C. E. Harris is associate professor of philosophy at Texas A &M University. In the selection below he presents a version of the natural-law theory, including a discussion of the principle of double effect, which plays an important role in modern natural-law thinking.

What Is Natural Law? The name natural law can be misleading. It implies that ethical laws are like "laws of nature" or scientific laws. An example of a scientific law is Boyle's law in physics, which states that the product of the pressure and the specific volume of a gas at constant temperature is constant. But scientific laws are descriptive; they state how phenomena in nature do in fact always behave. Ethical laws, on the other hand, are prescriptive; they stipulate how people should behave, whether or not they do so. Natural-law theorists assume that human beings have free will and that they can decide whether to act as they ought to act. This discussion implies that the word law has more in common with civil laws than with natural laws, because both civil and ethical laws can be disobeyed. Natural phenomena presumably always act according to the laws of nature, whereas people are not necessarily compelled to behave legally or morally.

But the analogy with civil laws can also be misleading, for the point of the term natural is to contrast ethical laws with the laws of governments. When the Roman jurists were looking for legal concepts that could apply throughout the Roman empire, they turned to the philosophy of natural law precisely because it proposed that certain ethical laws are "natural" rather than "conventional"; that is, they apply equally to all human beings, regardless of the conventions, customs, or beliefs of their particular society. These natural laws for all human behavior thus could serve as a basis for judging the actions of people throughout the Roman empire. Therefore we can say that natural law refers to ethical guidelines or rules that stipulate what people ought to do rather than what they in fact do and that apply equally to all humanity because they are rooted in human nature itself.

The term natural law can be misleading because it inevitably brings to mind some kind of ethical legalism—the belief that hard-and-fast guidelines cover every possible detail of conduct. This characterization, however, is unfair to the natural-law tradition. The greatest exponent of natural law, Thomas Aquinas (1225-1274), believed that the basic outlines of proper human behavior are relatively clear. But he also taught that, the closer we come to particular moral judgments, the more prone we are to error and the more room we make for differences of opinion. Some contemporary natural-law theorists even believe that natural law has a historical dimension, so that what is right in one epoch may not be right in another. Whether or not this view is accepted, the lively discussions of ethical issues in the Roman Catholic Church, where natural-law thinking is especially prominent, show that natural-law theorists by no means believe that all ethical problems have already been solved. The word law merely refers to the prescriptive character of the rules that should govern human behavior.

The natural-law theorist does, however, believe in an objective standard for morality: Moral truth exists just as scientific truth exists. The natural law theorist cannot be a radical ethical relativist or an ethical sceptic. He generally believes we know the basic outlines of this standard, but this belief does not mean we have interpreted the implications of this standard
correctly in every case. In ethics, as in science, human beings continually search for truth. The belief in objective truth should be no more stifling of human freedom and creativity in ethics than it is in science.

Human Nature and Natural Inclinations. What is that standard of truth in ethics? As an approximation we can say that the standard is human nature. People should do whatever promotes the fulfillment of human nature. Here again we can point out the similarity between natural law and egoism. But natural-law theorists have always believed that the individual alone cannot determine what counts as human nature. How then do we determine what human nature is?

Let us consider some analogous situations that illustrate the difficulty in describing human nature. It is often useful to describe something's nature in terms of its function—that is, in terms of the purpose it serves. For example, we can describe the nature of a pencil in terms of its function or purpose of enabling humans to make marks on paper. A "good" pencil is one that performs this function well—without smudging or scratching or breaking for example. Similarly, if an automobile's function is to provide transportation, a good automobile is one that provides comfortable and reliable transportation. The function of a tomato plant is to produce tomatoes, and a good tomato plant is one that produces an abundance of tomatoes of high quality.

We can also determine the function of human beings if we confine a person to one particular social role. The function of a farmer is to grow food and a good farmer produces food efficiently and with proper care for the animals and the land for which he has responsibility. By similar reasoning we can say that a good father is one who attends diligently to the welfare of his children. But now let us take human beings out of their social roles and ask simply "What is the function of a human being?" Here we see the problem faced by those who attempt to base ethics on human nature. Generally speaking, the more complex the animal, the more varied its behavior and presumably the less clearly defined is its "nature." The freedom of action possessed by human beings makes it plausible to argue, as some philosophers have, that human beings are characterized precisely by the fact that they have no set nature or function. How can we make sense out of natural law in the face of these problems?

Fortunately we can take another, more promising approach to discovering what human nature is like. One way to determine the characteristics of a thing is to observe its behavior. In chemistry we learn about the nature of iron by observing how it reacts with other elements. Perhaps we can find out what human nature is like by ascertaining those "natural inclinations," as Aquinas put it, that human beings have in common. To put it another way, perhaps we can discover what human nature is by identifying those goals that human beings generally tend to seek. These values would presumably reflect the structure of our human nature, which natural law directs us to follow. Therefore we shall propose the following statement as the moral standard of natural law:

MS: Those actions are right that promote the values specified by the natural inclinations of human beings.

How do we find out what these natural inclinations are? We might first consult psychologists, sociologists, or anthropologists. Some contemporary natural-law theorists use studies from the social sciences to defend their conclusions. However, the natural-law tradition developed before the rise of the social sciences, and a more informal method of
observation was used to discover the basic human inclinations. Most natural-law theorists would maintain that these observations are still valid. We can divide the values specified by natural human inclination into two basic groups: (1) biological values, which are strongly linked with our bodies and which we share with other animals, and (2) characteristically human values, which are closely connected with our more specifically human aspects. (We will not call this second group uniquely human values because some of the inclinations that point to these values, such as the tendency to live in societies, are not unique to human beings.) We can summarize the values and the natural inclinations that point to them as follows:

1. Biological Values

a. Life. From the natural inclinations that we and all other animals have to preserve our own existence, we can infer that life is good, that we have an obligation to promote our own health, and that we have the right of self-defense. Negatively, this inclination implies that murder and suicide are wrong.

b. Procreation. From the natural inclination that we and all animals have to engage in sexual intercourse and to rear offspring, we can infer that procreation is a value and that we have an obligation to produce and rear children. Negatively, this inclination implies that such practices as sterilization, homosexuality, and artificial contraception are wrong.

2. Characteristically Human Values

a. Knowledge. From the natural tendency we have to know, including the tendency to seek knowledge of God, we can infer that knowledge is a value and that we have an obligation to pursue knowledge of the world and of God. Negatively, this inclination implies that the stifling of intellectual curiosity and the pursuit of knowledge is wrong. It also implies that a lack of religion is wrong.

b. Sociability. From the natural tendency we have to form bonds of affection and love with other human beings and to associate with others in societies, we can infer that friendship and love are good and that the state is a natural institution and therefore good. We thus have an obligation to pursue close relationships with other human beings and to submit to the legitimate authority of the state. We can also infer that war can be justified under certain conditions if it is necessary to defend the state. Negatively, this inclination implies that activities that interfere with proper human relationships, such as spreading slander and lies, are wrong. Actions that destroy the power of the state are also wrong, so natural law finds a basis for argument against revolution and treason, except when the state is radically unjust.

These natural inclinations are reflections of human nature, and the pursuit of the goods they specify is the way to individual fulfillment. Aquinas himself makes it clear that the list of values, which in most respects follows his account, is incomplete; other natural-law theorists have expanded the list to include such things as play and aesthetic experience. However the list given here has had the greatest historical influence, and we shall assume it is basically complete.

The more important issue raised by this list is the potential for conflict between the various values. What should we do when our need to defend ourselves requires that we kill someone else? What should we do when sterilization is necessary to prevent a life-threatening
pregnancy? What should be done when contraception seems necessary in order to limit family size so that families can properly educate the children they already have? In each of these examples, one aspect of natural law seems to conflict with another, and the question arises whether these values have a hierarchy on which a decision can be based. The answer to this question brings into focus one of the most important and controversial aspects of natural law—moral absolutism.

Moral Absolutism and Its Qualifying Principles

Moral Absolutism. Suppose you were on a military convoy from the United States to England during World War II. Your ship was attacked and sunk. Your life raft was carrying 24 persons, although it was designed to carry only 20. You had good reason to believe that the raft would sink unless four people were eliminated, and four people on board were so seriously injured in the catastrophe that they were probably going to die anyhow. Because no one volunteered to jump overboard, you, as the ranking officer on the boat, decided to have them pushed overboard. Were you morally justified in doing so? Many of us would say that under the circumstances you were, but natural-law theorists would say that you were not justified, even if everyone on the raft would have died otherwise.

Consider another wartime example. Suppose you know that some prisoners have information that will save a large number of lives. The only way to obtain the information is to threaten to kill the prisoners, but you know that they will not reveal what they know unless your threat is absolutely serious. To show them how serious you are, you have another prisoner shot before their eyes. As a result of your action, the information is revealed and many lives are saved. Is this action justified? Many people would say that under these extreme circumstances it is justified, but natural-law theorists would say that it is not.

Finally, . . . the traditional natural-law position is that practicing "artificial" contraception, undergoing sterilization, or practicing homosexuality is wrong. For the natural-law theorist, these prohibitions are valid even if the consequences are that parents produce children they cannot afford to educate or that the life of the mother is endangered or if homosexual relationships are the only sexual relationships a person can have with any satisfaction. These examples point out one of the most significant aspects of natural law theory—namely, its absolutism.

Moral absolutism can refer either to the belief that some objective standard of moral truth exists independently of us or that certain actions are right or wrong regardless of their consequences. Natural law is an absolutist moral theory in both senses, but the second meaning of absolutism is highlighted by the illustrations provided. Natural-law theorists believe that none of the values specified by natural inclinations may be directly violated. Innocent people may not be killed for any reason, even if other innocent people can thus be saved. The procreative function that is a part of our biological nature may not be violated by such practices as contraception and sterilization, even if these practices are necessary to preserve other values, such as a child's education or even the mother's life. Similarly, homosexuality violates the value of procreation and is prohibited, even if it is the only kind of sex a person can enjoy.

Natural-law theorists have two reasons to hold that basic values specified by natural inclinations cannot be violated whatever the consequences. First, basic values cannot be measured or compared; that is, basic values cannot be quantified or measured by some
common unit, so they cannot be traded off for one another. For example, we cannot divide the
good of knowledge into units of value and the good of procreation into units of value so that
the two can be compared on a common scale. Nor can the good of a single life be compared
with the good of a number of lives; thus, we cannot say that a single life may be sacrificed to
preserve a number of other lives. This idea is sometimes called the "absolute value" or
"infinite value" of a human life, suggesting that a human life cannot be weighed against
anything else, including another human life. Natural-law theorists also make this point by
saying that basic values are incommensurable. Because we cannot measure values, we cannot
calculate which consequences of an action are more important. Therefore consequences
cannot be used to determine the moral status of actions.

Second, consequences cannot be used to determine moral judgments because we must make
moral judgments by evaluating the motives of the person performing the action. The motive
of an action is what a person wants to accomplish by performing the action. For example, a
person can give money to charity because he wants a good reputation in the community. The
consequences of the action are good, but the motive is not morally praiseworthy. Some moral
philosophers distinguish between a moral evaluation of the consequences of an action and a
moral evaluation of the motives of the person performing the action; with this distinction we
can say the action of giving money to charity was praiseworthy but the person giving the money
was not praiseworthy, because the motives were bad. Natural-law theorists always place primary emphasis on
motives.

Qualifying Principles. Because values are incommensurable and may not ever be directly
violated, we may find ourselves in a situation in which any action we could perform violates
some value and hence is apparently immoral. For example, self-defense may sometimes
require that we override the natural inclination of another human being to self-preservation. ]
~ we do nothing' we allow ourselves to be killed; if we defend ourselves, we kill someone
else. To avoid this paralysis of action and to gain deeper insight into the dynamics of
situations of moral choice, natural-law theorists have developed two ideas that are absolutely
arucial ir~ making moral judgments: the principle of forfeiture and the principle of double
effect.

According to the principle of forfeiture, a person who threatens the life of an innocent person
forfeits his or her own right to life. (An innocent person is one who has not threatened
anyone's life.) Suppose you are a pioneer who is tilling his land. Your wife and small child are
in a log cabin on the hill. Two men approach you and express an intent to kill you and your
family in order to take the land. Is it morally permissible for you to defend yourself, even to
the point of killing them? Natural-law theorists answer the question in the affirmative. Even
though you might have to violate the lives of your ~would-be assailants, they have forfeited
their innocence by unjustifiably threatening your life. Therefore they have forfeited their
claim to have their lives respected. We can make this point by distinguishing between killing
and murder. Killing is taking the life of a non-innocent person, whereas murder is taking the
life of an innocent person. When you take the life of a person who is attempting to kill you,
you are killing him but you are not committing murder.

The principle of forfeiture can be used to justify not only acts of individual self-defense, but
also war and capital punishment. A defensive war may be justified under certain conditions,
even though it involves killing other people, because the aggressors have forfeited their right
to life. Similarly, murderers may justly be put to death because they have forfeited their right to life by killing others.

According to the principle of double effect, it is morally permissible to perform an action that has two effects, one good and the other bad, if (1) the bad effect is unavoidable if the good effect is to be achieved, (2) the bad effect is unintended—that is, not a direct means to the good effect, and (3) a proportionally serious reason exists for performing the action.

The best way to explain this principle is by example. A pregnant woman who has tuberculosis wants to take a drug that will cure her disease, but the drug has the side effect of aborting the pregnancy. Is taking the drug morally permissible? The principle of double effect justifies taking the drug in this case, because all three of its conditions are met.

First, the bad effect is unavoidable in that the good effect cannot be achieved without also producing the bad effect. Presumably no other drug will cure the woman's tuberculosis and the abortion cannot be prevented once the drug is taken.

Second, the bad effect is unintended in that it is not a direct means to achieving the good effect. We must clarify here what natural-law theorists mean. The bad effect is certainly foreseen; the woman knows the drug will produce an abortion. However, the bad effect is not intended as a direct means to the good effect: An abortion is not a necessary step in curing the tuberculosis; rather, it is an unfortunate and unintended side effect. Evidence that the abortion is unintended even though it is foreseen is that the woman would presumably choose a different treatment that did not kill the fetus if it were equally effective and readily available.

Third, a proportionally serious reason exists for performing the abortion. The death of the fetus is at least balanced by the saving of the mother's life. If the bad effect were serious (as in this case), but the good effect were relatively insignificant, the action would not be justifiable by the principle of double effect, even if the other conditions were met. Here, consequences do play a part in natural-law reasoning. But note that consequences can be considered only when the other two conditions have been met.

Two other examples will show more clearly how the principle of double effect works. Suppose I want to turn on a light so that I can read a book on ethics, but I know that turning on the light will electrocute a worker on the floor below. If I cannot get the reading done except by electrocuting the worker, we can say that the electrocution is unavoidable. The bad effect is unintended in that electrocuting a worker is not a direct means to reading philosophy, but rather only an unfortunate and unintended side effect. But the third condition of the principle of double effect is not satisfied. The killing of a human being, even if unintended and unavoidable in the circumstances, is not outweighed by the value of reading a book on ethics. Therefore, turning on the light is not justifiable by the principle of double effect. The existence of a proportionally serious reason is often difficult to determine, as are the questions of the action's ultimate intention and avoidability. But in this case the application of the principle is clear.

Consider another example. A woman's egg is fertilized in the fallopian tube; as the fertilized egg developed it will rupture the tube, killing both the mother and the fetus. Is an abortion justifiable by the principle of double effect? The bad effect (the abortion) is unavoidable; the mother's life cannot be saved without it. The bad effect is not unintended, though, since removing the fetus from the fallopian tube is the direct means of saving the mother's life. The
principle of proportionality is satisfied, because we have a case of life against life. However, since the second condition is not met, the abortion in this case cannot be justified by the principle of double effect.

This case is, of course, tragic for natural-law theorists, and various attempts have been made to justify the abortion on other grounds. For example, some natural-law theorists argue that the principle of forfeiture can be invoked, since the fetus is actually an aggressor on the life of the mother. Even though the fetus is innocent of any conscious motive to harm its mother, the actual effect of its growth is to threaten the life of its mother. Natural-law theorists sometimes say that the fetus, having no malicious motive, is subjectively innocent but not objectively innocent, because it does threaten the mother’s life. Whether this argument justifies an abortion is left to the reader to decide....

Applying the Ethics of Natural Law

We can now apply natural law to some cases involving moral decision. . .

CASE 1: A CASE OF EUTHANASIA

A 36-year-old accountant, married and the father of three young children, is diagnosed as having immunoblastic lymphadenopathy, a fatal malignant tumor of the lymph nodes. He has been receiving a variety of treatments, yet his condition has steadily worsened. He knows that all surgical and medical measures have been exhausted. He suffers daily from excruciating nerve-root pain; he must take addicting doses of narcotics but still is not free from pain. The expenses of his treatment are rapidly exhausting his family's financial resources. His wife and family are beginning to withdraw from him emotionally, in anticipation of his inevitable death. Having reconciled himself to his death, he asks the doctor for the means of killing himself in order to end his pain, the suffering of his family, and the depletion of the funds that are so important for his family's future well-being. Is it morally permissible for the physician to acquiesce in this request?)

1. Obviously, administering a drug to end the accountant's life is a direct action against one of the four fundamental values of natural law—namely, the value of life.

2. The only question is whether either of the two qualifying principles applies. The accountant is not guilty of any action that would cause him to forfeit his own right to life, so the principle of forfeiture does not apply.

3. The principle of double effect might be used to justify two kinds of actions the physician could perform to alleviate his patient's suffering. First, it could justify the use of a pain killer, even if the pain killer had the indirect effect of shortening the patient's life. (a) If no other drug could alleviate pain as effectively, the use of that particular drug could be considered unavoidable. (b) The direct intent of administering the pain killer would be to alleviate pain; the tendency of the pain killer to shorten life would be unintended because the shortening of life is not the direct means to eliminating pain. (c) Although some might argue that an action that shortens life is not justified by the desire to alleviate pain, most natural-law theorists would probably accept the use of the principle of proportionality in this case.

The principle of double effect could also justify the physician's decision not to use "heroic measures" to prolong the accountant's life. Natural-law theorists distinguish between
4'ordinary" and "extraordinary" means for preserving life. Father Gerald Kelly defines these two terms in the following way:

Ordinary means of preserving life are all medicines, treatments, and operations [that] offer a reasonable hope of benefit for the patient and [that] can be obtained and used without excessive expense, pain, or other inconvenience....

Extraordinary means of preserving life [are] all medicines, treatments' end operations [that] cannot be obtained without excessive expense, pain, or other inconvenience, or [that], if used, would not offer a reasonable hope of benefit.2

The failure to use heroic or extraordinary means satisfies all three criteria of double effect. (a) The shortening of life is inevitable if extraordinary means are not used. (b) The shortening of life is unintended, because it is not a direct means to the use of ordinary means, and is simply an unfortunate side effect of the use of ordinary means. (c) The principle of proportionality is satisfied, since the use of extraordinary means would only prolong the accountant's dying process, not restore him to health. Therefore the decision not to use extraordinary means can be justified by the principle of double effect.

But the accountant's request goes far beyond the two measures described here. He is asking the physician to cooperate actively in directly ending his life. (a) The good effect of relieving the accountant's pain cannot be achieved without also producing the bad effect—namely, the accountant's death. So the first criterion is met. (b) However, the accountant's death is the direct means of achieving the release from pain, so the accountant's death is intended. The second criterion is not satisfied. (c) No proportionally serious reason exists for administering the lethal drug, since relief from pain cannot justify directly killing an innocent person, an act that is actually murder.

4. Because the physician's action in administering a lethal drug to the accountant is a violation of a fundamental value and because the qualifying principles of forfeiture and double effect do not apply, the action is morally impermissible.

CASE 2: THE MORALITY OF OBLITERATION BOMBING IN WORLD WAR II

During World War II, both the Germans and the Allied Forces bombed civilian residential areas, a practice called "obliteration bombing." Probably the two most famous examples of this practice, in which conventional explosives were used, were the German bombing of London and the Allied bombing of Dresden, Germany. Let us confine ourselves to the fire bombing of Dresden and ask whether this action was permissible by the principles of natural law.

1. The first question is whether the bombing of Dresden violated the value of life. The answer is that it did, so the action must be morally impermissible unless one of the two qualifying principles applies.

2. The principle of forfeiture would apply if civilians in wartime can be considered non innocent. If we assume that the criteria of just war theory were met—that is, the Allied Forces were fighting a just war and the Germans were not fighting a just war—then the Germans in uniform were noninnocent and attacking them was morally just(ified). But most civilians in
large cities were connected with the war effort in a very indirect way. Many had little direct knowledge of the reasons for war and certainly had no part in starting it. Therefore, the principle of forfeiture does not justify the bombing.

3. Some have argued that an appeal to the principle of double effect could justify the bombing. According to this argument, the intended effect of the bombing was to destroy war industries, communications, and military installations, whereas the damage to civilian life was unintentional and not a means to the production of the good effect. But a careful analysis of the conditions of the bombing will not sustain this argument. (a) Although killing of civilians truly is sometimes unavoidable when military targets are attacked, the massive civilian deaths in Dresden could have been avoided. (b) If the Allies were engaged in strategic bombing of war plants, with the direct intent to destroy the plants, and if the destruction of human life was unintended and unavoidable, the second condition of the principle of double effect would be satisfied. But, in this case, the maiming and death of hundreds of civilians was an immediate result of the bombing, and the undermining of civilian morale through terror was, on the testimony of military documents themselves, an object of the bombing. This goal of demoralization is impossible without a direct intent to injure and kill civilians. If one intends to create terror, one cannot escape intending the principal means of obtaining that end. Therefore the second condition of double effect is not met. (c) We can also question the allegation that the principle of proportionality was satisfied by the belief that obliteration bombing would shorten the war. The goal was speculative, futuristic, and problematic, whereas the evil effect was definite, immediate, and widespread. Thus we must conclude that the principle of double effect does not apply.

4. Because the Allied attack on Dresden involved the destruction of innocent human life and because the qualifying principles of forfeiture and double effect do not apply, we must conclude that the action was morally impermissible by natural-law theory.

CASE 3: THE MORALITY OF HOMOSEXUALITY

James has known since he was five years old that he was somehow different. Even then he enjoyed watching male athletes and seemed to "love" his older male playmates. In high school he was active in sports and his attraction to members of his own sex became obvious to him and to some of his friends. He has never been attracted to women sexually, although he likes some of them as friends, and the thought of sex with a woman has always repelled him. In college he began to associate with other homosexuals. He has talked to several counselors, and he now feels ready to admit to himself and to others, including his Family, that he is a homosexual. However he still wonders about the morality of homosexuality, especially because he is a Roman Catholic. Is homosexuality wrong by natural law?

1. The determination of whether homosexuality violates natural law is more difficult than it might at first appear. The traditional natural-law argument against homosexuality was based on the view that homosexual relationships involved a perversion or misuse of the sexual organs. Because the sex organs are made for procreation, using them for purposes other than this "natural end" is immoral. This same argument also leads to the conclusion that masturbation is immoral, because it uses the sex organs for pleasure rather than procreation. By a similar argument, oral sex and anal sex, even between married partners, is immoral. Thus, it is also wrong for a woman to refuse to breast-feed her child. If female breasts have the natural function of lactation, a mother who decides not to breast-feed her child acts
directly against this natural function and does something wrong. This so-called perverted faculty argument leads to so many absurd conclusions that it is being increasingly rejected. It does not even seem to be in agreement with Thomas Aquinas' basic understanding of natural law. For homosexuality to be immoral by our version of natural law, it must involve a direct action against a fundamental value.

Of course, homosexuals who engage in sexual activity have no intention of producing children; they know that their sexual activity cannot be procreative. But a married heterosexual couple who engage in sex during a nonfertile period also know that they cannot produce children, yet their action is not immoral by natural law. Neither the homosexual nor the married couple has done anything directly to violate the procreative function. The same statement applies to masturbation, oral sex, and anal sex; they do not seem directly to violate the value of procreation.

Some, perhaps many, homosexual acts are immoral because they violate the value of sociability. If the acts are demeaning or destructive or if they involved trickery or deception, they are wrong because they violate the value of loving, supportive human relationships. But the same is true of some heterosexual relationships, even if they occur within marriage. So we must look elsewhere for an argument that homosexual acts are wrong simply because they are homosexual.

Although it seems mistaken to say that homosexuals act directly to violate the value of procreation in the same straightforward sense that the use of contraceptives does, either case involves sex that is closed to the possibility of procreation. In fact, an exclusively homosexual lifestyle is closed to the possibility of procreation in a more decisive way than contraceptive sex or other types of nonprocreative sex by a married couple, because a homosexual's nonprocreative sex lasts throughout a lifetime. Therefore we can say that, although homosexual acts do not constitute a direct violation of the value of procreation, the homosexual lifestyle is antiprocreative.

2. Since homosexuality is not a direct threat to life, the principle of forfeiture is inapplicable.

3. James might argue that choosing a homosexual lifestyle is justifiable by the principle of double effect. (a) He might believe that the criterion of unavoidability is met, because it is impossible for him to have a fulfilling sex life without also failing to produce children. (b) He could say that his direct intent is to promote a fulfilling relationship and that any violation of the value of procreation is an unintended side effect. The nonproduction of children is not, after all, a direct means to his end of having a fulfilling sex life; he might even want to have children. (c) He could argue that the principle of proportionality is satisfied because the value of a meaningful relationship outweighs the failure to have children.

The first argument is weak because a fulfilling sex life is not a fundamental value, but the second criterion presents the main problem with this argument. Although it is true that the absence of children is not, as such, a direct means to James's goal of a fulfilling lifestyle, nonprocreative sex is a part of the means to this end. Whether the principle of double effect is applicable depends on the conceptual issue of whether the absence of children or nonprocreative sex is considered the undesirable effect. The absence of children is arguably an unintended side effect, but nonprocreative sex is a means to the desired end.
4. We have found problems with the argument that homosexual acts violate the value of procreation and with the application of the principle of double effect. However, virtually all natural-law theorists have concluded that homosexual acts are morally impermissible. Ask yourself whether you agree with this conclusion.

Notes

1. This case was supplied by Harry S. Lipscomb, M.D. Used with permission.

2. Gerald Kelly, Medico-Moral Problems (St. Louis, Mo.: The Catholic Hospital Association, 1958), p. 120. Quoted in Paul Ramsey, ‘’e Patient as Person, p. 122.

PROBLEMS FOR NATURAL LAW THEORY
Emmett Barcalow

Emmett Barcalow teaches at Western New England College and is author of Moral Philosophy: Theories and Issues (1994). Perhaps the most distinctive feature of the natural law theory is its attempt to infer basic moral principles from facts about human nature, and Barcalow raises two problems for this feature of natural-law thinking. First, it is doubtful that one can infer moral principles forbidding adultery, rape, homosexuality, and so forth, either from biological facts about human nature or from facts about the inherent nature of Homo sapiens. Second, it is questionable that behavior in accordance with human nature is morally right and behavior not in accord with human nature is morally wrong. For instance, if it turns out that human beings (at least the males) are naturally aggressive, should we infer that war and fighting are morally right?


Human Nature

Natural law theorists argue in the following way.

Behavior/action X is not in accordance with a human being's inherent nature.

It is contrary to reason for a human being to act in a way that is not in accordance with a human being's inherent nature.

Whatever is contrary to reason is immoral.

Therefore, behavior/action X is immoral.

However, many critics of natural law theory doubt that human nature can provide moral guidance and they doubt that whatever is "natural" or in conformity with an organism's inherent nature must be morally right and good.

The concept of the inherent nature of an organism is complicated. On the one hand it can include purely biological features that all members of a species have. For example, it is part of the inherent nature of whales that they have lungs rather than gills, while it is part of the
inherent nature of sharks that they have gills rather than lungs. Consequently, whales must breathe in air and cannot breathe in water while sharks must breathe in water and cannot breathe in air. Similarly, it is part of a chicken's inherent nature that it lays eggs, while it is part of a cow's nature that it bears live calves rather than lays eggs. It is part of a termite's inherent nature that its digestive system can gain nourishment from eating wood, while it is part of a crocodile's nature that its digestive system cannot gain nourishment from eating wood. In this sense of an organism's inherent nature, an organism either physically cannot do certain things because of its inherent nature (lay eggs, breathe in water; digest wood) or it cannot survive and flourish if it acts contrary to its inherent nature.

Human nature includes certain biological features. For example, all human beings have lungs rather than gills; therefore, they breathe in air and cannot breathe in water. Similarly, because of the nature of their digestive systems, human beings cannot digest and gain nourishment from wood or stones. Therefore, a human being who attempted to breathe in water or eat wood would not be acting in accordance with his inherent nature as a human being. However, the biological features of the species Homo sapiens do not establish the most common moral laws that natural law theorists claim to derive from human nature. For example, adultery, polygamy, homosexuality, theft, physical assault, cruelty, rape, and killing the innocent are not contrary to the biological nature of human beings the way that breathing in water or eating wood are; they obviously do not have the same effects on a person as eating wood or breathing in water. Therefore, they are not "unnatural" in the sense of being contrary to the biological nature of human beings. If natural law theorists wish to maintain that such behavior is contrary to reason and immoral for human beings because it is not in accordance with human nature they must appeal to some other conception of what it is to act or not act, to live or not live, in accordance with human nature.

An organism's inherent nature as a member of a certain species often establishes characteristic patterns of behavior common to all or almost all members of the species. For example, spiders spin webs; sparrows build nests; bees construct hives; cats hunt mice and birds; hyenas tend to hunt in packs; polar bears hunt alone. It would be unnatural in the sense of unusual or uncharacteristic for a spider not to spin a web, for a sparrow to spin a web, for a hyena to hunt alone, or for a polar bear to hunt in a pack of polar bears. Similarly, it would be contrary to a lamb's nature to attack a lion, just as it would be contrary to a lion's nature to run from a lamb. In a sense, an organism's inherent nature as a member of a certain species establishes laws of behavior for it that are physical laws of nature.

Critics of natural law theory say that it is doubtful, however, that the inherent nature of Homo sapiens establishes laws of behavior for human beings in the same way as it may establish laws of behavior for cats, lions, and polar bears. Human nature is surprisingly diverse. For example, are human beings naturally as fearless and aggressive as lions or are they naturally as timid and pacific as rabbits and lambs? Human nature has room for both kinds of personality. Human beings also don't seem to have the relatively simple inherent or "instinctive" behavior patterns of some of the animals lower on the evolutionary tree. Cats "instinctively" chase mice and birds therefore, such behavior is natural for them. It is not easy to identify "instinctive" behavior patterns in human beings that are akin to such behavior patterns as cats chasing mice and birds. It is especially difficult because so much of human behavior is shaped by the environment, that is, by deliberate and nondeliberate conditioning, training, and education.
In this sense of an organism's inherent nature, critics think that it is quite doubtful that polygamy, adultery, homosexuality, physical assault, cruelty, rape, or killing the innocent are contrary to the inherent nature of human beings. If that is so, then we cannot appeal to this sense of the inherent nature of human beings in order to show that such behavior is wrong. The challenge facing natural law theorists is to provide a plausible account of the inherent nature of human beings so that they can show that the kinds of behavior they condemn (for example, adultery, homosexuality, theft, and killing the innocent) are immoral because they are contrary to the inherent nature of human beings. Without that, it is not clear how appeals to the inherent nature of human beings can provide moral guidance.

What Is Natural Is Right and What Is Unnatural Is Wrong?

Natural law theorists assume that it is morally right and good for an organism to act in accordance with its inherent nature. Only on the basis of that assumption can the inherent nature of human beings provide moral laws of conduct for them. However, critics present reasons for doubting that all behavior that is in accordance with an organism's inherent nature is morally good and all behavior not in accordance with its inherent nature is morally bad. For example, biologist Stephen Jay Gould writes of a group of wasps named Ichneumonoidea comprising hundreds of thousands of different species. These wasps reproduce by laying their eggs inside the living body of another insect, most commonly a caterpillar. The wasp stings the caterpillar and then injects its eggs into it. As Gould writes, "Usually, the host is not otherwise inconvenienced for the moment, at least until the eggs hatch and the ichneumon larvae begin their grim work of interior excavation." Then, the larvae slowly eat the helpless caterpillar from the inside out. "[T]he ichneumon larva eats fat bodies and digestive organs first, keeping the caterpillar alive by preserving intact that essential heart and central nervous system. Finally, the larva completes its work and kills its victim, leaving behind the caterpillar's empty shell." Such behavior is in accordance with the inherent nature of Ichneumonoidea wasps. However, one may doubt that such natural behavior is morally praiseworthy.

It may be that human beings, or at least male human beings, are naturally aggressive and prone to violence. After all, war and fighting seem to be such universal pastimes of men in all ages that one might conclude that the inherent nature of male human beings includes a strong tendency to behave violently. If that is so, should men act in accordance with their inherent nature or should they try to resist their inherent natural tendencies? Similarly, many people believe that the image of childhood as a time of innocence and purity is sentimental nonsense. In their view, children are inherently cruel and are brought to extinguish or control their inherent cruelty only through education and socialization. Consider the tendency of children to mercilessly taunt or bully those who are weaker than or different from themselves. We might maintain that the purpose of moral education is not to encourage people to give their inherent natures free rein but rather to tame their inherent natures.

Similarly, suppose that human beings are inherently selfish or primarily self-interested and that altruism is not in accordance with the inherent nature of human beings. If this were true, would it follow that altruism is immoral and contrary to reason because it is not in accordance with the inherent nature of human beings? Many people would deny that altruism is wrong even if it is not in accordance with the inherent nature of human beings. They would say, "So much the worse for the inherent nature of human beings." In their view, moral education often needs to go against rather than with the inherent nature of human beings. They deny that actions in accordance with the inherent nature of human beings are always right and good for
human beings and that actions not in accordance with the inherent nature of human beings are always wrong and bad for human beings.

Notes


2. Ibid., p. 35.