



1.

Finnis describes a contemporary theory of natural law incorporating insights from modern positivism. He seeks to rescue natural law from positivist caricatures of it as a theory seeking to confine and delimit the positive law to universalist ideas about human nature or the cosmic order. He refutes the idea that natural law requires laws which infringe morality be impugned as invalid. In so doing, he offers a reinterpretation of the theories of Aristotle and Aquinas.

Finnis attempts to formulate a rational basis for moral action. His central thesis is that the act of making law is an act which can and should be guided by moral principles which are a matter of objective reasonableness. Although, Finnis indeed posits a place for morality in the law, the type of morality Finnis has in mind is questionable. Because Finnis's morality is rooted in abstractions rather than in the historical or contemporary nature of society his thesis amounts to "an apologia for private property, the family and the State, supported not by science and reason but by fideism and frequent appeals to the 'self-evidence' of his premises, and...a liberal theory of justice". "Its general acceptance of the ideas in which the status quo is interpreted and explained places it within a kind of liberal democratic politics."

... Drawing on the ideas that the state is a natural entity and that natural law is discoverable by reason, Finnis proclaims that there are a set of basic practical principles affirming "that life knowledge, play, aesthetic experience, friendship, practical reasonableness and religion are basic goods (ends, purposes, values) of human life". The basic goods are "objective values in the sense that every reasonable person must assent to their value as objects of human striving".

(Adapted from *Is There a Place for Morality in Law?* by Brigita White, in QUT Law Journal, Vol 12: 1996)



2.

Finnis's natural law theory is divided into three distinct parts, each with its own purpose. Finnis argues that there are, first, a set of notions that "indicate the basic forms of human flourishing as goods to be pursued and realised" and that are known to everyone who thinks about how they should act. These principles are buttressed by "a set of basic methodological requirements of practical reasonableness . . . which distinguish sound from unsound practical thinking and . . . provide the criteria for distinguishing between [reasonable and unreasonable acts]." Following these methodological requirements allows one to distinguish between acting morally right or morally wrong and "to formulate . . . a set of general moral standards."

Finnis begins by discussing knowledge and describing his theory of the importance of basic goods. Basic goods are irreducible, self-evident, "and even unquestionable." To Finnis, every reasonable person would assent to the value of these basic goods as objects of human striving, and these basic goods are "indemonstrable but self-evident principles [that shape] our practical reasoning." By stating that something is a basic good, as he does in the first instance with knowledge, Finnis argues that "reference to the pursuit of knowledge makes intelligible . . . any particular instance of the human activity and commitment involved in such pursuit."

(Extract from Campbell Law Review, Vol 35 2012 *John Finnis's Natural Law Theory and a Critique of the Incommensurable Nature of Basic Goods* by Alex E. Wallin)

3.

John Finnis was Professor of Law and Legal Philosophy at Oxford University from 1989 to 2010. Finnis first made a modern statement for Natural Law in his famous book entitled *Natural Law and Natural Rights* published in 1980. This received critical acclaim but also created controversy amongst some scholars, for example, Stephen Buckle, who saw it as an attempt to justify Roman Catholic morality through a legal framework.



Brigita White also argues that Finnis' arguments are determined by his own personal conceptions that arise from his own acceptance of society in which he lives. She writes: 'his formulation is conditioned by his acceptance of the society in which he lives and circumscribed by his personal conception of the possible. His account is not grounded in social realities but in abstractions. The result is a law imbued with a morality that essentially serves the interests of the elite.'

The purpose of this book for Finnis was, like Aristotle, to demonstrate that the aim of the good life is to 'flourish' or achieve what Aristotle termed, eudaimonia. The term eudaimonia can be translated as 'well-being' and it was from this term that Aquinas developed the primary precepts. For Finnis, the purpose of any guidance for life in achieving this state of well-being, is to inform and lead everyone towards this for the common good, that is, for the benefit of each and every citizen. Finnis uses the term well-being to establish what the telos, end or purpose for humanity ideally is. As Finnis writes, the starting point for Ethics is '... all must ask themselves: what are the basic aspects of my well-being?'

(Taken from *Ethics and Religion*, Illuminate Publishing, 2018 by Peter Cole, Richard Gray and Mark Lambe)

EXAMPLE OF A FINAL SUMMARY

Finnis' Natural Law refutes the idea that natural law requires laws which infringe morality be impugned as invalid, that is he sees Law and Morality as inextricably linked. Finnis offers a reinterpretation of the theories of Aristotle and Aquinas. The purpose of this book for Finnis was, like Aristotle, to demonstrate that the aim of the good life is to 'flourish' or achieve what Aristotle termed, eudaimonia. Finnis writes, the starting point for Ethics is '... all must ask themselves: what are the basic aspects of my well-being?'

For Finnis a rational basis for moral action should be part of a modern statement for Natural Law. Its purpose should be to inform and lead everyone towards this for the



common good, that is, for the benefit of each and every citizen. Finis sees making law... as something that should be guided by moral principles which are a matter of objective reasonableness.

Finnis proclaims that there are a set of basic practical principles known as basic goods. To Finnis, every reasonable person would assent to the value of these basic goods as objects of human striving. They are a set of notions that “indicate the basic forms of human flourishing as goods to be pursued and realized” and that are known to everyone who thinks about how they should act. The basic goods are “objective values in the sense that every reasonable person must assent to their value as objects of human striving. Following these methodological requirements allows one to distinguish between acting morally right or morally wrong.

Finnis’ suggestion of basic goods does have its critics.

Stephen Buckle argued that it was an attempt to justify Roman Catholic morality through a legal framework. Brigita White also argues that Finnis’ arguments are determined by his own personal conceptions that arise from his own acceptance of society in which he lives.



Here are three more resources- this time the focus is specifically on the basic goods that John Finnis puts forward (Theme 2D).

1.

Finnis' identification of seven basic goods is his appeal to philosophical wisdom. Finnis sees the identification of those goods as 'basic' in that they should be the common denominators of pro-eudaimonic truth. Finnis insists on three things:

1. They are self-evident.
2. They are not overlapping or a part of another basic good.
3. They are all equally important and there is no inherent hierarchy.

However, as it is in life, depending upon one's focus, one basic good may be nearer at hand or more in focus than another basic good; however, this does not reflect priority or significance overall, it merely reflects that we are shifting from one situation to another, as Finnis puts it so aptly, 'one-by- one right round the circle of basic values that constitute the horizon of our opportunities'. Conversely, when one particular basic good is more in focus this does not imply that the others are mere frivolity or superficial; they still retain their implicit value by the very nature of being a potential focus elsewhere.

In conclusion Finnis writes:

'Each is fundamental. None is more fundamental than any of the others, for each can reasonably be focused upon, and each, when focused upon, claims a priority of value. Hence there is no objective priority of value amongst them.'

Finnis lists his seven basic goods as:

- » Life
- » Knowledge
- » Friendship



- » Play
- » Aesthetic experience
- » Practical reasonableness
- » Religion

Finnis admits that beyond his seven basic goods there are other ‘countless objectives and forms of good’ and also ‘combinations of ways of pursuing... and realising... one of the seven basic forms of good, or some combination of them’. In other words, there are many aspects of the basic goods such as courage, generosity, moderation, gentleness but that these qualities, in themselves, are not identical with the basic goods but simply aspects of these goods by different people and at different times and in different places.

(Taken from *Ethics and Religion*, Illuminate Publishing, 2018 by Peter Cole, Richard Gray and Mark Lambe)

2.

There are seven of these basic goods. They are: (1) life, (2) knowledge, (3) sociability or friendship, (4) play, (5) aesthetic experience, (6) practical reasonableness, and (7) religion. Finnis argues that the list of basic goods is exhaustive in that “other objectives and forms of good will be found . . . to be ways or combinations of ways of pursuing . . . and realising . . . one of the seven basic forms of good, or some combination of them.”

There is also no hierarchy within the list, and thus, the basic goods are considered incommensurable. Finnis argues that the basic goods are “equally self-evidently a form of good.” None of the basic goods “can be analytically reduced to being merely an aspect of any of the others, or to being merely instrumental in the pursuit of any of the others,” and “each one, when we focus on it, can reasonably be regarded as the most important.” These goods are also pre-moral, in that they do not “presuppose any moral judgment.”

After laying out his list of pre-moral basic goods, Finnis then must explain those “methodological requirements of practical reasonableness” that he claims allow one to



make actual decisions. The methodology will be enacted through the understanding of basic practical principles, and the basic good of practical reasonableness is the good that structures our pursuit of the other basic goods.

(Extract from Campbell Law Review, Vol 35 2012 John Finnis's Natural Law Theory and a Critique of the Incommensurable Nature of Basic Goods by Alex E. Wallin)

3.

Finnis is a legal philosopher and author of *Natural Law and Natural Rights* (1980, 2011), a seminal contribution to the philosophy of law and a restatement of natural law doctrine. For Finnis, there are seven basic goods; life, knowledge, sociability of friendship, play, aesthetic experience, practical reasonableness and religion.

Life involves all aspects of vitality that enable a person to gain strong willpower. The second aspect of well-being is knowledge and is described as the pure desire to know, simply out of curiosity, as well as a concerning interest and desire for truth. The third aspect, play, is regarded as self-evident as there is no real point of performing such activities, only for pure enjoyment. Aesthetic experience is the fourth aspect and is considered similarly to play however; it does not essentially need an action to occur. The fifth aspect for Finnis is sociability where it is realised through the creation of friendships, that these relationships are fundamental goods. Practical reasonableness is the sixth basic good where it is one's ability to use their intellect in deciding choices that ultimately shape one's nature. The final basic good is religion; it encompasses the acknowledgment of a concern for a simplified distinct form of order, where an individual's sense of responsibility is addressed; it is "all those beliefs that can be called matters of ultimate concern; questions about the point of human existence".

After discussing the basic goods it is argued that within the list there is no hierarchal order, as the basic goods are considered impossible to compare or measure. Finnis believes the goods are equally self-evident. Each of the basic goods can be considered



the most important, as none of them can be reduced to simply a mechanism of achieving another. While technically the goods can be treated as superior to one another Finnis provides that each good is still fundamental where no priority value exists.

(Extract from *John Finnis*, Wikipedia)