



The Owl of Athena

CONTRATYRANNOS

The Natural Law Theory of Human Progress Website

EXCURSUS #6

One of a series of monographs that expands the discussion of important topics examined in *The Natural State of Medical Practice*.¹

NATURAL LAW, THE TEN COMMANDMENTS AND THE GOLDEN RULE COMPARED

Summary: The common identity of natural law, the Decalogue and the Golden Rule is argued in this excursus, and a common interpretation is derived: Do not transgress the rights of others. An explanation for the tardy mindfulness of natural law and natural rights by mankind is offered, and the scope of their authority is extended to include government itself. It is argued that in brief periods in early urbanization before powerful political hierarchies had yet to transgress natural law there was evidence of progress in medicine, but transgression promptly intervened, and progress ceased. This changed with the 16th C Reformation because natural law and natural rights were increasingly acknowledged and, into the 17th C, natural rights were increasingly protected. Consequently, the 18th C saw the emergence of medical discovery that flourished in the 19th C, and the 20th C saw the West as the intellectual center of the world. Such was the power of complying with natural law.

The three subjects of this monograph, natural law, the Golden Rule, and the Ten Commandments (collectively, “Laws”) are discussed in *The Natural State of Medical Practice* in the context of individual and group liberty and human progress. This would seem unexpected because the Laws are commonly considered ethical statements arising from Judeo-Christian writings, with the Ten Commandments being those cited in *Exodus* 20:2-17, natural law as explained by Thomas Aquinas (1225-1274) in his *Summa Theologica*, and the Golden Rule as stated in *Matthew* 7:12. An association of ethical issues with the politics of liberty is to be expected, but their relevance to progress of a society is not obvious. This monograph explores further the commonality of the three Laws and their relevance to progress and *The Natural State of Medical Practice*.

Each of the three ethical statements can be a lifetime study in itself, but a brief working description is desirable for those, including the author, who cannot or choose not to become students of the issues:

¹ Volume, chapter and page number of otherwise unreferenced statements in this monograph refer to the version of the four volumes as published by Liberty Hill Press:

Vol. 1 – *The Natural State of Medical Practice: An Isagorial Theory of Human Progress*

Vol. 2 – *The Natural State of Medical Practice: Hippocratic Evidence*

Vol. 3 - *The Natural State of Medical Practice: Escape from Egalitarianism*

Vol. 4 – *The Natural State of Medical Practice: Implications*

1. Dr. Paul Sigmund has translated works of Thomas Aquinas, and from them he has extracted a list of natural laws that include:²
 - a. We know good is to be done, evil avoided.
 - b. We know we should not harm others.
 - c. We know we should not kill others.
 - d. We know we should not commit adultery.
 - e. We know we should not take from others.
2. The Ten Commandments have been conveniently divided into two categories, the “ritual” commandments and the “ethical” commandments.³ The latter is more our focus here, and they are, briefly and in no particular order:
 - a. You will not kill; οὐ φονεύσεις
 - b. You will not commit adultery; οὐ μοιχεύσεις
 - c. You will not rob; οὐ κλέψεις
 - d. You will not bear false witness; οὐ ψευδομαρτυρήσεις κατα τοῦ πλησίον σου μαρτυρίαν ψευδῆ
 - e. You will not lust after your neighbor’s wife; οὐκ επιθυμήσεις τὴν γυναῖκα τοῦ πλησίον σου (or the house, the slave, handmaid, ox, ass, or anything else of your neighbor)
3. The Golden Rule is different in that it indicates in general terms not only what we should do to others but what we would like to be done to us in similar circumstances: “Therefore all things whatsoever ye would that men should do to you, do ye even so to them; for this is the law and the prophets” (Matthew 7:12, KJV). This dual admonition receives attention later, but, regarding “...do ye even so to them,” it is reasonable to conclude that, as we do not wish to be killed, harmed, robbed or lied to, it is implied that, as a minimum, the Golden Rule can be construed to encompass purposeful harm to others. Beyond that, it is obvious that by “the law and the prophets” is meant the Mosaic Ten Commandments.

Taking the preceding in order, evidence of natural law has in some form been documented in almost all societies, including primitive ones, and may be equated with the “moral sense” of Dr. James Q. Wilson.⁴ It by definition is a body of unchanging moral principles innate in all people in all times and places and is regarded as a basis for all human conduct (derived from the Oxford English Dictionary). Treatment of natural law in *The Natural State of Medical Practice* is notable in that the “do not do” restrictions of natural law were combined in a single statement. A generalization was devised that seemed internally consistent with traditional interpretations: “We know we should not transgress the rights of another person.”⁵ This interpretation was then

² Paul Sigmund, *St. Thomas Aquinas on Politics and Ethics*, New York, 1988, pp.48-50.

³ This is not a rigid distinction. See: Prager, D., *The Ten Commandments*, Washington, D.C., 2015.

⁴ (1) Margaret Mead, *Some Anthropological Considerations Concerning Natural Law*, in *Natural Law Forum*, 1961, paper 59, pp.51-64; http://scholarship.law.nd.edu/nd_naturallaw_forum/59/; (2) James Q. Wilson, *The Moral Sense*, New York, 1993. Dr. Wilson does not equate the moral sense and natural law in his book, but he elsewhere has stated he hoped they were the same (see Acton Institute in *Religion and Liberty*, vol. 9, No. 4, *The Free Society Requires a Moral Sense, Social Capital*).

⁵ “We know that we should not kill, harm, commit adultery, or take from others” is interpreted as a general statement that includes the traditional “natural” rights of life, liberty, pursuit of happiness, and property. Specific rights, therefore, are not mentioned herein. This interpretation does not infringe on offering assistance in any form, whether or not requested.

employed in explaining the inhibitory effects of coercive egalitarianism and egalitarian kinships on the evolution of primitive societies.⁶ Their internally enforced equity was considered a transgression of natural rights of individual members, and it was concluded that such transgression could lead to social entrapment of a society for millennia. Natural law thus interpreted is more than just a short list of things that the individual is not to do to avoid punishment. Rather, it implies that every person has basic rights that are to be protected, in effect declaring the inviolability of human liberty. When circumstances prevailed that supported the development of cities, people exchanged the enforced equity of the tribe for the greater freedom of choice to be found in the settlement hierarchy of early urbanization. A temporary flare of human progress ensued that is confirmed in ancient medical writings.⁷

Moving now to the ethical laws of the Ten Commandments that make up its “do not do” list, the context of the Ten Commandments is broadly disputed and a relation to earlier societies proposed. There are similarities with the Code of Hammurabi, the precepts of Ma’at (preceding the Ten Commandments by two thousand years), verses in the Quran, and categories in the Yoga Sutras of Hinduism (*e.g.*, the yamas, or list of “do not do,” traceable to the Rig Veda). In all cases, these lists can be considered infractions not to be imposed on others, with the specific items listed merely being the more egregious infractions. The generous interpretation of “We should not transgress on the rights of another person” seems reasonable for them as well as for natural law. An association, indeed identity, between natural law and the Ten Commandments is also recognized.⁸ Thus, I would propose that any similarity between the Ten Commandments and the other ancient moral directives does indeed reflect a commonality insofar as natural law is universal, for the others are expressions of moral orientation that all humans share. But the Ten Commandments are comprehensive, specifically delineated and specifically directed. Unlike our conscience, which is easily overruled by events, the Ten Commandments are the definitive and unequivocal statement of natural law.

Finally, there is a clue to the relevance of human liberty in the Golden Rule as translated above, although it is commonly considered to be an exhortation to be kind and to help those in need. The equivalent of the Golden Rule is found in almost all societies and is often equated with natural law.⁹ It is not meant as a request for others to do good things to us. The reference to what is acceptable behavior toward ourselves is used merely as an example of the kinds of actions one should do for others. But the Golden Rule, while implying a positive and virtuous action, is fraught with awkward interpretations.¹⁰ Indeed, it is more consistent in meaning when interpreted as not

⁶ On p. 659, vol. 3, of *The Natural State of Medical Practice* the relevance of individual liberty to natural law is expressed thus: “Rather, [a person’s] freedom is based on the innate understanding of other individuals around him that he is not to be kept from doing what he wants to do, just as he is not to interfere with them. Natural law has a moral orientation; it is not a legal document.”

⁷ The writings and their proposed approximate dates include: Sumer (3000 BC) – *Treatise of Medical Diagnosis and Prognosis*; Egypt (3000 BC) – *Papyrus Ebers*; India (2500 BC) – *Charaka Samhita*; China (2000 BC) – *Huang Ti Nei Ching Su Wen*. See Bk. I, chapters 2-5, of vol. 1 of *The Natural State of Medical Practice* for their descriptions, significance, transitory nature, canonical alterations, and justification for the proposed dates.

⁸ Martin Luther himself was clear on this point, writing in *How Christians Should Regard Moses* (1525): “For what God has given the Jews from Heaven, He has also written in the hearts of men.” Also see: Randall Smith, *Thomas Aquinas on the Ten Commandments and the Natural Law*, in *The Decalogue and Its Cultural Influence*, Dominik Markl, editor, Sheffield, 2013, pp.148-168.

⁹ Blackburn, S., *Ethics: A Very Short Introduction*, Oxford, 2001, p. 101.

¹⁰ No one would suggest that the Golden Rule is meant to be a selfish rule stating we should be willing to give money or property to someone else because they might give us money or property; “I would like you to make me rich, and therefore I should try to make you rich” is an “insider trading” interpretation. Second, if it is meant that you do

to do something hurtful to another, *i.e.*, in a negative sense, the “silver” rule: “Do not do to other persons what you would not want them to do to you.” But there is a way to synthesize the Golden and silver rules that can arguably come closer to expressing the true meaning of both. That interpretation is: “I will leave you alone (unless requested) if you will leave me alone (unless requested).” From this it is understood that we will not transgress another person’s rights because we would not want that person to transgress our rights (but we are there in case of need), a statement far more comprehensive than a list of things we should not do and do not want to have done to us. Its meaning is not open to misinterpretation. At the same time it is a positive statement (I will, you will) and is stating “I will not harm you.”

Thus, natural law, the Ten Commandments and the Golden Rule, as interpreted in *The Natural State of Medical Practice* and this monograph share a common thread: “Do not transgress on the rights of another person.” But their message has traditionally been directed at the individual. In that it follows that they apply to every citizen, should they not then extend to government? This did not happen in ancient times. A feature of the above Laws is that there is no use of a word translatable as “freedom” or “liberty” that might imply a place for implementing the ethical Laws for society as a whole. This is consistent with those ancient times, for the concept of individual liberty, much less as a political goal, would have been considered absurd.

It is understandable, therefore, that as cities grew to be grand empires, monarchical rule dominated almost without exception.¹¹ Their governance routinely transgressed life, liberty and property of citizens and non-citizens to accommodate those in power or their favorites. But even more important, in so doing citizens were prevented from acting in their own best interest. Thereby those discoveries and inventions that might have emanated from broad-based human ingenuity were prevented. There was a fleeting glimpse of the fruitfulness of liberty in primary cities of Sumer, Egypt, India and China, as confirmed in ancient medical writings discussed in vol. 1 of *The Natural State of Medical Practice*, but this promptly ceased.

Ancient and venerable as they are, therefore, the Laws remained a useless force beyond that conferred on interpersonal relations. If social agencies need not follow the Laws, whether interpreted traditionally or as discussed herein, what does this mean? It means that, while individual citizens have an ethical guide, governments do not. Should the government see merit in killing or the taking of the money or property of a person, citizen or non-citizen, there seems to be no historical link to the ethical Laws unless governance is to some degree controlled by a citizenry that knows it should observe those Laws, *i.e.*, such as a democracy. The ancient Hebrew tribes, while not democratic in the traditional sense, did have deliberative councils that allowed open discussion (the *edahs*, p. 86).¹² Perhaps this is a clue to the relevance of the ethical Laws to modern progress, as well as an explanation as to why it took so long for them to make a difference.

something helpful for others in need because you would like them to help you in similar circumstances, that can be selfish in suggesting a reason not to help someone in need if you think they wouldn’t help you. Third, if it is meant to do something helpful for others because you would like to think they would do the same if circumstances were reversed, that is a highly subjective and perhaps impractical standard. It makes sense only if you assume the other persons share your valuation of the need, which is quite a jump of faith. Fourth, another interpretation is that you should go around doing good deeds for others because you would like people to do good deeds to you. This suggests a form of barter, which is not how most people interpret the Golden Rule.

¹¹ The Indus River Valley civilization may be a remarkable exception, at least for part of its 3rd millennium BC existence, a point of discussion in vol. 3, chap. 5, p. 75, of *The Natural State of Medical Practice*.

¹² The Hammurabi law code of 1750 BC, much discussed and often admired, is such an authoritarian treatise. It describes the punishment to be imposed for a great variety of infractions that are presented in an “if-then” pattern. Any ethical aspect to the Hammurabi code represents Hammurabi’s ethical point of view, not that of his subjects; he says so himself in its prologue. In contrast, the 500 BC Gortyn law code found on Crete evolved over a century or two

Ancient Greece was the first remarkable exception. The evolution of democracy in many Greek city-states was coincident with the appearance of effective medical practice as documented in the *Corpus Hippocraticum*. Arising in 6th C BC city-states of Ionia and given two centuries to prosper, there is a clear historical association between the success of civil liberty, as limited as it was, and the initiation of medical progress.¹³ It is properly stated that this glimpse of liberty, without historical parallel, came from a society that tentatively but bravely had decided popular control of the city-state, based on the idea that “I will leave you alone if you will leave me alone, but we must work together to survive” was superior to rule by a monarch or tyrant, and it permitted personal investment in decisions on governance. Intentionally or not, natural law was being implemented. Whereas it is proposed that four primary cities of the civilizations of Mesopotamia, Egypt, India, and China and the freedoms of their “settlement hierarchy” phases developed *de novo* during early urbanization and prior to their monarchies, Greek democracies developed in spite of preexisting monarchies, oligarchies, and tyrannies, although Miletos, the proposed city of origin of Hippocratic medicine, was settled as a primary city-state, *ca.* 1100 BC. The Greek political choices, while contested and incompletely implemented, were based on common sense and recognition that the same rational intelligence they knew to be part of their own psyche must also abide in their neighbor, and it must be met on equal terms and acknowledged rather than subdued. In this relatively open and “free” environment poor itinerant medical practitioners began to settle in cities, associate, and pool their knowledge.¹⁴ Thus, the connection between the ethical Laws and human progress was tentatively confirmed. Sadly, this lasted only two centuries.¹⁵

We now come to the climax of this monograph, our own time. It remained to the 16th C Reformation in the West to demonstrate that the underlying message of the Laws would release a force that would propel the West to intellectual leadership of the world, that force being its common citizenry as they arose from feudalism.

The fracturing of the pan-European doctrinal kinship of the Roman Catholic Church precipitated by the actions of Martin Luther was superseded by calls for religious freedom. The concept of individual freedom within and without a “church” was then debated and its philosophical justification sought in biblical contexts. Foremost in Reformation thought on morality was the Ten Commandments. By the 18th C laws more broadly interpreted as “Do not transgress on the rights of another person” were constraining the role of governance over the lives of average citizens.¹⁶ Slowly the West saw its governments introduce and expand democracy and introduce ethical tenets into laws respecting the natural rights of citizens, thereby protecting them from murder, theft and fraud perpetrated or permitted by the government itself. This change in institutional prerogatives increasingly tolerated personal expressions of freedom and self-interest

in response to legal situations as they arose, analogous to English common law. Early steps toward democracy had already been undertaken in Greek city-states of Ionia. The definitive version of the Gortyn code, the product of a Dorian city-state, may not have been a product of a formal democracy, but its carefully thought-out revisions represent more a consensus than a dictum. See: Michael Gagarin, *The Organization of the Gortyn Law Code*, in *Greek, Roman and Byzantine Studies*, 23:129-146, 1982, Univ. of Texas, Austin, although a more complete exposition of texts from Crete is found in *The Laws of Ancient Crete*, Oxford, 2016, by the same author.

¹³ Excursus 8 (vol. 4, p. 87-88) notes Athenian motivation for democracy was primarily to assure survival of the State rather than to provide civil liberty for the individual. The latter was, in a sense, an unintended consequence.

¹⁴ Several important Hippocratic treatises are translated literally and in the vernacular in vol. 2 of *The Natural State of Medical Practice*.

¹⁵ Book II of vol. 1 of *The Natural State of Medical Practice* is devoted to the Grecian saga.

¹⁶ An overview of the intellectual base for this momentous change is to be found in Excursus 16, “Naming Our Civilization” (p. 165 of vol. 4).

that ultimately led to the rise of the West in less than two centuries.¹⁷ With removal of the authoritarian thumb on the common citizenry unbelievable progress in longevity, comfort, moderation of illnesses, invention, and discovery has brought us to the pinnacle of human progress where we now find ourselves.¹⁸

This remarkable success did not occur because specific laws were written that favored the physician, the scientist, and the botanist. Nor were they written so as to prohibit murder, robbery, injury, fornication, and prevarication. In fact, the latter may have worsened civilization-wide because some would confuse liberty with license. But the laws that evolved which saw the release of the ingenuity of the unprivileged man and woman that led to modern progress were laws protecting their natural rights.¹⁹ Had the specific “do not do” ethical laws alone been enacted but the governance remained authoritarian, people might have been protected by a police state, but the price would be (1) no protection of natural rights and (2) ethical laws as defined by the State in the manner of Hammurabi. This trade-off of freedom for security would have been a very bad decision and progress would have been impossible. Instead, with an increasingly democratic society the laws came to reflect the extent to which both citizen and State appreciated the same ethical goal, one that recognized the morality of the Ten Commandments and the validity of civil liberty. The full import of individual liberty and autonomous associations of a free people soon followed.

The purpose of natural law discussed so far has been to preserve the natural rights of the individual from predation from either another individual or the State. But progress itself is the product of autonomous groups (koinons).²⁰ It has been argued that the brief periods of medical discovery during early urbanization in Sumer, Egypt, India, China, and Greece were the work of groups, not a single individual.²¹ Does the protection of natural rights also apply to groups, *i.e.*, do an individual’s natural rights justify a similar protection for groups?

Perhaps the role of natural law in a group or institution depends in part on the number of individuals involved. The more individuals involved, the autonomy of the individual member tends to decrease, and the group tends to acquire an authoritarian face. I am unaware of any studies relating authoritarianism to group size alone, but it is clear that the social dynamics of a small autonomous group differ from a large association in more than scale. The former is freely entered into and easily left if there is disagreement. Personal opinions of each member can be readily and

¹⁷ I do not accept the suggestion that colonial dominance was the cause of intellectual prominence in the West. Improved medical care, printing of books and journals, scientific discovery and relevant new industries were not products of colonialism. If anything, colonialism was a state-sponsored enterprise of a mercantile nature, not an intellectual one. It was a search for wealth rather than a source of knowledge or mechanism of progress. It would have occurred with or without the Reformation and represented authoritarian thinking, not the popular mind. Indeed, it was well under way long before the Reformation.

¹⁸ Capitalism has also been a contributor to Western dominance, but as discussed in vol.1, pp. 199 and 548, capitalism was not a factor in the development of scientific medicine; *i.e.*, true capitalism (entrepreneurial, not mercantile or state capitalism), like the profession of medicine, was a consequence, not a cause, of civil liberty. But it contributed greatly to the spread of rational medicine, especially through books, journals, and medical manufactures.

¹⁹ A most thorough statement on freedom, natural law, natural rights, and virtue as they relate to practical implementation can be found in Thomas G. West’s *The Political Theory of the American Founding: Natural Rights, Public Policy, and the Moral Conditions of Freedom*, Cambridge, 2017.

²⁰ The koinon (κοινόν), or voluntary automotous group pursuing a common self-interest, is described in vol. 1 of *The Natural State of Medical Practice* and is proposed as the source of medical knowledge found in the Hippocratic *Corpus*. The common dictum, “two heads are better than one,” is the basis for the superiority of the group over the individual in promoting progress, although today progress can more easily result from a single individual’s invention or discovery because of the interaction of communication tools, media, and economics that can influence consumers and speed success. For a definition of group as used herein see vol. 4, pp. 17 and 155, “A group discussion.”

²¹ Discussion on this point is found in vol. 1 of *The Natural State of Medical Practice*.

fully expressed and debated. There is little penalty to the individual and no infringement on natural rights.

For large associations, however, membership usually has as its motive some personal advantage that relies on the power of that association, and that motive often is security. In obtaining that advantage some loss of individual freedom will be the trade-off. For corporations, the same applies. Thus, the larger the group the more akin it is to a government unto itself, especially today. Its own survival supersedes that of its individual members, and its power becomes a bargaining chip when interacting with government (corporatism). In this sense, therefore, it should be up to the membership to identify within the larger group its protections for natural rights. The most immediate response to infringements would be to look for another job, although this merely provides an opening to hire a person who is sympathetic to the cause of the larger group. This is separate, of course, from rules or regulations specific to the functions of large associations or corporations. But the principal point is that boundaries on natural rights/laws of individuals within a large organization can be debated or declined. With the State, however, there is little choice.

So we come to the underlying meaning of the three Laws representative of Judeo-Christian morality in the sense that they sanction freedom from unwelcome interference in our personal decisions, whether by individuals, groups, or the State. In a summing of traditional interpretations, their deeper meaning is that individual liberty is first and foremost to be protected not by laws against specific infractions but by protection of natural rights. That meaning has been succinctly expressed by Dr. Randy E. Barnett: "The purpose of natural law is to preserve our natural rights."²² He also points out that natural rights govern how others should act toward natural rights holders, not how rights holders should act to others. The latter is the role of natural law. The larger the group, greater can be the impetus for restriction of natural rights, both for its members and for its competition. Still, this can be debated and declined. Unfortunately, with the State and centralization of political power infringements are more difficult, more important, and harder, if not impossible, to exit or decline. Big government is the biggest problem.

In conclusion, natural law, the Ten Commandments, and the Golden Rule, as interpreted and contextually analyzed in *The Natural State of Medical Practice*, are revealed to be (1) equivalent in meaning, (2) universal statements and a moral code based on the inviolability of human liberty, (3) a mandate for civil liberty for every individual, and (4) indispensable for human progress. The Laws have been available to promote human progress for thousands of years. Their domain and popularity have been prodigious, but, in the hands of the authoritarian, so has their fragility. Let us not forget this today.

²² See Dr. R. E. Barnett, *A Law Professor's Guide to Natural Law and Natural Rights*, in *Harvard Journal of Law & Public Policy*, 1997, summer issue.