

ISSUES IN ETHICS: A NATURAL LAW APPROACH

Below are some responses to Issues in Ethics that might come out of a natural law approach. They are presented to see if they help “make sense” of ethical decisions within a natural law process which has as its goal the enhancement of authentic human existence using the method of human reason.

1) A petition to end the death penalty is circulating in your state. A friend is convinced that the death penalty is just punishment for serious crimes and has value as a deterrent to crime. He asks you if you have any ethical objections to the death penalty as public policy. What is your response?

In natural law tradition, to go against the natural law is to act against the universal human good or to diminish authentic human existence. Good is defined as that which contributes to human fulfillment. It is generally accepted that there are four basic goods or needs that are required for our fulfillment as human persons -- life, truth, society, and reproduction .

Life is considered the fundamental good because all other goods or human rights depend on its protection. Thus, human life can be ethically taken only when another human life or lives are mortally threatened. The principle of self defense has been expanded to include entire nations.

The issue in the natural law tradition is whether or not those who have committed capital crimes and are now in prison present enough of a threat to the lives of others to permit their execution under an expanded principle of self defense. Revenge is not an acceptable reason, even in just-war theory.

Even if it could be successfully argued in natural law tradition that those guilty of capital crimes, by that fact, forfeit their lives, there is considerable doubt about the actual guilt of those convicted, evidenced by the rising number of death row inmates who have been proven innocent on review of their convictions.

The argument that capital punishment is a deterrence to crime has yet to be satisfactorily proven and in any case the use of human beings as means to a social end is ethically questionable (Kant), especially when some of those executed will, in fact, be innocent.

2) Tensions have been rising between the U.S. and Iraq. Now Iraq has succeeded in smuggling an atomic bomb into New York and exploding it. First reports indicate that over a million people are dead and more will die from radiation. You are the president of the U.S., you have enough atomic weapons presently aimed at Iraq to destroy every city in the country. The Joint Chiefs of Staff are awaiting your decision. Can you ethically authorize a retaliatory strike and basically destroy Iraq?

Natural law analysis begins with the assumption of the intrinsic, inviolable right of individual life. However, in conflict situations, natural law tradition makes a distinction between innocent human life and the life of an unjust aggressor. When innocent life is attacked, the person and/or the community has a right to self defense, e.g. the just-war doctrine. Since innocent life is inviolable, unjust aggressors can be resisted by means that include, as a last resort, lethal measures. However, not just any lethal measures can be accepted especially in conflict between nations with modern weapons of mass destruction.

All considerations of modern warfare, are understandably quite complex. In this case, the natural law tradition could offer considerations from the just-war theory which include when war is justified and what acts are moral in a just-war situation. These are:

1) Some response is justified to defend against other attacks, 2) no lethal response can be designed out of simple revenge - you kill our innocents, we will kill yours, 3) the response must be judged to be a last resort among other options - limited conventional warfare as opposed to a nuclear response, 4) the goals to be accomplished are sufficiently important to outweigh the harms that can reasonably be foreseen, 5) consideration of the principle of discrimination which forbids the direct killing of the innocent noncombatants e.g., the bombing of civilian population centers, 6) consideration of the principle of proportionality that forbids acts within warfare that would inflict unnecessary or excessive harm on civilians and/or military personnel. Finally, if you decide to bomb the cities of Iraq, what have you become in the process? Have you perhaps become just like the enemy? In other words, does your act of lethal retaliation diminish your own authentic humanity by making you a slayer of the innocent without sufficient reason?

3) Your spouse is dying of liver disease. There is no hope for a cure or for a transplant. The dying process will drag out and potentially be very painful. Kansas has just made doctor assisted suicide legal. She/he asks your advice if it would be "OK" for her/him to end life now through a legal doctor assisted suicide. What is your advice?

Natural law tradition would offer these two considerations: 1) the moral imperative to respect for the inviolability of innocent human life, since it is one of the four basic goods or needs for the enhancement of authentic humanity and 2) the moral imperative to avoid acts that attack the authentic humanity not only of others, but also of self. These principles would condition the judgment of which would be the lesser of two evils in this case.

4) Mom is dying of bone cancer. There is no hope that she will ever leave the hospital. Her pain is severe. The doctors say that if they increase the morphine to levels that will effectively ease her pain, it will certainly hurry her death. The choice is to administer the proper amount of pain killer and shorten her life span to two or three days or to leave her in pain, but possibly lengthening her life by two or three

weeks. Mom is totally against doctor assisted suicide. What do you say to her?

In this case, the natural law tradition would not consider this act suicide, but would allow it according to the principle of “double effect”. This principle seems like a “hair-splitter”, but it is employed in situations when a human act will have a “double effect” one good, the other bad - e.g., the relief of pain and the shortening of life.

The principle of double effect can be stated as follows: When from a licit act there immediately follow two effects, one good and the other bad, and the good outweighs the bad, it is licit to intend the good and permit the evil. So both the intention and the act itself must be good; further, the evil effect cannot cause the good effect and the good effect must outweigh the bad effect.

In outline form it would apply to the above situation in this way:

- 1) The causative act (giving morphine) must not be evil in its own right. Giving morphine to relieve pain is in itself a good act.
- 2) The bad effect (shortening life) must not be intended, but only “endured”. The intention in this case is to relieve pain, not to shorten life.
- 3) The two effects must be simultaneously, so that the bad effect does not cause the good. Here the shortening of life, of itself, is not the cause of the present relief from pain.
- 4) The good intended must be proportionately valuable to justify the bad effect. Death is inevitable and a shorter life without pain can be judged a greater value than a somewhat longer life with serious pain.
- 5) We are now at war with Iraq. You are an airforce pilot and have been asked to be part of an air strike. Your mission is to destroy a hospital complex thought to contain some soldiers, but mainly civilians. Can you participate?**

Natural law would generally hold that one should obey legitimate authority, especially in the armed forces where obedience is often a necessary component for success. However, those in positions of legitimate authority cannot simply command anything (Nazi war crimes). Nor can those under authority blindly follow unjust or immoral orders (Nazi war crimes.)

Using the principle of double effect, one could judge that in a just war the act (bombing combatants) is not evil in itself and that the bad effect (death of innocents) does not cause the good effect (neutralizing of combatants). However, one could intend the good (an attack to neutralize combatants) and allow the evil (death of innocent life) **only if** the good effect (neutralizing combatants) could be judged to outweigh the bad effect (the death of innocents). If the good effect does not outweigh the bad effect, the air strike cannot be justified using the principle of double effect.

6) Mike is a supervisor in a steel mill who had to retire for health reasons. He and his wife have four children, the oldest is going to college next year. He took all his savings and bought a motel on the highway outside his town. The motel is medium priced and receives about one-half of its business from truck drivers.

To his dismay, Mike found that it had been the custom of the prior owner to pad the bills of the truck drivers. He would mark up their bills about 20% so that they could turn in higher expenses for company reimbursement, than they had actually paid.

The drivers let him know that their business depended on the mark up. Without their business he would take a drastic cut in revenues and perhaps would not be able to stay in business, thus losing a large portion or all of his savings and leaving him without a good income.

He asks you what you think about his ethical options and their consequences.

Undoubtedly, Mike's first concern is to protect his ability to support his family and to protect his financial investment. His first option might be to continue to pad the bills and go on with business as usual. With this choice he protects his ability to support his family and also protects his financial investment. He judges the risk of being caught to be worth it in light of the risk to his family. He sees it as the lesser of two evils.

A natural law analysis would help him to focus on how his choice enhances or attacks the authentic humanity of self and others. 1) one of the four basic goods of authentic human life is reproduction, which includes the health and welfare of the family, 2) cheating is an act that corrupts one's authentic humanity, 3) lying to others (those who hire the drivers) fails to protect their right to truth and attacks their human rights, 4) cheating, in this example, facilitates and cooperates in the evil and corruption of others (the drivers), 5) the personal example of cheating risks corrupting the authentic humanity of family and friends by bad example and 6) cheating involves the risk of being caught, perhaps losing everything and possibly going to jail, thus diminishing his own life and that of his family.

His ethical options may indeed cost him some financial loss, this is an evil that must be weighed against the evils involved in a choice to continue "business as usual". It may well be a choice of the lesser of two evils, the key is to assess which is indeed the lesser to two evils.