniversary of the Leipzig Debate (or Leipzig Disputation). In Leipzig at the Pleissenburg Castle, Luther's colleague Andreas Bodenstein von Karlstadt debated John Eck from June 27 to July 3 on grace, free will, and justification. From July 4 to 8, Luther took Karlstadt's place and debated with Eck especially on the question of whether the pope was established by God as head of the Church. Our first two articles commemorate this debate. They were presented originally at the Symposium on the Lutheran Confessions at CTSFW, which was held Jan. 16–18, 2019. They remind us of what was at stake, and what we still joyfully affirm: Christ as the head of the Church, and God's Word as the sole infallible authority.

# Reclaiming Moral Reasoning:
# Wisdom as the Scriptural Conception of Natural Law

## Gifford A. Grobien

Although new technologies and circumstances mean that there are always new ethical questions being raised, there remains tentativeness, especially among Lutherans, to commit robust theological reflection to ethics because of concerns of distracting from theology's first work. Ethics is often dismissed by delegating it to the realm of civil righteousness. On the other hand, when we do consider ethics through a theological lens, Lutherans are often the first to point out that no command is binding unless it is scriptural. When asked if smoking marijuana is acceptable if it is legalized, some might point out that there is no law against it in the Bible. We might get a similar response with other contemporary concerns such as in vitro fertilization (IVF), organ donation, or genetic enhancement. Scripture is clearly authoritative for us as Christians, but in what way is it authoritative? And to what extent is reason brought into the process of doing moral theology?

## I. Use of Scripture in Moral Theology

The violation of God's moral commands in Scripture is wicked. But, in fact, the moral world of the Bible—just like any moral world—is much more comprehensive. Besides commands and laws, other kinds of passages indicate assumptions, context, traditions, expectations, and examples of moral life. The most obvious kinds of moral texts are those which present principles, themes, values, or ideals, such as love, justice, mercy, peaceableness, or preference for the oppressed. These ideals may be presented explicitly, such as in New Testament exhortations to love, humility, and so forth. Yet they may in other cases be presented more comprehensively but implicitly in historical events.[1] An account of God's loving, reconciling work, the Bible suggests morality that reflects God's own character of love, reconciliation, and mercy.[2]

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[1] Edward LeRoy Long, "The Use of the Bible in Christian Ethics: A Look at Basic Options," *Interpretation: A Journal of Bible and Theology* 19, no. 2 (April 1, 1965): 154–155.

[2] Gareth Jones, "The Authority of Scripture and Christian Ethics," in *The Cambridge Companion to Christian Ethics*, ed. Robin Gill (Cambridge: Cambridge University Press, 2001), 24.

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The moral assumptions of the Bible, then, are comprehensively understood through multiple genres of texts, such as law, eschatology, history, instruction, parables, wisdom, examples of moral action, etc.[3] Such a spectrum indicates the need for careful, ministerial, reflective exegesis, not a facile read which suffers under sweeping errors of both the positive and negative type: on the one hand, turning circumstantial advice into a broad command or, on the other hand, overlooking the comprehensive moral implications of exemplary behavior. In other words, a textual genre needs to be read for what it is, and the moral implications of it properly judged and embraced in one's life. Universal divine commands should not be marginalized or subjectified; the scope of St. Paul's health advice to Timothy should be understood in the particularity of circumstance.

This suggests that regardless of the genre of the text, both the question of content and of application are raised. What is the morality presented in a Bible passage, and how is this to be lived out here and now?[4] Who is to be compared to whom in a biblical example of virtuous action?[5] What concrete action does a biblical example determine should be taken in today's circumstances? How does a religious ethic expand its scope to broader life?[6]

Richard Hays suggests three tasks in the interpretation of Scripture that have a comprehensive moral theology in view. The first task is the "descriptive" task: to give a full explanation of the people, statements, actions, and circumstances in the text, using the full scope of interpretive tools: the rule of faith, vocabulary, grammar, syntax, structure, and figures of speech. The descriptive task describes in detail the meaning of the text, but it does so without premature or imported assumptions, especially in attempts to harmonize with other texts.[7]

The second task, the "synthetic" task, seeks "coherence" between various texts on a moral question. Rationalization or harmonization of specific texts is not the goal, but rather a comprehensive presentation of moral themes across texts.[8] As an example, consider the directive of the Jerusalem council in Acts 15 to the Gentiles

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[3] James M. Gustafson, "Place of Scripture in Christian Ethics," *Interpretation* 24 (1970): 444; John W. Rogerson, "The Old Testament and Christian Ethics," in *The Cambridge Companion to Christian Ethics*, ed. Robin Gill (Cambridge: Cambridge University Press, 2001), 35–37. See also Richard B. Hays, "Scripture-Shaped Community: The Problem of Method in New Testament Ethics," *Interpretation* 44, no. 1 (January 1990): 43: "Careful exegesis heightens our awareness of the theological diversity within Scripture and of our historical distance from the original communities" receiving the texts.

[4] Gustafson, "Place of Scripture in Christian Ethics," 439–440.

[5] Gustafson, "Place of Scripture in Christian Ethics," 442–443.

[6] James M. Gustafson, *Protestant and Roman Catholic Ethics: Prospects for Rapprochement* (Chicago: University of Chicago Press, 1978), 29.

[7] Hays, "Scripture-Shaped Community," 44.

[8] Hays, "Scripture-Shaped Community," 45.

to abstain from what was sacrificed to idols, from blood, from food that had been strangled, and from sexual immorality. The first impetus of the interpreter should not be to make this text harmonize with other New Testament injunctions abolishing the ceremonial law, even if he eventually arrives at this conclusion. Rather, the work in this second, "synthetic" task is to work out from the text possible moral themes at play. Such themes could include love of the weaker brother, or there could be moral-theological implications underlying these directives. The possible spectrum of moral themes needs consideration, through which a coherence of moral understanding begins to take shape.

Incidentally, these first two tasks correspond closely to Robert Preus's first two principles of exegesis laid out in his essay, "The Hermeneutics of the Formula of Concord." There Preus calls for exegesis according to the rule of *sensus literalis*—that is, to say what a passage says, without rationalizing or harmonizing—and according to the rule of *scriptura scripturum interpretat,* which calls not for strict harmonization, but submission to the unity of Scripture by recognizing the relation of passages and books to one another, and their thematic coherence.[9]

As moral themes manifest, we move to Hays's third task, what he calls the "hermeneutical" task. By this, he means the particular understanding of texts for the present church. In other words, how do today's churches act on the moral themes discovered in the descriptive and synthetic tasks? Here Hays calls for a reasoned judgment about how to act.[10] But how do we go about making this reasoned judgment?

Charles Cosgrove has argued for what he calls a rule of purpose: "The purpose (or justification) behind a biblical moral rule carries greater weight than the rule itself."[11] When one comes across a moral principle, or even a broader moral value, the underlying purpose gives the principle or value authority. The purpose is not just an interpretation of a rule, but the identification of its rationale and observing its appropriateness for various particular cases.[12]

What justification is there in setting aside the rule in favor of its purpose?[13] If the command is appropriate to our context, then the rule itself will still apply in accordance with its purpose. But if the rule itself no longer applies, the purpose can still give insight into moral rationale. For example, even if we are not bound

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[9] Robert Preus, "The Hermeneutics of the Formula of Concord" in *No Other Gospel: Essays in Commemoration of the 400th Anniversary of the Formula of Concord 1580–1980*, ed. Arnold J. Koelpin (Milwaukee: Northwestern Publishing House, 1980), 309–335.

[10] Hays, "Scripture-Shaped Community," 45.

[11] Charles H. Cosgrove, *Appealing to Scripture in Moral Debate: Five Hermeneutical Rules* (Grand Rapids: Wm. B. Eerdmans Publishing Co., 2002), 13.

[12] Cosgrove, *Appealing to Scripture in Moral Debate*, 22.

[13] Cosgrove, *Appealing to Scripture in Moral Debate*, 25.

to allow the poor to glean our fields, details of the Mosaic laws about the poor give us insight into the rationale of caring for the poor. Specific examples of law, even if irrelevant to our context, tell us about the higher purpose of the law.[14]

We can also understand this as analogical moral reasoning. *Rules* or commands assume *paradigm cases* which fit certain circumstances and are grounded in *principles* embedded in the *moral world* of the text.[15] We can compare paradigm or authoritative cases with contemporary cases, identify governing principles, themes, or values in the authoritative cases, and reason how this value can be achieved in current circumstances through moral action.[16]

Moral rules, therefore, are always in view of application, of practice. They never exist in theory, then to be applied to situations.[17] This means further that moral action cannot always be determined by a simple, explicit reading of the Bible. Rather, we must know principles and purposes presented by biblical texts, and we must further understand our own circumstances to recognize when biblical principles and values are at play. This ability to know and act well in accordance with circumstances is traditionally called "prudence." Prudence, further, is knowledge and skill that comes not only from the Bible, but also from natural law: "For when the nations, having no Torah, do by nature the things of the Torah, not having Torah are the Torah to themselves, who demonstrate the works of the law written on their hearts, their conscience bearing witness, and their various/alternating/reciprocal thoughts accusing or defending themselves" (cf. Rom 2:14–15).[18] Both the law and its application are written on the heart. The law is, by nature, human. It is my contention, further, that the natural law includes this ability to make reasoned judgments about morality in accordance with biblical values. It is the very ability to recognize purpose and principle in a world of commands, examples, stories, and parables, and the ability to direct moral action in the midst of competing moral authorities.

As soon as we raise the concept of the natural law, however, some will react dismissively, negatively, and perhaps even viscerally. The "natural law" seems outmoded in a world of difference, of community, and of self-expression. It seems self-contradictory if we consider that some people's "nature" moves them to embrace an identity contrary to traditional biblical morality. Nevertheless, let us

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[14] Cosgrove, *Appealing to Scripture in Moral Debate*, 33.

[15] Cosgrove, *Appealing to Scripture in Moral Debate*, 18.

[16] Cosgrove, *Appealing to Scripture in Moral Debate*, 55.

[17] Cosgrove, *Appealing to Scripture in Moral Debate*, 67.

[18] Translation my own. All other Scripture quotations are from the ESV® Bible (The Holy Bible, English Standard Version®), copyright © 2001 by Crossway, a publishing ministry of Good News Publishers. Used by permission. All rights reserved.

explore together what the natural law is, biblically, to discern what kind of partner it is with the Scriptures as an authority for moral theology.

## II. Background on the Natural Law

When most people today hear the phrase "natural law" or "law of nature," they are likely to think of what we call scientific or physical laws, according to which predictable phenomena occur if certain conditions apply. In fact, when we realize that the concept of "natural law" has very little to do with modern "laws of nature," the former becomes more palatable.

### Classical Understanding of the Natural Law

The first difference to point out is that in premodern understandings, "law" referred to moral norms governing civil relations. "Law" by its very definition was something that appealed to reason and will.[19]

Nature, or *physis*, by contrast, was usually understood to be *not* governed by law. Nature referred to full development and assumes purposeful movement toward this maturity. Such natural movement is endowed by the creative source or power underlying nature.[20] Nature, as such, did not engage in civil relations, and therefore was not subject to law, as an exercise of reason and will. Nature always moved toward its goal, while laws were changeable, particular, and conventional, serving the commonwealth.[21]

The nature of man complicated the issue. Human persons have the same nature, human nature, according to which they move toward some perfect form of development or ideal. Yet laws and individual decisions differ widely across people. What is different about the nature of man that it does not move predictably and inexorably in the same way in all people?

The answer is in the unique character of human nature. Human nature includes reason and will. It is part of the human nature to be free and to act contingently. In the human nature itself, then, we see the need to work out the relation

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[19] Catherine Wilson, "From Limits to Laws: The Construction of the Nomological Image of Nature in Early Modern Philosophy," in *Natural Law and Laws of Nature in Early Modern Europe*, ed. Lorraine Daston and Michael Stolleis (Farnham, England: Ashgate, 2008), 14–15.

[20] Stephen Pope, "Reason and Natural Law," in *The Oxford Handbook of Theological Ethics,* ed. Gilbert Meilaender and William Werpehowski (Oxford: Oxford University Press, August 9, 2007), 150.

[21] Wilson, "From Limits to Laws, " 14–15, 18–20.

between the concepts of "nature" and "law."[22] To assist, let us consider the natural law as critically received in the church.

**Natural Law in Romans and Early Christianity**

Paul's reference to the natural law in Romans 2:14–15 is a clear comparison (even if largely as a rhetorical device) to the Hebrew Torah. "For when the nations, having no Torah, do by nature the things of the Torah, not having Torah are the Torah to themselves, these demonstrate the works of the law written on their hearts."[23]

Among the Hebrews themselves, we see a different understanding of the natural law from the classical Greeks and Romans. In a way, reference to the natural law is not prominent, because they have the revealed Torah. The Torah, in this sense, is the law that is needed for the Hebrew. Yet is there any parallel to a Gentile conception of the natural law? The Talmud records the first century BC rabbi Hillel as summarizing the Torah with the Golden Rule.[24] The Golden Rule also appears in a variable form in Leviticus 19:18 ("Love your neighbor as yourself"), in the midst of God's call to Israel to be holy as he is holy. Jesus himself affirms this in Matthew 7:12: "So whatever you wish that others would do to you, do also to them, for this is the Law and the Prophets." What, then, might the "Torah" of the Gentiles referred to by Paul be? Clearly not the observation of ceremonies, seasons, or even the particularity of sacrifices. Rather, it points to a natural equity or justice. And what is most naturally sensible is that a person not do what he does not want done to himself.[25]

**Natural Law in the High and Late Medieval Period**

In the Middle Ages, Albert the Great and Thomas Aquinas shifted the emphasis, perhaps influenced by their Aristotelian focus, from a relational or "interpersonal" conception of the natural law—expressed by the Golden Rule—to that of the pursuit

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[22] Merio Scattola, *Das Naturrecht vor dem Naturrecht* (Berlin: De Gruyter, 1999)*,* 16–17. This indicates the significance of the virtue of prudence for Aristotle. It is by prudence that a person recognizes the rightness of an act and carries it out (Scattola, *Das Naturrecht*, 19–21). The right of law, its content is undetermined apart from experience, because the recognition of right comes in the solving of problems and the exercise of a person's will to act in accordance with this resolution, that is, *synthekei*. The "content" can vary depending on circumstances (Scattola, *Das Naturrecht*, 14–15).

[23] Translation my own.

[24] Svend Andersen, "The Golden Rule: An Anthropological Universal?," in *What Is Human?: Theological Encounters with Anthropology*, ed. Eve-Marie Becker, Jan Dietrich, and Bo Holm (Göttingen: Vandenhoeck & Ruprecht, 2016), 171–172.

[25] Andersen, "The Golden Rule," 171–172.

of the good.[26] They also pick up on Paul's comment that the work of the law is "written on their hearts" (Rom 2:15).

For Thomas, this writing on the heart refers to the image of God and, with respect to law, particularly the intellect. The intellect is an intellectual light which illuminates the truth of eternal reason. By acting reasonably, a person participates in divine reason—to act reasonably is itself an action that corresponds to or agrees with divine reason. Such a man is able to make judgments about truth and demonstrate the truth.[27] The distinctive, unique, and natural characteristic of humanity is reason. To fulfill human nature, then, includes exercising reason well and acting according to it. In this sense, the term "natural law" is perfectly coherent: *law* itself, that is to say, divine reason, is part of the perfection of human *nature*. The law, when it is presented to a person through reason, is the natural purpose of man. The natural law for humans is to act in accordance with reason moving toward maturity, or good. For human beings, what is natural is not automatic, nor is it predictable or physically mechanistic. Freedom of the will allows for choice, meaning that the "natural" must be recognized and pursued voluntarily. Nevertheless, the natural conforms to the good of right reason.[28]

Natural law norms, therefore, direct toward the human *telos*. Reason presents to us the good of man in view of his nature, that is, as one in the image of God who is moving back to God, and norms direct us to act in accordance with the virtues which order one's nature toward this telos.[29] While intent and object of the act can be distinguished conceptually, they are integral in the action itself. The act chosen is for the purpose of the intent, and is bound up with it. The end of the act is also, therefore, not just the natural end of power or function, but the will bound up with the natural act.[30] Thus, those things which are not rationally ordered simply are not morally objective. The subjective is not absent the objective, but pursues the apparent good, which is objectively true when it corresponds with the objectively good.[31]

## Natural Law in Luther

While Luther received many of the concepts of medieval natural law thinking, his relational anthropology led him to distinct emphases. For Luther, natural law cannot find its origin in the nature of man, even speculations about Adam's

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[26] Andersen, "The Golden Rule," 173; cf. Shabb 31a.

[27] Martin Rhonheimer, *Natural Law and Practical Reason: A Thomist View of Moral Autonomy*, trans. Gerald Malsbary, 1st ed. (New York: Fordham University Press, 2000), 262–263.

[28] Pope, "Reason and Natural Law," 151.

[29] Rhonheimer, *Natural Law and Practical Reason*, 332.

[30] Rhonheimer, *Natural Law and Practical Reason*, 430–431.

[31] Rhonheimer, *Natural Law and Practical Reason*, 436–437.

righteous nature before the fall. Rather, because human nature reflects the image of God, the natural law is based on the nature of God. This nature is to love, that is, to give of himself continually. He gives regardless of the condition of the recipient; he gives himself as Father, Son, Holy Spirit.[32]

Likewise, the Christian view is to perceive another's need in his circumstances, and to work for those needs.[33] True love of others does not simply compare others to one's own wants. Instead, to love others is to perceive God's desire for them in their circumstances. The love of others, then, is to put ourselves into another's situation and desire the best for him in that situation, not what is based on our own preferences apart from the divine perspective.[34]

Luther recognizes that reason is the source of all law written in the heart, such that non-Christians can follow the natural law to some extent.[35] Practical reason can work out principles in accordance with the law of love, so that a person can accomplish the natural law outwardly, even if he does not love from the heart. In addition, wise men act with moderation or equity.[36] Positive law is contingent, but can never anticipate every contingency, nor does it consider different personal circumstances. Thus it must necessarily be moderated by equity.[37]

In spite of these emphases on principles, such as love, beneficent reciprocity, and equity, Luther acknowledges that the natural law is a set of precepts, those of the divine law, written on the heart.[38] He represents continuity with the medieval understanding, while offering additional insights in line with his theological concerns.

### Development in the Natural Law in the Modern Era

The rise of voluntarism in the early modern period led to adjustments in natural law thinking. Voluntarism emphasized God's role as lawgiver according to his will, supporting the importance of the will of secular rulers in establishing legal authority.

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[32] Antti Raunio, "Natural Law in the Lutheran Tradition," in *Christianity and Natural Law: An Introduction*, ed. Norman Doe (Cambridge: Cambridge University Press, 2017), 80. Martin Luther, *D. Martin Luthers Werke: Kritische Gesamtausgabe* [*Schriften*], 73 vols. (Weimar: H. Böhlau, 1883–2009), vol. 1: 502; 4: 269 (hereafter WA).

[33] Andersen, "The Golden Rule," 173–174. For example, see Luther's treatise *The Freedom of a Christian* (AE 31:364-66).

[34] Raunio, "Natural Law in the Lutheran Tradition," 81.

[35] Luther, *Von weltlicher Oberkeit, wie weit man ihr Gehorsam schuldig sei* (1523), WA 11:279–280.

[36] Luther, *An die Pfarrherrn, wider den Wucher zu predigen* (1549), WA 51:344, 13–14; see also WA 11:279, 16–25.

[37] For examples of this in Luther, see WA 20:147, 36–148, 13; 37:134, 3–4; 8:664, 22–39; 11:272, 13–24; 14:554, 32–555, 19; 44:704, 30–39; Raunio, "Natural Law in the Lutheran Tradition," 81–82.

[38] Andersen, "The Golden Rule," 178.

Machiavelli's seminal works on statecraft argued for policies aimed at desired political behavior, a more socio-pragmatic philosophy rather than the humanistic pursuit of flourishing and the common good of antiquity and scholasticism.[39]

Furthermore, developments in science were also having their effect. Premodern hypotheses about the empirical, natural world made no widespread claims about physical reality or physical causes. Natural philosophers—scientists—in the early modern era began to give broader accounts of the causes of natural phenomena observed.[40]

These early modern scientists sought to distance themselves from ancient empirical theories, and, as such, sought new terminologies to describe and explain their hypotheses. The introduction into science of the terminology of "law" appears to be an invention to contrast modern science from Aristotelian conceptions of causes, appetites, and powers particular to genera. Nature was no longer understood according to various kinds of creatures, but according to an atomist view of matter underlying all various kinds. The term "law" explained what appeared to be consistent, predictable natural phenomena. Yet, in a certain sense, the rise of the concept is puzzling as inanimate objects, or even animals, could not be said to obey laws as judgments of reason, the traditional meaning of "law." Furthermore, law, while reasonable, was also understood to be contingent. That is, it was variable and inconsistent, and the term *lex* hardly carried the force of universal or immutable.[41]

These developments in political and natural philosophy had repercussions for the theory of natural law. First, the sociological emphasis on political pragmatism and the authority of a prince's will undermined the traditional understanding of law as an expression of reason in line with a theological or moral conception of the good. Law served the ruler's purpose of political organization and control. Second, the transfer of the term "law" to the realm of science gradually led people to think of laws of nature as determined scientific phenomenon quite distinct from the exercise of reason and will. Thus within the theory of the natural law itself, after 1650, what is natural begins to be distinguished from what is reasonable. Early modern thinkers marginalized reason and turned attention to other causes, such as principles in human nature (inclinations or psychology) or cosmic forces. The articulation of natural mathematical laws in the Scientific Revolution suggested similar laws for human society. Reason is now removed from the natural law, per se,

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[39] Lorraine Daston and Michael Stolleis, "Introduction," in *Natural Law and Laws of Nature in Early Modern Europe* (Farnham, England: Ashgate, 2008), 2–3; Michael Stolleis, "The Legitimation of Law through God, Tradition, Will, Nature and Constitution" in *Natural Law and Laws of Nature in Early Modern Europe* (Farnham, England: Ashgate, 2008), 48–50.

[40] Daston and Stolleis, "Introduction," 11.

[41] Daston and Stolleis, "Introduction," 3.

to become a specifically human quality which helps human beings to recognize the movement of laws of nature in the human experience. Natural law is not written on the mind or heart. Instead, it finds expression through inclination, instinct, passion, or psychological experience.[42]

By the eighteenth century, while God may still be considered the creator of the natural design, there is no more an understanding that he has revealed reasonable principles. There are no natural law principles by which we can know the will of God and what leads to happiness. Rather, a person is to look at his nature and use reason instrumentally to pursue what is pleasurable.[43] Natural law is no longer what is reasonable, but what is possible according to human powers and instincts. Nature, then, no longer is understood to have purpose, as it did in the classical natural law understanding. "Natural" movements are genetic or biological—instinctive, rather than reasonable. The only purpose is what gives pleasure.

Thus there is a sequence of transition in the use of the term "law": first, scientists discover "regularities" in natural science; second, the term "lex" is used increasingly in the late seventeenth and early eighteenth centuries to name these regularities; third, various concepts of law developed in science due to the new use of the term; and fourth, natural science begins to understand "nature" as a holding binding, necessary authority, which is conflated with law, increasingly over against moral choices of free reason.[44] Finally, natural law now firmly refers to empirical, demonstrable hypotheses in the realm of natural science, not reasonable, moral laws.[45]

Yet even in modernity and postmodernity, there is an appeal to some kind of value or right that is due everyone: fairness, justice, tolerance, autonomy. More than this, there is a recognition that there is something universal to human nature that should be respected: agency and freedom, which we can link to the more traditional terms of reason and will. Furthermore, such a human morality is one of justice. A vestige of the natural law remains—the need for justice for human beings, even if this notion of justice is stunted or malformed.

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[42] Daston and Stolleis, "Introduction," 10–11; Stolleis, "Legitimation of Law," 51–53; Jan Schröder, "The Concept of (Natural) Law in the Doctrine of Law and Natural Law of the Early Modern Era," in *Natural Law and Laws of Nature in Early Modern Europe* (Farnham, England: Ashgate, 2008), 64–66. See also Timothy J. Hochstrasser, *Natural Law Theories in the Early Enlightenment* (Cambridge: Cambridge University Press, 2000), 80–89.

[43] Schröder, "The Concept of (Natural) Law," 67.

[44] Sophie Roux, "Controversies on Nature as Universal Legality (1680–1710)," in *Natural Law and Laws of Nature in Early Modern Europe*, ed. Lorraine Daston and Michael Stolleis (Farnham, England: Ashgate, 2008), 200.

[45] Stolleis, "Legitimation of Law," 54.

### III. Universal Conceptions of the Natural

We also get a glimpse of the natural law another way: although we are inclined to evil through sin, we still react against manifest and widespread evil. Mass murder, corrupt business dealings, even infidelity and ruinous slander still strike most people as wrong, even if we have gradually been conditioned to accept some of these things, or do not act systematically to stop them.[46] Another example of the natural law is the appeal to universal human rights, human dignity, or even human autonomy.[47] Regardless of how these notions have strayed from earlier Christian conceptions, they still indicate appeals to that which is not only fundamentally, but also universally human.[48]

Here we begin to see the gap between the concept of the natural law and its implementation. It is not difficult conceptually to recognize a universality of basic ideals, such as subsistence of natural life, family and social order, and so forth. It is much more difficult to agree on the practice of these ideals. Even basic precepts rarely have universal agreement. You shall not kill, unless you are the government punishing a violent criminal. Or unless the utility of bringing a fetus to term is outweighed by the utility of terminating the pregnancy. Beyond any ideals of basic goods or universal principles, we must always ask who is acting, what is being done, on whom or about which the action is being taken, when, where, why, how, and by what means. Circumstances play a significant role in qualifying the action in order to determine how reasonable it is.

In fact, there is no such thing as a precept devoid of circumstances. In this sense, there are no universal precepts. Moral direction and description always includes circumstances, "You shall have no other gods—before the Lord" (cf. Exod 20:3). The commandment is qualified by the one to whom worship is directed. "You shall not misuse the name of the Lord" (cf. Exod 20:7). A particular kind of use—misuse—is forbidden, but not all uses in general. "You shall sanctify the holy day" (cf. Exod 20:8). Is the holy day the Sabbath? Is it Sunday? Is it the rest we find in Christ? "[P]ractical reasoning, unlike speculative reasoning, deals with individual and contingent matters, . . . its judgments are not characterized by absolute necessity."[49] Practical judgment is particular rather than general.

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[46] Pope, "Reason and Natural Law," 162.

[47] David Novak, "The Judaic Foundation of Rights," in *Jewish Justice: The Contested Limits of Nature, Law, and Covenant* (Waco, TX: Baylor University Press, 2017), 165–167.

[48] David Novak, "Natural Law, Human Dignity, and the Protection of Human Property," in *Jewish Justice: The Contested Limits of Nature, Law, and Covenant* (Waco, TX: Baylor University Press, 2017), 45–46.

[49] Pope, "Reason and Natural Law," 151.

In fact, then, all moral action is dealing with particularization, action qualified by circumstances. *So for something to be of the natural law does not mean it is universal.* This misconception that the natural law is a comprehensive scheme of universal principles—like unto a complicated code of laws—that has been determined by physical function is the greatest misunderstanding and greatest barrier to an appreciation and use of the natural law today. Rather, while we can say that the natural law includes a set of precepts, these precepts are always acted on according to circumstances.

If vague concepts of human rights and dignity are all that remain of the natural law, is it, then, the moralist's will-o'-the-wisp? If moral action is always particular, how can we grasp the universal nature yet particular expression of natural law? Perhaps we have been pursuing this wrongly. Perhaps we are in need of divine wisdom. Perhaps we are in need of revelation to inform the dim spark of the natural law. Does submitting to revelation make the natural law somehow less natural? By no means! The natural law and divine revelation are not somehow at odds with each other, or two different sources of knowledge which should be kept separate, but they work mutually to heighten a person's awareness of goodness, love, the conviction of sin, and the mercy of God both for us and as exemplary for our lives toward others.

### IV. Wisdom as the Bible's Concept of the Natural Law

Some might say that the natural law is not prevalent or significant in the Scriptures, with the brief references to the power and divinity of God being plain in creation (Romans 1), and the Torah written on the heart (Romans 2). But in view of our discussion about the natural law being a reasonable judgment to act well, I suggest that the natural law is much more prevalent in Scripture, specifically in the wisdom literature.

In fact, one could make the argument that the inclusion of wisdom literature ever so gently implies the insufficiency of the law of Moses, at least as given as a code of precepts. Further wisdom and judgment are needed to follow the law of Moses in various circumstances. Consider Solomon's prayer at Gibeon:

> And now, O Lord my God, you have made your servant king in place of David my father, although I am but a little child. I do not know how to go out or come in. And your servant is in the midst of your people whom you have chosen, a great people, too many to be numbered or counted for multitude. Give your servant therefore an understanding mind to govern your people, that I may discern between good and evil. (1 Kgs 3:7–9)

This, in spite of the fact that the Lord commanded, through Moses, that each king, upon coronation, write his own copy of the Law and study it daily (Deut 17:18–20). This also in spite of David's dying counsel to Solomon that he know, keep, and walk in the ways of the law of Moses (1 Kgs 2:1–4). Despite his intimate knowledge of the law of Moses, Solomon needed something else. He needed skill at making judgments. He needed a wise and discerning heart.[50]

Psalm 37:30–31 says, "The mouth of the righteous utters wisdom, and his tongue speaks justice. The Torah of his God is in his heart; none of his steps shall slip."[51] God's people are called upon to imitate his righteousness and justice. Justice and righteousness are expressions of holiness ("The Lord of hosts is exalted in justice, and the Holy God shows himself holy in righteousness" [Is 5:16]), holiness which God's people are called to exemplify. "You shall be holy, for I the Lord your God am holy" (Lev 19:2). "Be perfect, as your heavenly Father is perfect" (Matt 5:48).

In order to exemplify this holiness and perfection, in order to carry out justice and righteousness, people must understand not only the "what" of the commandment, but also the "why," the purpose. The prudential reason, the logic of the commandment, must be intelligible.[52] An action that is unintelligible or illogical stands simply as a fact and can never be imitated again in the contingencies of life. Only the purpose of God's *mishpat* can be imitated; that is, it can be carried out again and again in changing circumstances.[53]

Commands are particular precepts issuing from justice itself, or "the Law." Justice as the reason for the commandments serves the final purpose of creation and also the human invitation to participate in the rule over creation. Such justice is not a procedural justice stemming from adherence to commandments, but the foundation of the commandments. *Mishpat* underlies *mitzvah*. Such grounding is necessary for commandments that are not arbitrary.[54]

In the Bible, this underlying justice of God is not a Greek philosophical conception of divinity or of will, but it is God's wisdom, his חָכְמָה (chokhmah). His wisdom is his creative intelligence by which he brings all things into orderly being.[55] "When he established the heavens, I was there; . . . when he made firm the skies above, when he established the fountains of the deep, when he assigned to the sea its limit, . . . I was beside him, like a master workman, and I was daily his delight,

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[50] For a fuller development of this argument, see Bruce K. Waltke, "Righteousness in Proverbs," *Westminster Theological Journal* 70 (2008): 230–231.

[51] Translation my own.

[52] David Novak, "Divine Justice/Divine Command," in *Jewish Justice: The Contested Limits of Nature, Law, and Covenant* (Waco, TX: Baylor University Press, 2017), 130–131.

[53] Novak, "Divine Justice/Divine Command," 133.

[54] Novak, "Divine Justice/Divine Command," 125–126.

[55] Novak, "Divine Justice/Divine Command," 127.

rejoicing before him always, rejoicing in his inhabited world and delighting in the children of man" (Prov 8:27–31). Wisdom then is personified as with God prior to and during the creation, not merely as an attribute, but as a "principle inherent in the very fabric" of creation. Or, as the logos, the wisdom of God (1 Cor 1:24).[56] By this logos, all things were made, and apart from him nothing was made that was made.

God's wisdom, then, underlies and gives form and purpose to all creation. Furthermore, the wisdom literature asserts, God's wisdom itself can be discovered and learned by careful attention to the works of God. Remember this claim from Romans 1:19–20: "What can be known about God is plain to them, because God has shown it to them. For his invisible attributes, namely, his eternal power and divine nature, have been clearly perceived, ever since the creation of the world, in the things that have been made." But perhaps what is overlooked in this is the claim about wisdom that Paul makes in the verses immediately following: "Although they knew God, they did not honor him as God or give thanks to him, but they became futile in their thinking, and their foolish hearts were darkened. Claiming to be wise, they became fools" (Rom 1:21–22). God's attributes are not apparent simply for philosophical speculation, but as an appeal to repentance and true worship. True worship, in turn, is the beginning of wisdom: "The fear of the Lord is the beginning of wisdom" repeats the Bible (cf. Job 28:28; Ps 111:10; Prov 1:7; 9:10; 15:33; Eccl 12:13).

Fear of the Lord is the beginning of wisdom, but such fear bears further fruit in the increase of wisdom. Proverbs 2 expands that through wisdom the Lord protects a person's integrity; guides him in righteousness, justice, equity, and every good path; teaches him discretion; protects him from deceit and men who would tempt to wickedness; and delivers him from sexual temptation. In fact, this is not wisdom for human betterment in a humanistic sense, but under the assumption that God intends for the human good. Wisdom comes, first of all, from the fear of the Lord. Because of God's personal involvement in order, this search for order is really the search for life. Wisdom seeks after life and shuns death (Prov 10:17).[57]

How is this search for wisdom undertaken? Both by hearing the wisdom of those who have gone before, and by observing the order and goodness intended for creation and still discernable, to some extent, in it. Wisdom assumes an order in creation discernible by reason, discovered in one's experience of the natural or social existence. This order, furthermore, has its origin in God. God, as creator, is experienced in creation. Even the world of animals (Prov 30:15–31) or astronomy

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[56] Bruce C. Birch, *Let Justice Roll Down: The Old Testament, Ethics, and Christian Life* (Louisville: Westminster John Knox Press, 1991), 329.

[57] Birch, *Let Justice Roll Down*, 324–325.

(Psalm 19) gives insight into understanding humanity.[58] The seemingly weak and leaderless ants provide for themselves through diligence, an observation that could teach one to avoid sloth (Prov 6:6–11; 30:25). Or there is the "stately stride" of the lion, rooster, and he-goat, which prepare and warn the stately king whose army is with him (Prov 30:29–31).

In the order of creation, then, there is always a concern for justice. Behind this order is chaos, which is expression of sin.[59] There is also instruction in wisdom, such as that contained in the Proverbs. Rather than theoretical principles, this instruction is grounded in real-life situations to make them easier to understand. The repetition of similar proverbs reinforces wisdom through different images. Both of these characteristics are exemplified in these proverbs in close proximity to each other in Proverbs 26, making vivid the connection between lying, hatred, and social disintegration: "Whoever hates disguises himself with his lips and harbors deceit in his heart. . . . A lying tongue hates its victims, and a flattering mouth works ruin" (Prov 26:24, 28). This kind of proverbial instruction does not give answers to every question of justice, but it stimulates the mind to think in just ways through repeated example and reflection. By so doing, a person who fears the Lord becomes prudent and is able to make wise judgments in all circumstances: "Answer not a fool according to his folly, lest you be like him yourself. Answer a fool according to his folly, lest he be wise in his own eyes" (Prov 26:4–5). Which is it? Only wisdom can determine, considering the particular circumstances.

"Propriety" or prudence, the right word and deed in the appropriate circumstance, is the underlying thematic method.[60] Wisdom, then, fills in when commandments or precepts do not address a question. The concept of wisdom also helps us to understand why specific precepts sometimes apply and sometimes do not, or even why some precepts in the Bible change, such as Jesus' overturning the laws of restitution and uncleanness.[61]

Wisdom is "[t]he reasoned search for specific ways to ensure personal well-being in everyday life, to make sense of extreme adversity and vexing anomalies, and to transmit this hard-earned knowledge so that successive generations will embody it."[62] The claims of wisdom, then, are not to exalt human capacity above the divine, or to offer assurances about God's action, but through keen awareness of the human experience to offer courage in appropriate action, whether the prudential, the

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[58] Birch, *Let Justice Roll Down*, 324, 326–327.

[59] Birch, *Let Justice Roll Down*, 327.

[60] James L. Crenshaw, *Old Testament Wisdom: An Introduction*, rev. and enl. ed. (Louisville: Westminster John Knox Press, 1998), 11.

[61] Gordon McConville, "Biblical Law and Human Formation," *Political Theology* 14, no. 5 (2013): 634.

[62] Crenshaw, *Old Testament Wisdom*, 3.

faithful, the religious, and so forth. Something of the truth can be observed in creation, even when this creation is corrupted. The experience of corruption itself can suggest to the one seeking wisdom where to find hope.[63] Wisdom is an art that can be learned, but it begins with a heart willing to listen and submit.[64]

### V. The Failure of the Natural Law and Need for Fear of the Lord

The truth of wisdom permeates creation and the human experience, encouraging optimism. Yet wisdom also recognizes limits to human control over events. These limits come from deficiencies in human wisdom, expressed either in wickedness or in the providence of God overturning human plans. No man apart from our Lord is perfectly wise, no matter the extent to which he pursues wisdom. This is another way of saying that all have sinned and fall short of God's glory. The infection of original sin undermines fantasies about a life without flaws in perfect harmony with the natural law. Man does not always seek the good, does not always act in justice and equity to others, does not always love the neighbor as himself. Just as much as the natural law cannot be empirically predicted according to natural conditions, and just as much as the natural law is not mere instinct or natural inclination, but a reasoned judgment for goodness, righteousness, and love, so the natural law also fails in men in many cases.

Beyond the wickedness of man, the Lord also determines the course of events in such a way that our actions cannot guarantee the good life that we imagine for ourselves, or even for others. "Many are the plans in the mind of a man, but it is the purpose of the Lord that will stand" (Prov 19:21; cf. also Prov 27:1; 28:26; 16:9; 21:30–31; 16:1–2; 20:24; 19:14).[65] A human being, apart from our Lord, simply does not have the capacity to act with a wisdom that considers goodness for all people, even just all the people of his society. Only the Lord discerns the heart. "Let the evil of the wicked come to an end, and may you establish the righteous—you who test the minds and hearts, O righteous God!" (Ps 7:9). "The crucible is for silver, and the furnace is for gold, and the Lord tests hearts" (Prov 17:3). In his observance and testing of hearts, the Lord knows what experiences to send the way of men, whether success or failure, happiness or tragedy.

Yet the natural law tradition, and the wisdom tradition especially, is not ignorant of providence and unpredictability. Prolonged experience suggests skepticism at attaining perfection, such that the lament of what should be but has been lost has become part of wisdom. "It is the glory of God to conceal things, but

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[63] Crenshaw, *Old Testament Wisdom*, 199.
[64] Crenshaw, *Old Testament Wisdom*, 24.
[65] Crenshaw, *Old Testament Wisdom*, 10.

the glory of kings is to search things out" (Prov 25:2). Even though the pursuit of wisdom had something to do with perceiving the goodness and truth in nature, such goodness is difficult to penetrate. Biblical wisdom is not only occupied with the pursuit of success through prudential speech and behavior, but it also submits to the exercise of divine freedom and human catastrophe even when claims to justice are on the side of men. This is the purpose of the extensive writings in Job and Ecclesiastes. In Job, God, not Job, becomes the one on trial to defend the failure of his creation and his judgment against the wicked and for the upright. God testifies that retributive justice is not the purpose of his creation. God limits and controls chaos, and acts according to the good by particular intervention.[66] God's purpose, in fact, is to exercise dominion and mercifully restore his wayward creation through his Son, so that Satan no longer has ground for accusation.

The Ecclesiastical preacher, likewise, observes that virtue and vice are not rewarded or punished, but that a man's duty is to enjoy with thanksgiving the gifts of God, and to hope for restoration in eternal life.[67]

> There is an evil that I have seen under the sun, as it were an error proceeding from the ruler: folly is set in many high places, and the rich sit in a low place. I have seen slaves on horses, and princes walking on the ground like slaves. He who digs a pit will fall into it, and a serpent will bite him who breaks through a wall. He who quarries stones is hurt by them, and he who splits logs is endangered by them. (Eccl 10:5–9)

> In the morning sow your seed, and at evening withhold not your hand, for you do not know which will prosper, this or that, or whether both alike will be good. Light is sweet, and it is pleasant for the eyes to see the sun. So if a person lives many years, let him rejoice in them all; but let him remember that the days of darkness will be many. All that comes is vanity. Rejoice, O young man, in your youth, and let your heart cheer you in the days of your youth. Walk in the ways of your heart and the sight of your eyes. But know that for all these things God will bring you into judgment. (Eccl 11:6–9)

Divine providence, and the actions of others, mean that a purely temporal, predictable, retributive justice does not exist. This is not a moral relativism, but a recognition that God's justice is more fundamental and comprehensive. Divine providence, judgment, and mercy are at the root of human life.[68]

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[66] Birch, *Let Justice Roll Down*, 343–345.
[67] Birch, *Let Justice Roll Down*, 345–346.
[68] Birch, *Let Justice Roll Down*, 339–341.

Job 28 goes on to say that wisdom is hidden from the living, and that God alone has it. To access wisdom depends on religion and prayer.[69] The fear of the Lord is the beginning of wisdom, and also, it turns out, the end of it. For while wisdom can bring, to some extent, goodness and happiness in this light, true wisdom is to trust that the judgment of God is coming, and to submit to this judgment with piety and hope. True wisdom, then, does not necessitate certain results of goodness and happiness, but the character of faith and piety.[70] We strive to participate in the goodness of God by pursuing justice and mercy as wisely as possible, without placing our ultimate hope in our own wisdom.

## VI. Natural Law and Biblical Ethics

Our long reflection suggests that commands and wisdom are given together to serve the spiritual purpose of establishing the spiritual, eternal kingdom of Christ. The Law is given in the context of covenant, the narrative and work of salvation, to establish the people of God for their vocation of exercising, modeling, and establishing righteousness (*tzedakah*). Correlatively, wisdom permeates the creation, calling out to men to perceive her and walk in her ways. The vestige of wisdom in man stumbles along the way of recognizing wisdom. Yet as pursued with humility and blessed with divine gifts, the pursuit of wisdom can manifest in righteousness and goodness, especially the good of the neighbor.[71]

In this way of wisdom, the natural law is a rich resource for moral theology, even if the art of right judgment and prudential action is difficult, takes years of learning, and necessitates fear of the Lord. As Scripture's purpose is to proclaim salvation in Christ, it is not a comprehensive moral guide. "Ethical action," on the other hand, "is a response to the mighty acts of God in redeeming mankind through the death and resurrection of Christ, but the kinds of moral action that are appropriate to the good news are specified in prescriptive terms." This "prescriptive understanding of moral obligation is essential to the experience of repentance upon which the gospel depends for its promise of grace."[72] It is not the New Perspective, in that adherence to the "law" keeps one in the covenant; rather, pursuit of holiness is expected of Christians, and missing the mark moves us quickly and directly to repentance and forgiveness. Prescriptions, or commands, work together with deliberation for justice. These scriptural commands most often are within a covenant context, or particular revelations to individuals. In one sense, this means that these commands do not apply to us. Yet the covenantal context of biblical law

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[69] Crenshaw, *Old Testament Wisdom*, 46.
[70] Crenshaw, *Old Testament Wisdom*, 7–8.
[71] McConville, "Biblical Law and Human Formation," 631.
[72] McConville, "Biblical Law and Human Formation," 637.

does not set it in opposition to a natural conception of law. Rather, for the Gentile, the natural law itself establishes a covenant between God and man (Romans 2).

Thus Scripture teaches us to reason morally using the natural law, not a structure of biblical laws.[73] Scripture and the natural law are complementary authorities for moral action. The application of contextually promulgated law must always be discerned in view of justice and mercy. In the end, true and faithful execution of the law requires the view of love for neighbor rather than opposition to him.[74]

We see this modeled already in Luther's own explanations of the Ten Commandments. The explanations are not just of the natural law—that is, not just what society needs to survive—but they go beyond this to include positive and constructive actions to benefit the neighbor, something extra that is informed by fear of the Lord and the Holy Spirit. A Christian is strengthened to do these things because of the grace of Christ, which ensures that he will lack nothing. This is the instruction of the "law of Christ" (Gal 6:2).[75] Yet this also indicates that biblical law is normative only when it agrees with the natural law; it is binding only for its circumstances.[76] The wisdom revealed in the law, however, informs our judgments in other, similar circumstances in our own experiences.

The natural law also needs to be understood as Christian law, in the sense that Christ is both the perfect man and the perfecter of men. We are to grow into his fullness. The natural law, finally, is not complete only in what fallen reason discerns, but when we "grow up in every way into him who is the head, into Christ, from whom the whole body, joined and held together by every joint with which it is equipped, when each part is working properly, makes the body grow so that it builds itself up in love" (Eph 4:15–16). The true image of God—that image in which man was originally created, and to which he is restored—is the Son (Col 1:15–17). All things were created by and for Christ. As Christ is the perfection of the human nature, he is not anomalous to a "natural" purpose for man, but the prototype of it (John 1; Eph 1; 1 Cor 8:6).[77] Thus the Bible informs us of God's nature and his relations to the world. Faith and life are grounded in the hope of Christ, so that his destiny becomes paradigmatic for ours, and his life a kind of example.[78] The restoration of moral reasoning is not complete in goals or principles, but in the

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[73] Gary M. Simpson, "'Written on Their Hearts': Thinking with Luther about Scripture, Natural Law, and the Moral Life," *Word & World* 30, no. 4 (2010): 420.

[74] McConville, "Biblical Law and Human Formation," 632–633.

[75] Gilbert Meilaender, "The Decalogue as the Law of Christ," *Pro Ecclesia* 27, no. 3 (2018): 346.

[76] Simpson, "'Written on Their Hearts,'" 424.

[77] Gustafson, *Protestant and Roman Catholic Ethics*, 103.

[78] Gustafson, *Protestant and Roman Catholic Ethics*, 99.

perfection of human life in the perfect man, Jesus, who perfects our understanding and our life in himself.[79]

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[79] John Macquarrie, "Rethinking Natural Law," in *Natural Law and Theology*, ed. Charles E. Curran and Richard A. McCormick, Readings in Moral Theology 7 (New York: Paulist Press, 1991), 227.