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Finnis, AQUINAS'S MORAL POLITICAL AND LEGAL THEORY

Robert Pasnau

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debate—notably in the work of Mark Johnson and Maxine Sheetz-Johnstone—that emphasizes the *dependency* of conscious life on the body and the way in which our concept of mental processes is built on a concept of bodily processes. This line of thought is physicalist to be sure (as are all the views that Clayton considers), but it is not reductionist and is fully consistent with a robust view of an autonomous mental life. It would seem that this is an approach to the mind that Clayton should pay some attention to. Why doesn't he? I suggest that Clayton isn't interested in identifying mind-body connections that are being worked out by cognitive scientists, and in applying them by analogy to God's nature, because there is no place in God for the physical. To press the panentheistic analogy too closely would make it too close for theological comfort.

Clayton seeks a rapprochement with science, and he goes some way toward showing how classical theistic beliefs about divine action are compatible with current physical theories and with cognitive science. But he cannot find a way to appropriate the physicalist assumption of science, and the main thrust of his argument is to reject it. The theological ideas that God is pure spirit and that humans can survive death finally lead him to a metaphysics of the person that stresses the separateness of mind from body, and that downplays the role of the body in human experience.

Aquinas: Moral, Political, and Legal Theory, by **John Finnis**. Oxford University Press, 1998. Pp. xxi and 385. Price \$18.95 (paperback).

ROBERT PASNAU, University of Colorado

The study of philosophy's history is often a tedious affair, devoted to primary texts that seem only intermittently relevant today and to secondary studies that offer at best a pale reflection of the great minds they pursue. But every once in a while a study is published that sheds real light on some historical period, and one feels as if here, at last, some long-dead philosopher has finally been favored with an interpreter worthy of the task.

John Finnis is such an interpreter, and his new book is such a study. Amidst a flurry of important works published over the past few years on Thomas Aquinas, Finnis's *Aquinas* stands out as the most philosophically insightful and provocative of them all.¹

In one respect this book cannot be judged by its cover, which reads simply 'Aquinas,' suggesting a general survey of the man and his work. The subtitle (revealed on the title page) provides an accurate picture of the book's exclusive focus on moral and political philosophy, a focus that is particularly welcome given the relative neglect of these topics in the literature on Aquinas.

In another respect this book very much can be judged by its cover. For inasmuch as one knows the work of John Finnis, one already will have quite a good sense of the views presented here. One will rightly suppose that it offers a detailed account of Aquinas's theory of human action, that it presents an intelligent and attractive version of Aquinas's natural law theory,

that it constantly displays the relevance of this theory to contemporary moral and political thought. One will also rightly suppose, unfortunately, that the book is written in a dense, difficult, even legalistic style, with thousands of substantive footnotes and hundreds of even more substantive endnotes. (The thought kept coming to me, as I made my way through this thicket, that surely this book was never intended to be read by others.)

What might come as something of a surprise, in light of Finnis's earlier, less historical work, is his awesome grasp of Aquinas's vast corpus. (I do not use the word 'awesome' lightly: the book features an index locorum that runs for twenty pages.) Finnis remarks that, relative to his earlier work, "writing this book required of me a wider and deeper acquaintance with Aquinas' works" (ix). Behind this remark must lie many hours spent working through long, dense Latin texts. The footnotes and endnotes testify to this wider and deeper acquaintance, and these references will be of tremendous value to readers interested in further research.

Finnis begins the book in a telling manner. "There are some serious flaws in Aquinas' thoughts about human society" (vii), he first tells us, but before the paragraph is over he is insisting on the "fundamental superiority" of Aquinas's thoughts to those of Plato, Aristotle, Machiavelli and Hobbes. This is entirely indicative of Finnis's method, which combines the conviction that Aquinas's work is deeply important with the willingness to subject that work to a "sound critique" (ibid.). That method, combined with Finnis's considerable philosophic talent, makes this a book that every student of Aquinas will want to read.

One of the most stimulating features of *Aquinas*, and also one of its most disorienting features, is Finnis's unusual strategy of exposition. Rather than take the standard approach of setting out Aquinas's views in more or less the order in which he presents them, Finnis develops his own structure. The strategy, as he aptly puts it, is to "constantly cut across the grain of his [Aquinas's] expositions" (14). One effect this has is to leave the reader — even one quite familiar with Aquinas's work — somewhat at sea. Familiar ideas and theories float across the page, but in strange and stimulating forms. We are given whole chapters, for instance, on human rights and economic justice. The goal, of course, is to establish just how relevant Aquinas's ideas are today. And in general Finnis succeeds marvelously. Some may feel queasy over his method — which consists in cobbling together passages from throughout the corpus, not worrying over whether they are early or late, from a commentary or a treatise. But his results are so interesting that only a pedant could not be impressed.

Of course, Finnis is not without views of his own, and one sometimes feels him pushing hard to make the texts go in a certain direction.² So after describing Aquinas's awareness of "sceptical doubts" regarding morality (56), Finnis offers an argument that such doubts are self-refuting. Anyone who "responsibly entertains and affirms" such doubts is implicitly presupposing that knowing the truth has value as an end:

One's getting to know the truth about some topic, one's judgements and affirmations being correct — this is something of value, an intelligible and understood (not merely felt) good {bonum intelligibile; bonum intellectum} (59).

At this point Finnis offers a detailed endnote describing Aquinas's usage of these Latin phrases. But what about the argument itself — is that due to Aquinas or Finnis? It's clever, certainly, although anyone who has taught ethics will be able to call to mind apparent counterexamples: students who think that there are no objective values and at the same time don't really care whether they're right. Finnis (or is it Aquinas?) might reply that this wouldn't be a case of "responsibly" affirming the proposition. But that seems to beg the question. It's irresponsible only if the truth is in fact something of value.

As for the provenance of the argument, Finnis acknowledges that even its initial starting-point, one's taking seriously the sceptical challenge, "is a choice and act which Aquinas does not formally consider (doubtless because he did not have to address an audience impressed by sceptical denials of free choice)" (58). But what does this mean? In what sense, if not formally, does Aquinas consider it? And why is Finnis so sure that this is the kind of move Aquinas would have made, had his audience been more impressed with scepticism? Finnis does not usually play so fast and loose; most paragraphs teem with quotations and references to Aquinas's own words. But passages of this sort — and this is far from the only one — take away from the credibility of the whole book. We are forewarned in the preface that "my exposition quite often goes beyond what Aquinas says; statements in this book should not be ascribed to Aquinas unless signified as quotations or (as often in the footnotes) close paraphrases" (viii). But this just muddies the waters further. Despite the many notes, most sentences in the book are of course not supported by any textual reference. So do these sentences represent Aquinas's ideas, but not his exact words? Or (as in the above self-refutation) do they represent what he supposedly would have said, if provoked? Or are we to understand Finnis as saying that the views put forward are quite often not Aquinas's at all? The reader is left to sort these matters out on a case-by-case basis.

I'll now try to give a sense of the book's contents, making some critical remarks as I go. After a fresh and useful biographical chapter, oriented toward placing Aquinas within his social context, Finnis devotes a chapter to "subject-matter and method." Taking as his key text the prologue to Aquinas's commentary on the *Nicomachean Ethics*, Finnis distinguishes four kinds of sciences:

1. Sciences concerned with the order of nature;
2. Sciences concerned with the order of thought;
3. Sciences concerned with human actions;
4. Sciences concerned with the practical arts.

Finnis is of course, interested in the third of these, what Aquinas calls moral philosophy. But Finnis is also interested in the distinction itself. He begins by asserting that these four kinds of science are "irreducibly distinct" (21), and from that he concludes that Aquinas's methodology is "anti-reductive" (22), which leads him to conclude that, compared to "the main theorists from Hobbes down to today... Aquinas's methodology offers a radical and, I believe, clearly superior alternative" (22). Certainly,

this is interesting, but it's not entirely persuasive. It makes quite a lot out of an utterly conventional distinction, one that remains alive and well today inasmuch as we continue to treat moral philosophy as a discipline distinct from natural philosophy, metaphysics, logic, or any of the crafts.

Continuing to follow the *Ethics* commentary, Finnis distinguishes three classes of moral philosophy:

- 3a. Moral (individual actions);
- 3b. Economic (actions within a household);
- 3c. Political (actions within a civil group).

Finnis shows that 3b sometimes gets construed more widely, "extending to 'economics' in a wider sense" (24), and this then gives him his subject matter: Chapters 3-5 will concern morality in the narrow (3a) sense; Chapter 6 will concern economics; Chapters 7-9 will concern politics. (The concluding Chapter 10 offers some theological context.)

Like Aquinas, Finnis supposes that moral theory requires an account of human action. He begins Chapter 3 by discussing the interlocking themes of reason, will, emotion, and freedom. Chapters 3-4 then develop Finnis's (Aquinas's) key notion of an intrinsic human good. Knowledge, as discussed earlier, is one clear example of such a good, friendship is another. (A rough list is attempted on pp. 83-85.) Human fulfillment (*beatitudo*) consists in the acquisition of such goods. Finnis thinks this kind of account can settle some of the larger problems of metaethics, such as questions about how we acquire moral knowledge and what makes moral goods normative:

We are intelligently attracted by goods which are attractive to reason by reason of their intelligible goodness, i.e. by the benefits their instantiation promises. That goodness, precisely as opportunity, as is-to-be, is the source of all genuine moral normativity... (90).

Finnis likewise takes the nature of these basic goods to reveal the incoherence of egoism. Because human goods are perfectly general — "the principles contain no proper names" (111) — anyone who grasps the goodness of a certain outcome will grasp that "the common good is better than the good of one" (120 [= *Summa theol.* 2a2ae 47.10c]).

These are of course exceedingly difficult problems, and one passes with some relief to Chapter 5, where Finnis descends to relatively pedestrian questions concerning particular moral principles. Here he makes a persuasive case that Aquinas has the concept of a human right, even if he never uses a corresponding Latin phrase. In fact, Finnis wants to establish something more: that, contrary to appearances, Aquinas's moral philosophy is concerned with rights just as much as with duties (138). This is linked with Finnis's more general strategy of deemphasizing the place of virtue in Aquinas's thought: his discussions of justice, for instance, "are illuminated, but also confused," by his practice of organizing morality around the varieties of virtue; "this superstructure can obscure morality's foundations" (187; cf. 124, 156).

Finnis describes virtue as something that follows from getting morality

right, and so he shifts attention to the moral principles that allow us to get things right in the first place. This leads him to explore in detail the structure of moral reasoning. The very first principle of practical reasoning is that “good is to be done and pursued, and bad is to be avoided” (86). Most moral principles are not so self-evident, but are rather the conclusions of practical reasoning. Obviously, no interesting conclusions can be reached from the above principle, and Finnis stresses that Aquinas has other basic (self-evident) moral principles, above all that “one should love one’s neighbour as oneself.” This, for Aquinas, is the root of all morality: “all moral principles and norms... can (given further principles) be inferred as either implicit in or conclusions from it” (126). If this could be worked out in detail, it would be quite an accomplishment. But there’s a problem:

The moral norms which answer the question what human rights every person has, and what responsibilities one has in relation to oneself and others, must be specifications of that supreme principle of practical reasonableness, love of neighbour as oneself. Indeed, Aquinas says, they must be deductions from it. But he never sets out such a deduction. He has no general discussion of the way from the highest moral principle(s) to moral norms such as the exclusion of killing the innocent, adultery, perjury. He says that the way is short, but however short it needs more than one premiss, and the needed premisses he does not systematically display (138).

For most scholars, this would be the end of the story. But for Finnis this is just the start, and he takes up the challenge of providing the missing premisses, at least in the select cases of homicide, adultery, and lying.

These sections are among the most interesting parts of the book. Admittedly, the exact connection to love of one’s neighbour is not always as clear as one might like, and where it is clear it sometimes look trivial. But Finnis’s discussion is nevertheless fascinating and usually compelling. In particular, he offers a detailed and attractive argument for the importance of marriage and the role of sex within marriage, as well as a subtle account of the significance and scope of the prohibition against lying. The discussion is somewhat marred by his occasional efforts on behalf of certain indefensible doctrines of the Roman Catholic Church, such as those regarding non-coital sex (150-51) and contraception (181 note e).³ But even allowing for these passages, no one could come away from this chapter with any doubts about Aquinas’s status as a leading moral theorist.

Perhaps the book’s most significant interpretive stance — though it by no means gets stressed as it might — is Finnis’s attempt to ground the so-called natural law in what is reasonable or intelligible to us, rather than supposing that the alleged naturalness of certain actions can itself be a basis for morality (99-100 note *t*, 153 note 91, 155, 309). Certainly, this reading of Aquinas is vastly more attractive than the readings one often hears, and Finnis puts it to effective use throughout the book. But I am not sure this interpretation always fits the texts. Finnis claims that the argument against extra-marital sex depends on the fact that it is “contrary to the good of marriage and offends against love-of-neighbour, and for both reasons is

against reason, and *consequently* against nature" (152-53, my emphasis). Certainly, this is true of Aquinas's interesting argument against "simple fornication" (*Summa theol.* 154.2c). But when Aquinas turns to homosexuality and other vices *contra naturam*, he argues that these are particularly bad just because they do in fact go against nature: "in practical matters, to go against what nature has determined is the most serious fault and the most blameworthy" (154.12c). No further rationale is offered.

In Chapter 6, Aquinas emerges as an intelligent critic of the unfettered market. Perhaps he is even a radical critic, given his view that the world's resources are in some sense common to everyone, and that one has a *duty of justice* to distribute to the poor one's superfluous goods (191-92). But Finnis is notably uninterested in pushing these texts one way or another, and the result is a nuanced treatment of the theory's implications. Chapter 7 reads Aquinas as advocating a form of political liberalism similar in key respects to that of Mill (228). Chapter 8 discusses the place of law, and Chapter 9 extends the discussion to problematic cases like capital punishment, warfare, and tyrannicide. These four chapters are in many respects the most impressive and provocative of the entire book, and I pass over them quickly only because I am out of space.

NOTES

1. Perhaps the most notable of this recent flurry are these: *The Cambridge Companion to Aquinas*, ed. N. Kretzmann and E. Stump (Cambridge: Cambridge University Press, 1993); J.-P. Torrell, *Saint Thomas Aquinas, volume 1: the person and his work*, tr. R. Royal (Washington, DC: Catholic University of America Press, 1996); N. Kretzmann, *The Metaphysics of Theism: Aquinas's Natural Theology in Summa Contra Gentiles I* (Oxford: Clarendon Press, 1997); N. Kretzmann, *The Metaphysics of Creation: Aquinas's Natural Theology in Summa Contra Gentiles II* (Oxford: Clarendon Press, 1999).

2. Readers of Finnis's *Natural Law and Natural Right* (Oxford: Clarendon Press, 1980) will have a sense both of how interesting Finnis's ideas about Aquinas are, and how closely those ideas are linked to his own philosophical views. This new book, with its strictly historical focus, is very different from that 1980 book. A cynic might say the only difference is that here Finnis has to worry about pushing the texts in front of him as he goes where he wants. But that would be too cynical, ignoring Finnis's serious efforts to get the historical scholarship right. In his preface, he makes this interesting remark about his deepening familiarity with Aquinas's writing:

That has confirmed my previous understanding of the foundational principles (and Aquinas' subscription to them), and led me to think one-sided or wrong some common beliefs about his social and political thought (including some I held)... (ix).

I haven't attempted to discover where his views have changed.

3. Finnis's brief remark on abortion is exceptionally hard to take (186 note n). Despite acknowledging that, for Aquinas, the rational soul enters the body only once the body is sufficiently developed to make use of a rational soul, Finnis adds, "it seems clear" that, if Aquinas had known just how complex sperm and ovum are, he would have concluded that the rational soul "can be

and doubtless is present" from the moment of conception. This is not plausible. The Church's position on abortion may not be indefensible, but it cannot be defended using Aquinas's theory of the soul. For a clear discussion of this issue see Joseph Donceel, "Immediate Animation and Delayed Hominization," *Theological Studies* 31 (1970) 76-105.