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THE WORLD OF MORALITY THAT ARISE FROM NATURAL LAW

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Abstract

This paper has discussed the concept of natural law morality. Morality is defined as concerned with mores, has to do with the norms of individual conduct, which are generally accepted. Moralists also define morality as the standard by which systems of mores, possible and actual, were to be judged and a standard by which everybody ought to live. On the other side, natural law has been defined as a set of practical reasonableness' basic methodological requirements, which are meant to establish a distinction between sound and unsound thinking, and which provide distinguishing criteria for acts that are reasonable-all-things-considered and those which are unreasonable-all-things-considered. The paper has also discussed the limitations of natural law morality, its advantages, and natural law morality today. Most important and worth

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noting is this paper's finding that natural law morality still has a place in contemporary society regardless of the challenges it has been subjected to by modern scientific studies.

Keywords:

Natural Law, Morality, Jurisprudence, Donagan Alan, Ward Ian, Hart, Dworkin, Foucault, Raymond Wacks, Ernest Barker, Daniel John O'Connor, Weinreb Lloyd, Jacques Derrida, Steven Forde, John Locke, John Finnis, Thomas Hobbes, David Hume, Jacques Maritain, Jay Porter, Jean-Jacques Rousseau, Hobbes, Katherine O'Donovan, Stanlis and Thomas Aquinas.

INTRODUCTION

Morality and natural law are two concepts that have been discussed for many years by different scholars and philosophers. The discussion continues even today and still likely continues. This paper discusses morality, natural law, the advantages of natural law morality, limitations of natural law morality, and natural law morality in modern days.

MORALITY

The discussion about morality has been there for a very long time. Interestingly, it has remained active and prevalent among different groups of people and scholars to date and seems to continue even into the future. A question that has been there over all this time is what morality all about is. Donagan says that moral philosophers have found it hard to establish a philosophical theory of morality (1979, p.1).[1] However, he explains that morality is more concerned with mores, which to him has to do with the norms of individual conduct, which are generally accepted by society.

However, Donagan argues that morality to moralists had no meaning of 'system of mores.' To moralists, morality is the standard by which systems of mores, possible and actual, are judged and a standard that everybody ought to live by, regardless of his neighbours' mores. The moralists' definition of morality must have been the central theme in

[1] Donagan Alan, The theory of morality (University of Chicago Press 1979)

Lord Atkin's verdict in the *Donoghue v Stevenson's* case (1932)[2]. In this case, Mrs. Donoghue had drunk a bottle of ginger beer, manufactured by Mr. Stevenson, bought to her by her friend. The bottle, opaque in colour, had some decomposed snail remains, but because of the colour of the bottle and its seal, it was impossible to detect the snail remains until she had consumed much of the beer when she realized. Mrs. Donoghue took the matter to court and claimed to have suffered severe gastroenteritis and shock upon noting the snail remains in the bottle. In this case, there was no direct contractual relationship between the two parties because she did not buy the beer herself. However, she sued the manufacturer, Mr. Stevenson, based on England's law of negligence. The case moved from the Scottish Courts, and judgement was in favour of the complainant, Mrs. Donoghue. However, the defendant, Mr. Stevenson, successfully appealed to a higher court, and in turn, Mrs. Donoghue appealed to the highest court in the United Kingdom, the House of Lords. At this level, Lord Atkin gave a verdict of upholding Mrs. Donoghue's appeal, basing his ruling on morality. His judgment supports Donagan's definition because he expected the defendant to observe the duty of care as a moral expectation for every member of society.

Giogenes Laertius, in Doagan's book on *The Concept of the Theory of Morality (1979, p.2).*[3] described the Stoic Ideal on morality as being in accordance with nature, in which nature refers to the nature of man and the nature of the universe, doing nothing forbidden by the universal

[2] Donoghue v Stevenson [1932] UKHL 100

[3] The Concept of the Theory of Morality (1979, p.2).

law, where the universal law refers to the right reason pervading all things. The argument by Giogenes Laertius indicates a crucial and notable nature of morality in his Stoic Theory, that in morality, reason and nature are nearly inseparable, with nature being extraordinarily elusive. This meant that in morality, the supreme and true law was that which the highest of gods willed and enjoined by reasons. This is related to Aristotle's concept of ultimate good (*telos)* in which everybody in the society was expected to achieve happiness through the virtue and performance of good actions. Ian Ward (1998, p.),[4] while discussing Law and Morality, brings out another aspect of morality.

While discussing law and morals, Herbert Hart (2012, p.185)[5] held that morality rather than being understood as a natural entity should be understood from a political and a social perspective. This view brings the concept of what the origin of morality is. To him, morality is a political and a social product, while natural law philosophers such as Finnis and Weinreb morality are a product of nature. He further argued that there are various types of relations between law and morals and that the development of law, at all times and places, has been profoundly influenced both by the conventional morality and ideals of particular social groups and also by forms of enlightened moral criticism urged by individuals. To him, morality forms an essential part of the law because any legal system must exhibit some specific conformity with morality or justice or rest on a widely diffused conviction that there is

[4] Ward Ian, Introduction to critical legal theory (1998, p.)

[5] Hart, Herbert Lionel Adolphus, Herbert Lionel Adolphus Hart, and Leslie Green. The concept of law. oxford university press, 2012.

a moral obligation to obey it. His arguments indicate that morality is a central theme in the development of law.

The discussion on morality is also continued by Ian Wards (1998, p.22),[6] where he particularly brings in his discussion the controversy in Delvin's lectures and 1958's Wolfenden Committee Report. Their discussion involved what is known as private morality and immorality. Here, Delvin held that homosexuality is immorality and describes a miserable way of life, which could easily lead to the degradation of women and men. On the other hand, the Wolfenden Committee Report moved fast to counter his argument and advocated for the decriminalization of homosexual acts. To the report, homosexuality was not in any way immoral. From this controversy, we see morality as a matter that is dependent on the perspective of individuals.

Dworkin (1982, p. 180)[7] argues that every community has a foundation of a particular morality. To him, the moral foundation of western society is the distinct moral theology. He brought in the concept of moral principles, where he argues that morality has its principles, which are existent in every community. His idea of morality was that it is naturally found in every community. It is worth noting that from his view, moral principles differ among communities.

Foucault (2012, p. 3)[8] was not left behind in the discussion of morality. To him, morality is a means of differentiating between different categories of people such as the criminals, the sick, the poor,

[6] Ward Ian, Introduction to critical legal theory (Cavendish Publishing Limited 1998)

[7] Dworkin, Ronald. "Law as interpretation." Critical Inquiry 9.1 (1982): 179-200.

[8] Foucault, Michel. The history of sexuality, vol. 2: The use of pleasure. Vintage, 2012.

the mad/insane, and the sexual deviant in societal structures such as the prisons, the asylum, the church, the clinic, the court of law, and the university among other structures. From his perspective, morality is naturally available in all community spheres and readily available for use. Panopticism, according to Foucault, gives rise to a disciplinary society whose internal mechanisms produce the relation in which individuals are caught up. Panopticism aims to strengthen social forces by increasing production, developing the economy, spread education, raising and defining morality, which has a homogenizing or normalising effect. One could think of discipline as negative, in the sense that it arrests, suspends, breaks, or oppresses. In this case, he sees morality as being defined by negativity.

Natural Law

Wacks (2014, p.5)[9] attempted to define what natural law is. To him, natural law can best be described as one that provides a name for the intersection point between laws and morals. He further describes natural law as laws that attempt to resolve the ever-conflicting concepts of what 'is' and what 'ought to be. The natural law holds that what ought to be is what naturally is. The natural law can be traced back to the old days' philosophers such as Plato and Aristotle (Barker 2012, p. 183)[10]. For example, while expounding on Aristotle's concept of natural law,

[9] Wacks, Raymond. Philosophy of law: a very short introduction. Vol. 147. Oxford University Press, 2014.

[10] Barker, Ernest. The political thought of Plato and Aristotle. Courier Corporation, 2012.

Wacks noted that Aristotle in his years sought to discover values by applying reason. To him, these ideals source is in our human nature and not in any external transcendent values. This is because of his view of the world as to be containing both change and stability elements.

To St. Thomas Aquinas (O'Connor, 1967, p. 32)[11], the natural law is just but one element of divine providence: people's participation in the eternal law. The eternal law in his case referred to the rational plan ordering all creation. Aquinas further described the natural law as the practical rationality principles through which people's actions are to be judged as either reasonable or unreasonable. Explaining based on the word natural, Aquinas argued that the natural law's characteristics justify its description as 'law.' For him, the law consists of actions rules that God declared, the protector of the universe. It is God's creation of freely acting human beings out of their reason which entitled to Acquinas' regard of the naturally functioning principles as natural law. Therefore, according to St. Thomas Aquinas, nature guides human beings towards the tenets of natural law. According to his philosophy on natural law, what is good is done, and bad is avoided.

Finnis (2011, p. 23)[12], while defining Natural Law, argues that a sound Natural Law theory should explicitly, and with full awareness of the relevant methodological situation, criticize practical viewpoints for it to establish a distinction between the practically reasonable and the practically unreasonable, and thus differentiating what is important from what is unimportant. Adding on this argument, he goes further to

[11] O'Connor, Daniel John. Aquinas and Natural law. Macmillan International Higher Education, 1967.

[12] Finnis, John. Natural law and natural rights. Oxford University Press, 2011.

indicate that the natural law is a set of basic practical principles indicating the basic forms of flourishing among humans as goods under pursuance and realization, and goods which are there for anyone's use which considers what to do regardless of how unsound his conclusions might be. Also, Natural Law is a set of practical reasonableness' basic methodological requirements, which are meant to establish a distinction between sound and unsound thinking, and which provide distinguishing criteria for acts that are reasonable-all-things-considered and those which are unreasonable-all-things-considered. From Finnin's work, the above Natural Law principles apply to different fields such as individual conduct, ethics or moral philosophy, jurisprudence, and political philosophy. More importantly, these Natural Law principles explain the force of obligation of positive laws, even when the laws cannot be deduced from the principles.

In Ian Ward (1998, p. 23)[13], Lon Fuller, an American Jurist, supported Immanuel Kant and Jean-Jacques Rousseau's concept of the secular natural law. In his argument, Fuller held that the legitimacy of law was not bound on any rules and constitutional orders as argued by Hart but rather on the popular support. To him, the law must enjoy moral foundations and should about more than simply rules. Fuller's arguments support that natural law is not bound on any rules or constitutional technicalities and is naturally found within the people.

[13] Ward Ian, Introduction to critical legal theory (Cavendish Publishing Limited 1998)

Weinreb refers to the Natural Law as the Law of Nature (1998, p.3)[14]. He argues that nature dictates the true law, which every person is naturally capable of discerning and conforming his conduct to it. Further, he argues that the universal natural law leaves no room for natural inequality among people. The natural law has been a force of action from long ago because it is on it that Plato constructed his ideal community. On the same Natural Law, Aristotle based his defense of slavery. While quoting Cicero, Weinreb stated that natural law is often used. However, he argues that its ambiguous statements on the lines of development are not fully sorted. Additionally, while quoting Ulpian, a jurist, defined that natural law freely gives birth to everyone.

Additionally, *the Shaw v. Director of Public Prosecutions* Case Law (1962)[15] appeal presented to the United Kingdom's House of Lords by the defendant, Shaw, gives this paper a significant insight into what natural law is. In this case, the appellant, Shaw, had been published a ladies directory. In this directory, he listed prostitutes' details, their nude pictures, and their services. The Director of Public Prosecutions took the matter to court based on Shaw's conspiracy of corrupting public morals and earning from prostitution. To the Director of Public Prosecutions, his actions were contrary to the Obscene Publications Act 1959. However, Shaw appealed to the House of Lords, grounding his appeal that there did not exist such offence of conspiracy to public morals. His appeal was dismissed, and he was convicted of a crime regardless of his grounds of appeal. Lord Simonds, in his dismissal of

[14] Weinreb Lloyd, Natural law and justice (Harvard University Press, 1987)
[15] Shaw v Director of Public Prosecutions [1962] UKHL AC 220

the appeal, noted that the court's job was preserving the public's welfare, and thus, despite that, the offence of conspiracy to public morals was not listed in the law, the law recognised it. This case law shows the operational nature of natural law, that even if the offence was not listed in the laws, its immorality was seen through the natural law morality. It is natural law morality that had the upper hand in Lord Simonds ruling.

Limitations of Natural Law

Various theorists and scholars have discussed the limitations of the natural law. Derrida begins this discussion on the limitations of the natural law. It has been described above that the natural law is bound to nature and reason. It is on these two pillars of natural law that Derrida (2002)[16] highlights its limitation. Quoting Pascal, Derrida refers back to the original sin in the garden of Eden and how reason corrupted the natural law. Adam and Eve's reasoning in the garden was the reason for the corruption of the natural law that was naturally in them. From his point of view, the ability of reason to corrupt natural law is a big limitation to the natural law because the natural law is itself based on reason. Therefore, if the reasoning is done wrongly, then natural law is completely thrown out of existence.

Steven Forde, on his side, discussed these limitations in his article titled *Natural Law, Theology, and Morality in Locke. (2001, p. 397)*[17]. According to Him, the limitations are evidenced in Locke's

[16] Derrida, Jacques. "Force of law: The'mystical foundation of authority'." (2002).

[17] Forde, Steven. "Natural law, theology, and morality in Locke." American Journal of Political Science (2001): 396-409.

moral philosophy. His analysis and confrontation of Locke's moral philosophy gave birth to some of these limitations. First, Locke is quoted by Forde arguing that morality is grounded in natural law, which is the law of reason or the reason itself. Forde further presents Locke's arguments that the law is not innate but rather a deduction from specific first principles. His argument that a demonstration of morality is possible on the model of mathematics and failure to demonstrate is what Forde used to explain the first limitation of the natural law. His failure to provide the natural law provisions in a systemic list indicated the limitation of the law and his work on moral philosophy.

Also, John Locke (1632–1704)[18] held that the natural law is based on the simple principle of equality. Locke argues that the natural law is discerned easily. Naturally, humankind learns from reasoning, which will consult the natural law, which forms the fundamental precedents of the natural law. However, Locke does not explicitly show how the natural law derives these precedents from the principle of equality. This indicated how limited the natural law is in its definition and explanation of morality. This renders the natural law morality subject to criticism by philosophers and scholars.

Additionally, the natural law is nearly considered in every case but not always followed to the latter. This is evident in the *McFarlane v Relate Avon* case law (2010)[19]. The case involves Mr. McFarlane, who took a case to court after his dismissal job as a counselor. The reason for his dismissal was his failure to counsel same-sex couples. The case

[18] John Locke (1632–1704)

[19] McFarlane v Relate Avon Ltd [2010] ICR 507, EAT Thomas Hobbes (1588–1679).

from this point was both a legal and a religious matter. He reported that he was dismissed because of his religious inclination. However, the ruling was not based on morality alone but rather on the legal requirements. This case law is in line with Hart, who affirmed that expressions of morality are not law. To him, morality becomes a law through recognition by a sovereign authority that can enforce the law. In this case, natural law lacks an earthly authority that can enforce.

Ronald Dworkin (1931–2013)[20] held that law is a function of social convention. This argument meant that law exists not as a natural phenomenon but rather a social creation among communities. He further conceived law as incomplete by arguing that there exist gaps in the law. These gaps are the reasons why judges reference their predilections. These Dworkin's arguments present a limitation of natural law morality by arguing that every law is social creation. Thus, natural law morality cannot be practical because it claims to exist naturally. Another limitation of natural law morality is posed by Thomas Hobbes (1588–1679)[21]. He argued that natural law could not exist on its own but rather requires operating in a social contract with law and government. From the definition of natural law, natural law exists naturally based on nature. Therefore, Hobbes' argument reduced the natural law to be dependent on other factors such as the government. It becomes a limitation because if natural law morality will only work in a social contract with other fields, its morality will not be naturally

[20] Ronald Dwokin (1931–2013)

[21] Thomas Hobbes (1588–1679).

discerned but rather described by other external factors other than nature and reason. He further argued that the natural law generates disagreements due to competition, distrust, and glory. For example, he argues that glory forces humanity to remain hostile to preserve their powerful reputations fostered by natural law morality. This becomes a major challenge of the natural law morality.

Another limitation of the natural law is based on what David Hume (1711–1776)[22] put forward. Hume argued that it is wrong for natural law to assume a particular form, in this case, a particular form of morality, just because a certain affair's state exists naturally. To him, natural law's decline due to the proposition that held that there could not be rational resolutions in moral reasoning showed how the natural law is limited and exposed to negative challenge by men's propositions.

Limitations of the natural law in reference to human rights theorists

While discussing human rights and natural law on the United Nations Educational, Scientific and Cultural Organization (UNESCO) website, Jacques Maritain (2018)[23] brought out some of the limitations of the natural law from a human rights perspective. First, the natural law, always perceived to be interior to human beings and preceding all explicit expression, bears a fatal misconception that all human rights are absolute and unlimited rights of a god. This natural misconception has caused overlooking all entitled to human beings at the expense of

[22] David Hume (1711–1776)

[23] Maritain Jacques, 'Human rights and natural law' (2018) UNESCO.

the natural law. The result has always been the overlooking of basic human rights due to the precedents of the natural law, and thus, the law serving the purpose of depriving human beings of their human rights. Therefore, this has over the years become a major limitation of the natural law morality.

Also, Maritain argues (2018)[24] that another limitation of natural law morality is that it subjects human rights to a slow and painful evolution. This comes from natural law's call for completion according to the current needs and circumstances through the human law contingent dispositions. As he further argues, there is never exhaustion and finality in the declaration of human rights because the declaration always goes hand-in-hand with the moral consciousness state and civilization at any given moment in history. On this basis, humanity's principal interest is that it should be renewed from time to time. However, the natural law morality has a significant limitation on this because it has no room for the renewal of the basics of humanity. To the natural law morality, the precedents of morality are predetermined naturally by reason and nature and thus unchangeable at any given moment. According to human rights theorists such as Maritain, the natural law remains limited in advocating for human rights from its immutable and unrenewable nature because it does not give room for the renewal of human rights over time. The truth further reinstates this limitation that human rights and morality are subjected to changes in the modern, fast-changing world. Human rights are evolving every day

[24] Maritain Jacques, 'Human rights and natural law' (2018) UNESCO.

with the world's social, economic, technological, academic, and spiritual liberalization. Therefore, the natural law morality remains limited in addressing the emergings issues from the changing world.

Another limitation, according to Perry in Jean Porter's article (1997, p.77)[25], is when it is looked at from a historical perspective. Perry points out that it is undeniably true that the natural law influenced the later emergence of the natural and universal human rights doctrines. However, Perry asserts that there exists a lack of clarity on the natural law link to the natural rights doctrines. This situation caused a debate on the relation between modern human rights and natural law. From this argument, the natural law morality is seen as limited from the beginning by lacking a relationship with human rights doctrines even from the start.

Another limitation of natural law morality is based on what Maritain argues out: quoting St. Louis that the natural law inevitably discredited the human rights concept. This argument is supported by Laserson's quote in Maritain's work about the natural law and the doctrines of the natural law. This limitation of the natural law morality was seen in what Maritain terms as the juridical positivism victory in the nineteenth century, where the death of the natural law doctrines signified not the death of the natural law itself. Contrary, the victory only signified the victory to the conservative historical school. This victory over the revolutionary rationalistic school indicated the inability of the natural law to accommodate the evolving nature of human rights

[25] Porter Jay , 'From natural law to human rights: Or, why rights talk matters' (1999) 14(1) Journal of Law and Religion 77.

in the modern world, and thus seen as a significant limitation by the human rights theorists.

John Locke (1632–1704)[26] also brought out another limitation of the natural law. To him, there is no adequate protection of property. The inadequacy of the natural law is what prompted the establishment of what he called Two Treatises of Civil Government. The purpose of these treatises was to rectify this flaw of natural law morality. This argument formed the justification of the social contract between the natural law and the government, which on the other hand, indicates how natural law morality is limited to stand on its own. To him, this natural law's inadequacy risks humanity's right to property, and therefore, it requires the social contract for it to operate. This discussion is further taken higher by Jean-Jacques Rousseau (1712–1778)[27], who held that less is the role that natural law plays compared to the role played by social contract. Rousseau's view of the social contract as better role-playing than natural law led to the French Revolution. His view also rested on the idea that social contract, which to him is better than natural law, represents an agreement between the community and the individual, a state he referred to as the general will.

Hobbes (1588–1679)[28] further argued that nature's original state was brutish, nasty, and short. This nature's state further reinforced the importance of the social contract between natural law and the government to fill these nature's limitations. It translates that when

[26] John Locke (1632–1704)

[27] Jean-Jacques Rousseau (1712–1778)

[28] Hobbes (1588–1679)

nature is limited to such an extent, then natural law morality is also limited because it is based on nature.

Limitations of Natural Law with Reference to Feminism

Feminists have been on the course of action since many years ago, and they continue to do their campaigns. Feminists have also handled the matter of feminism and natural law. They have done this discussion from the point of defending feminism. Katherine O'Donovan (2006)[29], one of the fiercest feminists, did a lot of publishing regarding feminism and law. Her main intention has been to show how the law has played in the gendering subjecthood. She also intended to show how the law has played to construct masculinity. To her, the law generally has been violent and oppressive towards the feminine gender. She argues that the feministic view of the law is not like that of Hobbes, Hart, or Dworkin, who only occupy the internal reading of the law. Rather, she argues the approach of feminism towards law is an interpretive one. Notably, natural law is not written down in any document because it is based on nature and reason. The feministic interpretive approach presents natural law's limitation because it cannot be applied by the feminists appropriately. Lucinda Finley noted that as Katherine O'Donovan had said, feminism is one of the most crucial legal scholarship movements today. She added that it is also one that has the most transformative potential due to its challenging nature to the definitions, ideals, assumptions, and epistemological notions of an objective and universal

[29] Katherine O'Donovan, Alison Diduck, Feminist Perspectives on Family Law - Feminist Perspectives (Taylor & Francis Ltd 2006)

rationality underlying our legal system. From Finely's argument, Feminist theory's starting point is the women's perspective, and its focus is examining and criticizing existing practices, doctrines, and structures based on women's needs and experiences. This focus of feminism that Lucinda Finley defines indicates a contradiction of what the natural law morality focuses on. First, the natural law is based on nature and reason, where God comes into play. The position of God in the natural law further introduces the aspect of religion in the natural law morality. Every religion has its doctrines and standpoints concerning the place of men and women in the specific religions, and it is these doctrines that feminism seeks to challenge. Therefore, this indicates a limitation of the natural law morality in addressing the issues surrounding feminism today.

Kapur, Ratna, and Brenda Cossman (1994)[30] discussed equal justice to women by looking at the role of courts and judges. They focused on equality from a constitutional perspective. They looked at how different articles of the Indian Constitution. They noted that some articles of the constitution held an equal ground for both genders. For example, they noted that Article 15(1) prohibits discrimination "...on the grounds only of religion, race, caste, sex, place of birth or any of them. Concerning the relevance of gender and judicial approaches to sex discrimination, these theorists noted that there existed a tension between substantive and formal equality between the two genders. In

[30] Kapur, Ratna, and Brenda Cossman. "V. ON WOMEN, EQUALITY AND THE CONSTITUTION: THROUGH THE LOOKING GLASS OF FEMINISM." I. EQUAL JUSTICE TO WOMEN: ROLE OF COURTS AND JUDGES (1999): 40.

approaching cases related to gender discrimination by judges, they noted that the judges used different approaches. One of the approaches is what they referred to as the protectionist approach. Here, women were constructed as subordinate and weak and thus were treated differently. The other approach is the sameness or equal treatment approach, which saw women same as men and therefore were to be treated in the same way as men by the law. Kapur, Ratna, and Brenda Cossman supported this approach, arguing that gender difference should be irrelevant, and they interpreted that any reference to gender recognition translated to discrimination against women. In this case, the first and second approaches of handling gender-related cases, the law is limited in the lack of a universal method of handling disputes related to gender, which feminists have seriously inclined towards equal treatment in such cases.

Thomas Aquinas's look (MacIntyre, 1996)[31] into the second Biblical creation account in the Book of Genesis. His focus in the account was meant to prove the nature of women's inferiority as presented. According to Thomas Aquinas, the fact that Eve was taken from Adam's rib (body) and not from Adam's mind, the home of the intellect, shows the subordination of women by the natural law. This subordination shows another limitation of the natural law whereby the

[31] MacIntyre, Alasdair C. "Natural law as subversive: the case of Aquinas." The Journal of Medieval and Early Modern Studies 26.1 (1996): 61-84.

law violates its principle of equality by taking a man's position to be superior to that of the woman by subordinating woman to man.

Hobbes's (1588–1679)[32] argument on natural law equality also brings out a limitation of natural law morality from a feministic perspective. He held that natural law equality brings disagreements. These disagreements result from three main reasons namely; competition, which entails people competing for material possessions that are limited, distrust, and glory. Natural law morality is severely limited to him because it is described from a masculinity perspective and thus promotes inequality in terms of gender.

Advantages of the Natural Law Morality

The Corporate Finance Institute defined the natural law (2021)[33] as a philosophical theory which states that human beings have specific moral values, rights, and responsibilities inherent in human nature. According to the above definition of natural law, the law is founded on the background that the natural law is a universal concept, based on no single cultural orientation. One of the primary importance of the natural law is that its natural state makes it applicable to political, social, and ethical systems in the modern world, hence playing a significant role in political history and the theory of philosophy. Its applicability in these fields is because of its natural sense. Every area of life is mainly

[32] Hobbes (1588–1679)

[33] Corporate Finance Institute, 'Natural law - Overview, history, importance, example" (2021) <https://corporatefinanceinstitute.com/resources/knowledge/other/natural-law/>accessed 01 May 2021

dependent on human reasoning and nature. The dependence of different fields of human life on nature and reason makes the natural law advantageous in nearly all aspects of human life. Since natural law is useable in various areas of human life, natural law morality is also beneficial because it directs the moral conduct and codes of human life in all the fields concerned with human life. Therefore, it is worth noting that the natural law morality's advantages in human life are inevitable, and its outcome is directing humanity in the right direction naturally. Natural law morality also plays the role of making human life better every day.

Stanlis (2015) argued that natural law morality is an unchangeable, eternal, and universal ethical standard or norm. The validity of morality is independent of man's will, making it advantageous by binding all people, nations, races, and governments. He further argues that true man's happiness consists of living a life that subscribes to the natural law. Therefore, obedience to natural morality leads to man's delight because it helps man avoid natural condemnation of disobedience to natural law morality. From Stanlis' sentiments, another advantage of the natural law is its dependence on God for its definition. Nearly all human beings consider the source of anything before subscribing or denying to subscribe to the specific things at hand. However, almost all humanity recognises the unquestionable place of God in human life and thus easily subscribing to the doctrines of natural law morality. The result has always shaped society members' political, social, philosophical, and spiritual lives without much resistance.

The civilization started with philosophers like Foucault. Foucault (Harvester 1991)[34] held that the law was an expression and exercise of power. This notion of his made him conclude that law was legalistic and governmental because of how the government used it to drive its agenda of ruling the people. Based on his view of the laws, Foucault lived in constant rebellion against the government policies and sought to liberalize things like drugs legislation and sexual practices laws reforms. His belief that power was never given willingly by those in it and should always be seized formed the foundation of these Western civilizations. Stanlis also noted that the natural law was birthed as a law validity measure and the natural bridge between man and God, thus acting as a supplement of divine revelations. From Stanlis's sentiments, the advantage of the natural law cannot be overlooked. To him, natural law morality is objective because the law provides us with valid rules independent from our desires and thoughts. The objectivity of the natural law morality is based on its foundation on God. God gives human beings rules that cannot be compromised to suit their situation. The natural law provision of soil for the growth of civilization in Western countries has its advantages. Modern society is in real need of civilization. Thus, the natural law has provided a universal and a ground-free form of high-level criticism for Western civilization.

From his work, Stanlis (2015)[35] further indicates another advantage of natural law morality: morality is rational because it is a

[34] Foucault Michel, Politics, and the study of discourse (Harvester 1991)

[35] Stanlis (2015)

common-sense approach using practical reason. The rationality of natural law morality is based on the law's base of God, nature, and reason. Every human being has been endowed with common sense, and therefore since the natural law morality is based on common sense, it applies to every human being. Likewise, the natural law's morality base of practical reason is an absolute advantage because it applies to all human beings capable of reasoning. The natural law morality is also advantageous because it does not dictate what human beings should do. The natural law only lays down the principles of morality and leaves human beings to choose whether to follow the principles.

The advantages of natural law morality are also shown by Thomas Aquinas (1225–1274).[36] Aquinas' *Summa Theologiae's* work appreciating the value of natural law morality tried to reconcile Aristotle's secular authority and natural law's Christian authority. He argued that natural law was is an element of divine providence. He translated this to mean that natural law was participation in the eternal law. He also argued that the natural law's principles of practical rationality play a crucial role in judging human action. Through these principles, human actions are judged as either reasonable or unreasonable. This presents a significant advantage of natural law morality because, based on Aquinas' arguments, natural law is a key factor in maintaining humanity in doing what is reasonable and leaving out unreasonable actions. He supported this point by arguing that natural law elementarily directs humanity in doing what is right and avoiding what is evil. Based on Aquinas' idea of what natural law is

[36] Thomas Aquinas (1225–1274)

like, natural law morality plays an essential role in shaping a moral world through its precedents of good and evil.

Jean-Jacques Rousseau (Viroli 2001)[37] argued that natural law also citical role in defining the political and religious beliefs, which enables the beliefs to justify revolution and defend the already established social order. From this nature of the natural law morality, the natural law remains attached to liberty, order, equality, and justice, which are fundamental problems in our society. The tying up of the natural law to these real problems directs the behaviour of human beings when in such issues and directs their moral code of conduct. The result has always been a controlled human behaviour when facing problems in life, hence avoiding negative outcomes of uncontrolled handling of problems such as suicide and moral evils.

Natural Law Morality Today

While discussing natural moral law in contemporary society, Tollefson (2010)[38] shows how natural law morality fits modern society. First, he writes basing on Ratzinger's argument that many authors hold that the rational nature, which acts as an undergird for morality, is teleological. Teleology refers to the study of the design or purpose of natural occurrences. With the natural law morality being defined by nature and reason, its existence is therefore not limited to a specific time of

[37] Viroli, Maurizio. Jean-Jacques Rousseau and the'well-ordered society'. Cambridge University Press, 2003.

[38] Tollefsen Christopher, 'Natural moral law in contemporary society' (2010). Notre Dame

existence. Therefore, it still exists and operates in modern society. This indicated the place of the natural law morality in both the pre-modern and contemporary cultures. Also, the teleological nature of the natural law morality subjects the morality to continuous study in modern society and even in the future times. However, it is worth noting that today's natural law morality is subject to further teleological study to discover its purpose and design in modern research to increase its effectiveness. The lack of teleological research on natural law morality today would increase the negatives of the natural law morality, making the natural law morality inseparable from a further study. Likewise, just as Tollefsen argues teleology in natural law is necessary for natural law ethics to be adequately grounded today.

Natural law morality is also subjected to teleological studies today by the need to encompass the entire cosmos. Tollefsen argues that the universe and the cosmos are ordered and not random. Therefore, the ordered nature of the cosmos and universe forms the need for the teleological study for natural law theory in ethics to study its design and purpose in today's society. Also, natural law morality today is a real need of teleology to help understand the function and structure of the telos in the natural law morality today as argued by Tollefsen. The understanding of the functions of modern law morality plays both epistemological and metaphysical roles. The epistemological role is encompassed in the human beings' understanding of their nature normative demands. In contrast, the metaphysical role is in understanding the natural law morality functions and design in modern society.

Another face of the natural law morality today is found in what Tollefsen brings out through his sentiments on new natural law lawyers. The new natural law layers affirm the human nature ontological grounding for morality. With ontology dealing with the study of the essential characteristics or nature of being and things in existence, the face of natural law morality today must take the ontological study direction to address the nature of human morality among the people existing in the modern society.

Natural law morality has been and still is a central theme in legal thought. In the legal field, the natural law morality has its picture as well. Charles Marske, Charles Kofron, and Steven Vago (2017 p.24)[39], while discussing the significance of the natural law in contemporary legal thought, helps unveil modern law morality today. According to these scholars, natural law theory's basic tenets were accepted as self-evident and were incorporated widely into juridical scholars' words. However, the three noted falling into social sciences and law disrepute of the theory. While supporting their argument, they held that that the natural law's reputation is not high. They related the low reputation of the natural law morality to today's appreciation absence of the role of beliefs, values, and assumptions in the thinking and knowing process.

Since the natural law, above rules and their application, is a reflection of the often competing and underlying beliefs, values, and assumption, its place in modern legal education seems reduced because

[39] Marske, Charles, Kofron, and Vago' The Significance of Natural Law in Contemporary Legal Thought' (2017) The Catholic Lawyer 24

of modern legal education's little concern of studying the assumptions and values that produce the rules of the law. Charles Marske, Charles Kofron, and Steven Vago(2017, p. 25)[40] noted that natural law conceptions reflect some of the deepest assumptions and beliefs a man bears about society and human nature. Additionally, the three noted in their article that the natural law's assumptions and beliefs about what is real and desirable give crucial implications of what is changeable in the world and what can be accomplished. It is on these natural law conceptions that these three scholars in their article see as becoming progressively inarticulated in social sciences and law. The modern state of the natural law differs strongly from the previous times when the law was seen and used as an interpretation guide of the enacted law. The natural law also functioned as an ideal enacted law assessment model. Therefore, the natural law plays a vital role in modern society indicates the reduced importance of its morality in modern society. Based on this, it is worth concluding that natural law morality is in desperate need of new doctrines and needs to give the natural law morality the ability to address the new demands, fit in the current life circumstances, and fit in today's opportunities.

The natural law morality also has a different picture today. Charle Marske, Charles Kofron, and Steven Vago (2017, p.25)[41] help this study identify this picture of natural law morality in their argument that the natural law has had both conservative and revolutionary elements of the society. The traditional elements have been used in the

[40] Marske, Charles, Kofron, and Vago' The Significance of Natural Law in Contemporary Legal Thought' (2017) The Catholic Lawyer 24

[41] Charle Marske, Charles Kofron, and Steven Vago (2017

past generations while the revolutionary elements have been in use in modern society for two reasons, either rationalizing and justifying existing institutional practices or initiating radical changes. Since the immutable, normal, priori, local, and changing natural law deemphasized the changing, local, empirical, and reasoned social life aspects, in the modern society, the law is subjected to appreciating all these aspects of social life for it to continue thriving today.

Today, natural law morality is also suffering humiliation and reduced application from modern scientific studies as many social scientists and lawyers believe that empirical facts and empirical evidence give adequate and true knowledge. The roots in empirical studies are evident through the development of legal policies and positive law derived from legal studies and research and their resulting evidence and facts. Since natural law morality has roots in facts and evidence but rather on assumptions, today, modern law morality theorists are subjected to how modern society can systematically take the assumptions of the natural law and their influence into consideration. However, their efforts are not totally in the dark. It is arguably correct that natural law conceptions continually influence social scientists and lawyers in thoughts and actions. This state gives the natural law morality hope of continuity even in modern times. Therefore, today's natural law morality is still in existence regardless of its diminishing usage and application Charles Marske, Charles Kofron, and Steven Vago (2017)[42].

[42] Charles Marske, Charles Kofron, and Steven Vago (2017)

Ronald Dworkin (1931–2013)[43] cannot be left behind in discussing the nature of natural law in modern society. First, he noted that it is unacceptable to separate the law into what the law is and what it ought to be. The basis of this argument was that the law is not merely constituted of rules but also of non-rule standards used every day in the court system in the form of political and moral standards and policies and principles. To him, there is no distinction between legal standards and moral standards. His arguments present the face of natural law morality today that in some areas, such as law, it is directed by nature only and by other factors such as these political policies and principles. He also noted that the law must take people's rights seriously. This presents the place of natural law morality in fighting for the rights of the people, a highly regarded factor in the modern era.

Conclusion

The analysis by Paul Magrath (2018)[44] in his *Law and Morality: the debate goes on* writings gives us a better understanding of what natural law morality is like today. His analysis is based on two judges, Sir James Munby and Sir Rabinder Singh, presentations in different places but related to law and morality. The analysis shows how natural law morality is approached today by different people. In the analysis, Sir James Munby represents the group that is completely disassociating morality from the law. The group holds that the courts are not courts of morals but rather courts and law, and therefore, the subject of morality

[43] Ronald Dworkin (1931–2013)

[44] Magrath Paul, 'Law and morality: The debate goes on' (2018) ICRL

should not in any way affect the proceedings of the courts. On the other side is the group represented by Sir Rabinder Singh, who argued that law reflected reflects society's values. He quoted Lord Justice's judgement in the *MacFarlane v Relate Avon Ltd* case law, where he noted that the general law might protect a particular moral or social position which Christianity holds on. However, he noted that the general law does not do so because of the Christianity standing but rather because of the merits the social or moral positions have. The analysis indicates that natural law morality is still in existence and operation regardless of the high-level criticism it is facing today.

From the above discussion, it is worth concluding that the subject of morality, natural law, and natural law morality is a subject that is discussed keenly by several theorists. This means that without their contribution, the subjects could not have been discussed as they have been. These scholars include, among others, Peter Stanlis (2015), Ronald Dworkin (1931–2013), Thomas Aquinas (1225–1274), John Locke (1632–1704), Katherine O'Donovan (2006), Thomas Hobbes (1588–1679, and Michel Foucault. Their works have taken a central place in the description of what these subjects are and their state and application.