

S. Adam Seagrave, *The Foundations of Natural Morality: On the Compatibility of Natural Rights and the Natural Law*. University of Chicago Press, 2014.

In this book S. Adam Seagrave enters into a modern controversy about the continuity and compatibility of modern natural rights with the much older natural law tradition. It is a welcome and ingenious contribution to a debate in which some theorists, such as Leo Strauss and his students, have argued that there is a major break between ancient natural law doctrine and the modern idea of natural rights, while others, such as Jacques Maritain and students more familiar with the history and evolution of natural law ideas in the Middle Ages, find continuity between the older natural law and newer natural rights understandings. Seagrave sides with the Straussian doctrine of discontinuity. He does so while attempting to preserve the compatibility of classical natural law with the modern natural rights conception through the elaboration of a thinned-out version of ‘natural morality,’ derived from the thought of John Locke, that provides a ‘new’ natural law largely limited to the rights of life, liberty, and property. Only these survive as natural ‘laws’ that in Lockean terms can be perceived as particular rights that one possesses as an individual, self-owned person whose species-nature offers a “blueprint for action located within one’s humanity that one may contravene” (119). The arguments Seagrave makes to arrive at this conclusion are too detailed to replicate here. Suffice to say that his argument, though analytically admirable, leaves much out of account.

It is important to observe that Seagrave’s attempt to find a compromise between the continuity/compatibility and the discontinuity/incompatibility theses, in favor of his own solution of discontinuity/compatibility, ends in rejection of the continuity position. But his rejection does not constitute a convincing refutation. Although Seagrave cites Brian Tierney’s magisterial work in this area, he essentially ignores the evidence and arguments Tierney marshaled to show that the idea of natural rights was asserted in various ways by medieval thinkers, starting with the canonists of the twelfth century. Tierney is on Seagrave’s reading list, but the canonists aren’t, and Tierney’s argument about the canonists’ contributions and their influence on later thought is ignored. Secondly, Seagrave, having dismissed the continuity argument, never gives full scrutiny to the fourth possible arrangement, namely that there might indeed be a certain continuity in the history of the rise of natural rights from natural law systems of thought, but that the modern developments of natural rights, which are decidedly ‘anti-foundationalist’ and even postmodern in their contemporary

expression, are profoundly incompatible not only with natural law conceptions, but possibly even with Lockean natural rights doctrine.

What, then, exactly constitutes discontinuity for Seagrave? For him Strauss has provided the definitive answer: The natural law in the “proper sense” is “knowable to the unassisted human mind, to the human mind which is not illumined by divine revelation” and thus is “promulgated in the state of nature.” Locke, and even more so Hobbes—the modern fonts of natural rights teaching—never thought of natural law in this way according to Seagrave: and herein lies the discontinuity. Locke can’t be a classical natural law thinker, because natural laws are not knowable or naturally present in the mind. Thus Locke inaugurates a totally new understanding of natural right unconnected to natural law. Nevertheless, Locke smuggles natural law back into the picture with his assertion of natural rights to life, liberty, and property, since life and liberty were precepts of the older natural law tradition. For Seagrave, a special and detailed, if partial, reading of Locke is the key to discovering a bridge back to the ancients and the rediscovery of a watered down ‘natural morality,’ which subsists in Locke’s natural rights theory but is nonetheless compatible with a less ambitious natural law theory.

Seagrave regards this new natural morality as a forming a dialogic process in which only a very few ‘grains of truth’ provide any hope for bridging the gap between duties and rights, and between the common good and the subjective autonomy of individuals. But it restores, he believes, a contact point for discussion between natural law advocates and natural rights proponents. Finally, he uses this natural morality to show how the natural law and natural rights schools of thought can think together anew about modern controversies such as same-sex marriage, universal health care, and capital punishment. This discussion actually shows that there’s not a whole lot of room for agreement. For example, the discussion on same-sex marriage falls very flat. Seagrave nowhere discusses the importance of the family as a natural basis for society. While his chapter on natural law thinkers includes extensive discussion of Aristotle and Cicero, he fails to discuss both thinkers’ extensive treatments of the family as a natural basis of society, being formed by the natural sociability of human beings, their natural reproductive instinct, and their needs for intimate friendship, love, and a stable bond for the procreation, nurturing, and education of children. Aristotle even regards the family as the matrix for the regime types of monarchy, aristocracy and democracy. For Aristotle and Cicero man is by nature a political animal, but the family exists first in the order of history. Similarly, nowhere does Seagrave discuss Locke’s position on paternity, marriage, and family as articulated in the *Second Trea-*

tise. Families clearly exist in Locke's state of nature, although once civil society exists, he conceives them in a much more contractarian way. This was one area where Locke may have introduced an incompatibility with traditional natural law theory—an incompatibility that has only gradually become more visible as modern liberals have eviscerated family rights in favor of individual rights.

Also missing from Seagrave's slimmed down account of natural morality are other precepts of the natural law present in classical and in medieval natural law doctrine. His account of Thomas Aquinas is deficient. Along with the do no harm principle, Aquinas includes other precepts such as the human being's natural inclination to know God and seek truth, to seek self-preservation and the common good, to live in society, to seek sexual union for the generation of offspring, to provide education for offspring and to avoid offending others. Seagrave's account of this is incomplete. Implicit in Thomas's teaching are the Ten Commandments, which are revealed, to be sure, but also discernible by right reason. Even Aristotle, in *Nicomachean Ethics*, lists shamelessness, malice, and covetousness, along with theft, adultery and murder as intrinsic evils—knowledge akin to St. Paul's laws 'written on the heart,' which even Gentiles can perceive without the aid of divine revelation. Are these to be expelled from the content of the natural law and no longer to be considered among the 'grains of truth?' Indeed, adultery, theft and murder were forbidden in legal codes of ancient societies predating the Greeks in ancient Babylon, China, and India. Finally, I cannot fail to observe that, contrary to Seagrave's assertion, Aquinas regards the precepts of natural law as unchanging. Corollaries and propositions drawn from these precepts can change by addition or subtraction, according to Thomas, but natural law precepts do not change—as Seagrave claims Thomas teaches—simply with changes of circumstance.

There is another book that needs to be written to address many of the above concerns that are passed over in silence in the present volume. Given the intellectually artful way in which this book is constructed, I would expect that Seagrave is well able to produce a sequel of equal quality to address these lacunae. I very much look forward to reading such a volume, as it would help to address questions unattended to in this provocative and stimulating volume.

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