Natural Law And Natural Rights Jim

How do ethical norms relate to human nature? This comprehensive and interdisciplinary volume surveys the latest thinking on natural law.

Kenneth R. Westphal presents an original interpretation of Hume's and Kant's moral philosophies, the differences between which are prominent in current philosophical accounts. Westphal argues that focussing on these differences, however, occludes a decisive, shared achievement: a distinctive constructivist method to identify basic moral principles and to justify their strict objectivity, without invoking moral realism nor moral anti-realism or irrealism. Their constructivism is based on Hume's key insight that 'though the laws of justice are artificial, they are not arbitrary'. Arbitrariness in basic moral principles is avoided by starting with fundamental problems of social coördination which concern outward behaviour and physiological needs; basic principles of justice are artificial because solving those problems does not require appeal to moral realism (nor to moral anti-realism). Instead, moral cognitivism is preserved by identifying sufficient justifying reasons, which can be addressed to all parties, for the minimum sufficient legitimate principles and institutions required to provide and protect basic forms of social coördination (including verbal behaviour). Hume first

develops this kind of constructivism for basic property rights and for government. Kant greatly refines Hume's construction of justice within his 'metaphysical principles of justice', whilst preserving the core model of Hume's innovative constructivism. Hume's and Kant's constructivism avoids the conventionalist and relativist tendencies latent if not explicit in contemporary forms of moral constructivism.

This book provides a complete overview of the Founders' natural rights theory and its policy implications.

The origins of natural rights theories in medieval Europe and their development in the seventeenth century.

This first English translation of Pierre Manent’s profound and strikingly original book La loi naturelle et les droits de l’homme is a reflection on the central question of the Western political tradition. In six chapters, developed from the prestigious Étienne Gilson lectures at the Institut Catholique de Paris, and in a related appendix, Manent contemplates the steady displacement of the natural law by the modern conception of human rights. He aims to restore the grammar of moral and political action, and thus the possibility of an authentically political order that is fully compatible with liberty. Manent boldly confronts the prejudices and dogmas of those who have repudiated the classical and Christian

notion of “liberty under law” and in the process shows how groundless many contemporary appeals to human rights turn out to be. Manent denies that we can generate obligations from a condition of what Locke, Hobbes, and Rousseau call the “state of nature,” where human beings are absolutely free, with no obligations to others. In his view, our ever-more-imperial affirmation of human rights needs to be reintegrated into what he calls an “archic” understanding of human and political existence, where law and obligation are inherent in liberty and meaningful human action. Otherwise we are bound to act thoughtlessly and in an increasingly arbitrary or willful manner. Natural Law and Human Rights will engage students and scholars of politics, philosophy, and religion, and will captivate sophisticated readers who are interested in the question of how we might reconfigure our knowledge of, and talk with one another about, politics.

Natural Law and Natural RightsNatural Law and Natural RightsNatural Law and Natural RightsOxford University Press

Every successive generation finds fresh reasons for the study of natural law. Current interest in the natural law may well be due to a pervasive moral pessimism in the Western cultural context and wider contemporary geopolitical challenges. Those geopolitical challenges result from two significant and worrisome global developments –

unprecedented violent persecution of religious minorities on several continents and a growing climate of secular hostility toward religious faith in Western societies. Natural Law and Religious Freedom aims to address what is relatively absent from the literature by demonstrating the importance of natural law ethics in both establishing and preserving basic human rights, of which religious freedom has pride of place. Probing contemporary challenges to natural law thinking that are both internal and external to religious faith, and examining the character and constitution of natural law ethics, Natural Law and Religious Freedom will be of interest to theologians, ethicists and philosophers as well as policy analysts, politicians and activists who are concerned to anchor religious freedom and human rights policy considerations in an enduring way.

Rights at the Margins explores the ways rights were available to those on the margins and their relationship with social justice in medieval and early modern thought. It also elaborates the relevance of some historical ideas in the contemporary context.

This book firmly integrates the philosophy of law with ethics, social theory and political philosophy. The author develops a sustained and substantive argument; it is not a review of other people's arguments but makes frequent illustrative and critical reference to classical, medieval, modern, and

contemporary writers in ethics, social and political theory, and jurisprudence.

This book offers a systematic exposition of Aristotle's legal thought and account of the relationship between law and politics.

Common law is explored as the alternative to natural rights as a means of restricting state power. The separation of powers is weighed in the balance and found wanting as a brake on state power. The underlying root of this inability is discovered in the philosophy of natural rights. Natural rights gave birth to the separation of powers, but neither the former nor the latter has been able to restrain government. This failure is highlighted in detail, and the alternative means to the same end, the common law, is brought to the fore.

Today the idea of natural law as the basic ingredient in moral, legal, and political thought presents a challenge not faced for almost two hundred years. On the surface, there would appear to be little room in the contemporary world for a widespread belief in natural law. The basic philosophies of the opposition--the rationalism of the philosophes, the utilitarianism of Bentham, the materialism of Marx--appear to have made prior philosophies irrelevant. Yet these newer philosophies themselves have been overtaken by disillusionment born of conflicts between "might" and "right." Many thoughtful people who were loyal to secular belief

have become dissatisfied with the lack of normative principles and have turned once more to natural law. This first book-length study of Edmund Burke and his philosophy, originally published in 1958, explores this intellectual giant's relationship to, and belief in, the natural law. It has long been thought that Edmund Burke was an enemy of the natural law, and was a proponent of conservative utilitarianism. Peter J. Stanlis shows that, on the contrary, Burke was one of the most eloquent and profound defenders of natural law morality and politics in Western civilization. A philosopher in the classical tradition of Aristotle and Cicero, and in the Scholastic tradition of Aquinas, Burke appealed to natural law in the political problems he encountered in American, Irish, Indian, and British affairs, and in reaction to the French Revolution. This book is as relevant today as it was when it was first published, and will be mandatory reading for students of philosophy, political science, law, and history.

The Problem of Natural Law examines the understanding of conscience offered by Thomas Aquinas, who provided the classic statement of natural law. The book suggests that natural law theory could be improved by bracketing Thomistic conscience and then shows how a natural law position thus revised would be able to answer the most important critics of natural law in contemporary times.

Recent years have seen a renaissance of interest in the relationship between natural law and natural rights. During this time, the concept of natural rights has served as a conceptual lightning rod, either strengthening or severing the bond between traditional natural law and contemporary human rights. Does the concept of natural rights have the natural law as its foundation or are the two ideas, as Leo Strauss argued, profoundly incompatible? With The Foundations of Natural Morality, S. Adam Seagrave addresses this controversy, offering an entirely new account of natural morality that compellingly unites the concepts of natural law and natural rights. Seagrave agrees with Strauss that the idea of natural rights is distinctly modern and does not derive from traditional natural law. Despite their historical distinctness, however, he argues that the two ideas are profoundly compatible and that the thought of John Locke and Thomas Aquinas provides the key to reconciling the two sides of this long-standing debate. In doing so, he lays out a coherent concept of natural morality that brings together thinkers from Plato and Aristotle to Hobbes and Locke, revealing the insights contained within these disparate accounts as well as their incompleteness when considered in isolation. Finally, he turns to an examination of contemporary issues, including health care, same-sex marriage, and the death penalty, showing how this new

account of morality can open up a more fruitful debate.

"The essays in this book have also been published, without introduction and index, in the semiannual journal Social philosophy & policy, volume 22, number 1"--T.p. verso. Includes bibliographical references and index.

In this classic work, Leo Strauss examines the problem of natural right and argues that there is a firm foundation in reality for the distinction between right and wrong in ethics and politics. On the centenary of Strauss's birth, and the fiftieth anniversary of the Walgreen Lectures which spawned the work, Natural Right and History remains as controversial and essential as ever. "Strauss . . . makes a significant contribution towards an understanding of the intellectual crisis in which we find ourselves . . . [and] brings to his task an admirable scholarship and a brilliant, incisive mind."—John H. Hallowell, American Political Science Review Leo Strauss (1899-1973) was the Robert Maynard Hutchins Distinguished Service Professor Emeritus in Political Science at the University of Chicago.

Natural-law theory grounds human laws in universal truths of God’s creation. The task of the judicial system was to build an edifice of positive law on natural law’s foundations. R. H. Helmholz shows how lawyers and judges made and interpreted natural law arguments in the West, and concludes that historically it has advanced the cause of justice.

Rights: Concepts and Contexts contains the central works of recent scholarship on the nature of rights, with contributions by some of the most prominent contemporary theorists in moral, legal, and political philosophy, including Joseph Raz, Robert Alexy, Jeremy Waldron, Morton Horwitz, Stephen Darwall, Margaret Gilbert, David Lyons, and Aharon Barak. With approaches ranging from the political to the historical, and from the analytical to the critical, this collection touches on the major conceptual and practical questions of this important field: what is the nature and grounding of human rights? How should conflicts of rights best be analyzed? Are rights best understood in terms of choice, benefits, or some hybrid of the two? What are the connections between rights and duties, and between rights and justice? The collection also offers useful introductions to emerging issues in rights theory such as the purported bipolarity of rights.

In Debating Medieval Natural Law: A Survey, Riccardo Saccenti examines and evaluates the major lines of interpretation of the medieval concepts of natural rights and natural law within the twentieth and early twenty-first centuries and explains how the major historiographical interpretations of ius naturale and lex naturalis have changed. His bibliographical survey analyzes not only the chronological evolution of various interpretations of natural law but also how they differ, in an effort to shed light on the historical debate and on the medieval roots of modern human rights theories. Saccenti critically examines the historical analyses of the major historians of medieval political and legal thought while addressing how to further research on the subject. His perspective interlaces different disciplinary points of view: history of philosophy, as well as history of canon and civil law and history of theology. By focusing on a variety of disciplines, Saccenti creates an opportunity to evaluate each interpretation of medieval lex naturalis in terms of the area it

enlightens and within specific cultural contexts. His survey is a basis for future studies concerning this topic and will be of interest to scholars of the history of law and, more generally, of the history of ideas in the twentieth century.

"Human beings are a part of nature and apart from it." The argument of Natural Law and Justice is that the philosophy of natural law and contemporary theories about the nature of justice are both efforts to make sense of the fundamental paradox of human experience: individual freedom and responsibility in a causally determined universe. Professor Weinreb restores the original understanding of natural law as a philosophy about the place of humankind in nature. He traces the natural law tradition from its origins in Greek speculation through its classic Christian statement by Thomas Aquinas. He goes on to show how the social contract theorists adapted the idea of natural law to provide for political obligation in civil society and how the idea was transformed in Kant's account of human freedom. He brings the historical narrative down to the present with a discussion of the contemporary debate between natural law and legal positivism, including particularly the natural law theories of Finnis, Richards, and Dworkin. Professor Weinreb then adopts the approach of modern political philosophy to develop the idea of justice as a union of the distinct ideas of desert and entitlement. He shows liberty and equality to be the political analogues of desert and entitlement and both pairs to be the normative equivalents of freedom and cause. In this part of the book, Weinreb considers the theories of justice of Rawls and Nozick as well as the communitarian theory of MacIntyre and Sandel. The conclusion brings the debates about natural law and justice together, as parallel efforts to understand the human condition. This original contribution to legal philosophy will be especially appreciated by scholars, teachers, and students in the fields of political

philosophy, legal philosophy, and the law generally.

Ethical constraints on relations among individuals within and between societies have always reflected or invoked a higher authority than the caprices of human will. For over two thousand years Natural Law and Natural Rights were the constellations of ideas and presuppositions that fulfilled this role in the west, and exhibited far greater similarities than most commentators want to admit. Such ideas were the lens through which Europeans evaluated the rest of the world. In his major new book David Boucher rejects the view that Natural Rights constituted a secularisation of Natural Law ideas by showing that most of the significant thinkers in the field, in their various ways, believed that reason leads you to the discovery of your obligations, while God provides the ground for discharging them. Furthermore, the book maintains that Natural Rights and Human Rights are far less closely related than is often asserted because Natural Rights never cast adrift the religious foundationalism, whereas Human Rights, for the most part, have jettisoned the Christian metaphysics upon which both Natural Law and Natural Rights depended. Human Rights theories, on the whole, present us with foundationless universal constraints on the actions of individuals, both domestically and internationally. Finally, one of the principal contentions of the book is that these purportedly universal rights and duties almost invariably turn out to be conditional, and upon close scrutiny end up being 'special' rights and privileges as the examples of multicultural encounters, slavery and racism, and women's rights demonstrate.

Originally published in German in 1936, The Natural Law is the first work to clarify the differences between traditional natural law as represented in the writings of Cicero, Aquinas, and Hooker and the revolutionary doctrines of natural rights espoused by Hobbes, Locke, and Rousseau. Beginning with

the legacies of Greek and Roman life and thought, Rommen traces the natural law tradition to its displacement by legal positivism and concludes with what the author calls "the reappearance" of natural law thought in more recent times. In seven chapters each Rommen explores "The History of the Idea of Natural Law" and "The Philosophy and Content of the Natural Law." In his introduction, Russell Hittinger places Rommen's work in the context of contemporary debate on the relevance of natural law to philosophical inquiry and constitutional interpretation. Heinrich Rommen (1897–1967) taught in Germany and England before concluding his distinguished scholarly career at Georgetown University. Russell Hittinger is William K. Warren Professor of Catholic Studies and Research Professor of Law at the University of Tulsa.

A defense of a contemporary natural law theory of practical rationality.

Winner of the Francis Parkman Prize, Society of American Historians “A tour de force. . . . No one has ever written a book on the Declaration quite like this one.”—Gordon Wood, New York Review of Books Featured on the front page of the New York Times, Our Declaration is already regarded as a seminal work that reinterprets the promise of American democracy through our founding text. Combining a personal account of teaching the Declaration with a vivid evocation of the colonial world between 1774 and 1777, Allen, a political philosopher renowned for her work on justice and citizenship reveals our nation’s founding text to be an animating force that not only changed the world more than two-hundred years ago, but also still can. Challenging conventional wisdom, she boldly makes the case that the Declaration is a document as much about political equality as about individual liberty. Beautifully illustrated throughout, Our Declaration is an “uncommonly elegant, incisive, and often poetic primer on

America's cardinal text" (David M. Kennedy).

The Oxford Handbook of British Philosophy in the Seventeenth Century comprises twenty-six new essays by leading experts in the field. This unique scholarly resource provides advanced students and scholars with a comprehensive overview of the current issues that are informing research on the subject, while at the same time offering new lines of research. The volume is ambitious in scope and far reaching in impact. It covers the whole of the seventeenthcentury, ranging from Francis Bacon, who flourished early in the century, to John Locke and Isaac Newton, who rose to prominence as the century drew to a close. In addition to dealing with canonical authors and celebrated texts, such as Thomas Hobbes and his Leviathan, the Handbook discusses many lesser knownfigures and debates from the period, whose importance is only now being appreciated.

This book discusses some of those ethical and political questions that puzzled several of the great minds of the twentieth century, such as Leo Strauss, Eric Voegelin, Jacques Maritain, and John Finnis: the question of natural law and its relationship to a teaching of individual freedom and rights. The main aim of the book is to interpret anew the relationship between law and rights in Thomas Hobbes and John Locke, two important founders of modern rights doctrines. But in order to put their teachings into the

right perspective, Syse also portrays and discusses other models of law and rights, from Aristotle, through Thomas Aquinas, to John Duns Scotus and William of Ockham, with detours to the teachings of Plato, Cicero, and Augustine. Throughout the discussion, the role of religion and revelation is given center stage as a complex, yet fascinating picture of the relationship between natural law, religion, and rights emerges -- one which is neither as simple nor as complicated as often imagined. Natural Law, Religion, and Rights should be of interest both to students struggling with the meaning and contents of the natural law tradition, as well as to teachers and researchers working on the many-faceted problems of natural law and natural rights.

From Human Dignity to Natural Law shows how the whole of the natural law, as understood in the Aristotelian Thomistic tradition, is contained implicitly in human dignity. Human dignity means existing for one's own good (the common good as well as one's individual good), and not as a mere means to an alien good. But what is the true human good? This question is answered with a careful analysis of Aristotle's definition of happiness. The natural law can then be understood as the precepts that guide us in achieving happiness. To show that human dignity is a reality in the nature of things and not a mere human invention, it is necessary to show that human beings exist by nature for the achievement of

the properly human good in which happiness is found. This implies finality in nature. Since contemporary natural science does not recognize final causality, the book explains why living things, as least, must exist for a purpose and why the scientific method, as currently understood, is not able to deal with this question. These reflections will also enable us to respond to a common criticism of natural law theory: that it attempts to derive statements of what ought to be from statements about what is. After defining the natural law and relating it to human or positive law, Richard Berquist considers Aquinas's formulation of the first principle of the natural law. It then discusses the love commandments to love God above all things and to love one's neighbor as oneself as the first precepts of the natural law. Subsequent chapters are devoted to clarifying and defending natural law precepts concerned with the life issues, with sexual morality and marriage, and with fundamental natural rights. From Human Dignity to Natural Law concludes with a discussion of alternatives to the natural law. Choice Outstanding Academic Title 2006 The existence and grounding of human or natural rights is a heavily contested issue today, not only in the West but in the debates raging between "fundamentalists" and "liberals" or "modernists in the Islamic world. So, too, are the revised versions of natural law espoused by thinkers such as John

Finnis and Robert George. This book focuses on three bodies of theory that developed between the thirteenth and seventeenth centuries: (1) the foundational belief in the existence of a moral/juridical natural law, embodying universal norms of right and wrong and accessible to natural human reason; (2) the understanding of (scientific) uniformities of nature as divinely imposed laws, which rose to prominence in the seventeenth century; and (3), finally, the notion that individuals are bearers of inalienable natural or human rights. While seen today as distinct bodies of theory often locked in mutual conflict, they grew up inextricably intertwines. The book argues that they cannot be properly understood if taken each in isolation from the others.

Presents an ambitious narrative and fresh re-assessment of common law and natural law's varied interactions in America, 1630 to 1930.

In Marx and Social Justice, George E. McCarthy presents a detailed and comprehensive overview of the ethical, political, and economic foundations of Marx’s theory of social justice in his early and later writings.

This series, originally published by Scholars Press and now available from Eerdmans, is intended to foster exploration of the religious dimensions of law, the legal dimensions of religion, and the interaction of legal and religious ideas, institutions, and

methods. Written by leading scholars of law, political science, and related fields, these volumes will help meet the growing demand for literature in the burgeoning interdisciplinary study of law and religion. Resorting to natural law is one way of conveying the philosophical conviction that moral norms are not merely conventional rules. Accordingly, the notion of natural law has a clear metaphysical dimension, since it involves the recognition that human beings do not conceive themselves as sheer products of society and history. And yet, if natural law is to be considered the fundamental law of practical reason, it must show also some intrinsic relationship to history and positive law. The essays in this book examine this tension between the metaphysical and the practical and how the philosophical elaboration of natural law presents this notion as a "limiting-concept", between metaphysics and ethics, between the mutable and the immutable; between is and ought, and, in connection with the latter, even the tension between politics and eschatology as a double horizon of ethics. This book, contributed to by scholars from Europe and America, is a major contribution to the renewed interest in natural law. It provides the reader with a comprehensive overview of natural law, both from a historical and a systematic point of view. It ranges from the mediaeval synthesis of Aquinas through the early modern elaborations of natural law, up to current

discussions on the very possibility and practical relevance of natural law theory for the contemporary mind.

"Natural right - the idea that there is a collection of laws and rights based not on custom or belief but that are "natural" in origin - is typically associated with liberal politics and freedom. But during the French Revolution, this tradition was interpreted to justify the most repressive actions of the violent period known as the Terror." "In The Terror of Natural Right, Dan Edelstein argues that the revolutionaries used the natural right concept of the "enemy of the human race" - an individual who has transgressed the laws of nature and must be executed without judicial formalities - to authorize three-quarters of the deaths during the Terror. But the significance of the natural right did not end with its legal application. Edelstein argues that the Jacobins shared a political philosophy that he calls "natural republicanism," which assumed the natural state of society was a republic and that natural right provided its only acceptable laws. Ultimately, he argues that what we call the Terror was in fact only one facet of the republican theory that prevailed from Louis's trial until the fall of Robespierre." "A work of historical analysis, political theory, literary criticism, and intellectual history, The Terror of Natural Right challenges prevailing assumptions of the Terror to offer a new perspective on the Revolutionary

period."--BOOK JACKET.

First published in 1980, Natural Law and Natural Rights is widely heralded as a seminal contribution to the philosophy of law, and an authoritative restatement of natural law doctrine. It has offered generations of students and other readers a thorough grounding in the central issues of legal, moral, and political philosophy from Finnis's distinctive perspective. This new edition includes a substantial postscript by the author, in which he responds to thirty years ofdiscussion, criticism and further work in the field to develop and refine the original theory.The book closely integrates the philosophy of law with ethics, social theory and political philosophy. The author develops a sustained and substantive argument; it is not a review of other people's arguments but makes frequent illustrative and critical reference to classical, modern, and contemporary writers in ethics, social and political theory, and jurisprudence.The preliminary First Part reviews a century of analytical jurisprudence to illustrate the dependence of every descriptive social science upon evaluations by the theorist. A fully critical basis for such evaluations is a theory of natural law. Standard contemporary objections to natural law theory are reviewed and shown to rest on serious misunderstandings.The Second Part develops in ten carefully structured chapters an account of: basic human goods and basic

requirements of practical reasonableness, community and 'the common good'; justice; the logical structure of rights-talk; the bases of human rights, their specification and their limits; authority, and the formation of authoritative rules by non-authoritative persons and procedures; law, the Rule of Law, and the derivation of laws from the principles of practical reasonableness; the complexrelation between legal and moral obligation; and the practical and theoretical problems created by unjust laws.A final Part develops a vigorous argument about the relation between 'natural law', 'natural theology' and 'revelation' - between moral concern and other ultimate questions.

Presents a systematic, contemporary defence of the natural law outlook in ethics, politics and jurisprudence.

Over his long and illustrious career, Knud Haakonssen has explored the role of natural law in formulating doctrines of obligation and rights in accordance with the interests of early modern polities and churches. The essays collected in this volume range across this exciting and contested field. These 13 new essays acknowledge Haakonssen's immense academic achievement and give us new insights into the cultural and political role of law and rights in a variety of historical contexts and circumstances.